AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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5–13–77
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federal register

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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

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

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

federal register
Area Code 202 Phone 523-5240

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Title 7—Agriculture

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

[Nectarine Reg. 9]

PART 916—NECTARINES GROWN IN CALIFORNIA

Minimum Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California nectarines during the period May 14 through July 15, 1977. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 14, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 916 (7 CFR Part 916), regulating the handling of nectarines grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Nectarine Administrative Committee established under the amended marketing agreement and order and upon other information, it is found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based upon the Department's appraisal of the current and prospective market conditions for California nectarines. The committee estimates that 10,977,000 packages of nectarines will be available for fresh shipment during the 1977 season compared to the record large 11,218,000 packages shipped last season. The 1977 California nectarine crop is reported to be of excellent quality at this time with good sizing. Industry reports indicate that 1977 fresh shipments of California peaches and plums will be larger than last season which will provide strong market competition for fresh California nectarines. The grade and size requirements are necessary to prevent the shipment of California nectarines of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality nectarines in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting on May 4, 1977, after giving due notice, to consider supply and market conditions for nectarines and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of nectarines. Shipments of 1977 season California nectarines are expected to begin about May 15, 1977, therefore, this regulation should apply to all shipments in order to effectuate the declared policy of the act. The provisions of this regulation are identical with the recommendation of the committee and compliance with the provisions of this regulation will not require of handlers any preparation which cannot be completed by the effective date. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified.

§ 916.351 Nectarine Regulation 9.

Order. (a) Nectarine Regulation 7 (41 F.R. 18804, 28784) is hereby terminated as of the effective date hereof.

(b) During the period May 14, 1977, through July 15, 1977, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inches in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 118 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 112 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(4) Any package or container of Crimson Gold, June Belle, June Grand, May Grand, Red June, Spring Grand, Armking, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(5) Any package or container of Early Sungrand, Independence, Moon Grand, Star Grand I, Star Grand II, Sun Flame, Summer Grand, Sun Grand, Kent Grand, Early Star, Firebright, or Red Diamond variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(6) Any package or container of Autumn Grand, Clinton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richards Grand, Royal Grand, September Grand, Fairlane, Red Free, Bob Grand, or Tom Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (6) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(7) When used herein, "U.S. No. 1" and "standard pack" shall have the same meaning as set forth in the United States Standards for Grades of Nectarines (7 CFR 51.3145–51.3160); the terms "standard basket" and "No. 22D standard lug box" shall have the same meanings as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated, May 11, 1977, to become effective May 14, 1977.

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

[FR Doc.77-13870 Filed 5-12-77;8:45 am]

[Peach Reg. 9]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation, effective during the period May 14 through July 2, 1977, requires that fresh shipments of California peaches grade at least U.S. No. 1. It also establishes minimum sizes for certain specified varieties and a minimum size for all other varieties. The regulation recognizes the marketing situation facing the industry and is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: May 14, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the current and prospective market conditions for California peaches. The committee estimates that 12,022,000 packages of peaches will be available for shipment in the 1977 season compared to actual shipment of 11,457,000 packages last season. Industry reports also indicate that 1977 shipments of fresh California plums will total 9,132,000 packages compared to 7,911,000 packages last year. Fresh shipments of California nectarines are estimated at 10,977,000 packages compared to 11,218,000 packages a year ago. The estimated crops of California plums and nectarines will provide strong market competition for California fresh peaches. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California peaches of a lower grade or smaller size than specified herein for such peaches so as to provide good-quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 14, 1977. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop thereof, and adequate information thereon was not available to the Peach Commodity Committee until May 4, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such peaches. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 4, 1977; shipments of the current crop of such peaches are currently underway; this regulation should be applicable to all such shipments during the period hereinafter specified in order to effectuate the declared policy of the act; the provisions of this regulation are identical, as to minimum grade and size, with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.443 Peach Regulation 9.

Order. (a) During the period May 14, 1977, through July 2, 1977, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, Springold, Springtime or Golden Supreme variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 108 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 108 peaches.

(3) Any package or container of Robin, any type of Babcock, Blazing Gold, Bonjour, Cardinal, Dixired, Gold Dust, June Lady, Merrill, Gemfree, Royal May, Early Coronet, Flavorcrest, Springcrest, Early Royal May, or May Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box:

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16 pound sample, representative of the

peaches in the package or container, contains not more than 83 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Peterson Elberta, Redhaven, Regina, or Redtop variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Alamar, Angelus, Belmont, Carnival, Fairtime, Fay Elberta, Fayette, Fiesta, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Regular Elberta, Redglobe, Red Lady, Rio Oso Gem, Scarlet Lady, Summerset, Summertime, Suncrest, Toreador, July Lady, Windsor, Gem Crest, Autumn Gem, Cal Red, Early Fairtime, Early O'Henry, Fire Red, Red Cal, or Sparkle variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box:

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period May 14 through July 2, 1977, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches in any container when packed other than as specified in subparagraph (1) of this paragraph (b) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(c) [Reserved]

(d) Peach Regulation 7 (41 FR 20547, 27376) is hereby terminated as of the effective date hereof.

(e) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order: "U.S. No. 1" and "standard pack" shall have the same meaning, respectively, as when used in the United States Standards for Peaches (7 CFR 51.1210–1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" shall have the meanings as set forth, respectively, in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture."

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

Dated: May 11, 1977, to become effective May 14, 1977.

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

[FR Doc.77-13871 Filed 5-12-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 and Subsequent Crops Peanut Farm Stored Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation, USDA, is amending the regulations which set forth the terms and conditions under which CCC will make farm storage loans on farmers stock peanuts for the 1976 and subsequent crops of peanuts. The regulations currently in force do not provide adequate storage deductions for early deliveries and do not incorporate references to the latest General Regulations Governing 1974 and Subsequent Crops Peanut Warehouse Storage Loans. The intended action will make the farm storage regulations up to date and will assist in providing for the orderly marketing of farm stored peanuts.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS) P.O. Box 2415, Washington, D.C. 20013 (202–447–9224).

SUPPLEMENTAL INFORMATION: In order to incorporate amendment 1, provide for an increase in storage deductions for early deliveries, and update references to other applicable regulations, the regulations issued by Commodity Credit Corporation (CCC) published as the 1970 and Subsequent Crops Peanut Farm Stored Loan and Purchase Program Regulations (35 FR 12706, as amended; 7 CFR 1421.280–289) are hereby revised as to the 1976 and subsequent crops of peanuts. The material previously appearing in these regulations remains in full force and effect as to the crops years to which it was applicable.

Since 1976 crop peanuts under farm storage loans are now being acquired by CCC, it has been determined that compliance with the public participation and rulemaking procedure in 5 U.S.C. 553 would be impractical and contrary to the public interest. Therefore, these regulations are being issued without compliance with such procedure.

Accordingly, 7 CFR §§ 1421.280 through 1421.289 are revised to read as follows:

Sec.

1421.280 Purpose.
1421.281 Availability.
1421.282 Eligible peanuts.
1421.283 Determination of type and quality of farmers stock peanuts.
1421.284 Storage deduction for early delivery.
1421.285 Determination of quantity.
1421.286 Price support rates.
1421.287 Delivery charge.
1421.288 Maturity of loans.
1421.289 Settlement.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended; 15 U.S.C. 714 (b) and (c); secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; (7 U.S.C. 1441, 1421, 1423, 1425).

§ 1421.280 Purpose.

This subpart and the General Regulations Governing Price Support for the 1976 and Subsequent Crops, to the extent that the provisions thereof are not made inapplicable by the provisions of this subpart, contain the terms and conditions under which CCC will make farm-stored peanut loans to, and purchases from, eligible producers of eligible 1976 and subsequent crops of farmers stock peanuts. Notwithstanding the provisions of the general regulations, CCC will not make warehouse storage loans directly to individual producers on 1976 and subsequent crops of peanuts. The General Regulations Governing 1974 and Subsequent Crops Peanut Warehouse Storage Loans, 39 FR 25949 and any amendments and annual crop supplements thereto (hereinafter referred to in this subpart as "the peanut warehouse storage regulations") contain the terms and conditions under which eligible producers may obtain price support advances on eligible 1974 and subsequent crops of warehouse stored farmers stock peanuts from certain cooperative marketing associations which, acting in behalf of such producers collectively, will obtain price support warehouse storage loans from CCC.

§ 1421.281 Availability.

Producers desiring price support for farmers stock peanuts must request a farm-stored peanut loan or notify the ASCS county office of intentions to sell to CCC no later than the dates set forth in the applicable annual peanut crop supplement to the regulations in this subpart.

§ 1421.282 Eligible peanuts.

(a) *General.* In order to be eligible for a farm-stored peanut loan or for purchase, farmers stock peanuts, as defined in § 1446.3(f) of this chapter of the peanut warehouse storage regulations, must meet the requirements of this section in addition to the other eligibility requirements of § 1421.4 of the general regulations.

(b) *Eligible producer.* The peanuts must have been produced by an eligible producer in one of the areas defined in § 1446.4(b) of this chapter in the peanut warehouse storage regulations. For the purposes of this subpart, an eligible producer is a producer who meets the requirements of § 1421.3 of the general regulations and of § 1446.6 of this chapter in the peanut warehouse storage regulations.

(c) *Types.* The peanuts must be one of the types specified in § 1446.3(s) of this chapter in the peanut warehouse storage regulations.

§ 1421.283 Determination of type and quality of farmers stock peanuts.

The type and quality of each lot of farmers stock peanuts acquired by CCC as a result of a loan or purchase shall be determined at the time of delivery to CCC by a Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture. The cost of such determination shall be assumed by the producer.

§ 1421.284 Storage deduction for early delivery.

The storage deduction for early delivery provided for in § 1421.23 of the general regulations shall be five (5) cents per day per ton for Virginia-type peanuts or four and two tenths (4.2) cents per day per ton for all other types of peanuts from the date delivery is accomplished to and including, the original loan maturity date.

§ 1421.285 Determination of quantity.

The quantity of peanuts placed under farm-stored peanut loans shall be determined in accordance with § 1421.18 of the general regulations and shall be expressed in units of tons and tenths of tons.

§ 1421.286 Price support rates.

The basic price support loan rates by types for farmers stock peanuts placed under loan shall be as set forth in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.287 Delivery charge.

A delivery charge of 20 cents per ton net weight will be made for the quantity of peanuts acquired by CCC as a result of a loan or purchase and shall be handled in accordance with § 1421.11 of the general regulations. As used in this subpart, the term "net weight" shall have the meaning specified in § 1446.3 (m) of this chapter of the peanut warehouse storage regulations.

§ 1421.288 Maturity of loans.

Farm stored peanut loans will mature on demand but not later than the date specified in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.289 Settlement.

(a) *General.* Settlement for eligible peanuts acquired by CCC under a loan or purchase will be made with the producer as provided in paragraphs (a), (d), (e), (g), (j), and (k) only of § 1421.22 of the general regulations and in this section.

(b) *Settlement values.* The settlement value of the peanuts acquired by CCC shall be the amount computed on the basis of (1) the net weight and quality thereof; (2) the support prices, premiums and discounts provided in the annual peanut crop supplement to the regulations in this subpart; (3) an allowance of four-tenths of a cent ($0.004) per pound, net weight, to compensate the producer for shrinkage during storage; and (4) discounts of (i) $2 per ton, net weight, for each full 1 percent of foreign material in excess of 10 percent, and (ii) $10 per ton, net weight, for peanuts containing more than 10 percent moisture.

Signed at Washington, D.C., on May 5, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-13816 Filed 5-12-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER J—LOAN AND GRANT PROGRAM (GROUP)

[FmHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule but with comments requested.

SUMMARY: This rule revises Community Facility loan regulations to broaden the benefits of the Community Facility programs. The regulations are recertified as part of a general reorganization of FmHA regulations intended to provide clarity and uniformity in FmHA codification.

DATES: Effective May 13, 1977. Comments must be received on or before June 13, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Judd M. Hudson, telephone 202-447-7667.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is establishing under Chapter XVIII, Title 7, a new Subchapter J "Loan and Grant Programs (Group)—Part 1933, Loan and Grant Programs (Group)," in the Code of Federal Regulations. Subpart A, "Community Facility Loans," (§§ 1933.1-1933.50) of this new Part 1933 is revised, transferred, and redesignated from Part 1823, Subpart A (38 FR 29026, as amended at various Intervals) of this Chapter XVIII.

BACKGROUND

On August 17, 1976, a document was published in the FEDERAL REGISTER (41 FR 34767-34772) proposing to amend various sections of Subpart A of Part 1823 of this Chapter XVIII. Comments were received and considered, however, only § 1823.13 was adopted (with change) in the FEDERAL REGISTER, dated February 4, 1977, at 42 FR 6825. The (other) proposed amendments [and comments received] involving §§ 1823.2, 1823.3, 1823.4, 1823.5, 1823.6, 1823.7, 1823.9, 1823.11, 1823.14, 1823.25, 1823.28, 1823.29, 1823.42, and the deletion of § 1823.15 have been considered and are included in this revision-redesignation. On page 14416 of the FEDERAL REGISTER dated March 15, 1977, there was published a notice of proposed rulemaking of Miscellaneous Amendments to permit joint financing with other lenders. Interested persons had until April 14, 1977, to submit written comments. No written objections were received. These amendments are incorporated in this regulation. Overall, this revision-redesignation broadens the benefits of the community facilities programs such as water systems and sanitary sewerage systems. This rule affords the full cooperation of FmHA with appropriate State agencies to insure maximum support for making and processing insured loans for community facilities and rural development. This includes equal opportunity for participation by Indian tribes along with other residents of a State, whether or not State development strategies include Indian reservations within the State's boundaries.

Comments received pursuant to publication of this document in the FEDERAL REGISTER will be considered and if acceptable, incorporated therein.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

Subpart A—Community Facility Loans

§§ 1823.1—1823.48 [Removed]

1. Subpart A of 7 CFR Part 1823 is removed.

2. FmHA hereby promulgates new Subchapter J, Part 1933, Subpart A, to Chapter XVIII, and adds §§ 1933.1 through 1933.50 under CFR as set forth below:

Subpart A—Community Facility Loans

Sec.
1933.1 General.
1933.2 Processing applications.
1933.3 Preparation of appraisal reports.
1933.4 Borrower contracts and bonds.
1933.5 Application review and approval.
1933.6 Preparation for loan closing.
1933.7 Loan closing.
1933.8 Actions subsequent to loan closing.
1933.9 Planning and performing development.
1933.10 Borrower accounting methods, management reporting and audits.
1933.11 Security inspections.
1933.12 Loan cancellation.
1933.13 Loan servicing.
1933.14 Subsequent loans.
1933.15 Delegation and redelegation of authority.
1933.16 State supplements and guides.
1933.17 Appendix A Community facilities.
1933.18 Appendix B Community facilities, planning, bidding, contracting, constructing.
1933.19 Appendix C Information pertaining to preparation of notes or bonds and bond transcript documents for public body applicants.
1933.20 Guides, Community Facilities. (Guides included in this section may be used by FmHA officials in administering this program. They are not published in the FEDERAL REGISTER. However, they are available in National, State, and County Offices of FmHA.)
1933.21—1933.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development; 7 CFR 2.70.

§ 1933.1 General.

This Subpart outlines the policies and sets forth the procedures for making and processing insured loans for community facilities. The Farmers Home Administration (FmHA) shall cooperate fully with appropriate State agencies in the making of loans in a manner which will assure maximum support to the State's strategies for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use as prescribed in this Subpart are to be considered for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State.

§ 1933.2 Processing applications.

(a) *Preapplications.* (1) The County Supervisor, or other person designated by the State Director will, as needed, assist applicants in completing Form AD-621, "Preapplication for Federal Assistance," and in filing written notice of intent and request for priority recommendation with the appropriate clearinghouses (except Federally recognized Indian tribes) which will be dealt with in accordance with § 1901.352(c) of this Chapter. The County Supervisor will forward one copy of Form AD-621 along with clearinghouse comments and priority recommendations and Form FmHA 440-46, "Environmental Impact Assessment" in accordance with paragraph (d) of this Section to the State Director. He also will inform the applicant that it may be necessary to apply for credit from commercial sources. He will explain that if credit for the project is available from commercial sources at reasonable rates and terms the applicant is not eligible for FmHA financing.

(2) The State Director will review each Form AD-621 along with other information that he deems necessary to determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is indicated, he will instruct the County Supervisor to so inform the applicant and recommend the applicant apply to commercial sources for financing. Projects may be funded jointly with other lenders provided the requirements of § 1933.17 (a)(6) of this subpart. Joint financing occurs when two or more lenders (or any combination of lenders) make separate loans to supply the funds required by one applicant for a project. If FmHA assistance is necessary, the preapplication and applicant will be processed in accordance with this Subpart.

(i) In order to provide a basis for referral of preapplications of only those applicants who may be able to finance projects through commercial sources, State Directors should maintain liaison with representatives of banks, investment bankers, financial advisors, and other lender representatives in the State. State Directors with their assistance, should maintain criteria for determining preapplications which should be referred to commercial lenders. A list of lender representatives interested in receiving such referrals should be maintained.

(ii) The State Director shall coordinate selection of preapplications to be processed with the State A-95 or other appropriate State agency.

(iii) Form AD-622, "Notice of Preapplication Review Action," will be prepared by the State Director within forty-five (45) days from receipt of the preapplication by FmHA, stating the results of the review action. The original and one copy of Form AD-622 will be sent to the County Supervisor who will sign the original and deliver it to the applicant.

(b) *Applications.* When the State Director determines that the application will be further processed and Form AD-622 is delivered in accordance with paragraph (a)(2)(iii) of this section he will assign responsibility to the District Director, a Community Program Specialist (field), or a member of the Community Program Staff for assisting the applicant and the County Supervisor in application docket assembly and processing. An experienced employee must work with each applicant. The County Supervisor will remain as local contact with the applicant.

(1) The application docket will include Form AD-624 "Application for Federal Assistance (For Construction Programs)," (Revised 5-76) and other related forms, materials, and information. The applicant will be assembled in accordance with § 1933.20(a)(15) or other appropriate State guides developed in accordance with § 1933.16 of this Subpart. State Directors will have applications in process representing approximately 150 percent of the current State loan fund allocation. The County Supervisor will inform applicants at the time Form AD-622 is delivered if they may proceed with application assembly. Those whose preapplications are not included in the 150 percent will be advised against incurring obligations for legal and engineering work, taking options on land rights, and inviting construction bids or making other commitments which cannot be fulfilled without loan funds until funds are actually made available.

(2) When an applicant is notified to proceed with an application, the County Supervisor should arrange for a conference with the applicant to provide copies of appropriate appendixes and forms; furnish guidance necessary for orderly application processing; and to initiate a processing checklist for establishing a time schedule for completion of items using Form FmHA 442-39, "Processing Check List (Other Than Public Bodies)," or Form FmHA 442-40, "Processing Check List (Public Bodies)," adopted for use in the State. The County Supervisor will confirm decisions made at this conference by letter to the applicant and a copy of the processing checklist. He will retain the original and a copy of the processing checklist in the County Office and forward a copy to the District Director and a copy to the State Office. The original and copy of the checklist retained in the County Office will be kept current as application processing actions are taken. The copy will be routed as follows for the District Director's and the State Office's use in updating their copy of this form: County Office to District Director; District Director to State Office; State Office to County Office. As the application is being processed, and the need develops for additional conferences, the County Supervisor will arrange with the applicant for such conferences to extend and update the processing checklist.

(c) *Review of decision.*—If at any time prior to loan approval the County Supervisor is informed that favorable action will not be taken on a preapplication or application, he will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by the FmHA Administrator may be requested by the applicant in accordance § 1933.17(a)(12)(vii).

(1) When the State Director receives a copy of the review request from the applicant, he will send a report on the matter to the Administrator.

(2) The Administrator will notify the applicant and the State Director in writing of his decision and the reasons therefor.

(d) *Environmental impact assessments and statements.* Environmental impact assessments and statements will

be prepared in accordance with Subpart G of Part 1901 of this Chapter. Form FmHA 440–46, will be submitted to the State Office with Form AD–621.

§ 1933.3 Preparation of appraisal reports.

When the State Director requires an appraisal Form FmHA 442–10, "Appraisal Report—Water and Waste Disposal System," may be used with appropriate supplements. Form FmHA 442–10 may be modified as appropriate or other appropriate format may be used for facilities other than water and waste disposal. Appraisal reports prepared for use in connection with the purchase of existing essential community facilities or when required by § 1933.17 (a) (6) (i) (c) and (a) (9) (F) of this Subpart, may be prepared by the FmHA engineer/or, if desired by the State Director, some other qualified appraiser. The State Director may require an applicant to provide an appraisal prepared by an independent qualified appraiser, however, the State Director must determine that the appraised value shown in such reports reflects the present market value.

§ 1933.4 Borrower contracts and bonds.

(a) *Agreements.* The State Director will, with assistance as necessary by the Office of the General Counsel (OGC), concur in agreements between borrowers and third parties such as contracts for professional and technical services and contracts for the purchase of water or treatment of waste. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountants associations, and the like in developing standard forms of agreements, where needed, and other such matters in order to expedite application processing, minimize referrals to OGC, and resolve problems which may arise.

(b) *Bond counsel.* All tax exempt public bodies are required to obtain the services of recognized bond counsel in the preparation of evidence of indebtedness except as provided in § 1933.19(a) (1) (ii). Prior approval of the National Office is required for the exception set for in § 1933.19(a) (1) (iv). When requesting National Office approval, the State Director will submit sufficient evidence for a determination.

§ 1933.5 Application review and approval.

(a) *Procedures for review.* Ordinarily FmHA staff review will proceed as applications are being developed. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the staff and approval officials. Prior to presenting the assembled application to the approval official:

(1) The County Supervisor will complete the project summary. Use Form FmHA 442–45, "Project Summary—Water and Waste Disposal," and other utility type projects for utility type projects or Form FmHA 442–43 "Project Summary—Community Facilities (other than utility-type projects) for all other types of projects.

(2) The FmHA staff engineer or architect, as appropriate, will attach his written analysis and recommendations on Form FmHA 442–43 or FmHA 442–45.

(3) The Chief, Community Programs, will include on Forms FmHA 442–43 or FmHA 442–45 his written analysis and recommendations and prepare a letter of conditions listing all the requirements which the applicant must agree to meet within a specified time. All letters of conditions will be addressed to the applicant, signed by the State Director or other FmHA representative, designated by the State Director and mailed or handed to the applicant. Upon signing or authorizing signature of the letter of conditions, the State Director will immediately forward one copy of Forms FmHA 442–43 or FmHA 442–45 to the National Office, Attention: Water and Waste Disposal Loan Division or Community Facilities Loan Division, as appropriate.

(i) Requirements listed in letters of conditions will ordinarily include those relative to: Maximum amount of loan which may be considered, term of loan and any payment deferment, number of users (members) and verification required, contributions, interim financing, security requirements, organization, business operations, insurance and bonding (including applicant/borrower and contractor), construction contract documents and bidding, accounts, records, and audit reports required, adoption of Form FmHA 442–47, "Loan Resolution (Public Bodies)," for public bodies or Form FmHA 442–9, "Association Loan Resolution (Security Agreement)," for other than public bodies, closing instructions, and other requirements.

(ii) Each letter of conditions will contain the following paragraphs:

"This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by FmHA by written amendment to this letter. Any changes not approved by FmHA shall be cause for discontinuing processing of the application."

"This letter is not to be considered as a loan approval or as a representation as to the availability of funds. The docket may be complete on the basis of a loan not to exceed $. If FmHA makes the loan, the interest rate will be that charged by FmHA at the time of the loan approval."

"Please complete and return the attached Form FmHA 442–46, 'Letter of Intent to Meet Conditions,' if you desire that further consideration be given your application."

(iii) State Directors may add the following: "If the conditions set forth in this letter are not met within days from the date hereof, FmHA reserves the right to discontinue the processing of the application."

(b) *Projects requiring National Office review.* Prior National Office review is required for certain proposals (See Subpart A of Part 1901 of this Chapter).

(1) Applications to be forwarded to the National Office should be assembled in the following order from top to bottom:

(i) Transmittal memorandum including:

(A) Recommendation.

(B) Date of expected obligation.

(C) Any unusual circumstances.

(ii) Copies of the following: (A) Proposed letter of conditions.

(B) Comments from the applicable State, Regional, and metropolitan clearinghouses.

(C) Form FmHA 442–45 or FmHA 442–43.

(D) Form FmHA 442–7, "Initial Operating Budget."

(E) Preliminary or Architectural Engineering report.

(F) Form FmHA 442–3, "Balance Sheet." This form may be supplemented to provide further details if desired.

(G) For community facility loan applicants whose proposals do not meet the assured income or tax based security requirements of § 1933.17 (a) (6) (i) (c) and (D) (3), an income and expense statement for the last five years of operation will be submitted if available.

(H) For other community facility loans being secured in accordance with paragraph (b) (1) (ii) (G) of this section, submit a detailed explanation of the proposed security; evidence that the application cannot be processed and the loan secured in accordance with paragraph (b) (1) (ii) (G) of this section; evidence supporting the efforts by the applicant in persuading appropriate public bodies to provide the proposed facility and services and the results, and comments of the Regional Attorney concurring in the applicants legal authority to give the proposed security.

(I) Financial Feasibility Report when required by § 1933.17(a) (7) (iii).

(J) Proposed lease agreements, management agreements or other agreements when facility management will be provided by other than the applicant.

(K) Other forms and documents on which there are specific questions.

(2) For applications to be reviewed in the State or field at least those items shown in § 1933.5(b) (1) (ii) should be available.

(c) *For all applications.* The County Supervisor with assistance as needed from the State Office will discuss the requirements of the letter of conditions with the applicant's representatives and afford them an opportunity to execute Form FmHA 442–46.

(1) The letter of condition should not ordinarily be issued unless the State Director expects to have adequate funds in the State allocation to fund the project within the next 12 months based on historic allocations or other reliable projections.

(2) If the applicant declines to execute Form FmHA 442–46, the County Supervisor will immediately notify the State Director and provide him with complete information as to the reasons for such declination. He will provide the District Director with an information copy of his report.

(3) If the applicant executes Form Fm HA 442–46, the County Supervisor will

complete Form(s) FmHA 442–14, "Association Project Fund Analysis," and Form FmHA 440–1, "Request for Obligation of Funds," and forward the original and four copies of (each) Form FmHA 442–14, and Form FmHA 440–1 to the State Director.

(d) *Obligating funds.* State Directors may obligate funds when they are available and in accordance with the following:

(1) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(2) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(3) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1, in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservation by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA Instruction 2015–C in order that notification required by that instruction may be accomplished and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office project file.

§ 1933.6 Preparation for loan closing.

(a) *Obtaining closing instructions.* Completed dockets will be reviewed by the State Director and transmitted to OGC with a request for closing instructions.

(b) *Preparation for closing.* Upon receipt of closing instructions, the County Supervisor will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(c) *User (member) and cash contribution audit and verification.* In connection with a loan to be secured by a pledge of user fees or revenues, the State Director will require a member of his immediate staff or the District Director to authenticate the number of users obtained prior to loan closing or the commencement of construction, whichever occurs first. Such individual will review each signed user agreement and check evidence of cash contributions. If during his review, he receives any indication that all signed users may not connect to the system, he will make such additional investigation as he deems necessary to determine the number of users who will connect to the system. He will record his determination in a memorandum to the State Director and provide a copy to the County Supervisor.

(d) *Preloan closing compliance review.* The staff member or District Director conducting the audit and verification required in paragraph (c) of this section will also complete Form FmHA 400–8, "Compliance Review (Nondiscrimination by receipt of financial assistance through FmHA)." Prior to loan closing or the commencement of construction whichever occurs first, a copy of the form will be forwarded to the State Director and a copy filed in the County Office docket.

(e) *Ordering loan checks.* Checks will not be ordered until: (1) Form FmHA 440–57 has been received from the Finance Office as stated in § 1933.5(d)(3).

(2) The applicant has complied with approval conditions and closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(f) *Multiple advances of FmHA funds.* When FmHA provides loan funds during the construction period using interim (temporary) instruments described in § 1933.19(a)(6), the following action will be taken prior to the issuance of the permanent instruments: (1) The Finance Office will be notified of the anticipated date for the retirement of the interim instruments and the issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the County Supervisor.

(3) The County Supervisor will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately. In developing the permanent instruments the sequence of preference set out in § 1933.19(a)(5) will be followed.

(g) *Joint financing.* When a project is jointly financed, the State Director will reach any needed agreement or understanding with the representatives of the other source of funds on distribution of responsibilities for handling various aspects of the project. These responsibilities will include supervision of construction, inspections and determinations of compliance with appropriate regulations concerning equal employment opportunities, wage rates, nondiscrimination in making services or benefits available, and environmental compliance. If any problems develop which cannot be resolved locally, complete information should be sent to the National Office for advice.

§ 1933.7 Loan closing.

Loans will be closed in accordance with the closing instructions issued by the OGC and § 1933.17(a)(13) and as soon as possible after receiving the check.

(a) *Authority to execute, file, and record legal instruments.* County Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgments, and other certificates.

(b) *Preparation of mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one note.

(c) *Source of funds for insured loans.* All loans will be made from the Rural Development Insurance Fund (RDIF).

(d) *Unused funds.* Obligated funds planned for project development which remain after all authorized costs have been provided for will be disposed of in accordance with § 1933.17 (a) (13) (vii). See (Part 1862 of this Chapter FmHA Instruction 451.2) as to the method of returning loan and grant funds to the Finance Office.

(e) *Loan checks.* Whenever a loan check is received, lost, or destroyed, the County Supervisor will take the appropriate actions outlined in FmHA Instruction 102.1. Checks which cannot be delivered within a reasonable amount of time, no more than 20 days, will be handled in accordance with FmHA Instruction 102.1.

(f) *Posting management system records.* Record on Form FmHA 405–10, "Management System Card—Association or Organization," any actions to be completed subsequent to loan closing.

(g) *Use of and accountability for funds.* Loan funds and any funds furnished by the applicant to supplement the loan, including contributions to purchase major items of equipment, machinery, and furnishings may be deposited and handled in accordance with Part 1803 of this Chapter. (FmHA Instruction 402.1)

§ 1933.8 Actions subsequent to loan closing.

(a) *Mortgages.* The real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's County Office case folder.

(b) *Notes.* For a loan from the RDIF, a conformed copy of the note will be sent to the Finance Office immediately after loan closing.

(c) *Multiple advances—bond(s).* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right-hand corner of such paper by the County Office. The permanent bond(s) should be forwarded to the Finance Office as soon as possible after the last advance is made.

(d) *Bond registration record.* Form FmHA 442-28, "Bond Registration Book," may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(e) *Disposition of title evidence.* All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed.

(f) *Material for State Office.* When the loan has been closed, the County Supervisor will submit to the State Director:

(1) The completed docket.

(2) A statement covering information other than the completion of legal documents showing what was done in carrying out loan closing instructions.

(g) *State Office review of loan closing.* The State Director will review the County Supervisor's statement concerning loan closing, the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the County Supervisor, including the executed contract documents with the certification of the attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to the OGC for post closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. When construction will start prior to FmHA loan closing the executed construction contract documents and certification by the applicant's attorney will be referred to the OGC for review prior to commencement of such construction. It is not expected that facility development including construction will be held up pending receipt of the opinion from OGC. When the opinion from OGC is received, the State Director will advise the County Supervisor of any deficiencies that must be corrected and return all material that was submitted for review.

(h) *Safeguarding bond shipments.* FmHA personnel will follow the procedures for safeguarding mailings and deliveries of bonds and coupons outlined in FmHA Instruction 103.1, whenever they mail or deliver these items.

(i) *Water stock certificates.* Water stock certificates will be filed in the loan docket in the County Office.

§ 1933.9 Planning and performing development.

(a) *Contract approval.* The State Director is responsible for approval of all construction contracts utilizing the legal advice and guidance of OGC as necessary. The authority to use the negotiated methods of contracting for amounts greater than $50,000 as provided in § 1933.18(a)(9)(ii)(D) may only be granted by the National Office and will not be considered when an FmHA grant is involved. When an applicant requests such authorization, the State Director will submit his recommendations and items in § 1933.18(a)(9)(ii)(D) and the following to the National Office for review:

(1) Applicant's written request to utilize methods of procurement other than competitive bidding and justification for the use of such negotiations.

(2) State Director's and FmHA engineer/architect comments and recommendations including, if possible, an evaluation of previous work of proposed construction firm.

(3) Regional attorney's opinion and comments regarding the legal adequacy of the proposed procurement method and proposed contract documents.

(4) Applicant's Attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the applicant has the legal authority to enter into and fulfill the contract.

(5) Copy of the proposed contract.

(b) *Prior contracts.* Where legally binding contracts have been entered into by the applicant and contractor prior to the filing of a preapplication, the State Director will determine that such action was without intent to avoid FmHA standards and regulations. The applicant must modify the contract documents where necessary by written change order to fully comply with the provisions of § 1933.18 or, where this is not practicable, the State Director may make an exception in writing, with the concurrence of the Regional Attorney, in accordance with § 1933.18(a)(9)(ii)(E). When construction has been performed prior to the filing of a preapplication, the applicant's engineer or architect must provide a written certificate that the construction in place fully complies with the plans and specifications approved by the applicant. In addition, the applicant must certify that they and their contractors complied with all statutory and executive order requirements relative to FmHA financing for construction already performed, even though these requirements may not have been included in the contract documents.

(c) *Machinery and equipment.* When substantial amounts of funds are necessary for purchase of machinery and equipment, associations ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

(d) *Bid irregularities.* Any irregularities in the bids received or other matters pertaining to the contract award having legal implications will be cleared with OGC before the State Director consents to the contract award.

(e) *Noncompliance.* State Directors, upon receipt of information indicating borrowers or their officers, employees, or agents are not performing in compliance with § 1933.18(a)(9), shall request the Regional Office of the Inspector General to investigate the matter and provide him a report of such investigation. He will be responsible for taking such action as appropriate to resolve the issue.

(f) *Development inspections.* The State Director will designate an FmHA representative to assist the County Supervisor in monitoring the construction of all projects being financed, wholly or in part, with FmHA funds. This assistance will include construction inspections and a review of each project inspection report, each change order and each partial payment estimate and other invoices such as payment for engineering and legal fees and other materials determined necessary to effectively monitor each project. Project monitoring will include periodic inspections to review partial payment estimates prior to their approval and review project development in accordance with plans and specifications. Each inspection will be recorded using Form FmHA 424-12, "Inspection Report." The original Form FmHA 424-12 will be filed in the project case folder and copies furnished the State Director, the District Director and the designated FmHA representative. The State Director will review each inspection report and will determine that each project is being effectively monitored. In all cases where the governing body has entered into an agreement for technical services with an engineer or if such services are being made available by another Federal or State Agency, the County Supervisor is authorized to review partial payment estimates prepared by the project engineer and accept them for payment after they have been approved by the borrower. Each such payment estimate will contain a certification by the project engineer or architect that all material purchased and all work performed is in accordance with the plans and specifications. When there is no project engineer or architect, the County Supervisor may review and accept estimates for payments which have been approved by the borrower after determining that funds are requested for authorized purposes. If there is any indication that construction is not being completed in accordance with the plans and specifications or that any other problems exist, the County Supervisor should notify the State Director immediately and withhold all payments on the contract.

(g) *Construction contracts without performance and payment bond.* Section 1933.20(a)(17) "Construction Contract Documents," may be used for construction projects when a performance and

payment bond is not provided in accordance with § 1933.18(a)(9)(ii)(F)(3). Evidence of payment in full for all materials, labor, and any other items procured under such contract will be furnished by the contractor. Form FmHA 424-10, "Release by Claimants," and Form MmHA 424-9, "Certificate of Contractor's Release," may be used for this purpose in accordance with § 1933.18(a)(9)(ii)(F)(3).

§ 1933.10 Borrower accounting methods, management reporting and audits.

(a) *Accounting methods and records.* Section 1933.17(a)(14)(i) lists the requirements for the types of accounting methods, record keeping and their approval.

(b) *Management reports.* Section 1933.17(a)(14)(ii) lists the requirements for management reports. Management assistance will be based on such factors as observation of borrower operations and review of the periodic financial reports. The amount and type of assistance provided will be that needed to assure borrower success and compliance with its agreements with FmHA.

(1) County Supervisors will obtain all management report data from the borrower and promptly forward to the State Director with appropriate comments.

(2) District Directors will, between the sixth and ninth month of operation of the first year, review the borrower's records and accounts and report his findings and recommendations on Form FmHA 442-4, "District Director's Report (Association Organization Borrowers)."

(i) Form FmHA 442-4 will be prepared and the borrower's positive action will be reviewed quarterly for each delinquent borrower or other borrower having financial problems.

(ii) A copy of all Form FmHA 442-4 reports will be submitted to the State Director.

(3) *The State Director* is responsible for the review of all management reports. Ordinarily, review findings and instructions regarding further management assistance will be determined within 20 days of submission for delinquent and problem borrowers and 40 days for other borrowers.

(i) Copies or review findings, instructions for further assistance, and positive action plans on delinquent borrowers and borrowers experiencing financial problems will be forwarded to the National Office.

(ii) The State Director may, after the end of the borrower's third full fiscal year of operation, exempt it from submitting management reports provided it:

(A) Is current on its loan payments.

(B) Is meeting the conditions of its agreements with FmHA.

(C) Has demonstrated its ability to successfully operate and manage the organization and has not obtained subsequent loans in the last 3 years which have significantly altered the scope of the project.

(iii) Borrowers qualifying for this exemption will still be required to comply with § 1933.17(a)(14)(iv) and (v).

(iv) The State Director may reinstate the requirements for submission for periodic management reports for those borrowers who become delinquent or otherwise are not carrying out their agreements with FmHA or require more frequent submission of management reports. The State Director will reinstate this requirement for borrowers receiving a subsequent loan which will significantly alter the scope of the project.

(v) The State Director may accept management reports which are not prepared on page 1 of Form FmHA 442-2, "Statement of Income and Expense for the Fiscal Year to Date," schedule 1 but contain like information. However, page 2 of this form must be used by all borrowers required to furnish management reports.

(vi) Ordinarily, the requirement for the applicant to submit a copy of its annual budget will not be waived.

(c) *Audits and financial statements.* Section 1933.17(a)(14)(iv) lists the requirements for audits and financial statements.

(1) *The County Supervisor* will obtain all audit reports and financial statements from the borrower and forward promptly to the State Director through the District Director with appropriate comments.

(2) *The State Director* is responsible for the review of audits and financial statements and for recommendations and instructions for the borrower assistance.

(i) *Review of audits.* For borrowers required to have audits, the State Director will review each audit for compliance with current instructions and the Audit Guide, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." The borrower will be required to furnish any additional information necessary to satisfy the audit requirement. Section 1933.20(a)(21) of this Subpart may be used in the audit review process.

§ 1933.11 Security inspections.

A representative of the borrower will ordinarily accompany the County Supervisor during each inspection.

(a) *Initial inspection.* The County Supervisor and the FmHA representative designated by the State Director to assist the County Supervisor in project monitoring will inspect each facility at the end of the eleventh full month of operation. The results of this inspection will be reported to the State Director on Form FmHA 424-12. The State Director will assure that appropriate action will be taken to correct project deficiences.

(b) *Subsequent inspections.* The County Supervisor will make subsequent inspections of borrower security property and facilities during each third year after the initial inspection. The results of this inspection will be reported to the State Director on Form FmHA 424-12.

(c) *Special inspections.* The County Supervisor may request, or the State Director may determine, the need for a member of his State staff to make certain security inspections. In such cases, the State Director will detail a member of his staff to make such inspections.

(d) *Follow-up inspections.* If any inspection discloses deficiencies or exceptions, or otherwise indicates a need for subsequent inspections prior to the third year, the State Director will prescribe the type and frequency of follow-up inspections. These inspections will be made until all deficiencies and exceptions have been corrected.

§ 1933.12 Loan cancellation.

Loans which have been approved and obligations which have been established may be canceled before closing as follows:

(a) *Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation."* The County Supervisor or State Director may prepare and execute Form FmHA 440-10 in accordance with the Forms Manual Insert. For a loan made from the RDIF, if the check has been received or is received subsequently in the County Office, the County Supervisor will return it to the United States Treasury Regional Disbursing Office with a copy of Form FmHA 440-10.

(b) *Notice of Cancellation.* If the docket has been forwarded to the OGC, that office will be notified of the cancellation by a copy of Form FmHA 440-10. Any application for title insurance, if ordered, will be canceled. The borrower's attorney and engineer, if any, should be notified of the cancellation. The County Supervisor may provide the borrower's attorney and engineer with a copy of his notification to the applicant.

§ 1933.13 Loan servicing.

Loans will be serviced in accordance with Subpart F of Part 1861 of this Chapter (FmHA Instruction 451.5 or § 1951-A and § 1953-A)

§ 1933.14 Subsequent loans.

Subsequent loans will be processed in accordance with this regulation.

§ 1933.15 Delegation and redelegation of authority.

The State Director is responsible for implementing the authorities contained in this regulation and to issue State supplements redelegating these authorities to appropriate FmHA employees. Loan approval authority is contained in Subpart A of Part 1901 of this Chapter. (FmHA Instruction 440.2)

§ 1933.16 State supplements and guides.

(a) *State supplements.* State Directors may supplement this regulation as appropriate to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to bids, contract awards, and materials more restrictive than those in § 1933.18 of this regulation.

(b) *State guides.* State Directors may develop guides for use by applicants if guides in § 1933.20 are not adequate.

State Directors may prepare guides for items needed for the application; items necessary for the docket; and items required prior to loan closing or construction starts.

§ 1933.17 Appendix A—Community facilities.

(a) This section includes information and procedures specifically designed for use by applicants including their professional consultants and/or agents who provide such assistance and services as architectural engineering, financial, legal or other services related to application processing and facility planning and development. The appendix is made available as needed for such use.

(1) *General.* This Section includes FmHA policies and requirements pertaining to loans for community facilities. It provides applicants with guidance for use in proceeding with their application. FmHA shall cooperate fully with appropriate State agencies to give maximum support of the State's strategies for development of rural areas. State and substate A-95 agencies may recommend priorities for applications. FmHA will fully consider all A-95 agency review comments and priority recommendations in selecting applications for funding.

(2) *Applicant eligibility and priority.* Facilities financed by FmHA shall primarily serve rural residents and be located in rural areas except as provided in § 1933.17(a)(3)(iii)(K). The terms "rural" and "rural areas" shall not include any area in any city or town having a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

(i) Applicants eligible for loans include but are not limited to municipalities, counties, and other political subdivisions of a State and other organizations operated on a nonprofit basis such as:

(A) Districts.

(B) Authorities.

(C) Associations, cooperatives and corporations operated on a not-for-profit basis.

(D) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

(E) Existing private corporations. Applicants organized under the general profit corporation laws may be eligible if they actually will be operated on a not-for-profit basis under their charter, bylaws, mortgage, or supplemental agreement provisions as may be required as a condition of loan approval.

(ii) Applicants must certify in writing and FmHA shall determine that the applicant is unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(iii) Each applicant must have or will obtain the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for the obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining, and managing the facility and for providing for its continued availability and use at reasonable rates and terms. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained or managed by a third party under contract, management agreement, or written lease. Leases may be used when this is the only feasible way to provide the service and is the customary practice.

(iv) FmHA shall require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(v) Preference for available loan funds will normally be given to public bodies. When this is not practicable:

(A) Loans for facilities providing a utility-type service such as water and sewer systems, natural gas distribution systems, and cable TV may be made to other than public-body-type organizations, when operated on a not-for-profit basis. Security for such loans will be obtained in accordance with § 1933.17(a)(6)(i).

(B) Loans for services and facilities basic to social, cultural, recreational needs, public health and safety, such as fire and rescue facilities, hospitals and health clinics, community and other public buildings, and similar facilities may be made to other than public-body-type organizations when such facilities are fully available to the public; it is not practicable for the public entity they serve to finance them; and the proposal meets appropriate security requirements of § 1933.17(a)(6)(i).

(vi) Nonprofit organization eligibility. A private nonprofit organization, to be eligible for an essential community facility loan, must have significant ties with the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve the local rural residents. Such ties may be evidenced by such items as:

(A) Association with or control by a local public body or bodies, or, broadly based ownership and control by members of the community;

(B) Substantial public funding through taxes, revenue bonds, or other local Government sources, and/or, substantial voluntary community funding such as would be obtained through a community-wide funding campaign.

(vii) Project priority. In determining project priorities, FmHA shall give due consideration to State development strategies, projects needing improvements to comply with the Safe Drinking Water Act, clearinghouse comments and priority recommendations and assign priorities in accordance with the following:

(A) Water and sewer system applications from any municipality or other public agency (including an Indian Tribe on a Federal or State reservation or other Federally recognized Indian tribal group) in a rural community having a population not in excess of 5,500 having an inadequate water or sewer system.

(B) Those projects which will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural residents.

(C) Those projects which involve the merging of ownership, management, and operation of smaller facilities thereby providing for more efficient management and economical service to more rural communities and residents and more orderly development of the rural area in which the facilities are located.

(3) *Eligible loans purposes.* Funds may be used:

(i) To construct, enlarge, extend, or otherwise improve community water, sanitary sewerage, solid waste disposal, and storm waste water disposal facilities.

(ii) To construct, enlarge, extend, or otherwise improve community facilities providing essential service to rural residents. Such facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; traffic control; community, social, cultural, and recreational benefits; supplemental and supporting structures for rural electrification or telephone systems or facilities such as headquarters and office buildings, storage facilities, and maintenance shops only when they are not eligible for Rural Electrification Administration financing. Funds may be used for development of industrial park sites, consisting of land and land improvements (e.g., clearing, grading, drainage), necessary access ways and utility extensions to and throughout the site when the park is determined to be an integral part of community development. Funds may not be used in connection with industrial parks to finance on-site utility systems, or business and industrial buildings.

(iii) For items relating to those facilities in paragraphs (i) and (ii) of this section as follows:

(A) Fees, services, and costs such as legal, engineering, fiscal advisory, recording, planning, establishing or acquiring rights through appropriation permit, agreement, or condemnation. Fees for "loan finding" are not an eligible cost item.

(B) Paying interest installments in connection with loans to be repaid from facility revenue until such time as the facility is generating sufficient revenue to be self supporting. Ordinarily, this will be limited to an amount sufficient to pay not more than 3 years interest after the estimated loan closing date. Funds may be included for interest installments for loans secured by general obligation bonds through the period when taxes are available for payment, ordinarily not to exceed two years.

(C) Purchase existing facilities when it is determined that the purchase is necessary to provide efficient service through

a community owned and operated facility and a satisfactory agreement between buyer and seller is reached and receives FmHA concurrence.

(D) Construct buildings and works of modest design, size, and cost, essential to the successful operation or protection of authorized community facilities and secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(E) Construct or relocate roads, bridges, utilities, fences, and other public improvements, or relocate roads, bridges, utilities, fences, and other private improvements.

(F) Acquire interest in land, rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary for development of the facility.

(G) Purchase or rent equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(H) Initial operating expenses for a period ordinarily not exceeding one year when the borrower is unable to pay such expenses.

(I) Refinancing debts incurred by or on behalf of a community when all of the following conditions exist:

(1) The debt being refinanced is the secondary part of the total loan.

(2) The debts were incurred for the facility, or any part thereof, or any service being financed.

(3) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a loan.

(J) Paying obligations for construction incurred before loan approval. Construction work should not be started and obligations for such work or materials should not be incurred before the loan is approved. However, if there are compelling reasons for proceeding with construction before loan approval, applicants may request FmHA approval to pay such obligations. If upon receipt of such request FmHA determines that:

(1) A necessity exists for incurring obligations before loan approval;

(2) The obligations will be incurred for authorized loan purposes;

(3) Contract documents have been approved by FmHA;

(4) The applicant has the legal authority to incur the obligations at the time proposed, and payments of the debts will remove any basis for any mechanic's, materialmen's or other liens that may attach to the security property. FmHA may authorize payment of such obligations at the time of loan closing. FmHA's authorization to pay such obligations however, is on the condition that it is not committed to make the loan; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan approval requirements. The applicant request and FmHA authorization for paying such obligations shall be written.

(K) FmHA loan funds may be used alone or in connection with funds provided by the applicant or from other sources. When the utility is to serve both rural and urban areas, FmHA loan funds may be used to finance that portion of a utility project serving rural residents regardless of location of the facility. Since "matching funds" are not a requirement for FmHA loans, shared revenues may be used with such loans for project construction. Applicants expecting funds from other agencies for use in completing projects being partially financed with FmHA funds will present evidence that funds from such other agencies needed for construction of the project will be available before closing the FmHA loan or the commencement of construction, which ever occurs first.

(4) *Facilities for public use.* All facilities financed under the provisions of this subpart shall be for public use.

(i) Facilities providng a utility type service such as water and waste disposal will be installed so as to afford service to all users living within the area which logically should be served by the central system unless State or local law or ordinance precludes such service.

(ii) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, or national origin.

(iii) This does not preclude financing or construction of:

(A) Projects in phases when it is not practical to finance or construct the entire project at one time, and

(B) When any portion of the income ically feasible to serve the entire area provided economic feasibility is determined on the basis of the entire system and not by considering the cost of separate extensions to or parts thereof; the applicant publicly announces a plan for extending service to areas not initially receiving service from the system; and those families living in the areas not to be initially served receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(C) Extension of services to industrial areas when service is made available to users located along the extensions.

(iv) The applicant will be required to notify each potential user of the availability of the service.

(A) If a mandatory hookup ordinance will be adopted, the required bond ordinance or resolution advertisement will be considered adequate notification.

(B) Facilities where it is not econom- will be derived from user fees and a mandatory hookup ordinance will not be adopted, each potential user will be afforded an opportunity to request service by signing a Users Agreement. Those declining service will be afforded an opportunity to sign a statement to such effect. FmHA has guides available for these purposes in all FmHA offices.

(v) Before a loan is made to an applicant other than a public body, the articles of incorporation or loan agreement will include the following condition:

"In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property and assets of the corporation shall go and be distributed to one or more nonprofit corporations or public bodies as may be selected by the board of directors of this corporation and approved by at least 75 percent of the users or members to be used for, and devoted to, the purpose of a community facility project or other purpose to serve the public welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, directors, stockholders, or others having financial or managerial interest in the corporation either for the reimbursement of any sum subscribed, donated or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts."

(5) *Rates and terms.* (i) Loans will bear interest at the rate of 5 percent on the unpaid principal balance.

(ii) Loans will ordinarily be scheduled for repayment on terms similar to those used in the State for financing such facilities but in no case shall they exceed 40 years from the date of the note(s) or bond(s) or the useful life of the facility, whichever is less. In all cases in which the FmHA is jointly financing with another lender, the FmHA payments of principal and interest should approximate amortized installments.

(A) If the borrow will be retiring other debts represented by bonds or notes, the repayment on such bonds may be considered in developing the repayment schedule for the FmHA loans.

(B) Principal payments may be deferred in whole or in part for a period not to exceed the end of the third full year after the estimated date of loan closing. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office. Deferments of principal will not be used to:

(1) Postpone the levying of taxes or assessments.

(2) Delay the collection of the full rates which the borrower has agreed to charge users for its services as soon as major benefits or the improvements are available to those users.

(3) Create reserves for normal operation and maintenance.

(4) Make any capital improvements except those approved by FmHA determined to be essential to the repayment of the loan or to the obtaining of adequate security thereof.

(5) Accelerate the payment of other debts.

(6) *Security.* Loans will be secured by the best security position available. When processing a loan utilizing joint financing, FmHA will obtain at least a parity position with the other lender. A parity position is to insure that in a joint financing venture each lender's security position will be subordinated to that of the other, and in the event of default, such as a deficit in revenues available for debt servicing and in cases involving foreclosures or other actions, each lender will be affected on a proportionate basis. Loans will be secured in a manner which will adequately protect the interest of FmHA during the repayment period of the loan. Specific require-

ments for security for each loan will be included in a letter of conditions.

(i) Other-than-public bodies. Loans to other-than-public body applicants will be secured as follows:

(A) Loans to borrowers operating utility type facilities such as water and sewer systems, natural gas distribution systems, cable TV, will be secured as follows:

(*1*) Assignments of borrower income will be taken and perfected by filing, if legally permissible; and

(2) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, and similar property rights, including leasehold interest, used, or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds. In unusual circumstances where it is not feasible to obtain a lien on such land (such as land rights obtained from Federal or local Government agencies, and from railroads) and the FmHA State Director determines that the interest of FmHA otherwise is secured adequately, the lien requirement may be omitted as to such land rights. It will be the responsibility of the applicant to obtain and record such releases, consents, subordinations to such property rights from holders of outstanding liens or other instruments, as it determines, with the advice of its attorney, are necessary for the construction, operation, and maintenance of the facility.

(*3*) When the loan is approved or the acquisition of real property subject to an outstanding lien indebtedness, the next highest priority lien obtainable will be taken.

(*4*) When easements, rights-of-way, of leases only are obtainable on sites for structures such as reservoirs and pumping stations, releases, consents, or subordinations may be required by FmHA.

(*5*) Other security. Promissory notes from individuals, stock or membership subscription agreements, individual member's liability agreements, or other evidences of debt, as well as mortgages or other security instruments encumbering the private property of members of the association may be pledged or assigned to FmHA as additional security in any case in which the interest of Fm HA will not be otherwise adequately protected.

(*6*) In those cases 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 authority to issue bonds backed by taxes or assessments.

(B) Loans for solid waste projects may be secured by a pledge of solid waste disposal revenue, only when the revenue pledged includes that from the solid waste project plus revenue from other facilities of the applicant with tie-in-enforcement rights, or by the taxing power of participating local governments.

(C) Loans for other community facilities such as social, cultural recreational needs, public health and safety, may be secured through assignments of assured income which will have permanency for the life of the loan, from sources such as insurance premium rebates, or commitments from industries or public bodies. Additional security may be taken as determined necessary by the State Director.

(*1*) In those cases where an assignment of assured income is not available, a loan may be considered provided the organization and facilities have:

(*i*) Been in existence and are able to present evidence of financially successful operation of a similar facility for a period of time sufficient to indicate project success and have available real and chattel property which has a present market value, determined by a qualified appraiser, equal to or exceeding the amount of the loan to be obtained plus any other indebtedness on the proposed security property. National Office concurrence is required for those applications in which the applicant has been in existence for less than five years and/or has not operated on a financially successful basis for at least the last five years.

(*2*) Such loans will be secured by liens on real and chattel property used in connection with the facility, an assignment of income and any other security the State Director determines necessary for a sound loan. If the State Director determines that the loan will be adequately secured with a lien on real estate or chattel property having a present market value equal to or exceeding the indebtedness, he may delete the lien requirements on either the real estate or chattel property.

(*3*) In those exceptional cases where the proposal does not meet the requirements outlined in paragraph (a)(6)(i)(C) of this section, such proposals may be considered only:

(*i*) When the applicant is a new organization or one that has not operated the type of facility being proposed.

(*ii*) When there is a demonstration of exceptional community support such as substantial financial contributions, and aggressive leadership in the formation of the organization and proposed project which indicates a commitment of the entire community.

(*iii*) After the State Director has determined that adequate and dependable revenues will be available to meet all operation expenses, debt repayment and the required reserve.

(*iv*) When the security required by paragraph (a)(6)(i)(C) of this section is available.

(*v*) With prior National Office review and concurrence.

(D) *Public bodies.* Loans to such borrowers will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized by relevant State statutes and by borrower's documents, resolutions, and ordinances.

(*1*) Loans to borrowers operating utility type facilities such as water and sewer sytems, natural gas distribution systems, cable TV, may be secured by:

(*i*) The full faith and credit of the borrower when the debt is evidenced by general obligation bonds.

(*ii*) Pledges of taxes or assessments.

(*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 or pledge such bonds, taxes, or assessments.

(*iv*) Pledges of facility revenue and when permitted by State law liens on real and personal property.

(*2*) Loans for solid waste projects may be secured by bonds pledging solid waste disposal revenue, only when the revenue pledged includes that from the solid waste project plus revenue from other facilities of the applicant with tie-in enforcement rights, or by the taxing power of participating local governments.

(*3*) Loans for other community facilities such as social, cultural, recreational needs, and public health and safety, and the like will be secured by one or a combination of the following:

(*i*) General obligation bonds.

(*ii*) Assessments.

(*iii*) Bonds which pledge other taxes.

(*iv*) Bonds pledging revenues of the facility being financed when such bonds provide for the mandatory levy and collection of taxes in the event revenues later become insufficient to properly operate and maintain the facility and to retire the loan.

(*v*) Assignment of assured income which will have permanency for the life of the loan from sources such as insurance premium rebates, commitments from industries or other public bodies. Additional security may be taken as determined necessary by the State Director.

(*4*) In those cases where security is not available in accordance with paragraph (a)(6)(i)(C) of this section, a proposal may be considered, provided the organization and facilities have:

(*i*) Been in existence and are able to present evidence of the financially successful operation of a similar facility for a period of time sufficient to indicate project success. National Office concurrence is required for those applications in which the applicant has been in existence for less than five years and/or has not operated on a financially successful basis for at least the last five years; and

(*ii*) Such loans will be secured by an assignment of income and liens on real and/or personal property having a present market value equal to or exceeding the indebtedness. If State law precludes securing the loan in such manner, the loan will be secured in the best manner consistent with State law and customary security taken by private lenders in the State such as revenue

bonds and any other security the State Director determines necessary for a sound loan.

(5) In those exceptional cases where the proposal does not meet the requirements outlined in paragraphs (a)(6)(C) and (D) of this section, proposals may be considered in accordance with paragraph (a)(3)(i) of this section, except that liens will be taken on real and personal property when legally permissible.

(E) *Public bodies and other than public bodies.* (*1*) *Title for right-of-way or easement.* Applicants are responsible for obtaining continuous and adequate rights-of-way and interests in land needed for the construction, operation and maintenance of the facility. When a lien will be taken on a site for structures such as a reservoir or pumping station, and the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortgages or other liens defects, or encumbrances, if any. Consents, releases or subordinations will be obtained from the holders of outstanding liens or mortgages as may be necessary to give FmHA the required security. The applicant will take such title clearance steps as may be necessary or required by FmHA.

(2) *Water rights.* When legally permissible an assignment will be taken on water rights owned or to be acquired by the applicant the following will be furnished as applicable:

(*i*) A statement by the applicant's attorney regarding the nature of the water right owned or to be acquired by the applicant (such as conveyance of title, appropriation and decree, application and permit, public notice and appropriation and use).

(*ii*) A copy of a contract with another company or municipality to supply water or stock certificates in another company representing right to receive water.

(3) *Membership authorization.* For organizations other than public bodies, the membership will authorize a utility type project and its financing except that the State Director may, with the concurrence of the OGC, accept the loan resolution without such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and

(*i*) The organization is well established and is operating with a sound financial base; or

(*ii*) The members of the organization have all signed an enforceable user agreement with a penalty clause and have made the required meaningful user cash contribution, except for members presently receiving service or when State statutes or local ordinances require mandatory use of the facility.

(7) *Economic feasibility requirements.* All projects financed under the provisions of this Section must be based on taxes, assessments, revenues, fees or other satisfactory sources in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA staff and approval official.

(i) Applicants for loans for utility facilities dependent on user fees for debt payment shall base their income and expense forecast on realistic user estimates in accordance with the following:

(A) In estimating the number of users and establishing rates or fees on which the loan will be based for new systems and for extension or improvements to existing systems, consideration should be given to the following:

(*1*) An estimated number of maximum initial users should not be used when setting user fees and rates since it may be several years before all residents in the community will need the services provided by the system. In establishing rates a realistic number of initial users should be employed.

(*2*) User agreements from individual vacant property owners will not be considered when determining project feasibility unless:

(*i*) The owner has plans to develop the property in a reasonable period of time and become a user of the facility; and

(*ii*) The owner agrees in writing to make a monthly payment at least equal to the proportionate share of debt service attributable to the vacant property until the property is developed and the facility is utilized on a regular basis; and

(*iii*) A bond or escrowed security deposit is provided to guarantee the monthly payment required in paragraph (a)(7)(i)(A)(2)(ii) of this section and to guarantee an amount at least equal to the owners proportionate share of construction costs. If a bond is provided, it must be executed by a surety company that appears on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State where the project is located. The guarantee shall be payable jointly to the borrower and the Farmers Home Administration; and

(*iv*) Such guarantee will mature not later than 4 years from the date of execution and will be finally due and payable upon default of a monthly payment or at maturity, unless the property covered by the guarantee has been developed and the facility is being utilized on a regular basis.

(3) Income from vacant property owners other than those authorized by paragraph (a)(7)(i)(A)(2) of this section will be considered only as extra income.

(B) In order to establish realistic user estimates, the following are required:

(*1*) Meaningful potential user cash contribution. Contributions shall be high enough to indicate sincere interest on the part of the potential user but not so high as to preclude service to low-income families. Contributions ordinarily shall be an amount approximating one year's minimum use fees and shall be paid in full before loan closing or the commencement of construction, whichever occurs first. User cash contributions are required except for users presently receiving service when user agreements contained in paragraph (a)(7)(i)(C) are not required or in those cases where FmHA determines that users cannot make a cash contribution.

(2) Except for users presently receiving service an enforceable user agreement with a penalty clause is required unless State statutes or local ordinances require mandatory use of the system and the applicant agrees in writing to enforce such statutes or ordinances, or an exception is otherwise approved by FmHA.

(C) User connection program. In those cases where all or part of the borrower's debt payment ability revenues will come from user fees, applicants must provide a positive program to encourage connection by all users as soon as service is available for review and approval by FmHA before loan closing or commencement of construction, whichever occurs first. Such a program shall include:

(*1*) An aggressive information program to be carried out during the construction period. The borrower should send written notification to all signed users at least three weeks in advance of the date service will be available, starting the date users will be expected to have their connections completed, and the date user charges will begin.

(2) Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or local contractors.

(3) Aggressive action to see that all signed users can finance their connections. This might require collection of sufficient user contributions to finance connections. Extreme cases might necessitate additional loan funds for this purpose; however, loan funds should be used only when absolutely necessary and when approved by FmHA prior to loan closing.

(ii) Facilities for new developing communities or areas. Developers are normally expected to provide essential community facilities in new or developing areas and such facilities shall be installed in compliance with appropriate State statutes and regulations. FmHA financing will be considered to an eligible applicant in such cases when failure to complete development would result in an adverse economic condition for the rural area (not the community being developed); the proposal is necessary to the success of an area development plan; and loan repayment can be assured by:

(A) The applicant already having sufficient assured revenues to repay the loan; or

(B) Developers providing a bond or escrowed security deposit in accordance with paragraph (a)(7)(i)(A)(2) of this section sufficient to meet expenses attributable to the area in question until a sufficient number of the building sites are occupied and connected to the facility to provide enough revenues to meet operating, maintenance, debt service, and reserve requirements; or

(C) Developers paying cash for the increased capital cost and any increased

operating expenses until the developing area will support the increased costs; or

(D) The full faith and credit of a public body where the debt is evidenced by general obligation bonds; or

(E) The loan is to a public body evidenced by a pledge of tax assessments; or

(F) The user charges can become tax lien upon the property being served and income from such lien can be collected in sufficient time to be used for its intended purposes.

(iii) Financial feasibility reports. Applicants will provide a financial feasibility report prepared by a qualified firm or individual. Projects for other than utility type facilities, dependent on revenues from the facility to repay the loan and proposing modifications which will significantly affect the applicant's financial operations will be prepared by a qualified firm or individual not having a direct interest in the management or construction of the facility. For other projects the financial feasibility report will normally be included as a part of the preliminary engineer/architectual report unless additional information is specifically requested by FmHA. Guides outlining the minimum content requirements of financial feasibility reports are available at local FmHA offices.

(8) *Reserve requirements.* Provision for the accumulation of necessary reserves over a reasonable period of time will be included in the loan documents and in assessments, tax levies, or rates charged for services. In those cases where statutes providing for extinguishing assessment liens of public bodies when properties subject to such liens are sold for delinquent State or local taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment.

(i) *General obligation or special assessment bonds.* Ordinarily, the requirements for reserves will be considered to have been met if general obligation or other bonds which pledge the full faith and credit of the political subdivision are used, or special assessment bonds are used, and if such bonds provide for the annual collection of sufficient taxes or assessments to cover debt service, operation and maintenance, and a reasonable amount for emergencies and to offset the possible nonpayment of taxes or assessments by a percentage of the property owners, or a statutory method is provided to prevent the incurrence of a deficiency.

(ii) *Other than general obligation or special assessment bonds.* Each borrower will be required to establish and maintain reserves sufficient to assure that loan installments will be paid on time, to pay for emergency maintenance, and for extensions to facilities. It is expected that borrowers issuing bonds or other evidences of debt pledging facility revenues as security will ordinarily plan their reserve program to provide for a total reserve in amount, equal, at least, to one average loan installment. It is also expected that ordinarily such reserve will be accumulated at the rate of at least one-tenth of the total each year until the desired level is reached.

(9) *General requirements.* (i) *Planning, bidding, contracting, constructing.* (See § 1933.18.)

(ii) *Insurance and bonding.* Property insurance, workmen's compensation insurance, liability insurance, and fidelity bond requirements will not normally be over and above those proposed by the borrower provided the coverage is found to be adequate, and in accordance with the following:

(A) *Property insurance.* Fire and extended coverage may be required on all aboveground structures, including borrower-owned equipment and machinery housed therein, usually in the amount of their value. This does not apply to water reservoirs, standpipes, elevated tanks, and other noncumbustible materials used in treatment plants, clearwells, clarification units, filters, and the like. Where lift stations are properly ventilated, property insurance is not required except for the value of the pumping equipment and electrical equipment therein.

(B) *Workmen's compensation.* The borrower will carry suitable workmen's compensation insurance for all of its employees in accordance with applicable State laws.

(C) *Liability and property damage insurance.* Requirements for liability insurance will be carefully and thoroughly considered in connection with each project financed. Public liability and property damage insurance amounts will be established accordingly. If the borrower owns trucks, tractors, or other vehicles that are driven over public highways, public liability and property damage insurance will be required.

(D) *Malpractice insurance.* The need for and requirements for malpractice insurance will be carefully and thoroughly considered in connection with each health care facility financed. The applicant will maintain such insurance as determined necessary by the governing body, with the advice of the applicant's attorney and concurred in by FmHA.

(E) *Fidelity bonds.* The borrower will provide fidelity bond coverage for the positions of officials entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond will be at least equal to the maximum amount of the money that the borrower will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. Unless prohibited by State law, the United States will be named as coobligee in the bond. Corporate fidelity bonds will be obtained except that in unusual circumstances FmHA may give prior approval to cash bonds. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used.

(F) *Purchasing land, rights, and existing facilities.* Applicants are required to assure that prices paid for land, rights, and facilities are reasonable and fair. FmHA may require an appraisal by an independent appraiser, or an FmHA employee.

(G) *Notes and bonds.* Notes and bonds will be completed on the date of loan closing except for the entry of subsequent multiple advances where applicable. The amount of each note or bond will be in multiples of $100.

(1) Form FmHA 440-22, "Promissory Note (Association or Organization)," will ordinarily be used for loans to nonpublic bodies.

(2) Section 1933.19 contains instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(H) *Environmental impact statements.* The need for an environmental impact statement will be determined by FmHA in accordance with Subpart G of Part 1901 of this Chapter (FmHA Instruction 1901-G). The applicant will provide any information required.

(I) *Health care facilities.* Applicants will provide a statement from the appropriate State agency certifying that the proposed health care facility is not inconsistent with the State Medical Facilities Plan. In addition, a statement will be provided from the appropriate State agency or regional Department of Health, Education and Welfare (HEW) engineer certifying that the proposed facility will meet the minimum standards for design and construction contained in the Public Health Service/Health Resources Administration (PHS/HRA), HEW Publication (No. HRA 74-4000), "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities"; the statement will also contain the life/safety aspects of the 1967 and 1973 editions of the National Fire Protection Association (NFPA) 101 Life Safety Code, or any subsequent codes that may be designated by the Secretary of HEW. Any exceptions must have prior National Office concurrence.

(J) *Lease agreements.* Where the right of use or control of real property not owned by the applicant/borrower is essential to the successful operation of the facility during the life of the loan, such right will be evidenced by written agreements or contracts between the owner(s) of the property and the applicant/borrower. Lease agreements shall not contain provisions for restricted use of the site or facility, forfeiture or summary cancellation clauses and shall provide for the right to transfer and lease without restriction. Lease agreements will ordinarily be written for a term at least equal to the term of the loan. Such lease contracts or agreements will be approved by the FmHA loan approving official with the advice and counsel of the Regional Attorney, Office of the General Counsel, as to the legal sufficiency of such documents. A copy of the lease contract or agreement will be included in the loan docket.

(10) *Other Federal, State and local requirements.* Each application shall contain the comments, necessary certifications and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation and management of

similar facilities. Proposals for facilities financed in whole or in part with FmHA loans will be coordinated with appropriate Federal, State, and local agencies in accordance with the following:

(i) *Compliance with special laws and regulations.* Applicants will be required to comply with Federal, State, and local laws and any regulatory commission rules and regulations pertaining to:

(A) Organization of the applicant and its authority to construct, operate, and maintain the proposed facilities;

(B) Borrowing money, giving security therefor, and raising revenues for the repayment thereof;

(C) Land use zoning; and

(D) Following unless an exception is granted by FmHA:

(*1*) Health and sanitation standards

(2) Design and installation standards.

(ii) *State Pollution Control or Environmental Protection Agency standards.* Water and waste disposal facilities will be designed, installed, and operated in such manner that they will not result in the pollution of water in the State in excess of established standards and that any effluent will conform with appropriate State and Federal Water Pollution Control Standards.

(iii) *Consistency with other development plans.* FmHA financed facilities will not be inconsistent with any development plans of State, multijurisdictional area, counties, or municipalities in which the proposed project is located.

(iv) *State agency regulating water rights.* Each FmHA financed facility will be in compliance with appropriate State agency regulations which have control of the appropriation, diversion, storage and use of water and disposal of excess water. All of the rights of any landowners, appropriators, or users of water from any source will be fully honored in all respects as they may be affected by facilities to be installed.

(v) *National historic preservation.* All projects will be in compliance with the provisions of the National Historic Preservation Act of 1966 in accordance with Part 1890 N of this Chapter. (FmHA Instruction 1901–F)

(vi) *Civil Rights Act of 1964.* All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 in accordance with Subpart E of Part 1901 of this Chapter.

(vii) *Architectural Barriers Act of 1968.* All facilities financed with FmHA loans and grants and which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this act.

(11) *Professional services and contracts related to the facility.* (i) *Professional services.* Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Professional services of the following may be necessary: Engineer, architect, attorney, bond counsel, accountant, auditor as defined in paragraph (a)(14)(iv)(C)(*1*) of this section; appraisers, and financial advisory or fiscal agent (if desired by applicant). Contracts or other forms of agreement between the applicant and its professional and technical representatives are required and are subject to FmHA concurrence. Form FmHA 442.19, "Agreement for Engineering Services," may be used when appropriate. Section 1933.20(a)(20) "Agreement for Engineering Services (FmHA/EPA—Jointly Funded Projects)" on projects jointly funded by FmHA and EPA. Section 1933.20(a)(14) may be used in the preparation of the legal services agreement.

(ii) *Contracts for other services.* Contracts or other forms of agreements for other services including management, operation, and maintenance will be developed by the applicant and presented to FmHA for review and approval.

(iii) *Fees.* Fees provided for in contracts or agreements required in paragraph (a)(11)(i) and (ii) of this section shall be reasonable. They shall be considered to be reasonable if not in excess of those ordinarily charged by the profession for similar work when FmHA financing is not involved.

(12) *Applying for FmHA loans.* (i) *Pre-application.* Applicants desiring loans will file Form AD–621, "Preapplication for Federal Assistance," with the appropriate FmHA County Office. They will also file written notice of intent and a request for priority recommendations with the appropriate A–95 clearinghouse agency.

(ii) *Preapplication review.* Upon receipt of the preapplication, FmHA will tentatively determine eligibility including the likelihood of credit elsewhere at reasonable rates and terms and availability of FmHA loan funds. The determination as to availability of other credit will be made after considering present rates and terms available for similar proposals (not to be based upon 5 percent interest and 40-year repayment terms); the repayment potential of the applicant; long-term cost to the applicant; and average user or other charges.

(iii) In those cases where FmHA determines that loans at reasonable rates and terms should be available from commercial sources, FmHA will notify the applicant so that it may apply for such financial assistance. Such applicants may be reconsidered for FmHA loans upon their presenting satisfactory evidence of inability to obtain commercial financing at reasonable rates and terms.

(iv) Applicants should not proceed with planning nor obligate themselves for expenditures until authorized by FmHA.

(v) *Applicants are:* (A) Responsible for completing their applications in accordance with guidance from FmHA.

(B) Responsible for assembling their applications. They may utilize their professional technical representatives or other competent sources to assist in assembling their applications.

(vi) *Application conference.* Before starting to assemble the application and after the applicant selects its professional and technical representatives, it should arrange with FmHA for an application conference to provide a basis for orderly application assembly. FmHA will provide applicants with a list of documents necessary to complete the application.

(vii) *Review of decision.* If an application is rejected, the applicant may request a review of this decision from the Administrator of FmHA. The address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250. The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(13) *Closing loans and fund delivery.*—(i) *Loan resolutions.* Loan resolutions will be adopted by both public and other-than-public bodies using Forms FmHA 442–47 and FmHA 442–9 respectively. These resolutions will supplement or add to provisions included elsewhere in this regulation. The association will agree:

(A) To indemnify the Government for any payments made or losses suffered by the Government on behalf of the association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

(B) To comply with applicable local, State and Federal laws, regulations and ordinances.

(C) To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, establishment of adequate reserves and to continually operate and maintain the facility in good condition. No free service or use of the facility will be permitted.

(D) To acquire and maintain such insurance coverage including fidelity bonds, as may be required by the Government.

(E) To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the Government and to provide the Government without its request, a copy of each such audit and to make and forward to the Government such additional information and reports as it may, from time to time, require.

(F) To provide the Government at all reasonable times, access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

(G) To serve any applicant within the service area who desires services and can be feasibly and legally served and to obtain the concurrence of the FmHA

prior to refusing services to such applicant. Upon failure to provide services which are feasible and legal, such applicant shall have a direct right of action against the association under this agreement.

(H) To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds or notes or other debt instruments such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.

(I) To refinance the unpaid balance, in whole or in part, of its debt upon the request of the Government if at any time it should appear to the Government that the association is able to refinance its bonds by obtaining a loan for such purposes from reasonable cooperative or private sources at reasonable rates and terms.

(J) To provide for, execute, and comply with Form FmHA 400–4, "Nondiscrimination Agreement," and Form FmHA 400–1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in or attached as a rider to each construction contract and subcontract involving in excess of $10,000.

(K) To place the proceeds of the loan on deposit in an account in a bank and in a manner approved by the Government.

(L) Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof or interest therein, not to permit others to do so, without the prior written consent of the Government.

(M) Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the debt to FmHA.

(N) That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government, at its option, may:

(*1*) Declare the entire principal amount then outstanding and accrued interest, due and payable;

(*2*) For the account of the association (payable from the source of funds pledged to pay the bonds or notes or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; and/or

(*3*) Take possession of the facility, repair, maintain and operate, or otherwise dispose of the facility. Default under the provisions of the resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the association and default under any such instrument may be construed by the Government to constitute default hereunder.

(ii) *Interim financing.* In all loans, exceeding $50,000, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the FmHA loan would normally be closed, that is immediately prior to the start of construction. When the interim financing funds have been expended, the FmHA loan will be closed. Multiple advances may be used in conjunction with interim commercial financing when the applicant is unable to obtain sufficient funds through interim commercial financing in an amount equal to the loan. The FmHA loan proceeds (including advances) will be used to retire the interim commercial indebtness. Before the FmHA loan is closed, the applicant will be required to provide FmHA with statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts or other agreements and, in the case of the contractor, that he has paid his suppliers and subcontractors. If such statements cannot be obtained, the loan may be closed provided:

(A) Statements to the extent possible are obtained;

(B) The interests of FmHA can be adequately protected and its security position is not impaired;

(C) Adequate provisions are made for handling the unpaid accounts by withholding or escrowing sufficient funds to pay such claims.

(iii) *Multiple advances.* In the event interim commercial financing is not legally permissible or not available, multiple advances of FmHA loan funds are required. Multiple advances will be used only for loans in excess of $50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Advances should not exceed 24 in number nor extend longer than two years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure construction completion will be included in the last advance.

(A) Section 1933.19(a) (5) and (6) contain instructions for making multiple advances to public bodies.

(B) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay cost of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FmHA 440–11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. Form AD–627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FmHA 440–11 after the initial advance of funds is made.

(iv) *Applicant contribution.* Applicants contributing funds toward the project cost shall deposit these funds in its construction account on or before loan closing or start of construction whichever occurs first. Project costs, paid prior to the required deposit time with applicant funds shall be appropriately accounted for.

(v) *Evidence of and disbursement of other funds.* Applicants expecting funds from other sources for use in completing projects being partially financed with FmHA funds will present evidence that funds from such other sources will be available before loan closing, or the commencement of construction, whichever occurs first. Ordinarily, the funds provided by the applicant or from other sources will be disbursed prior to the use of FmHA loan funds. If this is not possible, funds will be disbursed on a pro rata basis.

(vi) *Supervised bank account.* Loans funds and any funds furnished by the applicant may be deposited in a supervised bank account in a bank having Federal Deposit Insurance Corporation (F.D.I.C.) coverage. Funds placed in a supervised bank account are public monies under 12 U.S.C. 265, and therefore, any amount which exceeds the F.D.I.C. coverage will require a collateral pledge pursuant to Treasury Circular Number 176. If a supervised bank account is not used, arrangements will be agreed upon for the prior approval by FmHA of the bills or vouchers upon which warrants will be drawn, so that the necessary control of payments from loan funds can be maintained and FmHA records can be kept current. Periodic audits of nonsupervised accounts shall be made by FmHA at such times and in such manner as the FmHA State Director prescribes in the conditions of loan approval. Mandatory State laws regulating the depositories to be used shall be complied with.

(vii) *Payment for construction.* Payment for construction will be made in accordance with the construction contract in amounts approved on Form FmHA 424–18, "Partial Payment Estimate." Advances for contract retainage will not be made until such retainage is due and payable under the terms of the contract. Form AD–629, "Outlay Report and Request for Reimbursement for Construction Programs," will be used to account for funds expended in the last 30 day period. Each payment estimate must be approved by the governing body of the borrower. The review and acceptance of partial payment estimates by FmHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications. A final Form AD–627 will be submitted to FmHA to include the final advance and all other advances not later than 90 days after the final advance has been made.

(viii) *Funds remaining after construction is completed.* Should loan funds remain available, including obligated funds not advanced, after all costs incident to

the basic project have been paid or provided for, such funds may be used for needed extensions, enlargements, and improvements of the project with the prior permission of the FmHA State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. Remaining project funds not needed for authorized extensions, enlargements or improvements shall be returned to FmHA as a repayment on the loan in a proportionate amount of the FmHA loan to the total planned project cost, unless other disposition is required by the bond ordinance or resolution or by the State statutes.

(ix) *Obtaining insurance, and fidelity bonds.* Required property insurance policies, liability insurance policies, and fidelity bonds will be obtained by the time of loan closing or start of construction, whichever shall occur first.

(x) *Distribution of recorded documents.* The originals of the recorded deeds, easements, permits, certificates of water rights, leases, or other contracts and similar documents which are not to be held by FmHA will be returned to the borrower. The original mortgage(s) and water stock certificates, if any, if not required by the recorder's office will be retained by FmHA.

(14) *Borrower accounting methods, management reporting and audits.*

(i) *Accounting methods and records.*

(A) *Method of accounting.* The methods of accounting will be such that separate accounts are to be maintained on the individual project being financed by FmHA when it is a unit of a larger organization. Borrowers shall maintain their accounting records on the accrual basis unless State statutes or regulatory Agencies provide otherwise, or an exception to this requirement is made by FmHA.

(*1*) *Exception to accrual method.* The State Director may approve a basis of accounting other than accrual when the resultant financial statements will present fairly the financial position and results of operations of the organization. For organizations who have audits by independent public accountants, whether or not required by paragraph (a)(14)(iv) of this section, the basis of accounting other than accrual must have the written approval of the organization's auditor before granting a waiver so that the basis of accounting will not be a factor in keeping the auditor from rendering an unqualifed opinion.

(B) *Records.* Each borrower shall retain all records, books and supporting material for a period of 3 years after the issuance of the audit reports and financial statements in paragraph (a)(14)(iv) of this section. This material will be available upon request to FmHA, the Comptroller General, or to their representatives.

(C) *Approval requirement.* Prior to loan closing or commencing with construction, whichever shall occur first, each borrower shall provide and obtain approval from the FmHA State Director for its accounting and financial reporting system, including the agreement with its auditor, if an auditor is required as determined in paragraph (a)(14)(iv)(A) of this section.

(ii) *Management reports.* These reports will furnish the management with a means of evaluating prior decisions and serve as a basis for planning future operations and financial conditions. In those cases where revenues from multiple sources are pledged as security for an FmHA loan, two reports will be required; one for the project being financed by FmHA and one combining the entire operation of the borrower. In those cases where FmHA loans are secured by general obligation bonds or assessments and the borrower combines revenues from all sources, one management report combining all such revenues will suffice. The following management data will be submitted by the borrower to the County FmHA Supervisor.

(A) *Financial information.* (*1*) Form FmHA 442-2, "Statement of Budget, Income and Equity." (Schedule 1 "Statement of Budget, Income and Equity," and Schedule 2, "Projected Cash Flow.")

(*2*) Prior to the beginning of each fiscal year, two copies, with data entered in column three only of page one, annual budget of schedule 1 and all of schedule 2, will be submitted to the County Supervisor. Twenty (20) days after the end of each of the first three quarters of each year, two copies with all information furnished on schedule 1 will be submitted. More frequent submissions may be required by FmHA when necessary. For the fourth quarter of each year, submit together with the yearend financial requirements of paragraph (a)(14)(iv) and (v) of this section. The submission dates to the County Supervisor will be 90 days following yearend for audited statements and 60 days following yearend for unaudited statements. The fourth quarter submission may serve the dual purpose of management report and yearend financial requirement for Statement of Income. Refer to paragraph (a)(14)(v) of this section and the Forms Manual Insert for Form FmHA 442-2.

(B) *Additional information.* (*1*) A list of the names and addresses of all members, partners, directors, as appropriate, also indicating the officers and their terms of office will be included with the other information required at the end of the year.

(*2*) Borrowers delinquent on payment to FmHA or experiencing financial problems, will develop a positive action plan to resolve financial problems. The plan will be reviewed with FmHA and updated at least quarterly. A guide for developing a positive action plan is available at the local FmHA office.

(iii) *Substitute for Management Reports.* In those cases where FmHA loans are secured by the general obligation of the public body or tax assessments which total 100 percent of the debt service requirements, the State Director may authorize an annual audit to be substituted for other management reports.

(iv) *Audits and financial statements.*

(A) *Audit requirements.* Audits are required annually of borrowers as follows:

(*1*) Where gross annual income exceeds $100,000.

(*2*) Others as FmHA State Director may require.

(B) *Public body borrowers.* Audit reports prepared in accordance with State statutes or regulatory Agencies are acceptable provided they contain the financial information necessary and are prepared on a frequency sufficient to furnish borrowers and FmHA the information for proper loan analysis. A copy of the audit report will be submitted to the County Supervisor as soon as possible but in no case later than 90 days following the period covered by the audit. Public bodies should refer to the FmHA Audit guide in paragraph (a)(14)(iv)(C)(*2*) of this section for further information and guidance.

(C) *Other borrowers.* Borrowers other than public bodies and public bodies where the State has no audit requirements are required to have their records audited by an independent public accountant on an annual basis. A copy of the audit report will be submitted to the County Supervisor as soon as possible but in no case later than ninety (90) days following the period covered by the audit.

(*1*) *Independent public accountant defined.* Audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(*2*) *Audit guide.* Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." The handbook is available at all FmHA offices.

(v) *Borrowers not required to have audits.* Borrowers whose gross annual income for a full year of operation is less than $100,000 and who do not have an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FmHA with annual financial statements, consisting of a verification of the organization's balance sheet and statement of income and expense by an appropriate official of the organization. Forms FmHA 442-2, "Statement of Budget, Income and Equity," and FmHA 442-3, "Balance Sheet," may be used. For borrowers using Form 442-2, the dual purpose of fourth quarter management reports, when required, and annual statements of income will be met with this one submission.

§ 1933.18 Appendix B—Community facilities—Planning, bidding, contracting, constructing.

(a) This section includes information and procedures specifically designed for use by applicants including the professional or technical consultants and/or agents who provide such assistance and services, as architecture, engineering, financial, legal or other services related to planning, bidding, contracting, and constructing community facilities. This section is made available as needed for such use.

(1) *General.* This section outlines the policies for planning and developing essential community facilities.

(2) *Technical services.* Applicants are responsible for providing the engineering or architectural services necessary for planning, designing, bidding, contracting, and constructing their facilities. Such services may be provided by the applicants' "in house" engineer or architect or through contract as authorized in § 1933.17(a)(11).

(3) *Design policies.* Facilities financed by the FmHA will be designed and constructed in accordance with sound engineering and architectural practices, and meet the requirements of State and local agencies having jurisdiction in such matters.

(i) *Location of facilities in flood plain area.* Ordinarily facilities will not be located in the 100-year flood plain level except for supply and treatment plants in which event applicants will evaluate the proposal from the standpoint of special design and additional initial and maintenance costs, and provide FmHA with the recommendations of appropriate agencies such as the U.S. Army Corps of Engineers, the Soil Conservation Service (SCS), or appropriate State official. Facilities located in special flood and mudslide prone areas must comply with the eligibility and insurance requirements of Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(ii) *Water systems.* (A) *Capacity.* The systems must have sufficient capacity to provide for reasonable fire protection and growth.

(B) *Pressure.* Maximum operating pressure should not exceed 90 psi, minimum should not be less than 20 psi, calculated at maximum use flow.

(C) *Pipe.* All pipe used shall meet current product standards and American Society for Testing and Materials (ASTM) standards. Further, if plastic pipe is used its operating pressures shall not exceed two-thirds of its rated working pressure, and its wall thickness shall not be less than .090 inches.

(D) *System testing.* Leakage shall not exceed 10 gallons per inch or pipe diameter per mile of pipe per 24 hours.

(E) *Service through individual installations.* Community water systems may provide service through individual installations to individuals or small clusters of users within the central system service area but who are beyond the physical or economic limits of the central system, when it is more feasible to provide such service through individual or remote facilities. The determination shall be made taking into consideration such items as: Quantity, quality of the water that may be developed; cost of the individual facility as compared with the cost per user on the central system; and health and pollution problems attributable to individual facilities.

(*1*) Agreements between the community and individuals for the installation and payment for individual facilities and their operation will be subject to approval by FmHA.

(2) Applicants providing service through individual facilities will obtain such security as the FmHA determines is necessary to assure collection of any sum the individual is obligated to repay the applicant, if taxes or assessments are not pledged as security.

(*3*) Notes representing indebtedness owed an association by a user for an individual facility will be scheduled for repayment over a period not to exceed the useful life of the individual facility or the loan, whichever is the shorter. The interest rate will be the same as the rate owed the community on its FmHA loan.

(*4*) If the applicant cannot levy taxes or assessments against property being served through individual installations, arrangements are to be made for:

(*i*) Easements for the installation and ingress to and egress from the installation.

(*ii*) Satisfactory method for denying service in the event of nonpayment of user fees.

(F) *Quality.* The systems must provide water of a quality that meets the current primary drinking water regulations (PDWR) in compliance with the Safe Drinking Water Act, PC 93-523, December 16, 1974.

(iii) *Sanitary sewerage systems.* (A) The systems must have sufficient capacity to provide for reasonable growth.

(B) Collection and treatment facilities shall be designed and installed so as to meet the requirements of the State Environmental Protection (Water Pollution Control) Agency.

(iv) *Combined sanitary and storm sewerage systems.* Combined systems will not be financed except that improvements to existing combined systems may be financed, provided it would be impractical to provide separate systems and the proposal is approved by the State Environmental Protection (Water Pollution Control) Agency.

(v) *Solid waste disposal systems.* (A) Preliminary and final plans and designs shall address both site selection, planning, landfill design, drainage control, roadways, utilities, and other problems such as those which may arise due to water leaking into or from landfills and allow for proper handling of landfill gases.

(B) Each system will be in compliance with appropriate State and local Department of Health or environmental quality requirements.

(4) *Utility purchase contracts.* Applicants proposing to purchase water or other utility service from private or public sources shall have written contracts for such supply, and all such contracts will be reviewed and approved by FmHA prior to their execution by the applicant. Form FmHA 442-30, "Water Purchase Contract," may be used. Such contracts will:

(i) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water or other service and provide that in case of shortages, all of the supplier's users will share the shortages proportionately. If it is impossible to obtain a firm commitment for a minimum supply at all times, a contract may be executed and approved, if adequate evidence is provided to enable FmHA to make a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the borrower if it should ever become necessary.

(ii) Set out the ownership and maintenance responsibilities of the respective parties including the master meter if a water meter is installed at the point of delivery.

(iii) Specify the initial rates and provide some kind of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provisions may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(iv) Run for a period of time which is at least equal to the repayment period of the loan. State Directors may approve contracts for shorter periods of time if the supplier cannot legally contract for such period, or if the applicant and supplier find it impossible or impractical to negotiate a contract for the maximum period permissible under State law provided:

(A) The contract contains adequate provisions for renewal; or

(B) A determination is made that in the event the contract is terminated, there are or will be other adequate sources of water available to the applicant that can be developed or purchased feasibly.

(v) Set out in detail the amount of connection or demand charges, if any, to be made by the supplier as a condition to making the service available to the association. However, the payment of such charges from loan funds shall not be approved unless FmHA determines that it is more feasible and economical for the borrower to pay such a connection charge than it is for the borrower to provide the necessary supply by other means.

(vi) Provide for a pledge of the contract to FmHA as part of the security for the loan.

(vii) Not contain provisions for:

(A) Construction of facilities which will be owned by the supplier. This does not preclude the use of money paid as a connection charge for construction to be done by the supplier.

(B) Options for the future sale or transfer. This does not preclude an

agreement recognizing that the supplier and borrower may at some future date agree to a sale of all or a portion of the facility.

(5) *Contracts to treat sewage.* Applicants preparing to enter into a contract with private or public sources to treat raw sewage shall have written contracts for such service and all such contracts are subject to FmHA concurrence. Paragraph (a)(4) of this section may be used as a guide to preparation of contracts for sewage treatment.

(6) *Preliminary engineering and architectural reports.* Reports shall be prepared in accordance with customary professional standards. FmHA has guides for preparing preliminary architectural/engineering reports for water, sewer, solid waste, storm sewer projects, and other community facilities.

(7) *Construction contract forms.* Standard contract documents prescribed for use by borrowers and grantees in Federally assisted projects may be used for all community facility projects including water and waste disposal systems and buildings, such as hospitals and nursing homes. These standard documents are published by FmHA as § 1933.20(a)(19) and may be reviewed at the local FmHA office. Applicants may obtain copies of the documents from the American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005; Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006; and the National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006. When these standard contract documents are used, it will normally not be necessary to obtain prior approval of the Office of the General Counsel.

(i) For those projects where a performance and payment bond is not provided, "Construction Contract Documents," may be used as indicated in § 1933.20(a)(17). This guide may be obtained from the local FmHA office.

(ii) Contract documents such as those of the American Institute of Architects (AIA) may be used for appropriate projects when modified to comply with this regulation and by including FmHA supplemental general conditions. Such documents must be submitted for prior review and approval by the Regional Attorney.

(8) *Performing construction.* Borrowers may accomplish construction through contracts with others or by using their own personnel and equipment, provided a licensed engineer or architect, as appropriate, inspects the construction and furnishes inspection reports as required by paragraph (a)(12) of this section. In either case the requirements of paragraph (a)(9) of this section apply. Payments for construction will be handled in accordance with § 1933.17(a)(13)(iii)(B).

(9) *Procurement, bidding, and contracting.* (i) These standards do not relieve the borrower of the contractual responsibilities arising under its contracts. The borrower is the responsible authority, without recourse to the FmHA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a loan. This includes but is not limited to: Disputes, claims, protests of awards, source evaluation or other matters of a contractual nature. Matters concerning violation of laws are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(ii) Borrowers may use their own procurement regulations which reflect applicable State and local laws, rules and regulations, provided that procurements made with FmHA loan funds adhere to the standards set forth as follows:

(A) The borrower shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending loan funds. Borrower officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the borrower officers, employees, or agents, or by contractors, or their agents.

(B) All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The borrower should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. Performance specifications and the term "or equal" may be used for equipment and materials. In specifying pipe, however, the acceptable materials(s) should be designed into the project to assure proper installation of the material chosen and to avoid uncertainty and misunderstanding. This can be done in the following ways:

(*1*) By reference to nationally known materials standards such as the American Society for Testing and Materials (ASTM), American Water Works Association (AWWA), and Federal specification and standards, or the standards of similar agencies. In referring to standards, however, care must be exercised to assure that the desired type of material is selected since many standards cover two or more types.

(*2*) By specifying two or more materials, any one of which is acceptable to the owner.

(*3*) By specifying the particular material required for the project. In specifying materials, the owner and his consultant will consider all materials suitable for the project. Where materials which would normally be suitable are not included for bidding, the owner and his consultant must be prepared to justify the selection of the material used.

(C) The borrower shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(*1*) Proposed procurement actions shall be reviewed by borrower officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical practical procurement. Where substantial amounts of funds are necessary for purchase of machinery and equipment, applicants ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

(*2*) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material or product 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.

(*3*) Positive efforts shall be made by the borrower to utilize small business and minority-owned business sources. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing loan funds. Applicants shall, when submitting contract documents as required in paragraph (a)(9)(ii)(H) of this section provide FmHA with a written statement or other evidence of the steps taken to comply with this requirement.

(*4*) The "cost-plus-a-percentage-of-the-cost" method of contracting shall not be used.

(*5*) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (a)(9)(ii)(C)(*6*) of this section is necessary to accomplish sound procurement. However, procurements of $50,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the borrower, price and other factors considered. Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the borrower. Any or all bids may be rejected when it is in the borrower's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations

(*6*) Procurements may be negotiated if it is impracticable and infeasible to use formal advertising. Generally, procurements may be negotiated by the borrower if:

(*i*) The public exigency will not permit the delay incident to advertising; or

(*ii*) The material or service to be procured is available from only one person or firm; (All contemplated sole source

procurements where the aggregate expenditure is expected to exceed $50,000 shall be referred to the FmHA for prior approval) or

(iii) The aggregate amount involved does not exceed $50,000; or

(iv) No acceptable bids have been received after formal advertising.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(D) Procurement records or files for purchases not handled in accordance with paragraph (a)(9)(ii)(C) (5) and (6) of this section and those in excess of $50,000 shall provide at least the following pertinent information:

(1) The applicant's written request to utilize methods of procurement other than competitive bidding and justification for the use of such negotiations.

(2) A written consent from the FmHA making an exception to the requirements contained in paragraph (a)(9)(ii)(D) (1) and (6) of this section and (G) of this section in regards to formal competitive bidding and the architect/engineer-contractor relationship. Such consent shall not be given when FmHA financing includes a grant.

(3) A detailed tabulation of similar type projects of comparative construction costs of several facilities recently completed within the geographical area by contractors other than the bidder. Such tabulation must show that the cost of constructing the proposed facility through use of negotiated contract will be less than the cost of comparable facilities constructed through competitive bidding.

(4) A firm total construction cost guaranteed in writing by the contractor. Any extra cost which may result from errors or omissions shall be the responsibility of the contractor.

(5) Final plans and specifications that are complete and in sufficient detail to indicate what is covered by the contract. The plans and specifications should include such items as site layout and all appurtenant work; structural and finish materials; electrical heating, plumbing, ventilating, and air conditioning equipment; fixed equipment included in the construction contract as well as any other fixed equipment.

(6) The applicant will submit a detailed listing and cost estimate of equipment and supplies not included in the construction contract necessary to properly operate the facility.

(7) Contractor's and applicant's statement that the facility will equal or exceed all applicable Federal, State, and local requirements. Where applicable, certificate of need, permits or other clearances are available, they will be included.

(8) Evidence that the applicant has hired an on-site full-time construction inspector who is completely independent from the contractor and is responsible only to the owner. Such inspector must be qualified to interpret plans and specifications and to advise the applicant of the full technical scope of the proposed project. This inspector must be hired prior to the execution of the construction contract.

(9) The applicant's evaluation of the contractors' performance for previous similar projects and those in which the contractor performed both the design and construction.

(10) The applicant's and contractor's written agreement in which they agree to comply with all FmHA regulations.

(E) Applicants awarding construction contracts prior to filing a preapplication with FmHA must comply with the following:

(1) Provide conclusive evidence that the contract was entered into without intent to circumvent the requirements of FmHA instructions. Such evidence will consist of at least the following:

(i) The lapse of a reasonable period of time between the date of contract award and the date of filing preapplication which clearly indicates an irreconcilable failure of previous financial arrangements, or

(ii) A written statement explaining initial plans for financing the project and reasons for failure to obtain the planned credit.

(2) Modify the outstanding contract to conform with the provisions of this instruction. Where this is not possible, modifications will be made to the extent practicable and as a minimum the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the FmHA financing where all construction is complete and it is impracticable to modify the contracts, the applicant must provide the certification required by paragraph (a)(9)(ii)(E)(4) of this section. Any exceptions to full compliance with this regulation must be approved by FmHA with advice from the office of the General Counsel.

(3) Provide a certification by its engineer or architect certifying that any construction performed complies fully with the plans and specifications.

(4) Provide a certification that the applicant and his contractor complied with all statutory and executive requirements related to FmHA financing, for construction already performed, even though their requirements may not have been included in the contract documents.

(F) The borrower shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts:

(1) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. A realistic liquidated damage provision also should be included.

(2) All contracts, amounts for which are in excess of $10,000 shall contain suitable provisions for termination by the borrower including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the borrower shall require bonds assuring performance and payment of 100 percent of the contract cost. For contracts of lesser amounts the borrower may require such bonds. When a performance and payment bond is not provided, contractors will furnish evidence of payment in full for all materials, labor, and any other items procured under the contract. Form FmHA 424-10, "Release by Claimants," and Form FmHA 424-9, "Certificate of Contractor's Release," map be obtained at the local FmHA office and used for this purpose. When a performance and payment bond is provided, the United States acting through the Farmers Home Administration will be named as co-obligee in these bonds unless prohibited by State law.

(4) All contracts in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, as amended, entitled "Equal Employment Opportunity." In addition and without reference to the number of employees, each contractor shall be required not to discriminate on the basis of race, color, religion, national origin, and sex.

(i) Bid conditions—hometown plans—imposed plans. All construction contracts in excess of $10,000 financed by FmHA, in areas which have hometown or imposed plans are subject to the Model Equal Employment Opportunity EEO Bid Conditions issued by the Department of Labor. See Attachment I to Guide 17. The Department of Labor's Regional Offices of Federal Contract Compliance maintain current lists of areas covered by these plans. They can provide specific information on such areas. Each State Director should seek the advice of OGC as to compliance with any such plans in his jurisdiction. The following reports will be required from plan areas.

(ii) Contractors will submit on a monthly basis, Standard Form 257 Monthly Employment Utilization Report.

(5) All contracts for construction shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The borrower shall

report all suspected or reported violations to the FmHA.

(6) All negotiated contracts (except those of $2,500 or less) awarded by borrowers shall include a provision to the effect that the borrower, FmHA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions.

(7) If the contract exceeds $100,000, the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. 1957-g) and Section 308 of the Water Pollution Control Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. The contract should contain provisions obligating the contractor as a condition for the award of the contract as follows:

(i) To notify the owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

(ii) To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

(iii) To include or cause to be included the above criteria and requirements of paragraph (a)(9)(ii)(F)(7)(i) and (ii) of this section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

(8) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

(9) Each contract in excess of $2,500 shall contain FmHA supplemental general conditions. These conditions are contained in the FmHA Guide, § 1933.20 (a)(18) "Supplemental General Conditions," and may be obtained from the local FmHA Office.

(G) No engineer or architect (individual or firm) who has prepared plans and specifications or who will be responsible for supervising the construction will be considered acceptable as a bidder. Any firm or corporation in which such architect or engineer is an officer, employee, or holds or controls a substantial interest will not be considered an acceptable bidder. Contracts or purchases by the construction contractor may not be awarded or made to a supplier or manufacturer if the engineer or architect (firm or individual) who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Bids will not be awarded to firms or corporations which are owned or controlled wholly, or in part by a member of the governing body of the applicant or to an individual who is such a member. Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting, and multiplicity of small contracts on the same job), should be avoided whenever it is practical to do so. Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the job site in a finished or semifinished state such as prefabricated buildings and lift stations. Contracts may also be awarded for materials delivered to the job site and installed by a patented process or method.

(H) The applicant's attorney will review the executed contract documents including performance and payment bonds and provide FmHA with his certification that they have been properly executed and that the persons executing these documents have been properly authorized to do so. That contract documents, including bid bonds and bid tabulation sheets will be forwarded to FmHA for approval. All contracts will contain a provision that they are not in full force and effect until they have been approved by FmHA. The FmHA State Director is responsible for approval of all construction contracts utilizing the legal advice and guidance of the Office of the General Counsel where necessary. If the construction contract utilized the format of a guide form which has been approved by FmHA, it will not be necessary to submit individual contract documents to the OGC for prior approval. If the construction contract does not utilize the format of guide forms previously approved by FmHA, OGC approval of the contract will be obtained prior to its use.

(I) The construction contract will require that all change orders be approved by FmHA.

(10) *Preconstruction conference.* Prior to beginning construction, FmHA will review the planned development with the applicant, its engineer, resident inspector, attorney, the contractor, and other interested parties. The conference will thoroughly cover the items included in Form FmHA 424-16, "Record of Preconstruction Conference," and the discussions and agreements will be documented on the form.

(11) *Applicant/borrower monitor reports.* Each applicant or borrower will be required to monitor, and provide a report to FmHA on actual performance during the construction for each project financed, or to be financed, in whole or in part with FmHA funds to include:

(i) A comparison of actual accomplishments to the construction schedule established for the period. Form AD-629, "Outlay Report and Request for Construction Programs," and Form FmHA 424-18 "Partial Payment Estimate," will be used for this purpose.

(ii) A narrative statement will be attached to Form AD-629 giving full explanation of the following:

(A) Reasons established goals were not met.

(B) Analysis and explanation of cost overruns or high unit costs and how payment is to be made for the same.

(iii) If events occur between reports which have a significant impact upon the project, the applicant/borrower will notify FmHA as soon as any of the following conditions are known:

(A) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(B) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

(12) *Resident inspection.* Full-time resident inspection is required for all construction unless a written exception is made by FmHA. Unless otherwise agreed, the resident inspector will be provided by the consulting architect/engineer. Prior to the preconstruction conference, the architect/engineer will submit a resume of qualifications of the resident inspector to the applicant and to FmHA for acceptance in writing. If the applicant provides the resident inspector, it must submit a resume of the inspector's qualifications to the project architect/engineer and FmHA for acceptance in writing prior to the preconstruction conference. The resident inspector will attend the preconstruction conference where his duties and responsibilities will be fully discussed. The resident inspector will work under the general supervision of the project architect/engineer. A guide format for preparing daily inspection reports and Form FmHA 424-18 are available on request from FmHA.

(i) *Inspectors daily dairy.* The inspector will maintain a daily diary in accordance with the following:

(A) The diary shall be maintained in a hard-bound book.

(B) The diary book shall have all pages numbered and all entries in ink.

(C) All entries shall be entered on a daily basis beginning with the date and weather conditions.

(D) Daily entries shall include daily work performed, number of men and equipment used in the performance of work, and all significant happenings during that day.

(E) The daily diary will be made available to FmHA personnel and will be reviewed during project inspections.

(ii) *Prefinal inspections.* A prefinal inspection will be made by the borrower, resident inspector, project architect or engineer, representatives of other agencies involved in project financing, the County Supervisor, the FmHA representative designated by the State Director to assist the County Supervisor in project development, and a member of the FmHA State Office staff, preferably the State Staff architect or engineer. A list of items necessary for project completion will be developed and agreed upon during the prefinal inspection. The inspection results will be recorded by the member of the State Office staff on Form FmHA 424-12, "Inspection Report," and a copy provided all appropriate parties.

(iii) *Final inspection.* A final inspection will be made by FmHA before final payment is made. Final payment will not be made until FmHA and the borrower concur in writing that the construction has been completed as planned.

(13) *Changes in development plans.* (i) Changes in development plans may be approved by FmHA when requested by borrowers, provided:

(A) Funds are available to cover any additional costs;

(B) The change is for an authorized loan purpose; and

(C) It will not adversely affect the soundness of the facility operation or FmHA's security.

(ii) Changes will be recorded on Form FmHA 424-7, "Contract Change Order." Change orders must be approved by the FmHA State Director or his designated representative.

(iii) Changes should be accomplished only after FmHA approval on all changes which affect the work and shall be authorized only by means of a contract change order. The change order will include items such as:

(A) Any changes in labor and material and their respective cost.

(B) Changes in facility design.

(C) Any decrease or increase in quantities based on final measurements that are different from those shown in the bidding schedule.

(D) Any increase or decrease in the time to complete the project.

(iv) All changes shall be recorded on a chronologically numbered contract change order as they occur. Change orders will not be included in payment estimates until approved by all parties.

§ 1933.19 Appendix C—Information pertaining to preparation of notes or bonds and bond transcript documents for public body applicants.

(a) This section includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(1) *Policies.* (i) This section outlines the policies of the FmHA with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Tax exempt public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks, and insurance companies.

(iii) At the option of the applicant for issues of $250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparation of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA, for issues of $50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed $50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel:

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA to refinance its loan pursuant to the statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA.

(2) *Bond transcript documents.* Any questions with respect to FmHA requirements should be discussed with local FmHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of Bond Counsel if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinions to contain language referring to the last sentence of Section 306(a)(1) or to Section 309A(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) or 1929a(h)), and providing that if the bonds evidencing the indebtedness in question are acquired by the Federal Government and sold on an insured basis from the Agriculture Credit Insurance Fund, or the Rural

Development Insurance Fund, the interest on such bonds will be included in gross income for the purposes of the Federal income tax statutes.

(3) *Interim financing from commercial sources during construction period for loans of $50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds.

(4) *Permanent instruments for FmHA loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this section.

(5) *Multiple advances of FmHA funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FmHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form FmHA 440–22.* If legally permissible, use Form FmHA 440–22, "Promissory Note Association or Organization," for insured loans.

(ii) *Second preference—single instruments with amortized installments.* If Form FmHA 440–22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FmHA advance on the reverse thereof or on an attachment to the instrument. Form Fm HA 440–22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this section "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(*1*) A statement of principal maturities and due dates.

(2) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (a)(7) of this section. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph (a)(5)(iii) of this section.

(6) *Multiple advances of FmHA funds using temporary debt instrument.* When none of the instruments described in paragraph (a)(5) of this section are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance of FmHA loan funds and will be for the full amount of the FmHA loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (a)(7) are of this section minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than $1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA Finance Office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semi-annual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixth or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payments on bonds purchased by FmHA should be submitted to the FmHA Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in paragraph (a)(5) of this section.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal

indebtedness. Junior and subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA.* Where a public bond sale is required by State statutes, FmHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FmHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FmHA is required to bid, the bid will be made at the applicable FmHA interest rate.

Dated: April 20, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-13746 Filed 5-12-77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-A]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart A—General

MISCELLANEOUS AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: FmHA amends its regulations to correct the maximum amount of loss payable as reflected in § 1980.20 to conform to the language in Form 449-34, "Loan Note Guarantee." The previous wording of § 1980.20 was erroneous and this amendment will eliminate the inconsistency between the regulation and terms of the guarantee note.

EFFECTIVE DATE: This amendment is effective on May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Darryl H. Evans, Loan Specialist, 202-447-4150.

SUPPLEMENTARY INFORMATION: Section 1980.20 of Part 1980, Title 7, Code of Federal Regulations (41 FR 47462) is amended by revising the first sentence of the introductory paragraph. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules.

This amendment, however, is not published for proposed rulemaking since the purpose of the change is merely a clarification and does not impose any additional burden on the applicants and lenders. Publication as a proposal is therefore unnecessary.

Accordingly, in § 1980.20, the first sentence of the introductory paragraph is revised to read as follows:

§ 1980.20 Loan guarantee limits.

The maximum loss covered by the Form FmHA 449-34, "Loan Note Guarantee," can never exceed the lesser of: (a) 90 percent of principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), any loan subsidy due, and 90 percent of principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization; or (b) 90 percent of the principal advanced to or assumed by the borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon. * * *

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357; 88 Stat. 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-13769 Filed 5-12-77;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 702—RESERVES

Regular Reserves

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: These rule prescribe the requirements for the establishment and maintenance of reserves for Federal credit unions. This revision is necessary to bring the rule in conformance with the recent amendment of Section 116 of the Federal Credit Union Act (Pub. L. 95-22; 91 Stat. 49), which, for a certain category of Federal credit unions, revised the percent of gross income to be transferred to the Regular Reserve.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Bellenghi, Assistant Administrator for Examination and Insurance, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456, 202-254-8760.

SUPPLEMENTARY INFORMATION: Amended Section 116 of the Federal Credit Union Act contains two noteworthy changes. First, those Federal credit unions which have been in operation for more than four years and have assets of $500,000 or more, are now required to transfer 10 percent of gross income to the regular reserve until the regular reserve equals 4 percent of outstanding loans and risk assets and then 5 percent of gross income until the Regular Reserve equals 6 percent of outstanding loans and risk assets. The 4 percent and 6 percent levels were formerly 7½ percent and 10 percent, respectively. Note, however, that the 7½ percent and 10 percent levels are still applicable to Federal credit unions which have not been in operation for more than four years or which have less than $500,000 in assets. Second, Section 116, as amended, authorizes the Administrator to decrease the reserve requirement when, in his opinion, such decrease is necessary or desirable.

For those Federal credit unions which have a regular reserve exceeding the greater applicable percent established by Section 116 of the Federal Credit Union Act, § 702.1 provides guidelines for the transfer of such excess, if the FCU so chooses, to a supplemental reserve or to the Undivided Earnings Account.

The notice, public participation, and deferred effective date requirements of 5 U.S.C. 553 were not followed in connection with the revision to §§ 702.1 and 702.2. Such procedures were found to be unnecessary because the revision merely conforms §§ 702.1 and 702.2 to the recent amendment of Section 116 of the Federal Credit Union Act.

Accordingly, 12 CFR 702 is amended, effective immediately, as follows: by revising §§ 702.1 and 702.2 to read as follows:

§ 702.1 Reserves.

Federal credit unions shall establish and maintain such reserves as may be required by the Act, or by regulation, or in special cases by the Administrator. A Federal credit union which has a Regular Reserve in excess of the greater applicable percent established by Section 116 of the Federal Credit Union Act may transfer the excess to a supplemental reserve or to the Undivided Earnings Account; provided, however, that such transfer is appropriately approved by the board of directors after careful consideration of the financial condition of the credit union, of present and anticipated future reserve needs, and of full and fair disclosure as set forth in § 702.3.

§ 702.2 Regular Reserves.

(a) Each Federal credit union shall establish and maintain a Regular Reserve as provided by Section 116 of the Federal Credit Union Act. The totals of the Regular Reserve Account and the Allowance for Loan Losses Account shall be combined for determining the applicable percentage of gross income to be transferred to the Regular Reserve.

(b) Charges to the Regular Reserve for loan losses shall be made in accordance with full and fair disclosure and as set forth in the Accounting Manual for Federal Credit Unions.

(c)(1) The Administrator may decrease the reserve requirements as set forth in Section 116 of the Act when, in his opinion, such decrease is necessary or desirable and, the Administrator may approve the charge of losses other than losses on loans to the Regular Reserve.

(2) Applications for approval to decrease the reserve requirements or to charge to the Regular Reserve losses other than losses on loans shall be made in writing to the Regional Director. The application shall:

(i) Be authorized by the board of directors;

(ii) State the need for a decreased transfer or state the amount, cause, and nature of the losses;

(iii) Be accompanied by a copy of the credit union's current statement of financial condition, and a copy of the current delinquent loan list. The Regional Director may request such other information as he may deem necessary.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).)

C. AUSTIN MONTGOMERY,
Administrator.

MAY 6, 1977.

[FR Doc.77-13688 Filed 5-12-77;8:45 am]

Title 17—Commodities and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-20002]

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Annual Report Form U5S

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments.

SUMMARY: Form U5S is amended by deleting references to various instructions to the form which now provide that registered holding companies and their subsidiaries may file a combined annual report on Form U5S in lieu of separate annual reports on Form 10-K, which are filed by most public issuers under the Securities Exchange Act of 1934 ("1934 Act"). This action is being taken contemporaneously with other Commission action which conforms the annual reporting requirements under the 1934 Act applicable to certain regulated issuers with those generally applicable to other issuers. As amended, Form U5S will continue to be filed by registered holding companies and their subsidiaries for regulatory purposes, and separate annual reports on Form 10-K will be filed to satisfy the investor disclosure requirements under the 1934 Act.

EFFECTIVE DATE: The amendments will be effective as to reports for the calendar year 1977, to be filed on or before May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew F. McDonald, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-523-5683.

SUPPLEMENTARY INFORMATION: The Commission amends its annual report Form U5S (17 CFR 259.5s) filed under the Public Utility Holding Company Act of 1935 ("1935 Act") (49 Stat. 838; 15 U.S.C. 79a et seq.) pursuant to Rule 1(c) (17 CFR 250.1(c)) of the Rules and Regulations under the 1935 Act. Form U5S is the annual report filed by registered holding companies under the 1935 Act on behalf of themselves and their subsidiaries. These companies have, in the past, been permitted to file annual reports on Form U5S as a substitute for annual reports on Form 10-K, which are filed by most public issuers subject to the reporting requirements of Sections 13 or 15(d) of the 1934 Act (48 Stat. 881; 15 U.S.C. 78 et seq.). As amended, Form U5S will no longer relieve holding companies and their subsidiaries which are public issuers from complying with the annual reporting requirements of Form 10-K. A modified Form U5S will still be required for regulatory purposes under the 1935 Act.

This action is being taken concurrently with the adoption by the Commission of a proposal to rescind Form 12-K (17 CFR 249.312) and to amend various rules under the 1934 Act applicable thereto. Issuers regulated by various Federal agencies have previously filed copies of their annual reports with those agencies as an exhibit to Form 12-K in lieu of complying with the annual reporting requirements of Form 10-K and have also been excused from fully complying with the reporting requirements of Form 10-Q. The Commission's views with respect to the necessity for rescinding Form 12-K are contained in Securities Exchange Act Release No. 12769 (September 3, 1976). The amendments to Form U5S are necessary to conform the annual reporting requirements that apply to registered holding companies and those of their subsidiaries which are themselves registered issuers under the 1934 Act to the reporting requirements applicable to other public utility companies.

On October 5, 1976, the proposed amendments and a full explanation of their purpose were issued for comment by Holding Company Act Release No. 35-19705 (41 FR 44863, October 13, 1976). The comment period expired November 15, 1976. Eleven holding companies submitted a joint response to the proposal, five of which also responded separately. An additional holding company responded independently. All comments on the proposal were critical. Generally, the respondents recommended that one or the other of the annual report forms be modified to the extent needed to cover the requirements of both the 1934 and 1935 Acts. Inclusion of the regulatory details required under the 1935 Act in a Form 10-K, however, would substantially increase its size and diminish its utility as a convenient and uniform disclosure document for investors under the 1934 Act. The presentation of the two forms as two parts of a single report, also suggested, would not make any real difference in terms of the work involved, but would create unnecessary legal uncertainties as to the status of the contents of a double report under each of the two independent Acts.

Accordingly, 17 CFR 259.5s, Form U5S, for annual reports filed under Section 5(c) of the 1935 Act is amended as follows:

1. The portion of the facing sheet referring to a filing pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 is deleted.

2. General instructions 1(b), 2(b), and the last sentence of instruction 2(c) are deleted. Instruction 1(a) is renumbered as instruction 1 and instructions 2(c) to 2(f), inclusive, are renumbered as instructions 2(b) to 2(e).

3. Item 2, "Securities Registered on Exchanges," is deleted. The other items will not be renumbered at this time.

4. Item 8(b), "Holders of Capital Stock," is deleted and Item 8(a) is renumbered as Item 8.

5. The clause "and under the Securities Exchange Act of 1934" is deleted from the instruction to Item 13.

6. The second sentence of instruction 1(b) of the *Instructions as to Financial Statements* is amended to read:

The individual corporate and consolidated statements included in the consolidating statements with respect to those members of the system that file annual reports on Form 10-K shall correspond to the financial statements so filed on Form 10-K.

7. The clause "except in the case of a system company filing this report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934" is deleted from the fourth sentence of said instruction 1(b).

8. Instruction 1(c) of the *Instructions as to Financial Statements* is amended to read:

(c) There shall be included with the financial statements for each member company the schedules specified in Rule 5-04 of Regulation S-X, to the extent required by that regulation, except Schedules II, III, IV, X, XVII, XVIII and XIX, provided that any schedule of a subsidiary company may be omitted if the information required is included and separately identified in the consolidated schedules of its parent, or elsewhere in the financial statements or in the answers to any of the items of the Form.

Any required schedule may be incorporated by reference to any prior filing under any act administered by the Commission, to

the extent permitted by Rule 24 [17 CFR 201.24] of the Commission's Rules of Practice. If the information required in any schedule of any system company is contained in any schedule or schedules of such company's report to the Federal Power Commission, duplicates of such schedules with appropriate references may be used to satisfy the requirements of this form.

9. Instruction 2 of the *Instructions as to Exhibits* is deleted.

(15 U.S.C. 79n.)

By the Commission.

ANDREW MACDONALD,
Special Counsel, Division of Corporate Regulation.

MAY, 1977.

[FR Doc.77-13718 Filed 5-12-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0026]

CHEMICAL COMPOUNDS IN FOOD-PRODUCING ANIMALS

Criteria and Procedures for Evaluating Assays for Carcinogenic Residues in Edible Products of Animals; Extension of Comment Period

In the matter of 21 CFR Parts 8, 500, 514, and 571.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document extends to July 25, 1977, the time for submitting comments on the regulations regarding criteria and procedures for evaluating assays for carcinogenic residues in edible animal products. The extension, based upon a request submitted by the Animal Health Institute, will provide time for the submission of more extensive comments.

DATE: New deadline for comments, July 25, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued regulations, published in the FEDERAL REGISTER of February 22, 1977 (42 FR 10412), regarding criteria and procedures for evaluating assays for carcinogenic residues in edible products of animals. In the preamble to the regulations, the Commissioner recognized that over 3 years had passed since the regulations were proposed and that the final regulations resolved some issues not specifically dealt with in the proposal but raised by the comments. For these reasons, the Commissioner provided until April 25, 1977 for interested persons to submit further comments on these specified issues.

The Commissioner has received a request for extension of the comment period (on file with the Hearing Clerk, Food and Drug Administration) from the Animal Health Institute (AHI) 1717 K St. NW., Washington, DC 20006, requesting that the comment period be extended for approximately 90 days. In its request, AHI asserts that (1) the regulations are of great significance to its membership, (2) if AHI's comments are to be of the greatest use to FDA and the public, AHI must call upon the full scientific resources of all of its members, and (3) the public interest will clearly be served by the Commissioner's granting an extension of the comment period within which to provide meaningful comment.

On March 23, 1977, AHI filed citizen petitions requesting the Commissioner both to stay the effective date of the regulations and to reconsider and revoke them. But the petitions also addressed the specific issues on which the Commissioner solicited additional information. Although the petitions were subsequently denied on April 27, 1977, the appropriate comments in the petitions will be considered in the preparation of any revised final order. The quality of these comments suggests that extending the comment period to permit an even more extensive submission by AHI and other parties on these issues will be in the public interest. Accordingly, the Commissioner concludes that the request for extension should be granted and hereby extends the comment period on the regulations until July 25, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments, in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document, regarding these regulations. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

(Federal Food, Drug, and Cosmetic Act (secs. 402, 403, 409, 512, 701(a), 706, 52 Stat. 1046-1048 as amended, 1055, 72 Stat. 1785-1788 as amended, 74 Stat. 399-403, 82 Stat. 343-351 (21 U.S.C. 342, 343, 348, 360b, 371(a), 376)).)

Dated: May 5, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13359 Filed 5-12-77;8:45 am]

[Docket No. 77N-0032]

RECODIFICATION EDITORIAL AMENDMENTS; CORRECTION

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This is a correction of a final rule published at page 15673 in the FEDERAL REGISTER of March 22, 1977 (FR Doc. 77-7952).

EFFECTIVE DATE: March 22, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Compliance Regulations and Policy Staff (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The following correction is made:

On page 15675, in the middle column, the heading for Part 503 is corrected to read "Part 502"; and the references to "§ 503.22" and "Section 503.22" appearing in the lines directly under the part heading are corrected to read "§ 502.19" and "Section 502.19" respectively.

Dated: May 4, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13360 Filed 5-12-77;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Dexamethasone Injection

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration approves a new animal drug application (104-606V) filed by Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., 5160 West Bethany Home Rd., Glendale, AZ 85301, proposing safe and effective use of dexamethasone sodium phosphate injection in the treatment of dogs for inflammatory conditions, and as supportive therapy in canine posterior paresis, before or after surgery, and in nonspecific dermatosis. The Commissioner of Food and Drugs is amending § 522.540 (21 CFR 522.540) to reflect this approval.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 307-443-3430.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82

Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended in § 522.540 by revising paragraph (b)(2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(b) * * *

(2) *Sponsor.* See number in § 510.600 (c) of this chapter as follows:

(i) No. 000864 for use of 2.0 milligrams dexamethasone or 4.0 milligrams dexamethasone sodium phosphate injections.

(ii) No. 000381 for use of 4.0 milligrams dexamethasone sodium phosphate injection.

* * * * *

Effective date: This regulation becomes effective on May 13, 1977.

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

Dated: May 6, 1977.

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

[FR Doc.77-13776 Filed 5-12-77;8:45 am]

[Docket No. 76P-0405]

PART 701—COSMETIC LABELING

Establishment of Names of Fluorocarbon (Halocarbon) Propellant Ingredients

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document establishes more descriptive names in cosmetic ingredient labeling for seven fluorocarbon (halocarbon) propellants. This rule is based upon a petition submitted by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA). The new names must be used in labeling of cosmetics containing one or more such propellants and will be more informative to the consumer.

DATES: All packages labeled on or after November 9, 1977 shall comply. Objections by June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Wenninger, Bureau of Foods (HFF-441), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1061.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposed rule, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52078), to amend Part 701: Cosmetic Labeling to establish names for certain fluorocarbon (haloçarbon) propellants which would be more descriptive and informative than the functional names then in use. In response to the proposal one comment was received from a trade association. This response favored the proposal.

The Commissioner of Food and Drugs has, on his own initiative, made a correction in the "chemical name or description" and the "chemical formula" for chlorofluorocarbon 114 in the regulation.

The Commissioner has not established a separate effective date for compliance when ordering new labeling (as was proposed) to give companies greater flexibility in implementing the new labeling requirements. However, the effective date for complying with the regulation in the labeling of packages is adopted as proposed. Any labeled packages in inventory on the effective date of this order may be used and introduced into interstate commerce until the existing inventory of such labeled packages is depleted.

Therefore, under the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and the Federal Food, Drug and Cosmetic Act (sec. 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 701 as follows:

1. By revising § 701.3(c)(1) to read as follows:

* * * * *

§ 701.3 Designation of ingredients.

* * * * *

(c) * * *

(1) The name specified in § 701.30 as established by the Commissioner for that ingredient for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of this section;

* * * * *

2. By adding to Subpart C a new § 701.30 to read as follows:

§ 701.30 Ingredient names established for cosmetic ingredient labeling.

The Commissioner establishes the following names for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of § 701.3:

Chemical name or description	Chemical formula	Established label name
Trichlorofluoromethane	CCl_3F	Chlorofluorocarbon 11.
Trichlorofluoromethane and 0.3 pct nitromethane	$CCl_3F+CH_3NO_2$	Chlorofluorocarbon 11 S.
Dichlorodifluoromethane	CCl_2F_2	Chlorofluorocarbon 12.
Chlorodifluoromethane	$CHClF_2$	Hydrochlorofluorocarbon 22.
1, 2-dichloro-1, 1, 2, 2-tetrafluoroethane	$CClF_2CClF_2$	Chlorofluorocarbon 114.
1-chloro-1, 1-difluoroethane	CH_3CClF_2	Hydrochlorofluorocarbon 142 B.
1, 1-difluoroethane	CH_3CHF_2	Hydrofluorocarbon 152 A.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 13, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provision that may be stayed by the filing of proper objections, packages labeled on or after November 9, 1977 shall comply with this final regulation. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 5(c), 6(a), Pub. L. 89-755, 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455); sec. 701(e), Pub. L. 717, 70 Stat. 919 as amended (21 U.S.C. 371(e)).)

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13497 Filed 5-9-77;9:54 am]

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. FI-342]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Norman, Oklahoma

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 28, 1974, in 39 FR 31315, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the city of Norman, Oklahoma. Map No. H 400046 Panel 22 indicates that Lot 1, Block 1, Sherwood Forest No. 2, Norman, Oklahoma, as recorded in Book 9, Pages 12 and 13, in the office of the Clerk of Cleveland County, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Ad-

ministration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 400046 Panel 22 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 23, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13651 Filed 5-12-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, in 39 FR 17523, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grove City, Ohio. Map No. H 390173A Panel 02 indicates that Lot 36, Park Ridge Subdivision, Grove City, Ohio, as recorded in Volume 3486, Page 710 of Deeds, in the office of the Recorder of Franklin County, Ohio, 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 existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 390173A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13652 Filed 5-12-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, in 39 FR 17523, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grove City, Ohio. Map No. H 390173A Panel 04 indicates that Lot 25, Section Two, Brook Park Subdivision, Grove City, Ohio, as recorded in Book 50, Page 4 of Plats in the office of the Recorder of Franklin County, Ohio, 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 existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 390173A Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administator.

[FR Doc.77-13653 Filed 5-12-77;8:45 am]

[Docket No. FI-2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Albuquerque, New Mexico

AGENCY: Federal Insurance, Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 14, 1976, in 41 FR 28970, the Federal Insurance Administra-

tor published a list of communities with Special Flood Hazard Areas which included the City of Albuquerque, New Mexico. Map No. H 350002 Panel 25 indicates that Lots F and G, Block 8-A, Replat of Blocks 2, 7, and 8 of Chelwood Park, Albuquerque, New Mexico, as recorded in Map Book C-3, Page 41, in the office of the County Clerk and Recorder of Bernalillo County, New Mexico, 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 the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 350002 Panel 25 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 20, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13654 Filed 5-12-1977;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 03 indicates that Lot 4, Block 3612, at 426 Overbrook Road, Ridgewood, New Jersey, as recorded in Book 5948, Pages 483 and 484, in the office of the Clerk of Bergen 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 above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13655 Filed 5-12-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 04 indicates that Lot 4, Block 4317, at 669 Alanon Road, Ridgewood, New Jersey, as recorded in Book 4485, Pages 394 and 396, in the office of the Clerk of Bergen 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 existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is

pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 04 is hereby corrected to reflect that the existing structure on the above mentioned property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of atuhority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13656 Filed 5-12-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 03 indicates that Lot 22, Block 4005, at 141 South Irving Street, Ridgewood, New Jersey, as recorded in Book 4566, Pages 64 and 66, in the office of the Clerk of Bergen 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 structures on the above mentioned property are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13657 Filed 5-12-77;8:45 am]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Wolfeboro, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 24, 1975, in 40 FR 3776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Wolfeboro, New Hampshire. Map No. 8 330239 Panel 07 indicates that Lot 17, Block 7, at 36 North Main Street, Wolfeboro, New Hampshire, as recorded in Book 515, Page 425 and Book 515, Page 427, in the Office of the Carroll County Registry, New Hampshire, 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 existing two-story wood frame, combined office, showroom and workshop, is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided:* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 330239 Panel 07 is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13658 Filed 5-12-77;8:45 am]

[Docket No. FI-403]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Kansas City, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 19, 1974, in 39 FR 40571, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Kansas City, Missouri. Map No. H 290173 Panel 34 indicates that Mission Lake, First Plat, Kansas City, Missouri, as recorded in Plat Book 34, Page 7, in the office of the Recorder of Jackson County, Missouri, 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 existing Building Nos. 17 through 23, 27, and 28 are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 290173 Panel 34 is hereby corrected to reflect that the above mentioned Buildings are not within the Special Flood Hazard Area identified on on November 8, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13659 Filed 5–12–77;8:45 am]

[Docket No. FI–880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A Panel 04 indicates that Lot 3, Block 7, River Oaks First Plat, Grandview, Missouri, as recorded in Plat Book 33, Page 86, in the office of the Recorder of Jackson County, Missouri, 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 existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 290171A Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13660 Filed 5–12–77;8:45 am]

[Docket No. FI–2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Quincy, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Quincy, Massachusetts. Map No. H&I 255219A Panel 03 indicates that Lot 1, Land Court 35537[A], Quincy, Massachusetts, as recorded in No. 97444, Book 488, Page 44, in the Norfolk Registry of Deeds or Dedham, Massachusetts, 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 existing structures in the above property are with Zone C, and not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H&I 255219A Panel 03 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on July 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13661 Filed 5–12–77;8:45 am]

[Docket No. FI–327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Cohasset, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, in 39 FR 28889, the Federal Insurance Administrator published a list of communities

with Special Flood Hazard Areas which included the Town of Cohasset, Massachusetts. Map No. H 250236A Panel 02 indicates that Lot S', as shown on Plan 2896–2, at 90 Gammons Road, Cohasset, Massachusetts, as recorded in Book 169, Page 121, in the Norfolk County Registry of Deeds, Dedham, Massachusetts, 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 existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 250236A Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77–13662 Filed 5–12–77;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, in F.R. 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included Baltimore, Maryland. Map No. H 240087 Panel 12 indicates that a portion of property located in Baltimore, Maryland, that is described and recorded in Liber R.H.B. 2489, Page 476 of Deeds, in the office of Land Records of Baltimore City, Maryland, is in its entirely 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 a portion of the above property, which can be described as follows:

Commencing at a pipe set on the southeastern side of Sinclair Lane, 80 feet wide, as described in Ordinance No. 1117, of the Mayor and City Council of Baltimore approved July 21, 1930, at a point where said southeastern side of Sinclair Lane is intersected by the first or South 32 and ½ degrees east 30 and 8/10ths perch line of the tract of land described in the Deed from George Gebelein and wife to William C. Weber and wife, dated September 1, 1910, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 370, folio 93, the coordinates of said place of commencing being east 16,571.24 and North 6,882.38, thence S. 38°17'32" E., 22.64 feet to a point; thence S. 6°15'25" E., 726.54 feet to the actual point of beginning; thence N. 52°56'20" E., 705.83 feet to a point; thence S. 37°03'40" E., 263.00 feet to a point; thence S. 52°56'20" W., 862.64 feet to a point; thence N. 6°15'25" W., 306.19 feet to the actual point of beginning.

is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240087 Panel 12 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77–13663 Filed 5–12–77;8:45 am]

[Docket No. FI–835]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Annapolis, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 12, 1976, in 41 FR 1754, the Federal Insurance Administrator published a list of communities with special hazard areas which included Annapolis, Maryland. Map No. H 240009A Panel 03 indicates that 100 Chesapeake Avenue being the Northeastern 51 feet of Lot 144, Eastport, Annapolis, Maryland, recorded as Plat No. B–301 in Book 11, Folio 31, Speed 22 of Plats in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, 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.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirment to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240009A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13664 Filed 5-12-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, in 39 FR 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included Baltimore, Maryland. Map No. H 240087 Panel 06 indicates that a piece of property being 1400 Weldon Place South, Baltimore, Maryland, as recorded in Liber R.H.B. 3195, Page 304, of Deeds in the office of the Clerk of Land Records of Baltimore City, Maryland, 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.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240087 Panel 06 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13665 Filed 5-12-77;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 43 indicates that 305 Park Drive, being a portion of Lot 4, Section A as shown on a plat of Severna Park and recorded in Book 12, Folio 25 of Plats, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, 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 a portion of the above property which can be described as follows:

Commencing at the northernmost point of said Lot 4; thence S. 3°44' W., approximately 75 feet to a point; thence S. 29°44' W., approximately 47.85 feet to a point; thence S. 77°59' W., approximately 38.5 feet to the actual point of beginning; thence continuing S. 77°59' W., approximately 48.47 feet to a point; thence S. 84°29' W., approximately 48.47 feet to a point; thence S. 84°29' W., approximately 80.66 feet to a point; thence S. 25°16' E., approximately 79 feet to a point; thence S. 72°01' E., approximately 83 feet to a point; thence N. 07°28' E., approximately 115.75 feet to the actual point of beginning,

is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240008 Panel 43 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13666 Filed 5-12-77;8:45 am]

[Docket No. FI-226]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of DeQueen, Arkansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 26, 1974, in 39 FR 11184, the Federal Insurance Administrator published a list of communities with special hazard areas which included DeQueen, Arkansas. Map No. H 050204A Panel 02 indicates that Lots 2 through 5 and 8 through 11, Block 1; Lots 17 and 18, Block 2; and Lots 13 and 15, Block 3; Tall Pine Subdivision, DeQueen, Arkansas, as recorded in Book 141, Page 157 of Plats, in the Courthouse of Sevier County, Arkansas, 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 the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 050204A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13641 Filed 5-12-77;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jose, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On January 27, 1975, in 40 FR 3986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jose, California. Map No. H 060349A Panel 42 indicates that Lots 4 through 10, 17 through 31, 53 through 75, and 80 through 103, Tract No. 5809, San Jose, California, as recorded in Book 375 of Maps, Pages 4 and 5, in the office of the Recorder of Santa Clara County, California, 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 the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, be establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *provided* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060349A Panel 42 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13683 Filed 5-12-77;8:45 am]

[Docket No. FI-340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Huntington Beach, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 21, 1974, in 39 FR 30118, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Huntington Beach, California. Map No. H 065034A Panel 12 indicates that Lots 2 through 5, and 12 through 22, Tract 8961, and Lots 1 through 6, 33 and 34, Tract No. 8332, as recorded in Plat Book No. 388, Pages 11 through 13, and Plat Book No. 367, Pages 36 and 37, respectively, in the office of the County Recorder of Orange County, California, 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 the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now

agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. *Provided* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. M 065034A Panel 12 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 9, 1974 and August 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13684 Filed 5-12-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7487]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

AGENCY: Internal evenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to limitations on percentage depletion in the case of oil and gas wells. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. These regulations provide rules regarding the making of elections to apply the exemption for average daily production of oil to production of gas. In addition, the regulations impose recordkeeping requirements with respect to certain transfers of oil or gas property and in cases where depletion is claimed for secondary or tertiary production.

DATE: The regulations apply in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6618).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 17, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 613 and 613A of the Internal Revenue Code of 1954, (40 FR 48691). The amendments were proposed to conform the regulations in part to the provisions of section 501 of the Tax Reduction Act of 1975 (89 Stat. 47). A public hearing was held on January 22, 1976. After consideration of all comments regarding the proposed amendments, the attached Treasury decision is adopted. The proposed amendments, as published by the notice of proposed rule making, included § 1.613A-7 dealing with definitions. Section 1.613A-7 is reserved in this Treasury decision and is being reproposed with additional rules to show in detail the intended application of the definitions. The new notice of proposed rulemaking appears in the same issue of the FEDERAL REGISTER as this Treasury decision. Sections 1.613A-2, 1.613A-3, and 1.613A-4 are also reserved and are included in the new notice.

IN GENERAL

With certain exceptions, the Tax Reduction Act repealed percentage depletion for oil and gas after December 31, 1974. In general, exemption from the repeal of percentage depletion is provided for certain production of independent producers and royalty owners, sometimes called the small producer exemption. Initially, an exemption of 2,000 barrels of average daily production for oil (or up to 12,000,000 cubic feet for natural gas if the taxpayer so elects) is provided. The amount is reduced by 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day is reached. The depletion rate for oil and gas covered under this exemption is also phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. In the case of secondary or tertiary production prior to 1984, the small producer exemption permits a taxpayer to take percentage depletion at a 22 percent rate on the exempt quantity.

The new law provides for certain limitations on the application of the small producer exemption. The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's taxable income from all sources (computed without regard to depletion, net operating loss carrybacks and capital loss carrybacks). Moreover, the exemption relating to average daily production is not available to a transferee of any interest in a proven oil or gas property transferred after December 31, 1974. The new law also provides that the small producer exemption does not apply to a taxpayer who directly or through a related person sells oil or natural gas, or any product derived from oil or natural gas, through a retail outlet or to certain persons. The small producer exemption is also not available to any taxpayer who, directly or through a related person, engages in the refining of crude oil and whose refinery runs exceed 50,000 barrels on any day during the taxable year.

ELECTION UNDER SECTION 613A(c)(4)

Rules regarding the making of elections to apply the exemption for average daily production of oil to such production of gas are provided in the regulations. In response to comments, the gas election has been simplified so that a taxpayer may make the election by merely claiming percentage depletion deductions for the taxable year based on the election.

RECORDKEEPING REQUIREMENTS

Recordkeeping requirements are imposed by the regulations with respect to certain transfers of oil or gas property and in cases where depletion is claimed for secondary or tertiary production. In response to comments, the requirement for the retention of records has been clarified to provide that records need to be retained so long as the contents of such records may become material in the administration of any Internal Revenue Law.

DRAFTING INFORMATION

The principal author of this regulation was Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, 26 CFR Part 1 is amended as follows:

PAR. 1. Paragraph (c)(2) of § 1.613-2 is amended by revising so much thereof as precedes the example, by redesignating the example as example (1), and by adding a new example (2) immediately thereafter, to read as set forth below

PAR. 2. There are inserted immediately after § 1.613-7 the following new sections to read as set forth below

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

WILLIAM E. WILLIAMS,
Acting Commission of Internal Revenue.

Approved: March 27, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

§ 1.613-2 Percentage depletion rates.

* * * * *

(c) *Rules for application of paragraph (a) of this section.* * * *

(2) In cases in which there are produced from a mineral property two or

more minerals, each entitled to a different percentage depletion rate under section 613(b) and this section or any of which is entitled to cost depletion only, the percentage depletion allowance is the sum of the results obtained by applying the percentage applicable to each mineral (zero, if not entitled to percentage depletion) to the "gross income from the property" attributable to such mineral. The sum so computed is subject to the limitation provided in section 613(a) and § 1.613–1, that is, 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion). Such taxable income (computed in accordance with § 1.613–4) is the total taxable income resulting from the sale of all minerals produced from the mineral property (as defined in section 614 and the regulations thereunder). The provisions of this subparagraph may be illustrated by the following examples:

Example (1). * * *

Example (2). Oil and gas are produced from a single mineral property of a taxpayer who operates a retail outlet for the sale of oil products within the meaning of section 613A(d)(2). The taxpayer is not entitled to percentage depletion on the gross income attributable to the oil, but is entitled to percentage depletion on the gross income attributable to gas which is regulated gas under section 613A(b)(2)(B). Accordingly, the taxpayer's maximum allowable percentage depletion deduction would be zero percent of gross income from the property with respect to oil, plus 22 percent (see section 613A(b)(1)) of gross income from the property with respect to gas. This maximum deduction would be subject to the limitation provided for in section 613(a), *i.e.*, 50 percent of "taxable income from the property (computed without allowance for depletion)," such taxable income being the overall taxable income resulting from the sale of both oil and gas. However, in the case of oil or gas production which qualifies for percentage depletion under section 613A(c), see the special allocation rules contained in section 613 A(c)(7) (C) and (E) and § 1.613A–4.

* * * * *

§ 1.613A–1 Post-1974 limitations on percentage depletion in case of oil and gas wells; general rule.

Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613. In the case of a taxable year beginning before January 1, 1975, and ending after that date, the percentage depletion allowance (but not the cost depletion allowance) with respect to oil and gas wells for such taxable year shall be determined by treating the portion thereof in 1974 as if it were a short taxable year for purposes of section 613 and the portion thereof in 1975 as if it were a short taxable year for purposes of section 613A.

§ 1.613A–2 Exemption for certain domestic gas wells. [Reserved]

§ 1.613A–3 Exemption for independent producers and royalty owners. [Reserved]

§ 1.613A–4 Limitations on application of § 1.613A–3 exemption. [Reserved]

§ 1.613A–5 Election under section 613A(c)(4).

The election under section 613A(c)(4) is an annual election which the taxpayer may make by claiming percentage depletion deductions for the taxable year based upon such election. The election may be made, on an original or amended tax return or a claim for credit or refund, at any time prior to the expiration of the statutory period (including any extensions thereof) for the filing of a claim for credit or refund by the taxpayer. The election may be changed by the taxpayer by filing an amended return or a claim for credit or refund. The election allows the taxpayer to treat as his depletable natural gas quantity an amount equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the election applies. The election applies to secondary or tertiary production, as well as primary production, but in determining the taxpayer's depletable natural gas quantity with respect to secondary or tertiary production the taxpayer's depletable oil quantity shall be determined without regard to section 613A(c)(3)(A)(ii) with respect to production from secondary or tertiary processes.

§ 1.613A–6 Recordkeeping requirements.

(a) *Principal value of property demonstrated.* In the case of a transfer (as defined in § 1.613A–7(n)) after December 31, 1974, of an interest in an oil or gas property (as defined in § 1.613A–7(p)), the transferee (as defined in section 1.613A–7(o)) shall keep records showing the terms of the transfer, any geological and geophysical data in the possession of the transferee or other exploratory data with respect to the property transferred, and any other information which bears upon the question of whether at the time of the transfer the principal value of the property transferred had been demonstrated by prospecting, exploration, and discovery work.

(b) *Production from secondary or tertiary processes.* Every taxpayer who claims depletion with respect to oil or gas produced by secondary or tertiary processes (as defined in § 1.613A–7(k)) shall keep records of the secondary and tertiary processes applied and maintain records of the amount of production so resulting.

(c) *Retention of Records.* The records required by this section shall be kept at all times available for inspection by authorized Internal Revenue officers or employees, and shall be retained so long as the contents may become material in the administration of any Internal Revenue law.

§ 1.613A–7 Definitions. [Reserved]

[FR Doc.77–13686 Filed 5–12–77;8:45 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7486]

PART 53—FOUNDATION EXCISE TAXES

Valuation of Foundation Assets

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the valuation of a private foundation's noncharitable assets for purposes of calculating its minimum investment return. These regulations aid private foundations in computing how much they must contribute to charitable activities. The document also contains two minor clarifying changes of language in two other regulations under section 4942.

DATES: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

David A. Rood of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202–566–3288.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 27, 1976, the FEDERAL REGISTER published proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4942(e)(2) of the Internal Revenue Code of 1954 as it read prior to enactment of the Tax Reform Act of 1976, 41 FR 47053. Interested parties were given an opportunity to submit comments and to request a public hearing by December 13, 1976. No such comments or requests were received.

These amendments do not reflect the changes to valuation principles under section 4942(e) applicable to taxable years beginning after December 31, 1975, that are contained in section 1303 of the Tax Reform Act of 1976. Regulations that reflect these changes will be the subject of a future notice of proposed rulemaking.

Adoption of amendments to the regulations. Accordingly, 26 CFR Part 53 is amended as proposed.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: May 6, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 53.4942(a)-2 is revised by inserting paragraph (c)(4)(i)(*b*) to read as follows:

§ 53.4942(a)-2 Computation of undistributed income.

* * * * *

(c) *Minimum investment return.* * * *

(4) *Valuation of assets*—(i) *Certain securities.* * * *

(*b*) For purposes of this subdivision, commonly accepted methods of valuation must be used in making an appraisal. Valuations made in accordance with the principles stated in the regulations under section 2031 constitute acceptable methods of valuation.

* * * * *

PAR. 2. Section 53.4942(a)-3 is revised by replacing the phrase "any distributions" in the second sentence of paragraph (c)(2)(i) with the phrase "amounts treated as redistributions" and by restructuring the third sentence of paragraph (c)(2)(iv). The revised provisions read as follows:

§ 53.4942(a)-3 Qualifying distributions defined.

* * * * *

(c) *Certain contributions to 501(c)(3) organizations.* * * *

(2) *Distribution requirements.* (i) In order for a donee organization to meet the distribution requirements of subparagraph (1)(i) of this paragraph, it must, not later than the close of the first taxable year after its taxable year in which any contributions are received, distribute (within the meaning of this paragraph) an amount equal in value to the contributions received in such prior taxable year and have no remaining undistributed income for such prior taxable year. In the event that a donee organization redistributes less than an amount equal to the total contributions from donor organizations which are required to be redistributed by such donee organization by the close of the first taxable year following the taxable year in which such contributions were received, amounts treated as redistributions of such contributions shall be deemed to have been made pro rata out of all such contributions, regardless of any earmarking or identification made by such donee organization with respect to the source of such distributions. See paragraph (d)(2)(ix) of § 53.4942(a)-2 for the treatment of amounts deemed not to have been so redistributed. For purposes of this paragraph, the term "contributions" means all contributions, whether of cash or property, and the fair market value of contributed property determined as of the date of the contribution must be used in determining whether an amount equal in value to the contributions received has been redistributed.

* * * * *

(iv) In order to satisfy distribution requirements under section 170(b)(1)(E)(ii) or this paragraph, a donee organization may elect to treat as a current distribution out of corpus any amount distributed in a prior taxable year which was treated as a distribution out of corpus under paragraph (d)(1)(iii) of this section, provided that (*a*) such amount has not been availed of for any other purpose, such as a carryover under paragraph (e) of this section or a redistribution under this paragraph for a prior year, (*b*) such corpus distribution occurred within the preceding 5 years, and (*c*) such amount is not later availed of for any other purpose. Such election must be made by attaching a statement to the return the foundation is required to file under section 6033 with respect to the taxable year for which such election is to apply. Such statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b)(1)) that the foundation is making an election under this paragraph and it must specify that the distribution was treated under paragragh (d)(1)(iii) of this section as a distribution out of corpus in a designated prior taxable year (or years). For purposes of elections made under this subdivision, see § 1.9100-1 of this chapter (Income Tax Regulations) relating to extensions of time for making certain elections.

* * * * *

[FR Doc.77-13706 Filed 5-12-77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—PROHIBITIONS

Motors and Motorized Equipment in Middle Fork Feather Wild River Zones, Calif.

AGENCY: Forest Service, USDA.

ACTION: Final rule (interim regulation).

SUMMARY: This interim regulation prohibits possessing or using motors or motorized equipment in the Middle Fork Feather Wild River Zones except on the Stag Point and Cleghorn Bar trails or when authorized by a permit. Similar prohibitions existed under various regulations that were amended, revoked, or revised effective February 15, 1977. The revised regulations overlooked the need to protect these wild river zones. This need is being met temporarily by this interim regulation which will expire 90 days after publication in the FEDERAL REGISTER (August 11, 1977). Meanwhile, a permanent regulation will be drafted after written comments on a notice of proposed rulemaking published in today's FEDERAL REGISTER have been considered.

DATES: This regulation is effective on May 13, 1977. Unless amended sooner, it will expire on August 11, 1977.

ADDRESSES: Send Comments to Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT:

Bill Derr, Telephone 415-556-4963.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) of October 2, 1968, as amended, designates the entire Middle Fork of the Feather River downstream from the confluence of its tributaries one kilometer south of Beckwourth as a component of the national wild and scenic rivers system. The Act requires the lands included in the river area to be described and classified into three types of areas, including "wild river areas" which are those sections "that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

The Chief of the Forest Service described and classified the land and issued a development plan for it at 35 FR 4219. Two wild river areas were classified and described, which are known as the Bald Rock Canyon Wild River Zone and the Upper Canyon Wild River Zone. Regarding management direction for these zones, the plan states "Public vehicular access to the river in this zone will be limited to the four 'vehicular ways' shown on the map of the river area." Two of these vehicular ways are closed to the public, and this regulation continues to require a permit for their use. The other two are known as the Stag Point and Cleghorn Bar Trails which are open for public use.

Besides the need to restrict vehicular access to these wild portions of the river, the Forest Service has previously found it necessary to prohibit other motors and motorized equipment in the area. The wild nature of the river makes the operation of motor boats unsafe. And the operation of any type of motor, whether portable or stationary, is incompatible with the primitive nature of the zones and interferes with their quiet enjoyment. Some types of motors could cause water pollution or other damage to property or to the wild and pristine character of the property.

For all of these reasons, the California Regional Forester has prohibited all motors and motorized equipment in these wild river zones, except on the Stag Point and Cleghorn Bar trails or when authorized by permit, since April 30, 1973. These prohibitions were established under various sections in 36 CFR Chapter II as it existed before February 15, 1977. Effective on that date, each of those sections was amended, revoked, or revised so as to inadvertently preclude continuing these prohibitions. Consequently, the primary purpose of this interim regulation is not to establish new restrictions but to restore substantially the same prohibitions which were previously in effect.

INADEQUACY OF EXISTING PROHIBITIONS

36 CFR 261.70(b) requires that regulations issued under Subpart C of 36 CFR Part 261 not be contrary to or duplicate any prohibition established under existing regulations. 36 CFR 261.16(a) pro-

hibits possessing or using a motor or motorized equipment, with certain exceptions, in a national forest wilderness. The two wild river zones covered by this regulation are not a part of any such wilderness so that the above prohibition does not apply. However, the same considerations which establish the need for § 261.16(a) are equally applicable to this regulation.

36 CFR 261.54(a), 261.55(b), and 261.56 provide a method for prohibiting the possession or use of certain types of vehicles. 36 CFR 261.58(n) provides a method for prohibiting the possession or use of a motor boat. However, none of these regulations permits prescribing the possession or use of a motor or motorized equipment not contained in a vehicle or boat. In any case, no prohibitions in these wild river zones have been established under those regulations. It is essential that the possession and use in the wild river zones of all types of motors, whether portable or stationary, be regulated. To avoid confusion of the public as well as erroneous citations by forest officers, this should all be done in a single regulation.

PENALTY FOR VIOLATION

Any violation of this regulation shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. See 16 U.S.C. 551 and 1281(d).

NEED FOR IMMEDIATE EFFECTIVE DATE

This regulation must be made effective immediately upon publication in the FEDERAL REGISTER because: (1) It is essential to restore the previous prohibitions which have inadvertently been allowed to lapse;

(2) The regulation is necessary for the protection of public safety and property, as indicated in detail above;

(3) The regulation is necessary to continue the policy of the Chief of the Forest Service as expressed in the development plan at 45 FR 4219; and

(4) The regulation is necessary to preserve the character of the wild river zones as mandated by Congress in the Wild and Scenic Rivers Act.

This regulation is only temporary, and the public is being given notice of, and an opportunity to participate in, the promulgation of any permanent rule which will replace it.

For these reasons, compliance with the notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable, unnecessary, and contrary to the public interest.

REGULATION

In consideration of the foregoing and pursuant to 36 CFR 261.70 and the authority delegated to me at 42 FR 3009, in order to establish reasonable rules of public conduct and protect property and public safety, 36 CFR 261.75 is amended to read:

§ 261.75 Interim regulation applicable to Region 5, California Region, as defined in § 200.2.

(a) *Definitions.* In this section: (1) "Middle Fork of the Feather River" means the river and land area in or adjacent to Plumas National Forest described as the "River Area" in the notice at 35 FR 4219 or any amendment to that notice.

(2) "Motorized equipment" means any equipment having or using an engine or motor, except small battery-powered handheld devices such as cameras, shavers, flashlights, and Geiger counters.

(3) "Wild river zone" means the area described as the Bald Rock Canyon Wild River Zone or as the Upper Canyon Wild River Zone in the notice at 35 FR 4219 or any amendment to that notice.

(b) *Prohibitions:* (1) Possessing or using motorized equipment in the wild river zone of the Middle Fork of the Feather River, except on the Stag Point Trail or the Cleghorn Bar Trail, is prohibited.

(2) Paragraph (b)(1) of this section does not apply to any equipment authorized by a permit from the Forest Supervisor, Plumas National Forest, containing such terms and conditions as he considers necessary for the protection or preservation of the wild river zone or the health, safety or welfare of its users. Violation of any term or condition of such a permit is prohibited.

(c) *Expiration date.* Unless amended sooner, this section expires on August 11, 1977.

(30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 10 (d), Pub. L. 90-542; 82 Stat. 916 (16 U.S.C. 1281(d)); 35 FR 4219; 42 FR 2968, 7 CFR 2.60; 42 FR 2960, 36 CFR 261.70; 42 FR 3009.)

The Chief of the Forest Service has concurred in my issuance of this interim regulation. A copy of his concurrence will be available in my office (See "ADDRESSES" above).

DOUGLAS R. LEISZ,
Regional Forester,
California Region.

[FR Doc.77-13689 Filed 5-12-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Contractor Use of Agency Official Mail; Miscellaneous Revisions in Regulations Governing Official Mail Privilege of Federal Agencies

AGENCY: United States Postal Service.

ACTION: Final Rule.

SUMMARY: This rule is intended to accomplish two principal things. First, it establishes a licensing procedure to govern the use of official mail envelopes and labels by Government contractors. The new licensing procedure is intended to prevent the misuse of these envelopes and labels and to assure that the Postal Service receives adequate compensation for services provided to private users of official envelopes and labels. Second, it consolidates, clarifies, and eliminates redundancies in agency use of the official mail privilege now found in PSM 137.23–137.3.

EFFECTIVE DATE: May 11, 1977.

ADDRESS: Manager, Government Revenue and Examination Branch, Finance Department, United States Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Ivan N. Hall, 202–245–5005.

SUPPLEMENTAL INFORMATION: On October 6, 1976, the Postal Service published in the FEDERAL REGISTER (41 FR 44059) a notice of proposed rulemaking setting forth proposed changes in sections 137.231 and 137.242 of the Postal Service Manual. The proposed changes were intended to set up a licensing procedure for the use of official mail by Government contractors. The proposed regulations would have authorized any Government agency to apply for a special permit under which it might authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of the agency, matter printed at Government expense. Similarly, the regulations would have authorized any Government agency to apply for a special permit under which it might authorize other contractors to use official envelopes and labels for a specified time, or on a specific contract-by-contract basis. Unauthorized contractor use of official envelopes was to be forbidden, and an agency was to be granted a permit only after making adequate reimbursement arrangements with the Postal Service.

Interested persons and agencies were invited to submit written data, views, or arguments concerning the proposed regulations. Upon request, the initial comment period was extended six weeks (41 FR 50301).

Several comments were received. A few private contractors requested the Postal Service to issue them permits for the use of official indicia when mailing material to Federal agencies. The Postal Service responded to these requests by explaining that under the proposal, a permit would be obtained by the Federal agency which wished to license contractors to use official mail indicia. Permits would not be issued directly to private contractors by the Postal Service.

Two Federal agencies requested the issuance of permits to authorize the use of official mail indicia by printer-mailer contractors in the performance of specific contracts. Pending final adoption of the proposed regulations, the Postal Service has consulted with the affected agencies to avoid any potential disruptions in contract operations.

Three agencies suggested that compliance with the proposed licensing procedure would impose a significant administrative or cost burden on agency operations. One agency declared that in view of the "red tape" involved in supervising contractor use of official envelopes and labels, it was preferable to require the contractor to handle its own administrative costs. A second agency declared that it would be "far more practical and economical" for Federal agencies to eliminate contractor use of official envelopes and insert a cost reimbursement factor into the contract. This agency also pointed out that the cost of any additional contractor recordkeeping related to the use of official indicia would be

passed back to the Government. Finally, a third agency indicated that it did not concur in the need for the proposed regulations, and stated the belief that its existing procedures assured adequate postal reimbursement. Accordingly, this agency requested a formal exemption from the proposed licensing procedures.

The Postal Service has no wish to impose unnecessary administrative or cost burdens on those agencies which find it essential to authorize contractors to mail matter on behalf of the Government. However, we believe that the financial interests of the Postal Service, as well as those of Federal agencies in general, will best be served by more positive accountability for contractor use of official envelopes and labels. Neither the Postal Service nor any Federal agency should be required to absorb the costs of contractor mailings which are not accounted for, or those which are not related to the fulfillment of a Government contract. Accordingly, we believe it would be unwise to grant any permanent agency exemptions from the proposed regulations.

Furthermore, we do not anticipate that agencies will incur significant additional costs or administrative burdens as a result of the proposed regulations. As pointed out in agency comments, if compliance with the new licensing system should appear burdensome with regard to any particular contract, the affected agency might avoid the problem completely by requiring the contractor to use regular postage. Including postage in the contract total as a reimbursable administrative cost would lighten the recordkeeping and paperwork requirements of both the agency and the contractor, and discourage contractor use of official envelopes if such use would not produce any substantial benefits for the agency.

Where contractor use of official envelopes might substantially facilitate the execution or administration of a contract, for example in a contract for printing and mailing a Government publication, or a contract for the manufacture and delivery of small articles, we believe that the new licensing system would not add measurably to administrative costs or workload.

Finally, one agency, which found the proposed permit process "reasonable and consistent with similar permit processes already in effect for official mail", suggested a number of changes in the proposed regulations. This agency advised that the regulations should be clarified to avoid confusion regarding information to be furnished by agencies to the Postal Service, or the factors considered in determining whether to permit an agency to authorize contractor use of official envelopes. We have revised pertinent portions of the proposed regulation to prevent misinterpretation, and to assure the fairness and objectivity of the permit granting process. The modifications we have adopted should allay any fears that the proposed regulations were intended to apply retroactively, or to preempt any agency's prerogative to determine the form of its own operations. The proposal has also been modified to reflect that reply envelopes and labels are to be furnished to contractors generally only in accordance with the licensing procedure set up under the regulations. The option to furnish reply envelopes or labels to members of the public is generally not to be used in dealing with contractors. Moreover, the intent of the proposal has been clarified by specifying that all official envelopes and labels furnished to contractors must be preaddressed to a Federal Government office or officer, except envelopes or labels furnished to printer-mailer contractors. Other changes have been made to eliminate unnecessary material and to conform the regulation to the other changes being made in the regulations governing agency use of official mail.

The Postal Service recognizes that some agencies will find it necessary to modify their contracting and administration procedures to effect the new licensing procedures, or to establish alternatives to contractor use of official envelopes. The Manager, Government Revenue and Examination Branch, Finance Department, is authorized to suspend, temporarily, the application of the new regulations to any agency to avoid disruptions of Government operations.

The changes reflected in new and revised sections 137.23, .24, .26, .27, and .28 and in the revision of section 137.3 are primarily intended to consolidate, clarify and eliminate redundancy in present sections 137.23, .24, .25, .26, .27 and 137.3. Notably, the two substantially similar forms of agency official mail indicia found in present sections 137.231 and .232 are combined into one, eliminating unnecessary duplication in the Postal Service Manual. Because the postal emblem in the official mail indicium is a variation of the Postal Service emblem registered as a trademark and service mark by the U.S. Patent Office, the letter R enclosed in a circle has been added to the indicia in new sections 137.242 and 137.243. In addition, section 137.3 relating to census and naturalization mail has been amended to track more closely the statutory language and to conform to current practice.

New section 137.252 tracks the statutory language on the furnishing of official reply envelopes and labels, 39 U.S.C. 3202(b), more closely than does former section 137.242. In light of the general provisions of the Postal Reorganization Act and the requirement that agencies reimburse the Postal Service for the "equivalent amount of postage due" for their official mailings (including mailings under official reply envelopes or labels), 39 U.S.C. 3206(a), the primary interest of the Postal Service in this area is in assuring that the Postal Service is reimbursed fully for all official mailings, not in policing the agencies in their use of the official mail privilege. The agencies themselves, whose funds are at stake, are responsible for assuring that their mailings are in accordance with the law.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following amendment of the Postal Service Manual, effective May 11, 1977:

PART 137—OFFICIAL MAIL

Sections 137.23 through 137.3 are revised to read as follows:

.23 Authorized Departments and Agencies

.231 Departments and agencies authorized to use official mail services are as follows:

ACTION
Administrative Conference of the United States
Administrative Office of the United States Courts
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Advisory Committee on National Growth Policy Process
Advisory Council on Historic Preservation
Agency for International Development
Agriculture, Department of
Air Force, Department of the
Alaska Power Administration
Alaska Railroad
Alcohol Drug Abuse and Mental Health Administration
Alcohol, Tobacco and Firearms, Bureau of
American Battle Monuments Commission
American Revolution Bicentennial Administration
Appalachian Regional Commission
Architect of the Capitol
Architectural & Transportation Barriers Compliance Board
Army, Department of the
Board for International Broadcasting
Bonneville Power Administration
Botanic Garden, United States
Business Economics, Office of
Census, Bureau of the
Center for Disease Control
Central Intelligence Agency
Civil Aeronautics Board
Civil Rights, Commission on
Civil Service Commission, United States
Coast Guard, United States
Commerce, Department of
Commission on Federal Paperwork
Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped
Commodity Futures Trading Commission
Community Services Administration
Comptroller of the Currency, Office of the
Congressional Budget Office
Cost Accounting Standards Board
Cost of Living Council
Council on Wage and Price Stability
Court of Claims, United States
Court of Customs and Patent Appeals, United States
Court of Military Appeals, United States
Customs, Bureau of
Customs Court, United States
Defense Civil Preparedness Agency
Defense Communications Agency
Defense Contract Audit Agency
Defense, Department of
Defense Intelligence Agency
Defense Investigative Service
Defense Logistics Agency
Defense Manpower Commission
Defense Mapping Agency
Defense Nuclear Agency
Delaware River Basin Commission
District of Columbia Court of Appeals
Domestic & International Commerce, Bureau of
Drug Enforcement Administration
Economic Advisers, Council of
Economic Development Administration
Education, Office of

Employment & Training Administration (Employment Security)
Energy Research & Development Administration
Engraving and Printing, Bureau of
Environmental Protection Agency
Environmental Quality, Council on
Equal Employment Opportunity Commission
Farm Credit Administration
Farmers Home Administration
Federal Aviation Administration
Federal Bureau of Investigation
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Deposit Insurance Corporation
Federal Energy Administration
Federal Highway Administration
Federal Home Loan Bank Board
Federal Law Enforcement Training Center
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Power Commission
Federal Prison Industries, Incorporated
Federal Railroad Administration
Federal Reserve System, Board of Governors
Federal Supply Service
Federal Trade Commission
Fine Arts, Commission of
Fish and Wildlife Service
Food and Drug Administration
Foreign Claims Settlement Commission of the United States
Foreign Direct Investments, Office of
General Accounting Office
General Services Administration
Geological Survey
Government Financial Operations, Bureau of
Government Printing Office
Great Lakes Basin Commission
Harry S. Truman Scholarship Foundation
Health, Education, and Welfare, Department of
Health Resources Administration
Housing and Urban Development, Department of
Immigration and Naturalization Service
Indian Affairs, Bureau of
Indian Claims Commission
Inter-American Foundation
Interior, Department of the
Internal Revenue Service
International Boundary and Water Commission
Interstate Commerce Commission
Joint Chiefs of Staff
Justice, Department of
Kennedy, John F., Center for the Performing Arts
Labor, Department of
Land Management, Bureau of
Law Enforcement Assistance Administration
Library of Congress
Management and Budget, Office of
Marine Corps, United States
Marine Mammal Commission
Maritime Administration
Merchant Marine Academy, United States
Mines, Bureau of
Mining Enforcement and Safety Administration
Minority Business Enterprise, Office of
Mint, Bureau of the
Missouri River Basin Commission
National Advisory Council on Economic Opportunity
National Aeronautics and Space Administration
National Bureau of Standards
National Capital Planning Commission
National Commission on Electronic Fund Transfers
National Commission on Libraries and Information Science
National Commission Productivity and Work Quality
National Commission on Water Quality
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Gallery of Art
National Highway Traffic Safety Administration
National Institute of Education
National Institutes of Health
National Labor Relations Board
National Mediation Board
National Park Service
National Science Foundation
National Security Council
National Transportation Policy Study Commission
National Transportation Safety Board
Navy, Department of the
New England River Basins Commission
Nuclear Regulatory Commission
Occupational Safety and Health Commission
Oceanic and Atmospheric Administration, National
Office of Drug Abuse Policy
Office of Information for the Armed Forces
Office of International Affairs
Office of Technology Assessment
Organization of American States
Outdoor Recreation, Bureau of
Overseas Private Investment Corporation
Panama Canal Company
Pan American Health Organization (Sanitary Bureau)
Patent Office
Pennsylvania Avenue Development Corporation
Pension Benefit Guaranty Corporation
Postal Rate Commission
Presidential Clemency Board
Prisons, Bureau of
Public Debt, Bureau of the
Public Health Service
Railroad Retirement Board
Reclamation, Bureau of
Regional Action Planning Commissions
Renegotiation Board
St. Lawrence Seaway Development Corporation
Saline Water, Office of
Secret Service, United States
Securities and Exchange Commission
Selective Service System
Small Business Administration
Smithsonian Institution
Social and Rehabilitation Service
Social Security Administration
Southeastern Power Administration
Southwestern Power Administration
Special Action Office for Drug Abuse Prevention
Special Representative for Trade Negotiations, Office of the
State, Department of
Superintendent of Documents
Superior Court of the District of Columbia
Supreme Court of the United States
Tax Court, United States
Technical Information Service, National
Telecommunications, Office of
Telecommunications Policy, Office of
Tennessee Valley Authority
Transportation, Department of
Transportation Systems Center
Travel Service, United States
Treasurer of the United States, Office of the
Treasury, Department of the
United States Information Agency
United States International Trade Commission
United States Soldier's & Airmen's Home
University of Health Sciences—Uniformed Services
Upper Mississippi River Basin Commission
Urban Mass Transportation Administration
Veterans Administration
Water Resources Council

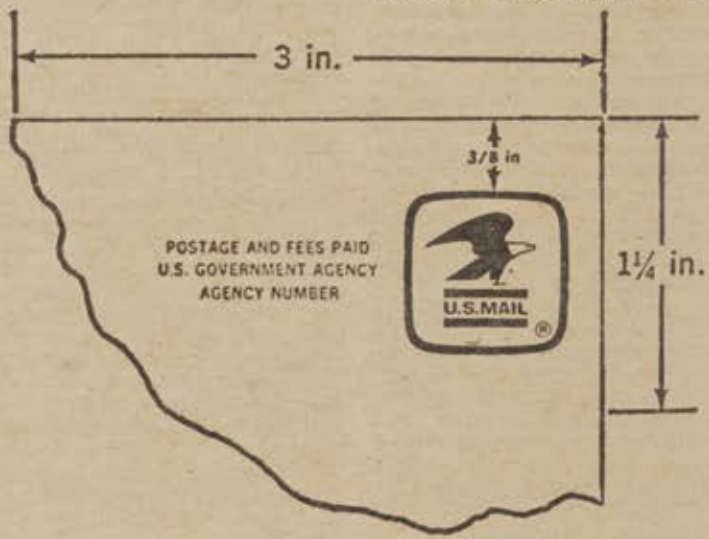
.232 Departments and agencies created since publication of the list in 137.231 and other departments or agencies not appearing on the list may inquire of the Manager, Government Revenue and Examination Branch, Finance Department, regarding possible authorization to use official mail services.

.233 The right of an officer to use the official mail privilege ceases immediately when he leaves office.

.24 Indicium.

.241 An area 1¼ inches by 3 inches is reserved in the upper righthand corner of the mail piece for the indicium. No other markings may appear in this area except borders extending no further than one-quarter inch from the envelope edges.

.242 a. The indicium for letter size official mail must not be handwritten or typewritten and must consist of the postal emblem (actual size shown below) located ⅜ inch from the top edge of the mail piece; and, to the left of the postal emblem, the words Postage and Fees Paid, the name of the department or agency, and the agency number.

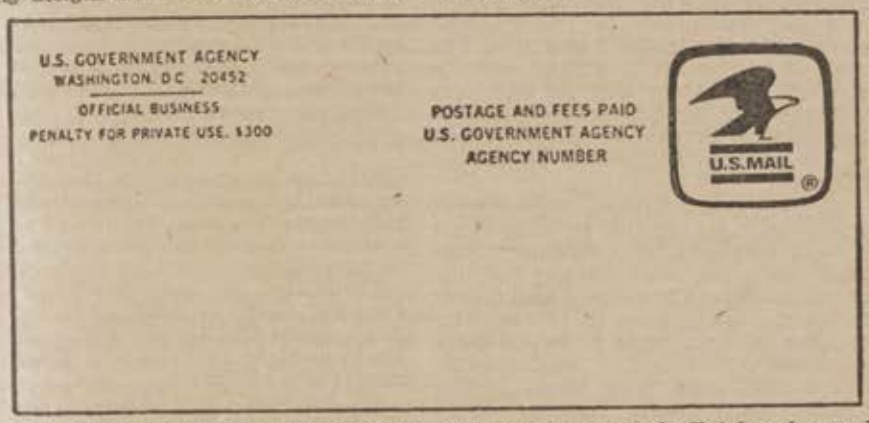


b. The postal emblem may be reduced in size to not less than ⅝ inch by ⅝ inch and the indicium area to not less less than 1 inch by 2 inches.

c. Use of the postal emblem as part of the indicium is optional on larger than letter-sized mail.

d. The postal emblem may be omitted on self-mailers completely printed by computer with no provisions for printing designs other than letters and numerals, provided the items are faced, sorted, and tied in bundles by ZIP Code.

.243 Official mail of departments or agencies must bear in the upper left corner of the mail piece (as shown below) the complete return address and the words Official Business, Penalty for Private Use, $300. The return address and statement may not be handwritten or typewritten.



.244 Official mail of designated State extension directors must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage, followed by the name and title of the designated officer and the words Cooperative Agricultural Extension Work—Acts of May 8 and June 30, 1914. The postal emblem, the words Postage and Fees Paid U.S. Department of Agriculture, and the agency number must apear in the upper right corner of the address side.

.245 Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the officer in charge of the station, followed by the word Publication. The title of the bulletin or report may be used. The postal emblem, the words Postage Paid U.S. Department of Agriculture, and the agency number must appear in the upper right corner of the address side.

.246 The markings required in 137.242 through .245 may not be used to transmit mail other than official mail.

.247 Mail of departments and agencies which is not sent by use of official envelopes or labels as provided in 137.242 through .245 must have postage prepaid. The regular rates and conditions apply.

.25 Reply and Contractor Use.

.251 Except as provided in 137.252, .253, and .254, a department or agency authorized to use the official mail privilege may not loan or furnish official envelopes or labels to any private person, concern, or organization, or permit the use of such envelopes or labels for private benefit.

.252 A department or agency authorized to use the official mail privilege may furnish printed official reply envelopes and labels, preaddressed to a Federal Government office or officer, to a person, concern, or organization from or through whom official matter is desired. Reply envelopes and labels may not be furnished to bidders, nor may they be furnished to contractors under this provision other than for the return of extraordinary, non-recurring matter. (For envelopes and labels for contractors generally, see 137.253, .254.)

.253 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of that department or agency matter printed at Government expense. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.254 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize non-printer-mailer contractors to use official envelopes and labels, preaddressed to a Federal Government office or officer, for the transmission of official matter for a specified time, or in the performance of specific contracts with the office or officer. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.255 The Manager, Government Revenue and Examination Branch, Finance Department, or his designee, shall review each request under 137.253, or .254 and permit the department or agency to authorize contractor use of official envelopes and labels for a period of one year if he determines that the department or agency has established sufficient accountability procedures to insure reimbursement to the Postal Service for mail service provided to contractors. In making this determination, the Manager, or his designee, shall consider factors including, but not limited to, the following:

a. Any relevant misuse of the official mail privilege, including the misuse of official envelopes or labels for the transmission of nonofficial matter by contractors licensed by the department or agency under 137.253 or .254;

b. Any relevant failure of the department or agency comply with official mail reimbursement instructions issued by the Manager under 137.21, including failure to establish accurate methods for estimating or measuring the volume of official mail;

c. The method, such as use of a permit imprint, bulk permit, or meter, proposed by the department or agency for obtaining adequate information to insure full reimbursement for the proposed contractor use of official mail.

.256 Official envelopes and labels used by any person, concern, organization, or contractor, as provided in 137.252, .253, and .254 must bear the printed return address of one of the authorized departments or agencies listed in 137.231 and be printed in the form set out in 137.242 and .243. No return name and address of a private person, concern, organization, or contractor may be shown. When a special service is required, the envelope or label must be preprinted with the type of special service desired. Private users of official envelopes and labels may not add their own markings for these services.

.257 Departments and agencies authorized to use the official mail privilege must reimburse the Postal Service for the private use of official envelopes and labels under 137.252, .253, .254, as provided in instructions issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Departments and agencies, and any contractors authorized by them to use official envelopes and labels, shall promptly furnish, in the manner and form requested, all information, including but not limited to contractor name, points and dates of mailing, classes, quantities, and single-piece weights of mail matter, the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.26 Weight and Size Limits

.261 *Weight.*—Official mail must conform to the weight limitations in sections 131.31, 134.31, 135.31 (except that parcels weighing 70 pounds may be accepted at all post offices), and 136.3.

.262 *Size.*—a. If physically possible, mail should be prepared to be within the range of sizes which can be machine processed, and also most efficiently hand processed. This range of sizes, referred to as letter-size mail, is as follows:

Characteristic	Minimum mailable size (inches)	Maximum letter size (inches)
Height	3	6⅛
Length	5	11½
Thickness [1] (must be uniform)	0.007	0.25

[1] Cards exceeding 4¼ in. in height and/or 6 in. in length must be at least 0.009 in. thick and should not be thicker than 0.013 in.

b. If mail pieces must be larger than letter-size, mailers should avoid the use of items over 9 inches by 12 inches whenever possible. Items larger than that are especially difficult to handle even by manual methods.

c. Mail, other than letter-size mail, may not exceed 100 inches in combined length and girth. See 135.32 for instructions on how to measure.

.263 *Shape.*—a. Envelopes, cards, and self mailers must be rectangular, regardless of size or class of mail.

b. Letter-size mail must have a maximum ratio of height to length of 1 to 1.4, and a minimum ratio of 1 to 2.5.

.27 Services to be Provided

.271 *Treatment.*—All official mail must be treated as first-class mail, unless it is endorsed to a lower class. EXCEPTION: Pieces weighing over 13 ounces must be treated as third- or fourth-class mail unless endorsed as priority mail. Official mail endorsed to indicate a special service must be given the service indicated. (See Publication 42 regarding international mail.) EXCEPTION: Reply envelopes and labels and envelopes and labels used by contractors must be preprinted with special service endorsements (see 137.256). Endorsements which are typewritten, handwritten, rubber stamped or applied by adhesive stickers are not acceptable on preprinted reply envelopes and labels.

.272 *Forwarding, Return, and Address Correction Services.*—Official mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for postage due accruing on official mail.

.273 *Mailing Permits.*—Applications for mailing permits must be handled in the following manner:

a. *Postage Meter*

(1) *License.* The regular procedures prescribed in Part 144 must be followed. EXCEPTION: Prepayment is not required at time of setting. Meters must be set to maximum capacity to preclude unnecessary settings, and billings must be handled on a centralized basis from headquarters. A special official mail meter-stamp design is prescribed for meters used for official mail (see 144.41). The license to use a postage meter Form 3601–A, Application For A Postage Meter License, must be approved by the Government Revenue and Examination Branch. A copy of the license must be provided to the post office at the authorized location as the authority to set the meters without prepayment. Form 3610, Record of Meter Setting, must be executed and maintained by the meter-setting employee for each Federal Government entity. A separate ledger should also be maintained for Government meters. The original of Form 3603, Receipt of Postage Meter Setting, must be given to the agency and the copy forwarded to the Government Revenue and Examination Branch, along with a copy of the postage Form 3610 for billing purposes.

(2) *Mailings.* Federal Government agencies are not entitled to send official mail at nonprofit rates or other subsidized rates, but must use the full unphased rates for all classes of mail matter for which postage rates are phased. This includes mailings made at second-class, controlled circulation, and special fourth-class rates. Post offices serving Federal Government agencies using postage meters must monitor such mailings for possible postage deficiencies.

b. *Second Class*

(1) *Application.* Federal Government agencies may apply for second-class mail privileges for periodical publications which meet the basic qualifying conditions stated in 132.22 by completing Form 3501, Application for Second-Class Mail Privileges. Form 3501 and two copies of the publication on which the application is based should be filed at the post office of the place where the known office of publication is located. Postmasters must verify the circulation of the publication for which an application is filed and complete the appropriate items on the application. The verification results must be recorded in column (c) on the back of the application. The postmaster's report portion on the front must be completed giving a description of the records examined which substantiate the circulation of the publication. The application and a copy of the publication must be transmitted to the Director, Office of Mail Classification, for processing.

(2) *Mailings.* Official mail sent at second-class rates must meet the provisions of Parts 125 and 132. Exception: The provisions of 125.68 and 132.25 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked SECOND-CLASS MAIL or SECOND-CLASS MAIL NEWSPAPER (as appropriate) preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

(1) *Application.* Federal Government agencies may apply by letter or memorandum to mail publications at controlled circulation rates if they meet the qualifying conditions in 133.21. The application and a copy of the publication on which it is based may be filed at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at controlled circulation rates must meet the provisions of Part 133. Exception: The provisions of 133.3 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked CONTROLLED CIRCULATION RATE preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

d. *Bulk Third-Class Permits*

(1) *Application.* Federal Government agencies may apply to mail at regular bulk third-class rates by letter or memorandum. The application may be filed at the post office where the mailings will be presented or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at bulk third-class rates must meet the provisions of Part 134. Exception: The provisions of 134.422 and 134.423 do not apply to such mailings. The address side of each piece, or its envelope or wrapper, must be plainly marked THIRD-CLASS BLK RT preferably in a position beneath the official indicium and above the address of the recipient. See 137.275c for billing of postage charges.

e. *Permit Imprints*

(1) *Application.* Federal Government agencies may apply to mail identical pieces of first- and fourth-class mail under the permit imprint system. The application may be filed by letter, memorandum or on Form 3601, Application to Mail Without Affixing Postage Stamps, either at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications filed at local post offices must be forwarded by the postmaster to the Director. A special form of permit imprint is prescribed for official mail sent at first- and fourth-class rates (see 145.4).

(2) *Mailings.* Official mail sent under permit imprint must meet the provisions of Part 145. Exception: The provision of 145.13, 145.33, 145.561, and 145.562 do not apply to such mailings. Form 3083, Trust Account Receipts and Withdrawals, does not reflect mailings made under permit imprint by Federal Government agencies. See 137.275b for billing of postage charges.

f. *Approved Applications*

If an application for any mailing permit is approved, each postmaster at the post office of entry must be advised. Postmasters must insure that mailings are properly presorted and otherwise prepared in accordance with the requirements of their classification.

.274 *Fees.*—Postmasters must not collect fees due for second-class or permit

imprint applications nor must they collect annual bulk-mailing fees. The fees must be included in the next regular billing made to the respective agency by the Government Revenue and Examination Branch at Headquarters.

.275 *Mailing Statements for Billing Purposes.*—a. *Form 3542, Statement showing number of Copies of Second-class or Controlled Circulation Publication Mailed.* Federal Government agencies must file Form 3542 at the entry post office for official mail sent at second-class and controlled circulation rates. The postmaster must forward the forms to Headquarters for billing purposes. Preparation of Form 3541, *Computation of Second-Class or Controlled Circulation Postage*, is not required.

b. *Form 3602, Statement of Mailing Matter With Permit Imprints.* Federal Government agencies must present Form 3602 at the post office when first- and fourth-class official mail is sent under the permit imprint system. At the end of each accounting period Form 3602 and corresponding Forms 3607, *Weighing and Dispatch Certificate*, together with Forms 3609, *Record of Permit Imprint Mailings*, must be forwarded by the postmaster to Headquarters for permit-imprint billing purposes.

c. *Form 3602-PC, Bulk Rate Mailing Statement—Third-Class Mail.* Federal Government agencies must present Form 3602-PC at the post office when official mail is sent at bulk third-class rates. The front of the form must be fully completed by the mailer to identify the mailing agency and must include the following information:

(1) The permit number should be a six-digit coding. Zeros should be added at the end of the authorized permit number if it is not a six-digit coded number (for example 005-200).

(2) The date and total number of pieces in the mailing should be complete and legible.

(3) The designation of type of matter mailed such as circulars, books, or catalogs, should be indicated in the appropriate block.

(4) The weight of a single piece should be indicated in ounces and carried five places to the right of the decimal point. Examples are:

1 ounce to be written as—1.00000
¾ ounce to be written as—.75000
⅔ ounce to be written as—.66667
½ ounce to be written as—.50000
⅓ ounce to be written as—.33333
¼ ounce to be written as—.25000

(5) The back of Form 3602-PC must be fully completed and signed by the receiving employee.

.276 *Forwarding Billing Records.*—All mailing statements and copies of Forms 3541, 3541A, 3602, 3602-PC, 3603, and 3610 pertinent to official mailings and meter settings must be forwarded to the following address at Headquarters for billing purposes:

Manager, Government Revenue & Examination Branch, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West SW, Washington, DC 20260.

The Forms 3602 and 3602-PC must be forwarded at the end of each accounting period. The other forms should be forwarded when mailings or meter settings occur.

.277 *Exception Reports.*—a. *Irregular Mailings*—(1) *Improper Preparation.* If any official mailing other than first class or priority mail is not properly prepared or otherwise fails to qualify for a rate with which the pieces are endorsed, the mail must not be accepted. For presorted mail that does not comply with preparation requirements, a report must be submitted immediately to the Government Revenue and Examination Branch so that the agency can be billed at the appropriate rate.

(2) *Mailings Without Authorization.* If official mail is presented for acceptance as second-class, controlled circulation, bulk third-class, permit imprint or metered mail at a post office without authorization, it must be accepted and processed by the post office in accordance with 137.81. An exception report must be submitted with the mailing statment or other record to the Government Revenue and Examination Branch.

.28 Zip Coding of Mail.

.281 *Addressing.*—The address on all official mailings of Federal departments and agencies under 137.2 must include the ZIP Code number.

.282 *Presorting and Postage Charges.*—If identical pieces of individually addressed matter are included in a single mailing at the bulk rates in 131.12, 134.-12, 135.122, 135.132 and 136.13, the mail must be prepared as prescribed for each bulk category.

137.3 Census and Naturalization Mail.

.31 *Census mail.*—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Commerce or to one of its bureaus or agencies, may be used to transmit mail relating to a collection of statistics, survey or census authorized by title 13, United States Code.

.32 *Naturalization mail.*—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Justice, to the Immigration and Naturalization Service, or to any of its officials may be used by clerks of courts to transmit mail relating to naturalization.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401, 3201, 3206, 3209.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-13435 Filed 5-12-77;8:45 am]

Title 45—Public Welfare

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1611—ELIGIBILITY

AGENCY: Legal Services Corporation.

ACTION: Amendment to Appendix A.

SUMMARY: This amendment increases the Maximum Annual Income Levels for individuals Eligible for Legal Assistance. The Legal Services Corporation Act requires the Corporation to establish these levels. The amounts set forth below are one hundred twenty-five percent (125%) of the official poverty threshold as defined by the Office of Management and Budget. That definition was revised on April 25, 1977.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, Office of the General Counsel, Legal Services Corporation, 733 15th Street, NW., Suite 700, Washington, D.C. 20005, 202-376-5113.

Accordingly, 45 CFR Part 1611 is amended by revising Appendix A to read as follows:

APPENDIX A—MAXIMUM INCOME LEVELS AUTHORIZED BY THE LEGAL SERVICES CORPORATION REGULATION 1611.3(b)

FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit:	*Amount*
1	$3,713
2	4,913
3	6,113
4	7,313
5	8,513
6	9,713

For family units with more than six members, add $960 for each additional member.

POVERTY GUIDELINES FOR ALASKA

Size of family unit:	*Amount*
1	$4,650
2	6,150
3	7,650
4	9,150
5	10,650
6	12,150

For family units with more than six members, add $1200 for each additional member.

POVERTY GUIDELINES FOR HAWAII

Size of family unit:	Amount
1	$4,288
2	5,663
3	7,038
4	8,413
5	9,788
6	11,163

For family units with more than six members, add $1100 for each additional member.

ALICE DANIEL,
General Counsel,
Legal Services Corporation.

[FR Doc.77-13822 Filed 5-12-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21097; RM-2779]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Chadron, Nebr., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 248 for Channel 234 and deleting Channel 228A at Chadron, Nebraska. Petitioner, Big Sky Company, stated that the substitution of channels would permit it to utilize a site which would meet spacing requirements. Deletion of Channel 228A would eliminate the current intermixture of channels and would permit its use elsewhere.

EFFECTIVE DATE: June 16, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER; (PROCEEDING TERMINATED)

Adopted: May 3, 1977.

Released: May 6, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Chadron, Neraska).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted January 27, 1977, 42 FR 6855, on a petition filed by Big Sky Company ("petitioner") inviting comments on two proposals: (1) substitution of FM Channel 248 for Channel 234 (both Class C) and deletion of Channel 228A; or (2) substitution of Channel 248 for Channel 234 and Channel 259 for Channel 228A at Chadron, Nebraska. There were no oppositions to the proposals. Petitioner filed supporting comments in which it reaffirmed its intention to apply for Channel 248, if assigned.

2. Chadron (pop. 5,853), in Dawes County (pop. 9,693)[1], is located in northwestern Nebraska approximately 390 kilometers (240 miles) northeast of Denver, Colorado. It is served by a daytime-only station, KCSR(AM), of which petitioner is licensee. FM Channels 228A and 234[2] are assigned at Chadron but are unoccupied and unapplied for. Channel 248 could be substituted for Channel 234 in conformity with the minimum distance separation requirements.

3. Because of the rejection of its proposed use of Channel 234, petitioner proposed a substitution of a channel which would permit the utilization of the site it wishes to employ. Substitution of Channel 248 for Channel 234 would meet that objective. We believe that the public interest would be served by making the proposed substitution and thereby facilitating the prompt commencement of service. Moreover, the use of this channel would not be restricted to any particular area, so that any other applicant would have a choice in site location. The *Notice* also stated that, if any party were interested in the asignment of a second Class C channel (259) to Chadron, it should come forward with a showing of public interest need, among other things. Since no interest was shown, Channel 259 will not be substituted for Channel 228A. Further, since no showing of interest to retain the assignment has been made, Channel 228A will be deleted, thus eliminating the current intermixture of channels. This action would also allow the channel to be used elsewhere.

4. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

5. In view of the foregoing, *it is ordered*, That effective June 16, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Chadron, Nebraska, is amended as follows:

City:	*Channel No.*
Chadron, Nebraska	248

6. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 77-13693 Filed 5-12-77;8:45 am]

[1] Both population figures are taken from the 1970 U.S. Census.

[2] Petitioner tendered an application for a construction permit on June 1, 1976, to operate an FM station on Channel 234 in Chadron, but the application was rejected because the site specified was short-spaced to the site of Station KNEB-FM operating on Channel 231 in Scottsbluff, Nebraska. Petitioner's application was returned on Oct-20, 1976.

[Docket No. 21037; RM-2755; RM-2842]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Summersville and Mullens, W. Va., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class B FM Channel 225 to Summersville, West Virginia, and Channel 224A to Mullens, West Virginia, as first FM assignments to each community. Petitioner, R & S Broadcasting Company, Inc., states that the Summersville Class B channel assignment would provide for a station which could render substantial first and second aural service to areas and populations which presently do not receive such service. The channel assignment to Mullens would provide that community with its first local aural broadcast service.

EFFECTIVE DATE: June 15, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: May 2, 1977.

Released: May 6, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Summersville, Pineville and Mullens, West Virginia.)

By the Chief, Broadcast Bureau:

1. The Commission herein considers the Notice of Proposed Rule Making, adopted December 30, 1976, 42 FR 3186, in the above-captioned proceeding instituted in response to a petition filed by R&S Broadcasting Company, Inc. ("R&S"). The petition proposed the assignment of Class B Channel 225 as a first FM channel to Summersville, West Virginia. R&S filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned. A counterproposal (RM-2842) to assign Channel 224A to Pineville, West Virginia, was filed by Wyoming Broadcasting Company ("Wyoming"), licensee of daytime-only Station WWYO at Pineville.

2. Summersville (pop. 2,429), in Nicholas County (pop. 22,552),[1] is located approximately 64 kilometers (40 miles) east of Charleston, West Virginia, and 161 kilometers (100 miles) west of Staunton, Virginia. There is no local broadcast service in Summersville or Nicholas County. R&S has submitted information

[1] All population figures cited are taken from the 1970 U.S. Census.

which indicates a level of commercial and economic activity in the Nicholas County area sufficient to support the assignment of a first FM channel. Petitioner claims that its station would provide first and second aural services to 38,659 persons in an area of 3,906 square kilometers (1,508 square miles) and 10,538 persons in an area of 873 square kilometers (337 square miles), respectively. Channel 225 could be assigned to Summersville in conformity with the minimum distance separation requirements provided a transmitter site is selected that would not preclude the use of Channel 224A at Mullens, West Virginia, which also is being assigned in this document.

3. The preclusion study shows that twelve communities are located in the precluded areas as a result of the proposed assignment of Channel 225 to Summersville, eight[2] of which have no FM assignments. R&S was requested to indicate in its comments whether alternate FM channels would be available for these communities. In response it showed that Channel 253 could be assigned to either Richwood, Marlinton, Sutton or Webster Springs. The transmitter site at Richwood would have to be located 10 kilometers (6 miles) northeast and at Sutton 10 kilometers (6 miles) south of the communities. Channel 227 is also available for Webster Springs, but the transmitter site would have to be located 32 kilometers (20 miles) northeast. Channel 224A is available to either Mullens or Pineville. R&S asserts that Fayetteville, Richwood, Sutton and Webster Springs would be located within the Summersville 60 dBu contour, and that Marlinton or Spencer, but not both, would also be located within the Summersville 60 dBu contour, depending on where the alternate site were to be selected. Spencer and Sutton each has a Class IV full-time AM station.

4. Pineville (pop. 1,187), in Wyoming County (pop. 30,095), is located 37 kilometers (23 miles) southwest of Beckley, West Virginia. It has a daytime-only AM station for local aural broadcast service.

5. In support of its proposal, Wyoming submitted information with respect to Pineville and its need for a first FM channel assignment. It states that Channel 224A could be assigned to Pineville if the transmitter site of the Channel 225 station at Summersville were to be located at least 10 kilometers (6 miles) east of the community.

6. R&S in reply comments states that it does not oppose the Wyoming counterproposal but urges the assignment of Channel 224A to Mullens instead of Pineville because it is the larger of the two communities. It suggests that the Summersville applicant should select its transmitter site which would make possible the assignment of Channel 224A to the Pineville-Mullens area. R&S points out that, under the Commission's 10-mile rule (§ 73.203(b)), an applicant for Pineville could apply for the Mullens Channel 224A facility.

7. After carefully considering all the comments filed, the Commission believes the public interest would be served by assigning Channel 225 to Summersville, West Virginia, and Channel 224A to Mullens, West Virginia. Although eight communities without FM assignments would be located in the precluded areas created by the assignment of Channel 225 to Summersville, two of them would have alternate channels available for assignment, and five would be located within the Summersville 60 dBu contour. There would be one community without an FM assignment and without the benefit of FM service from the Summersville assignment. However, two communities have local AM service. Ordinarily, a Class A channel would be assigned to a community the size of Summersville, but a Class B channel assignment here would provide for an FM station which could render substantial first and second aural service to areas and populations which presently do not receive such service.

8. The Wyoming counterproposal urged the assignment of Channel 224A to Pineville. However, it appears that Channel 224A is the only available channel which could be assigned to either Pineville or Mullens. We believe it would be more in the public interest to make the assignment to Mullens because it would provide for an FM station to a larger community which does not have a local aural broadcast service. Pineville has a daytime-only station. In any event, the assignment to Mullens would not prevent its usage at Pineville as the channel will be available for application under the provisions of § 73.203 (b) of the Commission's Rules.[3]

9. Authority for the action taken herein is contained in Sections 4(i), 5(d) (1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

10. Accordingly, *it is ordered*, That effective June 15, 1977, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) is amended for the listed communities to read as follows:

City:	Channel No.
Mullens, West Virginia	224A
Summersville, West Virginia	225

11. *It is further ordered*, That the counterproposal of Wyoming Broadcasting Company is granted to the extent indicated and is denied in all other respects.

12. *It is further ordered*, That the Wyoming Motion for Leave to File Additional Pleading is denied.

13. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-13692 Filed 5-12-77;8:45 am]

[Docket No. 21036; RM-2738]

PART 73—RADIO BROADCAST SERVICES

Noncommercial Educational Channel Assignments Under the United States-Mexico FM Broadcast Agreement, Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first noncommercial educational channel to Oxnard, California. Petitioner, Faith Media, Inc., states that the station would provide Oxnard and surrounding communities with their first educational radio service and would provide a balanced medium of expression, cultural exchange, and vital information for a more unified community.

EFFECTIVE DATE: June 16, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: May 3, 1977.

Released: May 6, 1977.

In the matter of amendment of § 73.507(a), noncommercial educational channel assignments under the United States-Mexico FM broadcast agreement. (Oxnard, Calif.).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making adopted December 23, 1976, 42 FR 2086, inviting comments on a proposal filed by Faith Media, Inc. ("petitioner"), which seeks the assignment of noncommercial educational FM (Class B) Channel 212 to Oxnard, California. Supporting comments were filed by petitioner. Opposing comments were filed by Edward G. Atsinger III, licensee of Station KDAR, Oxnard, California ("KDAR").

2. Oxnard (pop. 71,225) is located in Ventura County (pop. 376,430),[1] approxi-

[2] *West Virginia:* Richwood (pop. 3,717); Fayetteville (1,712); Mullens (2,967); Marlinton (1,286); Webster Springs (1,038); Sutton (1,031); Spencer (2,261); Pineville (1,187).

[3] Wyoming has sought leave to file an additional pleading in response to R&S's reply comments, but we do not believe that it has shown good cause for accepting this unauthorized pleading. Therefore, we shall deny its motion. However, this action does not meaningfully aggrieve Wyoming as it will be able to file for use of Channel 224A in Pineville as it has all along desired to do.

[1] Both population figures are taken from the 1970 U.S. Census.

mately 97 kilometers (60 miles) west of Los Angeles, California.

3. The Notice observed that the Oxnard proposal was consistent with applicable criteria called for by the United States-Mexico FM Broadcast Agreement.[2] However the concurrence of the Mexican Government was required and has since been obtained.

4. In supporting comments petitioner states that the proposed assignment would provide Oxnard and surrounding communities with their first educational radio service, and that such a station would provide a balanced medium of expression, cultural exchange, and vital information for a more unified community. Petitioner reaffirmed its intention to file an application for authority to construct a new educational FM broadcast station located at Oxnard, if the channel is assigned.

5. In opposing comments, KDAR argues that petitioner does not operate, own, control, or appear to be affiliated with any educational institution in Oxnard or Ventura County or anywhere in the State of California, and that none of its officers or directors, nor any of the original incorporators are Oxnard residents. KDAR contends that, in light of these assertions and several other points it made, petitioner is not qualified to apply for the proposed channel.

6. Commission believes that the public interest would be served by assigning Channel 212 to Oxnard, California.[3] It has been shown that an interest exists in providing the city and surrounding communities with a first local educational radio service. As to the arguments raised by KDAR with regard to the qualifications of petitioner to apply for the proposed assignment, the Notice stated that, before a permit could be granted, petitioner would have to establish that it is an educational organization within the meaning of the Commission's rules, and that it would use the station in furtherance of an educational program. The matters raised by KDAR as to petitioner's ability to file an application for the proposed channel would be more appropriately considered and resolved at the application stage rather than in a rule making proceeding. Thus, in assigning the channel, no consideration is given to Faith Media, Inc.'s qualifications to be the licensee of an educational FM station.

7. Authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

8. In view of the foregoing, *it is ordered*, That effective June 16, 1977, § 73.-507(a) of the Commission's Rules, the Table of Assignments for noncommercial educational FM channel, is amended for the listed community to read as follows:

City:	*Channel No.*
Oxnard, Calif.	212

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-13691 Filed 5-12-77;8:45 am]

[2] The Agreement and the Commission's rules implementing it apply to the area within 199 miles of the United States-Mexico border.

[3] In this case it is not necessary to withhold action pending the resolution of the rule making proceeding in Docket No. 20735 relating to educational assignment policies.

[Docket No. 19478; RM-1842; FCC 77-299]

PART 91—INDUSTRIAL RADIO SERVICES

Expansion of Permissible Uses of 450–470 MHz Off-Set Frequencies in Business Radio Service

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and ordering reversing action taken in the second report and order, Docket No. 19478.

SUMMARY: On November 25, 1975, the Commission adopted a Second Report and Order in Docket No. 19478 (Amendment of Part 91 of the Commission's Rules and Regulations to expand the permissible uses of the 450–470 MHz off-set frequencies in the Business Radio Service). Among the actions taken, the Commission eliminated the requirement for frequency coordination of off-set channels and provided for fixed station use of off-set channels adjacent to "mobile only" frequencies in the 450–470 MHz band.

The American Petroleum Institute (API), however, filed a Petition for Reconsideration of the Commission's action in eliminating frequency coordination and restricting "fixed" use of the off-set frequencies. For the reasons indicated in the Petition for Reconsideration and which are summarized in the Memorandum Opinion and Order, API sought that the frequency coordination requirement be re-imposed and that "fixed" off-set stations be allowed to operate in the 460.875–464.975 MHz base station band.

After consideration of the arguments presented, the Commission determined that acceeding to the API requests would be in the best public interest. Accordingly, our action in the Second Report and Order, insofar as it was at variance with the API Petition for Reconsideration, was reversed and the Rules were so amended.

API had also sought clarification of the term "output power." The Commission defined "output power" as the actual transmitter output power, not the "power delivered to the antenna transmission line" as had been suggested by API.

EFFECTIVE DATE: June 13, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Letterman or Mr. James E. McNally, Jr., Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau (202-632-6497).

SUPPLEMENTARY INFORMATION: Adopted: April 28, 1977.

Released: May 9, 1977.

In the matter of amendment of Part 91 of the Commission's rules and regulations to expand the permissible uses of 450–470 MHz off-set frequencies in the Business Radio Service; memorandum opinion and order (proceeding terminated).[1]

By the Commission: Chairman Wiley concurring in the result; Commissioner Lee absent; Commissioner White dissenting and issuing a statement in which Commissioner Washburn joins.

PRELIMINARY STATEMENT

1. On November 25, 1975, we adopted amendments to § 91.554(c) of the Rules to permit the use of the off-set (12.5 kHz) Business channels in areas other than "industrial complexes," and to allow "mobile assignments" made on frequencies between 465.875 to 469.975 MHz to be utilized in "fixed" modes of operation. We also dropped the requirement for "coordination" of off-set assignments (amending Section 91.8 in doing so), and provided certain exceptions to the mandatory 20-foot limitation on off-set station antenna height. See Second Report and Order, Docket No. 19478, 450–470 MHz—Business Radio Service, 56 FCC 2d 1004 (1975).

2. Partial reconsideration of these actions has been asked by the Central Committee on Telecommunications of the American Petroleum Institute (API); and this request has been supported, in general, by the National Association of Business and Educational Radio, Inc. (NABER). Specifically, API wants the "coordination requirement" for off-set operation "reinstated" and wants "fixed" station use permitted on the off-set frequencies in both the base (460.875–464.975 MHz) and mobile (465.875–469.975 MHz) Business bands. In the latter regard, API also recommends that 5-MHz channel pairing "be required for operational-fixed systems" employing "off-set assignments." Finally, API asks clarification of the two-watt power limitation (see § 91.554(c)), seeking a ruling, to the effect, that the limitation "relates to the power delivered to the antenna transmission line and not simply to [transmitter] output power."

II. MEASUREMENT OF "OUTPUT" POWER

3. As to the output power limitation, we must reject API's suggestion. Output power has been interpreted traditionally

[1] See 40 FR 57682.

to mean either the transmitter output power or the effective radiated power (ERP) of a particular system. Since ERP is not conveniently measured, it should be apparent, here, that the reference is to transmitter output power. Furthermore, it is our practice, in enforcing our rules relative to transmitter power, to compare the measured transmitter output power with the value specified for that particular transmitter in the Commission's publication, Radio Equipment List—Equipment Acceptable for Licensing. Since transmitters have been type accepted for the output power appearing in the Radio Equipment List, it would be inappropriate to sanction a procedure which, in effect, would increase transmitter power to levels necessary to compensate for auxiliary equipment or line loss.

4. In addition, combiners, cavities, duplexers, and the like are not normally considered as part of a transmitter, nor are they specified in the application for type acceptance. Since the line loss resulting from the optional use of these devices will vary, it would be confusing in the extreme to designate "the power delivered to the antenna transmission line" as the output power to be measured. Accordingly, as indicated, the relief asked by API in this regard will be denied.

III. Off-Set "Fixed" Use in the Base Station Band (460.875–464.975)

5. As noted, API asks that "fixed stations" be permitted to operate in the base station Business band (460.875–464.975 MHz). It also recommends that 5-MHz pairing be required for such operations. In support, API states that under the present plan (with fixed usage restricted to the mobile band, 465.875–469.975 MHz), the possibility exists for a maximum of 44 "duplex channel pairs," using 3-MHz spacing. While this allocation, API observes, may be sufficient to meet the immediate needs of the industry, it feels it is too limited to serve the industry's long-term requirements. Further, API believes 5-MHz pairing (possible only if use of the base station band is permitted) will lead to more efficient use of the available off-set channels. At the same time, it claims, such pairing will have no adverse impact on co-channel, off-set mobile operations. Thus, it recommends that in "fixed" use, 5-MHz pairing be made mandatory.

6. The principal reason that fixed use of off-set frequencies was restricted to the mobile only band was to insure that mobile units operating on the regularly assigned (non-off-set) channels would not receive interference on the associated (mobile receive) base station's transmit frequency. By confining fixed usage to off-set frequencies in the mobile band, a frequency separation of approximately 5 MHz (on the average) was established (i.e., between the fixed off-set station's transmit frequency and that of a regularly authorized base station), and this frequency separation gave assurance that fixed use on the off-set frequencies would not result in degradation to regularly authorized, mobile unit reception. Under that approach, while there was some possibility that fixed off-set frequency usage could cause interference to a regularly assigned (primary) base station's reception of associated mobile units, in view of the invariant geographic position of the two stations, we felt that any such interference could be easily detected; and, accordingly, we determined that the frequency restriction on fixed usage of off-set channels was desirable.

7. Nevertheless, we can understand the reasons underlying petitioner's request to permit fixed usage in the base station band; and, consequently, we have analyzed further the interference potentials of off-set frequency operations adjacent to primary base mobile facilities. We have concluded that while the possibility of some interference does exist, it appears that it would be sufficiently minimal to warrant a grant of the relief petitioner asks. In this connection, we note that it does appear that the signals of fixed, off-set stations (operating on assignments in the base station band) would not be strong enough (except in unusual circumstances) to preclude reception (by adjacent mobile units) of the signals of a primary base station. This would be so, for one reason, because of the 20 dB protection accorded primary-base to primary-mobile communications, due to the 12.5 kHz off-set spacing. Thus, in practically every case, the signal strength of a primary base station will be significantly greater than the "effective" signal strength of a 12.5 kHz off-set station. Further, because of the stringent limitations placed on permissible power (two watts) and antenna height (20 feet) of off-set stations, there is added assurance that there will be no significant interference problems between primary and off-set (adjacent) channel operations. Accordingly, as indicated, we have decided to permit the use of the base station band (460.875–464.975 MHz) together with the mobile band (465.875–469.975 MHz) for fixed usage on the off-set frequencies.

8. However, we do not agree with API that 5-MHz pairing is necessary or even desirable. In this connection, we would point out that duplex or two-frequency (two path) modes of operation are not employed or needed in all fixed systems. Further, we believe it will be better if we maintain maximum flexibility in "how" the available off-set channels are used. We see "required" 5-MHz spacing as incompatible with this objective and, therefore, we will not impose it. Nonetheless, though, should such pairing appear to be appropriate in a particular system configuration (designed and used for some particular purpose in which 5-MHz spacing leads to operating efficiencies), this will be allowed (for it is not barred) at the option of the licensee.

IV. Frequency Coordination Requirements

9. Petitioners ask that we reconsider decision to eliminate our requirement for frequency coordination as it has been applied to off-set operation in the 450–470 MHz band. In this connection, in our Second Report and Order, we determined that coordination was not essential. This conclusion was based on the fact that off-set authorizations were to be granted on a secondary (non-interference) basis to adjacent channel stations assigned "primary" channels in the bands in question and also with the express understanding that interference from "dominant" stations would have to be accepted. Further, we reasoned, even if coordination were required, it would offer no guarantee that stations subsequently authorized on the "primary" channels would not cause interference to existing off-set operations and, in these circumstances, we felt frequency coordination should not be mandatory.

10. While the petitioners do not take direct issue with our rationale, they point out that although off-set operation is to be on a secondary basis—notwithstanding the fact that licensees must accept such interference as may be caused by "dominant" stations—and even though the "use" visualized for the "off-sets" is to be "intensive" in nature and off-set licensees must expect interference and possible congestion inter se, still, petitioners assert, these considerations do not form a proper predicate for abandoning our present coordination policy, particularly where past experience has shown coordination of off-set assignments have served a useful purpose, leading to a more orderly and efficient use of these frequencies in the areas in which they could be employed. They add that if unanticipated co-channel interference can be avoided, i.e., co-channel interference between stations licensed for off-set operation, then such steps as are available to us to promote this objective should be followed and not discarded.

11. Continuing, petitioners point out that coordination will be helpful in maximizing spectrum efficiency in those instances in which off-sets are used for permissible purposes in fixed-station configurations. It is especially important in such situations, they say, that interference potentials be avoided to the degree possible; and they believe coordination will help in this respect. Finally, they state, while off-set assignments will be made only on a secondary basis, will be restricted in power, and will be "intensive" in the nature of their use, still, these assignments, as they are now, will be employed to meet important communication requirements of eligible users. They are not "junk" frequencies, petitioners say, and systems now installed and in operation are costly and in virtually every case serve vital communication requirements of the licensed users. Making them available on a wider geographic basis than has been the case to the present time, they conclude, is not less, but more, reason to continue coordination requirements in effect.

12. We find merit in petitioners' arguments. Further, we are cognizant of the fact that our policy has been to intensify our efforts to foster the more effective and efficient use of the scarce spectrum available for land mobile use. Frequency coordination has served this purpose; and we have used it as a "tool" to this end. Thus, we are inclined to agree, as petitioners have suggested, that coordination will serve a desirable purpose,

here, as such a tool, in eliminating and curtailing interference and congestion in instances where reason and factual knowledge make it feasible to do so.

13. Also, on reconsideration, we are persuaded that should use of off-sets in urbanized areas increase in substantial measure—and that might well be expected—the need for coordination is even more evident than it is now, where off-set operations have, in general, been confined to "industrial complexes" usually situated in more remote locations in which possible co-channel interference and congestion has been met, as a practical consequence, through geographic spacing. That will not necessarily be so under our new off-set allocation and assignment plan; and we are aware that in such circumstances we must not be less careful in making assignments than what our processes permit us to be. Therefore, in order to facilitate the coordination process, we will ask applicants to specify the area of operation with reference to geographic coordinates, eliminate authorizations for wide area operations, and provide for authorizing multiple frequency operations only when properly justified.

14. There is one further aspect of this subject we believe we should mention. That relates to the potential burden to applicants which might derive out of imposing coordination requirements. We have reviewed this aspect of the matter in the light of the fact that an applicant, in applying for off-sets, has an option to either go through the frequency coordination committee or provide the study himself. In rural areas, the latter process will not be a difficult task; and in the heavily populated urban areas, where such off-set stations may be established, the job of selecting a frequency for recommendation becomes necessarily more complex. In such case, the service becomes a more valuable one, and apparently a desirable one, at least in the view of the parties seeking reconsideration of our action in this particular respect. Overall, then, these matters weighed in the light of counterbalancing factors, we have decided to modify our decision on coordination; and, accordingly, we will continue the coordination requirements previously in effect and apply them to off-set operation in accordance with our expanded allocation and assignment plan for these channels, and with the modification mentioned in the previous paragraph.

V. Conclusion

15. In conclusion, then, we have decided to amend, in part, our decisions in the Second Report and Order in order to reinstate frequency coordination of the off-set frequencies and to permit "fixed" operation in the base station band between 460.875 and 464.975 MHz. However, 5 MHz pairing will not be made mandatory; rather, licensees will be given discretion to employ that mode of operation should it appear to them to be useful or desirable in "fixed" systems authorized on off-set frequencies. Finally, we have made our intent clear as to the meaning of the term, "output power", as employed in § 91.554(c) of the Rules. It is properly construed as "transmitter output power", and not the "power delivered to the antenna transmission line". API's views in this regard are accordingly rejected.

16. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is ordered that, effective June 13, 1977, § 91.554(c) is amended as shown below.

17. It is further ordered, that the Petition for Partial Reconsideration filed by the Central Committee on Telecommunications of the American Petroleum Institute, is granted, to the degree indicated in the foregoing opinion, and in all other respects, is denied.

18. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission,[2]
Vincent J. Mullins,
Secretary.

A. Part 91 of the Commission's Rules is amended as follows:

§ 91.8 [Amended]

1. In § 91.8(a)(1), subparagraph (x) is deleted.

2. Section 91.554(c) is amended to read as follows:

§ 91.554 Frequencies available.

* * * * *

(c) Frequencies separated by 12.5 kHz from regularly assigned frequencies in the 457.525–460.650, 460.875–464.975, and 465.875–469.975 MHz bands may be assigned for use by mobile stations of two watts or less output power which may also serve the function of a base, fixed, or mobile relay station. All operation shall be on a secondary, non-interference basis to regularly assigned adjacent frequency operations and shall be entitled to no protection from such stations. Wide area operations will not be authorized. The area of normal day-to-day operation shall be described in the application in terms of a maximum distance from its approximate geographic center (latitude and longitude). Mobile stations, when used as fixed stations, shall be exempt from the limitations of § 91.103(b). Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back radio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 20 feet above the ground.

Dissenting Statement of Commissioner Margita E. White in Which Commissioner Washburn Joins

I have dissented to the majority's decision in this case because I am not convinced that the public interest will be served by reinstating the added regulatory burden of frequency coordination for low power 12.5 KHz "off set" frequencies in the Business Radio Service.

API, in its Petition for Partial Reconsideration filed on January 9, 1976, requested, among other things, that the frequency coordination requirement be reinstated based on an anticipated "significant increase in the use of the [12.5 KHz] frequency assignments in gas and chemical plants" and hence the "critical need . . . for protection from existing and potential co-channel interference sources."

Based on the record at that time, I may have agreed with API. However, we now have the benefit of 1½ years experience with the "off set" frequency assignments without frequency coordination. The number of users has increased, but I am not sure that the increase can correctly be called "significant." More importantly the number of actual interference cases on these channels has not been great. In fact, in the past seventeen months the staff only can recall one reported case of interference and that was caused by a primary, rather than a secondary, user. The staff has continued to hear of potential interference cases but they have not been of significant magnitude to be documented in the record or even cause for a flurry of license modifications to correct the problem.

The fact is that I can find little evidence on which to support a decision for an increased regulatory burden on future licensees.

[FR Doc.77-13785 Filed 5-12-77;8:45 am]

[Docket No. 20665; FCC 77-289; RM-2324]

PART 94—PRIVATE OPERATIONAL FIXED MICROWAVE SERVICE

Elimination of Required Annual Measurement of Transmitter Power and Frequency

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: A Memorandum Opinion and Order denying two petitions for reconsideration to reinstate the annual measurement requirements deleted in Docket 20665, Report and Order.

EFFECTIVE DATE: June 13, 1977.

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

FOR FURTHER INFORMATION CONTACT:

James McNally or Herb Zeiler, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau (202) 632-6497.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 89, 91, and 93 of the Commission's rules and regulations to eliminate the required annual measurement of transmitter power, frequency, and modulation and to specify transmitter power in terms of output. Amendment of § 94.85 of the Commission's rules to eliminate the required annual measurement of transmitter power and frequency in the Private Operational-Fixed Microwave Service. Memorandum opinion and order.[1]

[2] See attached Dissenting Statement of Commissioner White in which Commissioner Washburn joins.

[1] See 42 FR 48520.

Adopted: April 27, 1977.

Released: May 9, 1977.

1. On July 27, 1976, the Commission adopted a Report and Order in the above-entitled proceeding that was published in the FEDERAL REGISTER on August 11, 1976 (41 FR 33900). The action amended Parts 89, 91, and 93 of the Commission's Rules to eliminate the requirement for annual transmitter measurements (power, frequency, and modulation) and to specify radio frequency output power as the preferred method of transmitter power measurement.

2. Petitions for reconsideration have been filed by Bell Communications, Inc. (Bell Communications), and by Chicago Communication Service, Inc. (Chicago Communication). The petitioners request the Commission to reconsider its decision to eliminate the requirement for annual measurements of transmitter power, frequency, and modulation. Comments in support to the petitions were filed by the National Association of Business and Educational Radio, Inc. (NABER) and the Land Mobile Section of the Electronic Industries Association (EIA).[1a]

3. Bell Communications supports its petition primarily by its claim that, unless specifically required, licensees will not have their radio equipment properly maintained, thus increasing the possibility of interference problems. Chicago Communication advances substantially the same point, and stresses the importance of proper equipment maintenance, particularly the "maintenance of frequency and deviation within authorized limits * * * the single most important consideration in assuring optimum radio systems performance." It, too, argues, as does Bell Communications, that the discipline introduced by the mandatory annual measurement requirements is needed in order to have licensees comply with the Commission's transmitter performance standards.

4. The NABER and EIA comments supported the petitions. They also contend that the small user, who comprises a majority of the land mobile population and is generally unsophisticated when it comes to the technical aspects of a radio system, might not spend the money for maintenance checks if they are not required to do so, and this could result in poorer equipment performance and an increase in the number of interference problems.

5. These arguments were presented in substance in the comments filed in the proceeding and were fully considered before we reached our decision. In fact, Chicago Communication made substantially the same points in support of its reconsideration petition as those in its comments filed in response to our Notice of Proposed Rule Making. Therefore, nothing of substance is before us now which was not previously considered and which warrants reconsideration of our decision. Accordingly, the petitions will be denied.

6. We wish to make clear, however, the meaning and intent of our decision in this proceeding which may not be fully understood. We have not decided to relax our equipment maintenance requirements, as it has been suggested in some of the comments. There should be no doubt about that. Further, there should be no question but that it is (and will continue to be) the licensee's responsibility to insure that his radio equipment is properly maintained so as to comply with the Commission's technical rules at all times. To achieve this result, some equipment may have to be checked once a year, others once a month, while still others may need adjustments at other time intervals. Proper maintenance has to be geared to the requirements of the particular system and the age and condition of the radio equipment. All too often in the past, licensees have relied exclusively on the prescribed annual measurements for discharging their responsibilities in this area, regardless of the condition, age, or performance of their equipment. As we have indicated, annual measurements and maintenance may be adequate in some cases, too much others, and not enough in still others. By eliminating the requirement that the radio transmitters be checked once a year, we are placing the entire responsibility for proper equipment maintenance where it properly belongs, on the licensees and on their maintenance experts, such as the petitioners here.

7. We fully agree with Bell Communications that periodic measurements are necessary and we would welcome industry preventive maintenance programs, as urged by NABER. Our decision in this proceeding would make it possible for our licensees and their service and maintenance experts to adopt those preventive maintenance programs which could best suit their needs and would best achieve the desired results.

8. Finally, we wish to take this opportunity to amend § 94.85 to delete the annual measurement requirements from Part 94 of the Commission's rules. The same reasoning as applied in our decision to amend Parts 89, 91, and 93 also applies under Part 94, and, therefore, conducting a separate rule making proceeding for this purpose is unnecessary. Accordingly, we are amending § 94.85 as shown below.

9. In accordance with the foregoing, it is ordered that the petitions for reconsideration submitted by Bell Communications, Inc., and Chicago Communication Service, Inc., are denied. It is further ordered that this proceeding is terminated. It is further ordered that § 94.85 is amended as shown below effective June 13, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 94 of the Commission's Rules and Regulations is amended as follows:

Section 94.85 is amended as follows:

§ 94.85 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter is maintained within the tolerance prescribed in this part. This determination shall be made, and the results thereof entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or its stability.

(b) The licensee of each station shall employ a suitable procedure to determine that the power delivered by the transmitter to the antenna and the maximum effective radiated power (ERP) does not exceed the limitations specified in the microwave station authorization. Such a procedure may consist of measuring the power output of the transmitter, recording the measurements, and calculating both the power delivered to the antenna system and the ERP. This determination shall be made, and the results thereof entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the power delivered to the antenna or the ERP.

[FR Doc.77-13783 Filed 5-12-77;8:45 am]

[1a] Comments in opposition to the petitions were filed by Merrill T. See. These comments were filed late but for good cause shown have been considered.

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 16, Amdt. 99-11]

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Statements of Employment and Financial Interests

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to revise Appendix C of the Department of Transportation's regulations governing employee conflict of interest. This document makes several additions to the list of positions the incumbents of which are required to submit statements of employment and financial interests.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Booker T. Wade, Jr., Attorney-Advisor, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. 202-426-4723.

SUPPLEMENTARY INFORMATION: The persons principally responsible for drafting this document are: program—Aubrey B. Robertson, Office of Personnel and Training; legal—Booker T. Wade, Jr., Office of the General Counsel.

Since this amendment relates to Departmental management, procedures, and practices, notice and public proce-

dure 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, Part 99 of title 49, Code of Federal Regulations, is amended as follows:

APPENDIX C [Amended]

In Appendix C, Section 1, under the caption "Materials Transportation Bureau," the following amendments are made:

1. After the listing of "Deputy Director, Office of Hazardous Materials Operations," and before the listing of "Director, Office of Pipeline Safety Operations," the following is inserted:

Chief, Technology Division
Chief, Regulations Division
Chief, Operations Division

2. After the listing of "Deputy Director, Office of Pipeline Safety Operations," and before the listing of "Administrative Officer," the following is inserted:

Chief, Technical Division
Chief, State Programs Division
Chief, Regulations Division
Chief, Industry Programs Division
Chief, Operations Division
Petroleum Engineer (GS-13 and higher)

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e); 49 CFR 99.735-31 (b).)

Issued in Washington, D.C. on April 26, 1977.

WILLIAM P. DAVIS,
Acting Assistant Secretary for Administration.

[FR Doc.77-13815 Filed 5-12-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1266]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Certain Unit-Grain Trains Subject to Reduced Carload Minimum Weight

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1266).

SUMMARY: The Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to reduce minimum weights per car to 157,000 lbs. on each of two remaining unit-grain trains to be shipped under a tariff requiring the shipment of five consecutive train loads of 2,312.5 net tons of grain per train, subject to a per car minimum weight of 185,000 lbs. The total weight of the grain to be transported by each train and the total weight of the five consecutive shipments are to remain at the weights specified by the tariff. Because of soft track resulting from spring thaws, it is necessary that the maximum load transported by each car be reduced below the minimum carload weights required by the applicable tariff.

DATES: Effective 12:01 a.m., May 9, 1977. Expires 11:59 p.m., June 4, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, TLX 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 6th day of May, 1977.

It appearing, that because of tariff requirements the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is operating a unit-grain train transporting shipments of 2,312.5 tons of 2,000 lbs. subject to a tariff requirement that each car transport at least 185,000 lbs.; and that such unit-train must make five consecutive trips, each trip to comprise the same number of cars as those preceding or following; that three of the five consecutive trips have been completed in full accordance with tariff provision; that truck deterioration due to spring thaws has necessitated reduction of weight limits over territory traversed to a maximum of 157,000 lbs. per car; that such reduction in weight limits prevents compliance by the shipper with the minimum weight limit provisions of the tariff; that the MILW is willing and able to provide sufficient additional cars to transport the required 2,312.5 tons per trip; that the shipper is willing and able to load 185,000 lbs. of grain in each car furnished as required by tariff but is prevented from doing so by the present inability of the MILW to comply fully with its tariff provisions; that notice and public procedure herein are impracticable and contrary to public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1266 Service Order No. 1266.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate certain unit-grain trains subject to reduced carload minimum weight.*—The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) be, and it is hereby, authorized to operate one unit-grain train on two remaining trips of a five-trip shipment under the provisions of MILW Tariff 18710-C, ICC B-8437 and MILW Tariff 18710-D, ICC B-8483, subject to a minimum weight of 157,000 lbs. per car, 2,312.5 tons per trip, and 11,562.5 tons per shipment of five consecutive trips. Reference to this order must be endorsed on bills-of-lading and waybills of all cars in unit-grain trains transported subject to the reduced carload minima authorized herein.

(b) *Rules and Regulations Suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., May 9, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 4, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13624 Filed 5-12-77;8:45 am]

proposed rules

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 201, 330]

[Docket No. 77N-0010]

OVER-THE-COUNTER DRUGS

General Conditions for Use and Labeling of Inactive Ingredients

Correction

In FR Doc. 77-10583, appearing in the issue of Tuesday, April 12, 1977, (42 FR 19156), the following corrections should be made: On page 19158, second column, second full paragraph, the ninth line from the bottom now reading "quirement is that the listing of any active" should read "quirement is that the listing of any inactive". On page 19160, first column, the first word of § 330.3(j) now reading "Indentifiers" should read "Identifiers".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 888]

[Docket No. R-77-311]

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

Massena and Watertown, N.Y., Market Areas

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend the section 8 Fair Market Rents applicable to new construction and substantial rehabilitation for the Massena and Watertown, New York, market areas. It is necessary to the operation of the section 8 program that fair market rents remain as current as possible. The National Housing Act requires that these rent levels be published in the FEDERAL REGISTER before they can become effective, and current data indicates need for revising certain levels.

COMMENT DATE: May 27, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, by calling (202) 472-4810.

SUPPLEMENTARY INFORMATION: Recent data and comments have been received from the Albany Insuring Office indicating an immediate need to publish revised Fair Market Rents for the Massena and Watertown market areas.

Interested persons are encouraged at all times to submit information and data on those rents which will be considered in initiating revisions as needed. It has been determined that it is impracticable and unnecessary to provide a 30-day period for comments on these proposed revisions and that a 15-day period is reasonable and in the public interest.

NOTE.—A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk at the above address.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, the Secretary proposes to incorporate in Part 888, Subpart A, at 41 FR 14668 and 14669, revised Schedules A for the Massena and Watertown market areas, respectively, as set forth below.

(Sec. 7(d) Department of HUD Act (42 USC 3535(d)).)

Issued at Washington, D.C., May 5, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

SCHEDULE A

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

Insuring Office, Albany, N.Y.—Region II, New York

Market Area	Structure type	Number of bedrooms				
		0	1	2	3	4 or more
Massena...	Detached			401	483	528
	Semidetached/row.		294	352	429	479
	Walkup	235	277	332	395	446
	Elevator	299	333	416		
Watertown.	Detached			401	483	528
	Semidetached/row.		294	352	429	479
	Walkup	235	277	332	395	446
	Elevator	299	333	416		

[FR Doc.77-13598 Filed 5-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

OIL AND GAS WELLS

Limitations on Percentage Depletion

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document contains proposed regulations relating to limitations on percentage depletion in the case of oil and gas wells. Changes to the applicable tax law were made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976. These regulations clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 27, 1977. The amendments are proposed to be effective in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-6618.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regu-

lations (26 CFR Part 1) under sections 612, 613, 613A, 702, 703, and 705 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 501 of the Tax Reduction Act of 1975 (89 Stat. 47) and sections 1901 (a) (86) and 2115 of the Tax Reform Act of 1976 (90 Stat. 1779, 1907) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). The proposed regulations provide rules which supplement those appearing as final regulations in the same issue of the FEDERAL REGISTER as this notice of proposed rule making. They also contain 67 examples illustrating the application of the proposed rules.

IN GENERAL

With certain exceptions, the Tax Reduction Act repealed percentage depletion for oil or gas sold on or after January 1, 1975. In general, exemption from the repeal of percentage depletion is provided for certain domestic production of independent producers and royalty owners, sometimes called the small producer exemption. Initially, an exemption of 2,000 barrels of average daily production for oil (or 12,000,000 cubic feet for natural gas if the taxpayer so elects) is provided. The amount is reduced by 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day is reached. The depletion rate for oil and gas covered under this exemption is also phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. Average daily production includes only actual production and therefore does not take lease bonuses or advanced royalties into account. If the taxpayer's average daily production exceeds the exemption, the percentage depletion allowable under the small producer exemption with respect to production from each property must be proportionately reduced. In the case of secondary or tertiary production prior to 1984, the small producer exemption permits a taxpayer to take percentage depletion at a 22 percent rate on the exempt quantity.

COMPUTATION OF DEPLETION ALLOWANCE IN THE CASE OF A PARTNERSHIP

The law provides that in the case of a partnership the depletion allowance shall be computed by the partners and not by the partnership. Partnership basis in domestic oil or gas properties is to be allocated to the partners proportionately. Each partner maintains an individual basis account and computes his own allowance for either percentage depletion or cost depletion on his interest in partnership domestic oil or gas properties.

LIMITATIONS ON THE SMALL PRODUCER EXEMPTION

The new law provides for certain limitations on the application of the small producer exemption. The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's taxable income from all sources computed without regard to certain deductions. Moreover, the exemption relating to average daily production is not available to a transferee of any interest in a proven oil or gas property transferred after December 31, 1974. The new law also provides that the small producer exemption does not apply to a taxpayer who is a "retailer". A retailer is a person who directly or through a related person sells oil, natural gas or any product derived from oil or natural gas, through a retail outlet or to certain persons. However, if the gross receipts from the sale of oil or gas, or products derived therefrom, by all retail outlets of the taxpayer (or related persons) do not exceed $5 million for the taxable year, those retail sales will not result in the taxpayer being treated as a retailer for that year. Also for purposes of determining a retailer, bulk sales of oil or gas to commercial or industrial users are disregarded. In addition, foreign sales of oil, gas or any product derived from oil or gas, are disregarded if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year. The small producer exemption is alo not available to any taxpayer who, directly or through a related person, engages in the refining of crude oil and whose refinery runs exeed 50,000 barrels on any day during the taxable year.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations. The proposed amendments to 26 CFR Part 1 are as follows:

PAR. 1. Paragraph (d) of § 1.612–3 is revised to read as follows:

§ 1.612–3 Depletion; treatment of bonus and advanced royalty.

* * * * *

(d) *Percentage depletion deduction with respect to bonus and advanced royalty.* In lieu of the allowance based on cost depletion computed under paragraphs (a) and (b) of this section, the payees referred to therein may be allowed a depletion deduction in respect of any bonus or advanced royalty for the taxable year in an amount computed on the basis of the percentage of gross income from the property as provided in section 613 and the regulations thereunder. However, for an exception applicable to certain bonuses and advanced royalties received in connection with oil or gas, see paragraph (f) (1) of § 1.613A–7 of this chapter.

* * * * *

§ 1.613 [Deleted]

PAR. 2. Section 1.613 is deleted.

PAR. 3. Section 1.613–1 is amended by designating the paragraph contained therein as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 1.613–1 Percentage depletion; general rule.

(a) *In general.* In the case of a taxpayer computing the deduction for depletion under section 611 with respect to minerals on the basis of a percentage of gross income from the property as defined in section 613(c) and §§ 1.613–3 and 1.613–4, such deduction shall be the percentage of such gross income as specified in section 613(b) and § 1.613–2. The deduction shall not exceed 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion). Such taxable income shall be computed in accordance with § 1.613–5. In no case shall the deduction for depletion computed under this section be less than the deduction computed upon the cost or other basis of the property provided in section 612 and the regulations thereunder. The apportionment of the deduction between the several owners of economic interests in a mineral deposit will be made as provided in paragraph (c) of § 1.611–1 of this chapter. For rules with respect to "gross income from the property" and for definition of the term "mining", see §§ 1.613–3 and 1.613–4. For definitions of the terms "property", "mineral deposit" and "minerals", see paragraph (d) of § 1.611–1 of this chapter.

(b) *Denial of percentage depletion in case of oil and gas wells.* Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income is attributable after such date, the allowance for depletion shall be computed without regard to section 613.

PAR. 4. Sections 1.613A–2, 1.613A–3, 1.613A–4, and 1.613A–7 are revised to read as follows:

§ 1.613A–2 Exemption for certain domestic gas wells.

(a) The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to:

(1) Regulated natural gas (as defined in paragraph (c) of § 1.613A–7),

(2) Natural gas sold under a fixed contract (as defined in paragraph (d) of § 1.613A–7), and

(3) Any geothermal deposit (as defined in paragraph (e) of § 1.613A–7)

in the United States or in a possession of the United States which is determined to be a gas well within the meaning of former section 613(b)(1)(A) (as in effect before enactment of the Tax Reduction Act of 1975), and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section. For special rules applicable to partnerships, trusts, and estates, see paragraphs (e) and (f) of § 1.613A–3.

(b) The provisions of this section may be illustrated by the following examples:

Example (1). A is a producer of natural gas which is sold by A under a contract in effect on February 1, 1975. The contract provides for an increase in the price of the gas sold under the contract to the highest price paid to a producer for natural gas in the area. The gas sold by A qualifies under section 613A(b)(2)(B) for percentage depletion as gas sold under a fixed contract until its price increases, but does not so qualify thereafter.

Example (2). B is a producer of natural gas which is sold by B under a contract in effect on February 1, 1975. The contract provides that beginning January 1, 1980, the price of the gas may be renegotiated. Such a provision does not disqualify gas from qualifying for the exemption under section 613A(b)(2)(B) with respect to the gas sold prior to January 1, 1980. However, gas sold on or after January 1, 1980, does not qualify for the exemption whether or not the price of the gas is renegotiated.

§ 1.613A–3 Exemption for independent producers and royalty owners.

(a) *General rule.* (1) Except as provided in section 613A(d) and § 1.613A–4, the allowance for depletion under section 611 with respect to oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after that date, shall be computed in accordance with section 613 with respect to:

(i) So much of the taxpayer's average daily production (as defined in paragraph (f) of § 1.613A–7) of domestic crude oil (as defined in paragraphs (a) and (g) of § 1.613A–7) as does not exceed the taxpayer's depletable oil quantity (as defined in paragraph (h) of § 1.613A–7), and

(ii) So much of the taxpayer's average daily production of domestic natural gas (as defined in paragraphs (a) and (b) of § 1.613A–7) as does not exceed the taxpayer's depletable natural gas quantity (as defined in paragraph (i) of § 1.613A–7),

and the applicable percentage (determined in accordance with the table in paragraph (c) of this section) shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

(2) Except as provided in section 613A(d) and § 1.613A–4, the allowance for depletion under section 611 with respect to oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such date and before January 1, 1984, shall be computed in accordance with section 613 with respect to:

(i) So much of the taxpayer's average daily secondary or tertiary production (as defined in paragraph (k) of § 1.613A–7) of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii), and

(ii) So much of the taxpayer's average daily secondary or tertiary production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to section 613A(c)(3)(A)(ii)),

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

(3) For purposes of this section, there shall not be taken into account any production with respect to which percentage depletion is allowed pursuant to section 613A(b) or is not allowable by reason of section 613A(c)(9).

(4) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a calendar year taxpayer, owns an oil producing property with 100,000 barrels of production to which income was attributable for 1975 and a gas producing property with 1,200,000,000 cubic feet of production to which income was attributable for 1975. Under section 613A(c)(4), the oil equivalent of 1,200,000,000 cubic feet of gas is 200,000 barrels, bringing A's total production of oil and gas to which income was attributable for 1975 to the equivalent of 300,000 barrels of oil. A's average daily production was 821.92 barrels (300,000 barrels÷365 days) which is less than the depletable oil quantity (2,000 barrels) before reduction for any election by A under section 613A(c)(4). Accordingly, A may make such an election with respect to his entire gas production and thereby be entitled to percentage depletion with respect to his entire 1975 income from production of oil and gas. A's allowable depletion pursuant to section 613A(c) for his oil and gas properties would be the amount determined under section 613(a) computed at the 22 percent rate specified in section 613A(c)(5) for 1975.

Example (2). B, a calendar year taxpayer, owns oil producing properties with 365,000 barrels of production to which income was attributable for 1975. B was a retailer of oil and gas for only the last 3 months of 1975. B's average daily production for 1975 was 1,000 barrels (365,000 barrels÷365 days).

Example (3). C, a calendar year taxpayer, owns property X with 500,000 barrels of primary production to which income was attributable for 1975 and property Y with 200,000 barrels of primary production to which income was attributable for 1975. Property Y had been transferred to C on January 1, 1975, on which date it was a proven property. Therefore, the exemption under section 613A(c)(1) does not apply to C with respect to production from property Y. C's average daily production for 1975 was 1369.86 barrels (500,000 barrels÷365 days) which did not take into account the nondepletable production from property Y.

Example (4). In 1975, D received his annual payment of a recoupable advanced royalty of $100*x* in connection with oil property. Later in 1975, $60*x* (of the $100*x* advanced royalty) was recovered from production from the property. In 1976, D received another advanced royalty payment of $100*x*. Later in 1976, $140*x* ($40*x* of the $100*x* advanced royalty received in 1975 and the $100*x* advanced royalty received in 1976) was recouped from production from the property. Neither advanced royalty payment was attributable to production in excess of D's depletable oil quantity. D is entitled to percentage depletion for 1975 only with respect to $60*x* of the advanced royalty received

$$\left(100x \text{ dollars} \times \frac{\$60x}{\$100x}\right)$$

D is entitled to percentage depletion for 1976 with respect to the $100*x* received in 1976. With respect to the $40*x* received in 1975 not attributable to production in 1975, D is not entitled to percentage depletion for any year. Of course, D is entitled in 1975 to determine the allowable cost depletion with respect to the entire $100*x* received in 1975.

Example (5). In 1975, E leased an oil property to F, receiving a lease bonus. With respect to the lease bonus, E is entitled to take cost depletion but not percentage depletion.

Example (6). G owns an oil property with producing wells X and Y on it. G converts well X into an injection well. Prior to the application of the secondary process, it is estimated that without such application the annual production from well X would have been 50*x* barrels of oil and from well Y would have been 100*x* barrels of oil. For the taxable year in which injection is commenced production from well X is 10*x* barrels and from well Y is 180*x* barrels. Forty *x* barrels of oil [190*x* barrels of oil (actual production from the property)−150*x* barrels (estimate of primary production from the property)] qualifies as secondary production.

Example (7). H, a calendar year taxpayer, owns a domestic oil well which produced 100,000 barrels of oil in 1975. The proceeds from the sale of 15,000 barrels of that production are not includible in H's income until 1976. The 15,000 barrels produced in 1975 are included in H's average daily production for 1976 and excluded from such production for 1975.

(b) *Phase-out table.* For purposes of section 613A(c)(3)(A)(i) and § 1.613A–7(h)(1) (relating to depletable oil quantity)—

In the case of production during the calendar year:	*Tentative quantity in barrels*
1975	2,000
1976	1,800
1977	1,600
1978	1,400
1979	1,200
1980 and thereafter	1,000

(c) *Applicable percentage.* For purposes of section 613A(c)(1) and paragraph (a) of this section—

In the case of production during the calendar year:	*Applicable percentage*
1975	22
1976	22
1977	22
1978	22
1979	22
1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

(d) *Production in excess of depletable quantity.*—(1) *Primary production.* (i) If the taxpayer's average daily production of domestic crude oil exceeds his depletable oil quantity, the allowance pursuant to section 613A(c)(1)(A) and paragraph (a)(1)(i) of this section with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayer's oil produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (c) of this section) as the amount of his depletable oil quantity bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

(ii) If the taxpayer's average daily production of domestic natural gas exceeds his depletable natural gas quantity, the allowance pursuant to section 613A(c)(1)(B) and paragraph (a)(1)(ii) of this section with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all of the taxpayer's natural gas produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified

in paragraph (c) of this section) as the amount of his depletable natural gas quantity in cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the taxpayer for such year.

(2) *Secondary or tertiary production.* (i) If the taxpayer's average daily secondary or tertiary production of domestic crude oil exceeds his depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii)), the allowance pursuant to section 613A(c)(6)(A)(i) and paragraph (a)(2)(i) of this section with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all taxpayer's secondary or tertiary production of oil from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (a)(2) of this section) as the amount of his depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii)) bears to the aggregate number of barrels representing the average daily secondary or tertiary production of domestic crude oil of the taxpayer for such year.

(ii) If the taxpayer's average daily secondary or tertiary production of domestic natural gas exceeds his depletable natural gas quantity (determined without regard to section 613A(c)(3)(A)(ii)), the allowance pursuant to section 613A(c)(6)(A)(ii) and paragraph (a)(2)(ii) of this section with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all of the taxpayer's secondary or tertiary production of natural gas from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (a)(2) of this section) as the amount of his depletable natural gas quantity in cubic feet (determined without regard to section 613A(c)(3)(A)(ii)) bears to the aggregate number of cubic feet representing the average daily secondary or tertiary production of domestic natural gas of the taxpayer for such year.

(3) *Taxable income from the property.* If both oil and gas are produced from the property during the taxable year, then for purposes of section 613A(c)(7)(A) and (B) and this paragraph the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall be allocated between the oil production and the gas production in proportion to the gross income from the property during the taxable year from each. In addition, if both gas with respect to which section 613A(b) and § 1.613A-2 apply and oil or gas with respect to which section 513A (c) and this section apply are produced from the property during the taxable or gas with respect to which section 613A (d)(1) and paragraph (a) of § 1.613A-4 the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall also be so allocated.

(4) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns Y and Z oil producing properties. With respect to properties Y and Z, the percentage depletion allowable pursuant to section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $40x and $20x, respectively. A's average daily production for 1975 was 4,000 barrels. A's allowable depletion pursuant to section 613A(c) with respect to property Y was $50x

$$\left(\$100x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

A's allowable depletion pursuant to section 613A(c) with respect to property Z was $100x

$$\left(\$200x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

Example (2). B owns gas producing properties which had secondary gas production for 1975 of 3,285,000,000 cubic feet, which under section 613A(c)(4) is equivalent to 547,500 barrels of oil. B's average daily secondary production for 1975 was 1,500 barrels (547,500 barrels÷365). B elected to have section 613A(c)(4) apply to such gas production. With respect to such production, the percentage depletion allowable pursuant to section 613(a) (computed at the rate specified in section 613A(c)(6)(A)) was $150x. B also owns an oil producing property which had primary oil production for 1975 of 365,000 barrels. With respect to such oil property, the percentage depletion allowable pursuant to section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) was $100x. B's average daily production for 1975 was 1,000 barrels (365,000 barrels÷365). B's depletable oil quantity for 1975 was 500 barrels (2,000 barrels tentative quantity −1,500 barrels average daily secondary production). B's allowable depletion pursuant to section 613A(c) withrespect to the oil property was $50x

$$\left(\$100x \text{ depletion} \times \frac{500 \text{ depletable oil quantity}}{1{,}000 \text{ average daily production}}\right).$$

Example (3). Assume the same facts as in example (2) except that B's primary production was 6,000,000 cubic feet of natural gas daily rather than its equivalent under section 613A(c)(4) of 1,000 barrels of oil and that B elected to have that section apply to such gas. B's allowable depletion pursuant to section 613A(c) with respect to his primary production is $50x, the same as in example (2).

Example (4). C is a partner with a one-third interest in Partnerships CDE and CFG with each partnership owning a single oil property. C's percentage depletion allowable under section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $20x with respect to his allocable share of 495,000 barrels of Partnership CDE production and $40x with respect to his allowable share of 600,000 barrels of Partnership CFG production. C's average daily production is 3,000 barrels (1,095,000 total production÷365 days). C's allocable depletion pursuant to section 613A (c) with respect to his share of the production of Partnership CDE is $13.33x

$$\left(\$20x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{3{,}000 \text{ average daily production}}\right)$$

C's allowable depletion pursuant to section 613A(c) with respect to his share of the production of Partnership CFG is $26.67x

$$\left(\$40x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{3{,}000 \text{ average daily production}}\right)$$

Example (5). H owns a property which, during his fiscal year which began on June 1, 1975, and ended on May 31, 1976, produced gas qualifying under section 613A (b) and oil qualifying under section 613A(c). For the fiscal year H's gross income from the property was $400x, of which $100x was from gas and $300x was from oil. For the oil his gross income from the property for the period beginning June 1, 1975, and ending December 31, 1975, was $100x and for the 1976 portion of the fiscal year was $200x. The percentage depletion allowance (before applying the 50 percent limitation of section 613(a) or the 65 percent limitation of section 613A(d)(1)) was $22x for the gas; $22x for the oil in 1975, and $44x for the oil in 1976. His taxable income from the property for the fiscal year was $100x. In accordance with paragraph (d)(3) of this section, the taxable income from the property is allocated $25x to the gas

$$\left(\$100x \text{ taxable income from the property} \times \frac{\$100x \text{ gross income from gas from the property}}{\$400x \text{ total gross income from the property}}\right),$$

$25x to the 1975 oil

$$\left(\$100x \text{ taxable income from the property} \times \frac{\$100x \text{ gross income from 1975 oil from the property}}{\$400x \text{ total gross income from the property}}\right)$$

and $50x to the 1976 oil

$$\left(\$100x \text{ taxable income from the property} \times \frac{\$200x \text{ gross income from 1976 oil from the property}}{\$400x \text{ total gross income from the property}}\right).$$

With the application of the 50 percent of taxable income from the property limitation, the allowable percentage depletion (computed without reference to section 613A) is limited to $12.50x for the gas, $12.50x for the oil in 1975, and $25x for the oil in 1976.

(e) *Partnerships.* (1) In the case of a partnership, the depletion allowance under section 611 with respect to production from domestic oil and gas properties shall be computed separately by the partners and not by the partnership. The determination of whether cost or percentage depletion is applicable is to be made at the partner level. Each partner shall be entitled to his proportionate share of the adjusted basis of each partnership domestic oil or gas property. The allocation is to be made as of the later of the date of acquisition of the oil or gas property by the partnership or January 1, 1975. A partner's proportionate share of the adjusted basis of such property shall be determined in accordance with his interest in partnership capital. However, a partner's share of the adjusted basis shall be determined in accordance with his interest in partnership income if the partnership agreement so provides, unless either written provision has been made for the share of any partner in partnership income to be reduced for any purpose other than merely to reflect the admission of a new partner or at the time of allocation any partner expects his income interest to be reduced pursuant to an understanding with another partner or partners. In the case of an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Appropriate adjustments shall be made to the partners' adjusted bases for any partnership capital expenditures relating to such properties that are made after such allocation. Each partner must separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis pursuant to section 1016 (including adjustments for any depletion allowed or allowable with respect to such property), and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. Moreover, the adjusted basis of a partner's interest in a partnership shall be decreased (but not below zero) pursuant to section 705 by the amount of

the partner's deduction for depletion allowed or allowable with respect to domestic oil and gas wells. Upon the disposition of an oil or gas property by the partnership, each partner shall subtract his adjusted basis in such property from his allocable portion of the amount realized from the sale of such property to determine his gain or loss. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in oil and gas property shall be an amount equal to the sum of the partner's adjusted bases in such property as determined under this paragraph.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, B, and C have equal interests in capital in Partnership ABC. On January 1, 1970, the partnership acquired a producing domestic oil property. On January 1, 1975, the partnership's basis in the property was $90x. The partnership allocates the basis of the property to each partner in proportion to the partner's interest in partnership capital. Accordingly, each partner had a basis of $30x allocated to him. Each partner must separately compute his depletion allowance. The amount of percentage depletion allowable for each partner for 1975 was $10x. On January 1, 1976, each partner's adjusted basis in the property was $20x ($30x minus $10x). On January 1, 1976, the oil property was sold for $150x. Each partner's gain was $30x ($50x allocable share of amount realized minus his adjusted basis of $20x). Then each partner must adjust his basis in his partnership interest to reflect such gain.

Example (2). The facts are the same as in example (1) except that on January 1, 1976, the property was not sold but transferred by the partnership to partner A (in a distribution to which section 751 did not apply). A's basis in the property was $60x (sum of A, B, C's adjusted bases in property).

Example (3). The facts are the same as in example (1) with the exception that in 1975 C was a retailer of oil and gas and was only entitled to a cost depletion deduction of $5x. C's gain from the sale of the mineral property was $25x ($50x allocable share of amount realized minus his adjusted basis of $25x ($30x minus $5x)).

Example (4). D, a calendar year taxpayer, is a partner in Partnership DEF which owns a domestic producing oil property. On January 1, 1975, the partnership's adjusted basis in the property was $900x. On January 1, 1975, D's adjusted basis in his partnership interest was $300x and his adjusted basis in the partnership's oil property was $300x. D's allowable percentage depletion for 1975 with respect to production from the oil property was $50x. On January 1, 1976, D's adjusted basis in his partnership interest was $250x and his adjusted basis in the partnership's oil property was $250x ($300x minus $50x).

Example (5). On January 1, 1975, G's adjusted basis in Partnership GHI's proven domestic oil property is $5x. On January 1, 1975, G sells his partnership interest to I for $100x when the election under section 754 is in effect. I has a special basis adjustment for the oil property of $95x (the difference between I's basis, $100x, and his share of the basis of partnership property, $5x). I is not entitled to percentage depletion with respect to his distributive share of the oil property income because he is a transferee of an interest in a proven oil property. However, under the cost depletion method, at an assumed rate of 10 percent, the allowance for 1975 with respect to I's interest in the oil property which has a basis to him of $100x ($5x, plus his special basis adjustment of $95x) is $10x.

Example (6). On January 1, 1960, Partnership JK acquired a domestic producing oil property. On January 1, 1975, the partnership's adjusted basis in the property was zero. On January 1, 1975, L is admitted as a partner to the partnership which had not made an election under section 754. Since the partnership's adjusted basis in the oil property is zero, L's proportionate share of the basis in the oil property is also zero. L is not entitled to percentage depletion because he is a transferee of a proven oil property (see paragraph (g) of this section). Since the property's basis is zero, L is also not entitled to any cost depletion with respect to production from the property.

(f) *Trusts and estates.* (1) In the case of production from domestic oil and gas properties held by a trust or estate, the depletion allowance under section 611 shall be computed initially by the trust or estate. The determination of whether cost or percentage depletion is applicable shall be made at the trust or estate level, but such determination shall not result in the disallowance of cost depletion to a beneficiary of a trust or estate for whom cost depletion exceeds percentage depletion. The limitations contained in section 613A (c) and (d) shall be applied at the trust or estate level in its computation of percentage depletion pursuant to section 613A and shall also be applied by a beneficiary (the ultimate taxpayer) with respect to any percentage depletion apportioned to him by the trust or estate. For purposes of adjustments to the basis of oil or gas properties held by a trust or estate, in the absence of clear and convincing evidence to the contrary, it shall be presumed that no beneficiary is affected by any section 613A(d) limitation or by the rules contained in section 613A(c) (8) and (9) (relating to businesses under common control and members of the same family and to transfers, respectively), or has any oil or gas production from sources other than the trust or estate.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A is the income beneficiary of a trust the only asset of which is a domestic producing oil property. In 1975 the property had production of 2,920,000 barrels of oil. In that year, the trustee distributed one-half of the trust's net income and accumulated the other one-half for the benefit of the remainderman. The percentage depletion computed by the trust with respect to such production (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $200x. The trust's average daily production for 1975 was 8,000 barrels (2,920,000÷365 days). The trust's allowable depletion pursuant to section 613A(c) with respect to such production was $50x

$$\left(\$200x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{8{,}000 \text{ average daily production}}\right).$$

The percentage depletion of $50x was apportioned between the trustee and A so that each received $25x of such depletion. The $25x depletion received by A is attributable to one-half of the trust's depletable oil quantity, i.e., 1,000 barrels per day. A has oil production from other sources totaling 500 barrels per day. Accordingly, A's average daily production was 1,500 barrels which did not exceed his depletable oil quantity of 2,000 barrels.

Example (2). B, a retailer of oil and gas, is the income beneficiary of a trust the only asset of which is a domestic producing oil property. In 1975 the trustee distributed one-half of the trust's net income and accumulated the other one-half for the benefit of the remainderman. One-half of the percentage depletion computed by the trust with respect to the production from the property was apportioned to B. Since B is a retailer of oil and gas, he is not entitled to deduct any of the percentage depletion apportioned to him. However, B is entitled to take cost depletion with respect to one-half of the production from the oil property, notwithstanding the fact that depletion was computed at the trust level on the basis of percentage depletion.

(g) *Businesses under common control; members of the same family.*—(1) *Component members of a controlled group.* For purposes of only the depletable quantity limitations contained in section 613A(c) and this section, component members of a controlled group of corporations (as defined in paragraph (1) of § 1.613A–7) shall be treated as one taxpayer. Accordingly, the group shares the depletable oil (or natural gas) quantity prescribed for a taxpayer for the taxable year and the secondary production of a member of the group will reduce the other members' share of the group's depletable quantity.

(2) *Aggregation of business entities under common control.* If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest) as defined in subparagraph (2) in § 1.613A–7(m), the tentative quantity determined under the table in section 613A(c)(3)(B) for a taxpayer for the taxable year shall be allocated among all such entities in proportion to the respective production of barrels of domestic crude oil (and the equivalent in barrels to the cubic feet of natural gas determined under subparagraph (4)(ii) of this paragraph).

(3) *Allocation among members of the same family.* In the case of individuals who are members of the same family, the tentative quantity determined under the table in section 613A(c)(3)(B) for a taxpayer for the taxable year shall be allocated among such individuals in proportion to the respective production of barrels of domestic crude oil (and the equivalent in barrels to the cubic feet of natural gas determined under subparagraph (4)(ii) of this paragraph) during the period in question by such individuals.

(4) *Special rules.* For purposes of section 613A(c)(8) and this section:

(i) The family of an individual includes only his spouse and minor children, and

(ii) Each 6,000 cubic feet of domestic natural gas shall be treated as 1 barrel of domestic crude oil.

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns 50 percent of the stock of Corporation M and 50 percent of the stock of Corporation N. Both corporations are calendar year taxpayers. For 1976 Corporation M's production of domestic crude oil was 8,000,000 barrels (365,000 of which was secondary production) and Corporation N's was 2,000,000 barrels (all of which was primary production). The tentative quantity (2,000 barrels per day) determined under the table in section 613A(c)(3)(B) must be allocated between the two corporations in proportion to their respective barrels of production of domestic crude oil during the taxable year. Corporation M's allocable share of the tentative quantity is

$$1{,}600 \text{ barrels} \left(2{,}000 \times \frac{8{,}000{,}000}{10{,}000{,}000}\right)$$

and Corporation N's allocable share is 400 barrels

$$\left(2{,}000 \times \frac{2{,}000{,}000}{10{,}000{,}000}\right).$$

With respect to M's primary production, M's depletable oil quantity is 600 barrels (1,600 barrels−1,000 barrels [365,000 secondary production÷365 days]). N's depletable oil quantity, unaffected by M's secondary production, is 400 barrels.

Example (2). Corporations O and P are members of a controlled group and are treated as one taxpayer as provided in subparagraph (1) of this section. Corporation O owns oil properties A and B. Property A had primary production for 1975 of 800,000 barrels of oil. Property B had secondary production for 1975 of 365,000 barrels of oil. Corporation P owns oil property C which had primary production of 660,000 barrels for 1975. The allowable percentage depletion with respect to property B's secondary production was $360x. The controlled group's average daily production was 4,000 barrels [(800,000 plus 660,000)÷365]. The controlled group's depletable oil quantity was 1,000 barrels [2,000 tentative quantity−1,000 average daily secondary production (365,000÷365)]. The allowable percentage depletion pursuant to section 613(a) (computed as if section 613 applied to all of the production at the rate specified in section 613A(c)(5)) was $800x with respect to production from property A and $600x with respect to production from property C.

Corporation O's allowable depletion pursuant to section 613A(c) with respect to property B's secondary production (for which depletion is allowable before primary production) for 1975 was $360x. Corporation O's allowable depletion pursuant to section 613A(c) with respect to property A was $200x

$$\left(\$890 \text{ depletion} \times \frac{1{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

Therefore, Corporation O's allowable depletion pursuant to section 613A(c) was $560 ($360 relating to property B plus $200 relating to property A). Corporation P's allowable depletion pursuant to section 613A(c) with respect to property C was $165:

$$\left(\$660 \text{ depletion} \times \frac{1{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

(h) *Transfer of oil or gas property.* (1) In the case of a transfer (as defined in paragraph (n) of § 1.613A–7) of an interest in any proven oil or gas property (as defined in paragraph (p) of § 1.613A–7), paragraph (a)(1) of this section shall not apply to a transferee (as defined in paragraph (o) of § 1.613A–7) with respect to production of crude oil or natural gas attributable to such interest, and such production shall not be taken into account for any computation by the transferee under this section. However, such a transfer shall not affect the applicability of paragraph (a) (2) (relating to secondary or tertiary production) of this section.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Individual A transfers proven oil properties to Corporation M in an exchange to which section 351 applies for shares of its stock. Since there is no allocation requirement pursuant to section 613A (c)(8) between A (the transferor) and Corporation M (the transferee), the transfer of such proven properties by A is a transfer for purposes of section 613A(c)(9) and percentage depletion is not allowable to Corporation M with respect to such properties.

Example (2). Corporation N sells proven oil property to Corporation O, its wholly-owned subsidiary. Since the transfer was made between corporations which are members of the same controlled group of corporations, Corporation O is entitled to percentage depletion with respect to production from such property so long as the tentative oil quantity is allocated between the two corporations.

Example (3). B, owner of a proven oil property, died on January 1, 1975. Pursuant to the provisions of B's will, B's estate transferred the oil property on April 1, 1975, into a trust. On July 1, 1976, pursuant to a requirement in B's will, the trustee distributed the oil property to C. The transfer of the oil property by the estate to the trust and later distribution of such property by the trust to C are transfers at death. Therefore, the trust was entitled to compute percentage depletion with respect to the production from the oil property when such property was owned by the trust and C is entitled to percentage depletion with respect to production from the oil property after distribution.

Example (4). On January 1, 1975, property which produces oil resulting from secondary processes was transferred to D. The exemption under section 613A(c) applies to D because section 613A(c)(2) (relating to transfers of oil or gas property) does not apply with respect to secondary production. In addition, even if at the time of transfer the production from the property was primary and D applied secondary processes to the property transferred and obtained secondary production, D would be entitled to percentage depletion with respect to the secondary production.

Example (5). On July 1, 1975, E and F entered into a contract whereby F is to drill a well on E's unproven property and is to own the entire working interest in the property until F has recovered all the costs of drilling, equipping, and operating the well. Thereafter 50 percent of the working interest would revert to E. In accordance with the contract, 50 percent of the working interest reverted to E on July 1, 1976. F is entitled to percentage depletion because the transfer of the working interest to him occurred when the property was unproven on July 1, 1975, which is the date of the contract establishing his right to the working interest. E is entitled to percentage depletion with respect to his working interest since the reversion of such interest with respect to which E was eligible for percentage depletion is not a transfer. However, if on the date of the contract E's property was proven (although not proven when E acquired such property), F would not be entitled to claim percentage depletion with respect to any of the working interest income. Nonetheless, E would still be entitled to percentage depletion with respect to his working interest since the reversion of such interest is not a transfer.

Example (6). On January 1, 1975, G subleased an oil property to H, retaining a ⅛ royalty interest with the option to convert his royalty into a 50 percent working interest. On July 1, 1975, the property was proven and on July 1, 1976, G exercised his option. G is entitled to claim percentage depletion with respect to his working interest since the conversion of the royalty interest which is eligible for percentage depletion pursuant to section 613A(c) into an interest which constituted part of an interest previously owned by G is not a transfer pursuant to § 1.613A-7(n)(8).

Example (7). I and J (both of whom are minors) are beneficiaries of a trust which owned a proven oil property. The oil property was transferred to the trust on January 1, 1975, by the father of I and J. For 1975, the trustee allocated all the income from the oil property to I. For 1976, the trustee allocated all the income from such property to J. On January 1, 1977, the trustee distributed such property to I and J as equal tenants in common. Since I, J, and their father are members of the same family within the meaning of section 613A(c)(8)(C), the transfer of the property to the trust by the father, the shifting of income between I and J, and the distribution of the oil property by the trust to I and J are not transfers for purposes of section 613A(c)(9). However, the distribution of the oil property will constitute a transfer to each distributee on the date on which he reaches majority.

Example (8). In 1975 K transferred a proven oil property productive at 5,000 feet to L. Subsequent to the transfer, L drilled new wells on the property finding another reservoir at 10,000 feet. The two zones were combined under section 614 as a single property. L is not entitled to percentage depletion on the gross income attributable to the production from the productive zone at 5,000 feet, but is entitled to percentage depletion on the gross income attributable to the production from the productive zone at 10,000 feet because that zone was not part of the proven property until the date of development expenses by L, which is after the date of the transfer. Accordingly, L's maximum allowable percentage depletion deduction for 1975 would be zero percent of gross income from the property with respect to the production from 5,000 feet, plus 22 percent of gross income from the property with respect to the production from 10,000 feet. This maximum deduction would be subject to the limitation provided for in section 613(a), *i.e.*, 50 percent of "taxable income from the property (computed without allowance for depletion)," such taxable income being the overall taxable income resulting from the sale of production from both zones, and would also be subject to the limitations provided in section 613A.

Example (9). On July 1, 1975, M transferred an oil property with a fair market value of $100 to N. On February 1, 1976, N commenced production of oil from the property. The fair market value of the property on February 1, 1976, as reduced by actual costs incurred by N for equipment and intangible drilling and development costs, was $300. Since the value of the property on transfer was not 50 percent or more of the value on February 1, 1976, the property transferred to N was not a proven property. However, if there had been only marginal production from the property so that the fair market value of the property on February 1, 1976, was $40 rather than $300, the property transferred to N would have been a proven property provided the other requirements of proven property were met.

Example (10). O is the owner of a remainder interest in a trust created January 1, 1970. On such date, the trust held oil and gas properties. On January 1, 1976, O's interest for the first time entitled him to the trust' income from oil and gas production from such properties. The transfer of the interest in oil and gas property to O is deemed to have occurred on January 1, 1970, the date O's interest was created.

Example (11). On January 1, 1976, P, Q, and R entered into a partnership for the acquisition of oil and gas leases. It was agreed that the sharing of income will be divided equally among P, Q, and R. However, it was further agreed that with respect to the first production obtained from each property acquired P will receive 80 percent thereof and Q and R each will receive 10 percent thereof until $100 has been received by P. On February 1, 1976, Partnership PQR acquired an unproven property and production therefrom was shared pursuant to the partnership agreement. P is entitled to percentage depletion with respect to the production specially allocated to him since the transfer of right to such production is deemed to have been made on the date the partnership agreement became applicable to the specific property, at which time the property was unproven. Similarly, when $100 has been obtained and Q and R each commence receiving 33⅓ percent of the revenue, Q and R are entitled to percentage depletion with respect to their entire interests. However, if the property had been proven when acquired by the partnership, P, Q, and R would not be entitled to claim any percentage depletion with respect to production from the property.

Example (12). On December 30, 1960, S placed producing oil property in trust for the benefit of his nephew, T, and executed a trust agreement which required the trustee of the trust to transfer the oil property to T on January 1, 1975. The trustee's transfer of the oil property to T on January 1, 1975, is deemed to have occurred on December 30, 1960. Since the transfer is deemed to have occurred before January 1, 1975, section 613A(c) applies with respect to the production from the oil property. Moreover, if the trustee was not required to transfer the oil property on a specific date but was given discretion to select the date of transfer, the transfer of such property would still be deemed to have occurred on December 30, 1960. However, the result would be different if the trust agreement had provided that the trustee, at his discretion, may transfer the oil property to T on January 1, 1975, but is not under any obligation to transfer the property to T on January 1, 1975, or on any other date. Since the transfer was discretionary, the date of the actual transfer governs.

Example (13). On January 1, 1974, U acquired an oil property. On February 1, 1974, U granted V an option to purchase such oil property. V exercised his option on March 2, 1975, and subsequently the oil property is conveyed to him. The date of the transfer is March 2, 1975, the day V exercised his option (on which date both parties were bound).

Example (14). On July 1, 1974, W executed a deed conveying oil and gas property to X. W delivered the deed to X on January 1, 1975. Under state law, the mere execution of the deed without delivery did not give X any rights in the property. Title to the oil property passes to X on date of delivery. Therefore, the date of transfer is January 1, 1975.

Example (15). Y, owner of a proven oil property, transferred his interest therein on July 25, 1975, to a revocable trust of which he is treated as the owner under section 676. Y is not deemed a transferee and section 613A(c) applies to Y because immediately preceding the transfer he was entitled to percentage depletion on the production from such property.

Example (16). On January 1, 1975, a proven oil property was transferred to Z; therefore, section 613A(c)(1) did not apply with respect to the production from such property. After Z's death, neither Z's estate nor its beneficiaries are entitled to percentage depletion with respect to the decedent's oil property since Z was a transferee of proven property.

Example (17). Partnership ABC, owner of producing oil and gas properties, admitted D as a partner in 1975 in consideration of cash. The shares of Partners A, B, and C of the partnership income were proportionately reduced so that D had a 25 percent interest in the income. D is not entitled to percentage depletion with respect to his share of partnership oil and gas income because D is a transferee for purposes of section 613A(c)(9).

Example (18). On January 1, 1975, E and F formed Partnership EF to which E contributed proven oil property. For 1975, pursuant to the partnership agreement 70 percent of the mineral income from the property was allocated to E and 30 percent of the mineral income from the property was allocated to F. F is not entitled to percentage depletion with respect to production from the property because he is a transferee of an interest in proven property. However, E is not a transferee of an interest in proven property because he was entitled to percentage depletion on the oil produced with respect to such property immediately before the transfer. Therefore, E is entitled to percentage depletion with respect to the income allocated to him. However, if in 1976 the partnership agreement were revised so that E's interest in the income was increased by 10 percent, E would not be entitled to percentage depletion with respect to the additional 10 percent interest because E is a transferee with respect thereto.

Example (19). G is the owner of a ⅓ interest in a partnership owning a proven oil property and as such is entitled to ⅓ of the income from the property. G received a distribution on July 1, 1975, from the partnership of a ⅓ interest in the proven oil property. Although the transfer of such interest is a transfer for purposes of section 613A (c) (9), G is still entitled to percentage depletion with respect to the ⅓ interest in the oil production from the property since G was entitled to percentage depletion on such production with respect to such property immediately before the transfer. If the entire property were distributed to G his percentage depletion allowance would still be based on only ⅓ of the oil produced.

Example (20). H and I contributed property X and property Y respectively to Partnership HI. The partnership agreement provides that all the gross income from property X is to be allocated to H and all the gross income from property Y to to be allocated to I. For 1975 H and I each received $100 gross income. Although the contributions of the properties by H and I are transfers for purposes of section 613A(c)(9), both H and I are entitled to percentage depletion with respect to the $100 income received since each was entitled to percentage depletion allowance with respect to the property contributed immediately before the transfer. However, if no special allocation of income were made but H and I are to share equally in the income from both properties, each would be entitled to a depletion allowance based on only one-half of the production with respect to the property he had contributed. If property X produces $100 of gross income from the property and property Y produces $300 of gross income from the property, H would be entitled to percentage depletion but only with

respect to $50x (50 percent of $100x) of gross income from the property and I would be entitled to percentage depletion with respect to $100x (50 percent of $200x) of gross income from the property.

(i) *Special rule for fiscal year taxpayers.* In applying this section to a taxable year which is not a calendar year, each portion of such taxable year which occurs during a single calendar year shall be treated as if it were a short taxable year.

(j) *Information furnished by partnerships, trusts, estates, and operators.* Each partnership, trust, or estate producing domestic crude oil or natural gas, and each operator of a well from which domestic crude oil or natural gas was produced, shall provide each partner, beneficiary or person holding a nonoperating interest, as the case may be, with all information in its possession necessary to determine the amount of his depletion deduction allowable with respect to such crude oil or natural gas. For example, a partnership will be required to provide each partner with such partnership information relating to each property as: the partner's share of gross income from the property, the partner's share of operating expenses, the partner's share of depreciation, the partner's share of allocated overhead, the partner's share of estimated reserves, the partner's share of production in barrels or cubic feet for the taxable year, the partner's original share of the partnership adjusted basis of properties producing domestic crude oil or domestic natural gas, and the partner's allocable share of any subsequent adjustments made to the basis of such properties by the partnership. In addition, upon the disposition of an oil or gas property by the partnership, the partnership shall inform each partner of his allocable portion of the amount realized from the sale of such property.

§ 1.613A–1 Limitations on application of § 1.613A–3 exemption.

(a) *Limitation based on taxable income.* (1) The aggregate amount of a taxpayer's deductions allowed pursuant to section 613A(c) for the taxable year shall not exceed 65 percent of the taxpayer's taxable income for the year, adjusted to eliminate the effects of:

(i) Any depletion with respect to an oil or gas property (other than a gas property with respect to which the depletion allowance for all production is determined pursuant to section 613A (b)) for which percentage depletion would exceed cost depletion in the absence of the depletable quantity limitations contained in section 613A(c) (1) and (6) or the taxable income limitation contained in section 613A (d) (1);

(ii) Any net operating loss carryback to the taxable year under section 172;

(iii) Any capital loss carryback to the taxable year under section 1212; and

(iv) In the case of a trust, any distributions to its beneficiaries, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267 (c) (4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.

The amount disallowed (as defined in paragraph (q) of § 1.613A–7) shall be carried over to the succeeding year and treated as an amount allowable as a deduction pursuant to section 613A(c) for such succeeding year, subject to the 65-percent limitation of section 613A(d)(1). For rules relating to corporations filing a consolidated return, see the regulations under section 1502. With respect to fiscal year taxpayers, except as provided in § 1.613A–1 for taxable years beginning before January 1, 1975, and ending after that date, the limitation shall be calculated on the entire fiscal year and not applied with respect to each short period included in a fiscal year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction after the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties pursuant to section 613A(c). Accordingly, the maximum amount allowable as a deduction pursuant to section 613A(c) after application of this paragraph (65 percent x adjusted taxable income) shall be allocated to properties for which percentage depletion pursuant to section 613A(c) would be allowed in the absence of the limitation contained in section 613A(d)(1) by application of the same proportion. However, once it is determined that after application of this paragraph cost depletion exceeds percentage depletion with respect to a property, the amount so allowable shall be reallocated among the remaining properties, and the portion of the amount disallowed which is allocable to such property shall be the amount by which percentage depletion pursuant to section 613A(c) before application of this paragraph exceeds cost depletion. See example (1) of subparagraph (2) of this paragraph. If the taxpayer becomes entitled to the deduction in a later year (i.e., because the disallowed depletion does not exceed 65 percent of his taxable income for that year after taking account of any percentage depletion deduction otherwise allowable for that year), then the basis of his properties must be adjusted downward (but not below zero) by the amount of the deduction in proportion to the portion of the amount disallowed to the respective properties in the year of the disallowance. However, if the property in question was disposed of by the taxpayer prior to the beginning of such later year, the amount of the deduction in such later year shall be reduced by the lesser of the taxpayer's adjusted basis in the property at the time it is disposed of or the difference between such basis and the adjusted basis which the taxpayer would have had in the property in the absence of the 65-percent limitation.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). A owns producing oil properties M, N and O. With respect to property M, the depletion allowable pursuant to section 613A(c) for 1975 without regard to section 613A(d)(1) was $60x (cost depletion would have been $40x). With respect to property N, the depletion allowable pursuant to section 613A(c) for 1975 without regard to section 613A(d)(1) was $90x (cost depletion would have been zero). With respect to property O, the depletion pursuant to 613A(c) for 1975 without regard to section 613A(d)(1) was $50x (cost depletion would have been $10x). A's taxable income (as adjusted under § 1.613A–4(a)(1)) for 1975 was $100x; accordingly, A's percentage depletion pursuant to section 613A(c) for 1975 was limited to $65x (65 percent×$100x taxable income). Of that amount, $19.5x

$$\left(65x \text{ dollars} \times \frac{\$60x}{\$60x+\$90x+\$50x}\right)$$

is tentatively allocated to property M, $29.25x

$$\left(65x \text{ dollars} \times \frac{\$90x}{\$90x+\$60x+\$50x}\right)$$

is tentatively allocated to property N and $16.25x

$$\left(65x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x+\$60x}\right)$$

is tentatively allocated to property O. Since cost depletion of $40x with respect to property M exceeded the percentage depletion of $19.5x allowable on such property, A claimed the cost depletion. Accordingly, the only percentage depletion deduction allowable to A pursuant to section 613A(c) for 1975 is with respect to properties N and O. Therefore, the entire $65x of amount allowable must be reallocated between properties N and O. Of that amount, $41.79x

$$\left(65x \text{ dollars} \times \frac{\$90x}{\$90x+\$50x}\right)$$

is allocated to property N and $23.21x

$$\left(65x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x}\right)$$

is allocated to property O. The amount disallowed to A under section 613A(d)(1) is $95x ($200x aggregate depletion allowable before application of section 613A(d)(1)—$105x [$40x cost depletion allowable on property M+$41.79x percentage depletion allowable on property N after application of section 613A(d)(1)+$23.21x depletion allowable on property O after application of section 613A(d)(1)]). For purposes of basis adjustments, $20x ($60x percentage depletion before limitation—$40x cost depletion allowed) of the amount disallowed is allocated to property M. The balance of the amount disallowed of $75x is allocated $48.12x

$$\left(75x \text{ dollars} \times \frac{\$90x}{\$90x+\$50x}\right)$$

to property N and $26.79x

$$\left(75x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x}\right)$$

to property O.

Example (2). The amount disallowed to B as a deduction under this paragraph is $50x for 1975 and $125x for 1976 (including the $50x carried over from 1975). B may carry forward the $125x as a deduction to 1977 and subsequent years.

Example (3). C is a fiscal year taxpayer whose fiscal year ended on May 31, 1975. For purposes of applying the 65 percent of taxable income limitation, the period beginning January 1, 1975, and ending May 31, 1975, is treated as a short taxable year. The depletion allowable pursuant to section 613A(c) without regard to section 613A(d)(1) for such short taxable year was $80x and A's taxable income (as adjusted under § 1.613A–4(a)(1)) during such short taxable year was $100x. Only $65x (65 percent× $100x adjusted taxable income) of the deduction pursuant to section 613A(c) was deductible for such portion of 1975, in addition to any percentage depletion allowable for June 1, 1974, through December 31, 1974.

Example (4). Under the trust law of State X, a trustee is required to allocate 22 percent of gross mineral income to the principal of a trust for purposes of maintaining a reserve for depletion and the depletion deduction is entirely allocated to the trustee. In 1975 the gross income of a trust in State X the only assets of which were oil properties was $1,000. The trust's allowable percentage depletion pursuant to section 613A(c) without regard to section 613A(d)(1) was $220. The trust incurred expenses

of $150 for the taxable year and made distributions to beneficiaries (who are not described in the exception for family members set forth in subparagraph (1)(iv) of this paragraph) of $630 ($1,000 gross income—$220 allocated to principal—$150 expenses). For purposes of applying the 65 percent limitation, the trust's taxable income was $550 ($1,000 gross income—$150 expenses—$300 exemption). The limitation under section 613A(d)(1) was $357.50 (65%×$550 taxable income). Accordingly, the trust's percentage depletion allowance was unaffected by the 65 percent limitation.

Example (5). In 1975 D sold an oil property for which his adjusted basis was $20x. The amount disallowed for the taxable year to D under section 613A(d) was $10x. The amount of the carryover under that section to 1976 was 0 ($10x disallowed amount—$10x ($20x adjusted basis of property on sale—$10x adjusted basis which taxpayer would have had in property in absence of the 65 percent limitation)). However, if the adjusted basis of the property on disposition had been 0, the amount of the carryover to 1976 would have been $10x ($10x disallowed amount—0 adjusted basis of property on sale).

Example (6). In 1975 E owned producing oil properties M, N, O, P, Q, and R. With respect to property M, the allowable cost depletion was $100x (the allowable percentage depletion pursuant to section 613A(c) without regard to the depletable quantity and taxable income limitations contained in section 613A(c)(1), (6) and (d)(1) would have been $90x). With respect to property N, the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(d)(1) was $80x (cost depletion would have been $0). With respect to property O, the allowable cost depletion was $60x (the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(d)(1) would have been $70x). With respect to property P, the allowable percentage depletion pursuant to section 613A(b) was $55x (cost depletion would have been $40x). With respect to property Q which produces both gas subject to section 613A(b)(1)(B) and oil subject to section 613A(c), the allowable percentage depletion was $45x (cost depletion would have been $40x). With respect to property R, the allowable cost depletion was $40x (the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(c)(7)(A) would have been $50x). Under paragraph (a)(1)(i) of this section, for purposes of applying the 65 percent limitation under section 613A(d)(1), E's taxable income shall be reduced by the allowable depletion with respect to property M (for which cost depletion exceeded percentage depletion even in the absence of section 613A(c)(1), (6), and (d)) and property P (for which all depletion is determined pursuant to section 613A(b)), but shall not be reduced by the allowable depletion with respect to properties N, O, Q, and R.

(b) *Retailers excluded.* (1) Section 613A(c) and § 1.613A–3 shall not apply in the case of any taxpayer who is a retailer as defined in paragraph (r) of § 1.613A–7.

(2) The application of this paragraph may be illustrated by the following examples, all of which assume that the $5,000,000 gross receipts requirement of section 613A(d)(2) is met:

Example (1). A, owner of producing oil and gas properties, also owns 5 percent in value of the stock of Corporation M, a retailer of oil and gas. None of A's production is sold through Corporation M. Since A may benefit from Corporation M's sales of oil and gas through his ownership interest in Corporation M, A is considered to be selling oil or natural gas through Corporation M, a related person. Accordingly, the exemption under section 613A(c) does not apply to A, even though none of A's production is sold through Corporation M.

Example (2). Corporation N, a retailer of oil and gas, owns 5 percent in value of the stock of Corporation O, owner of producing oil and gas properties. None of Corporation O's production is sold through Corporation N. Since Corporation O has no direct or indirect ownership interest in Corporation N, and therefore does not benefit from Corporation N's sales of oil and gas, and since none of Corporation O's production is sold through Corporation N, the exemption under section 613A(c) applies to Corporation O.

Example (3). Corporation P, a producer of oil, owns 70 percent in value of the stock of Corporation Q. Corporation Q owns 30 percent in value of the stock of Corporation R. Corporation R owns 30 percent in value of the stock of Corporation S, a retailer of oil and gas. P indirectly owns 6.3 percent (70 percent×30 percent×30 percent) in value of the stock of Corporation S. Since P may benefit from Corporation S's sales of oil and gas through has indirect ownership interest in Corporation S, P is not entitled to percentage depletion.

Example (4). B is the owner of certain oil and gas properties in Texas and is also the owner of a service station in Washington, D.C., which he leases to Corporation T. None of B's production is sold to Corporation T. The exemption under section 613A(c) applies to B. However, if B's production were sold to Corporation T, the exemption under section 613A(c) would not apply to B because B is selling oil or natural gas to a person given authority to occupy a retail outlet leased by the taxpayer, B.

Example (5). C has a ⅛ royalty interest and Corporation U has a ⅞ working interest in an oil property. Corporation V, a retailer of oil, owns 5 percent in value of the stock of Corporation U. C has no interest in either corporation. All of the production from the property is sold through Corporation V, C receiving from Corporation U ⅛ of its receipts therefor. The exemption under section 613A(c) does not apply to Corporation U because Corporation U is selling oil or natural gas through Corporation V, a related person that is a retailer. However, the exemption applies to C because C, as owner of a nonoperating mineral interest, is not treated as an operator of a retail outlet merely because his oil or gas is sold on his behalf through a retail outlet operated by an unrelated person.

Example (6). D owns and operates retail grocery stores where refined oil may be purchased. D also owns oil and gas producing properties. If the sales of refined oil at each store location constitute less than 5 percent of the gross receipts from all sales made at that store, D is not considered a retailer by reason of such sales.

Example (7). Lessee E sells natural gas to lessor F directly from a wellhead gathering pipeline system for F's local agricultural use, in transactions incidental to the acquisition of a natural gas lease. Such sales of natural gas to F are not sales through a retail outlet.

Example (8). Corporation W produces natural gas some of which it sells at retail. For purposes of determining whether Corporation W is a retailer selling gas through a retail outlet within the meaning of § 1.613A–7(r), the business office of Corporation W where a purchaser would normally contact the corporation with respect to its sales to him is considered the place at which those sales of natural gas are made.

Example (9). G, husband, is the sole owner and operator of a retail outlet which sells oil and gas. H, wife, owns producing oil and gas properties. G is not related to H for purposes of section 613A(d).

Example (10). I, husband, and J, wife, are community property owners of 10 percent in value of the stock of Corporation X which is a retailer of oil and gas. I and J are each treated as owning 5 percent of Corporation X. Therefore, neither I nor J qualify for the exemption under section 613A(c).

Example (11). Corporation Y, an electing small business corporation as defined in section 1371, owns producing oil and gas properties. K, a retailer of oil and gas, is a 50 percent interest shareholder of Corporation Y. None of Corporation Y's production is sold through K. Corporation Y is eligible for percentage depletion.

Example (12). Corporation Z, a producer of natural gas, makes bulk sales of natural gas at the wellhead to industrial users. For purposes of determining whether Corporation Z is a retailer under § 1.613A–7(r), such bulk sales are disregarded.

Example (13). L, a calendar year taxpayer, is the owner of a producing oil property. For 1976, L was a retailer of oil and gas for the last 122 days of the year. L's gross income from the oil property for the taxable year was $150x and his taxable income from the property was $30x. L is treated as a retailer with respect to $50x of gross income from the property

$$\left(\$150x \text{ dollars} \times \frac{122}{366}\right)$$

and $10x of taxable income from the property

$$\left(\$30x \text{ dollars} \times \frac{122}{366}\right).$$

Therefore, L is entitled to percentage depletion with respect to $100x of gross income from the property ($150x minus $50x). However, the allowable percentage depletion is limited by the 50 percent of taxable income from the property limitation to $15x (50 percent×$30x taxable income).

Example (14). Corporation M is a partner in Partnership MNO which is the owner of an operating interest in a producing oil property. Corporation P, a retailer of oil and gas, owns 5 percent in value of the stock of Corporation M. Partnership MNO sells its production to Corporation P. Corporation M is retailing oil through Corporation P, a related person, because its share of the oil is being sold on its behalf by the partnership through a retail outlet operated by a person related to Corporation M. Therefore, the exemption under section 613A(c) does not apply to Corporation M.

Example (15). M and N are beneficiaries of a trust which is a retailer of oil and gas. M has a 5 percent interest in the income of the trust for M's lifetime. N's interest in the trust entitles N to 5 percent of the income of the trust after M's death. The trust is a related person of M but not N while M is alive. Accordingly, during M's lifetime N is not disqualified from the exemption provided by section 613A(c) but M is.

Example (16). Assume the same facts as in example (15) except that M has a 4 percent interest in the income of the trust. M is disqualified from the exemption provided by section 613A(c) with respect to the income from the trust but not with respect to income from other sources.

(c) *Certain refiners excluded.* (1) Section 613A(c) and § 1.613A–3 shall not apply in the case of any taxpayer who is a refiner as defined in paragraph (s) of § 1.613A–7.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation M owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year. Corporation M also owns 5 percent interest in Corporation N, owner of producing oil and gas properties. None of Corporation N's production is sold to Corporation M. The exemption under section 613A(c) does not apply to Corporation N because Corporation M, a related person of Corporation N, engages in the refining of crude oil.

Example (2). A and B are equal partners in Partnership AB, which owns oil and gas producing properties. A owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year and which buys all of Partnership AB's production. B has no ownership interest in any refinery. B is not a refiner.

§ 1.613A–7 Definitions.

For purposes of section 613A and the regulations thereunder: (a) *Domestic.* The term "domestic", as applied to oil and gas wells (or to production from such wells), refers to such wells located in the United States or in a possession of the United States, as defined in section 638 and the regulations thereunder.

(b) *Natural gas.* The term "natural gas" means any product (other than crude oil as defined in paragraph (g) of this section) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

(c) *Regulated natural gas.* Natural gas is considered to be "regulated" only if all of the following requirements are met: (1) The gas must be domestic gas produced and sold by the producer (whether for himself or on behalf of another person) before July 1, 1976,

(2) The price for which the gas is sold by the producer must not be adjusted to reflect to any extent the increase in liability of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas,

(3) The sale of the gas must be subject to the jurisdiction of the Federal Power Commission for regulatory purposes,

(4) An order or certificate of the Federal Power Commission must be in effect (or a proceeding to obtain such an order or certificate must have been instituted), and

(5) The price at which such gas is sold must be taken into account, directly or indirectly, in the issuance of the order or certificate by the Federal Power Commission.

Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence that the increases are wholly attributable to a purpose or purposes unrelated to the repeal of percentage depletion for gas, such as increases to reflect additional State and local real property or severance taxes, increases for additional operating costs (such as costs of secondary or tertiary processes), increases up to the highest area rate fixed by the Federal Power Commission for interstate sales (provided repeal of percentage depletion is not reflected in such rate), increases for additional drilling

and related costs, or increases to reflect changes in the quality of gas sold. In the absence of a statement in writing by the Federal Power Commission that the price of the gas in question was not in fact regulated, the requirement of subparagraph (5) of this paragraph is deemed to have been met in any case in which the Federal Power Commission issues an order or certificate approving the sale to an interstate pipeline company or, in a case in which it is established by the taxpayer that the Federal Power Commission has influenced the price of such gas, an order or certificate permitting the interstate transportation of such gas. In addition, an "emergency" sale of natural gas to an interstate pipeline, which, pursuant to the authority contained in 18 CFR 2.68, 2.70, 157.22, and 157.29, may be made without prior order approving the sale, is deemed to have met the requirements of subparagraphs (3), (4), and (5) of this paragraph. For purposes of meeting the requirements under this paragraph, it is not necessary that the total gas production from a property qualify as "regulated natural gas"; the determination of whether mineral production is "regulated natural gas" shall be made with respect to each sale of the mineral or minerals produced.

(d) *Natural gas sold under a fixed contract.* The term "natural gas sold under a fixed contract" means domestic natural gas sold by the producer (whether for himself or on behalf of another person) under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for such gas during such period cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas. The term may include gas sold under a fixed contract even though production sold under the contract had previously been treated as regulated natural gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence. See paragraph (c) of this section for examples of increases which do not take increases in tax liabilities into account. An additional example would be increases of a fixed percentage or fixed dollar amount pursuant to escalation clauses designed merely to reflect projected effects of inflation. However, if the adjustment provided for in the contract permits the possible increase in Federal income tax liability of the seller to be taken into account to any extent or provides for an increase in the price of the contract to the highest price paid to a producer for natural gas in the area, or if the price may be renegotiated, then gas sold under the contract after such an increase becomes permissible is not gas sold under a fixed contract. For purposes of meeting the requirements of this paragraph, it is not necessary that the total gas production from a property qualify as "natural gas sold under a fixed contract", for the determination of "natural gas sold under a fixed contract" is to be made with respect to each sale of each type of natural gas sold pursuant to each contract.

(e) *Geothermal deposit.* The term "geothermal deposit" means a geothermal reservoir consisting of heat, largely stored in rocks, and, to a lesser extent, in aqueous fluid in the form of liquid or vapor.

(f) *Average daily production.* (1) The term "average daily production" means the taxpayer's aggregate production of domestic crude oil or natural gas, as the case may be, which is produced after December 31, 1974, and to which gross income from the property is attributable during the taxable year divided by the number of days in such year. As used in the preceding sentence the term "taxpayer" includes a small business corporation as defined in section 1371 and the regulations thereunder. Notwithstanding the provisions of § 1.612–3, of this chapter, in computing the average daily production for a taxable year only oil or gas which has been produced by the close of such taxable year shall be taken into account. For example, advanced royalties (to the extent that actual production during the taxable year is insufficient to earn such royalties) and lease bonuses, while taken into account for purposes of sections 61 and 612 (relating to the definition of gross income and cost depletion, respectively), would not be taken into account in computing the percentage depletion allowance pursuant to section 613A(c). Average daily production does not include production resulting from secondary or tertiary processes.

(2) In the case of a fiscal-year taxpayer, subparagraph (1) of this paragraph shall be applied separately to each short taxable year under section 613A(c)(10).

(3) In the case of a taxpayer holding a partial interest in the production from any property (including an interest of a partner in property of his partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production (which is produced after December 31, 1974, and to which gross income from the property is attributable during the taxable year) of such property by the taxpayer's percentage participation in the revenues from such property during such year. With respect to a holder of a net profits interest in an oil and gas property, such taxpayer's production shall be deemed to be that portion of production which produced the same fraction of the property's gross income as the fractional interest of the taxpayer in the net profits from the property.

(g) *Crude oil.* The term "crude oil" means—(1) A mixture of hydrocarbons which existed in the liquid phase in natural underground reservoirs and which remains liquid at atmospheric pressure after passing through surface separating facilities,

(2) Hydrocarbons which existed in the gaseous phase in natural underground reservoirs but which are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and

(3) Natural gas liquid recovered from gas well effluent in lease separators or field facilities before any conversion process has been applied to such production.

(h) *Depletable oil quantity.* The taxpayer's depletable oil quantity, within the meaning of section 613A(c)(1)(A), shall be equal to:

(1) The tentative quantity determined under the table contained in section 613A(c)(3)(B) and paragraph (b) of § 1.613A–3, reduced (but not below zero) by

(2) The taxpayer's average daily secondary or tertiary production for the taxable year.

(i) *Depletable natural gas quantity.* The taxpayer's depletable natural gas quantity, within the meaning of section 613A(c)(1)(B), shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have section 613A(c)(4) apply. The taxpayer's depletable oil quantity for any taxable year shall be reduced (in addition to any reduction previously required to be made under paragraph (h)(2) of this section) by the number of barrels with respect to which an election under section 613A(c)(4) has been made. See § 1.613A–5.

(j) *Barrel.* The term "barrel" means 42 United States gallons.

(k) *Secondary or tertiary production.* The term "secondary or tertiary production" means the increased production of crude oil or natural gas from a domestic well at any time after the application of a secondary process. The increased production is the excess of actual production over the maximum primary production which would have resulted during the taxable year if such process had not been applied. Such increased production may be due to an increase in either the rate or the duration of recovery. A secondary process is a process applied for the recovery of hydrocarbons in which substances in a liquid or gaseous state are injected into the reservoir to supplement or augment the energy required to move the hydrocarbons through the reservoir, except that no process which must be introduced early in the productive life of the mineral property in order to be reasonably effective (such as cycling of gas in the case of a gas-condensate well) is a secondary process. A process (such as fire flooding or miscible fluid injection) introduced early in the productive life of the mineral property will not be disqualified as a secondary process if a later introduction of such process in such property would still have been reasonably effective.

(l) *Controlled group of corporations.* The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that "more than 50 percent" shall

be substituted for "at least 80 percent" each place it appears in section 1563(a).

(m) *Related person.* (1) A person is a "related person" to another person, within the meaning of section 613A(d)(2) and (4), paragraphs (b) and (c) of § 1.613A-4, and paragraphs (r) and (s) of this section, if either a significant ownership interest in such person is held by the other, or a third person has a significant ownership interest in both such persons. For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be. The term "significantly ownership" means:

(i) With respect to any corporation, direct or indirect ownership of 5 percent or more in value of the outstanding stock of such corporation,

(ii) With respect to a partnership, direct or indirect ownership of 5 percent or more interest in the profits or capital of such partnership, and

(iii) With respect to an estate or trust, direct or indirect ownership of 5 percent or more of the beneficial interests in such estate or trust.

(2) A person is a "related person" to another person, within the meaning of section 613A(c)(8)(B) and paragraph (g)(2) of § 1.613A-3, if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children.

(n) *Transfer.* The term "transfer" means any change in legal or equitable ownership by sale, exchange, gift, lease, sublease, assignment, contract, or other disposition (including any contribution to or any distribution by a corporation, partnership, or trust), any change in the membership of a partnership or the beneficiaries of a trust, or any other change by which a taxpayer's proportionate share of the income subject to depletion of an oil or gas property is increased. However, the term does not include:

(1) A transfer of property at death (including a distribution by an estate, whether or not a pro rata distribution),

(2) An exchange to which section 351 applies.

(3) A change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the settlor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.

(4) A transfer of property between corporations which are members of the same controlled group of corporations (as defined in section 613A(c)(8)(D)(i)),

(5) A transfer of property between business entities which are under common control (within the meaning of section 613A(c)(8)(B)) or between related persons in the same family (within the meaning of section 613A(c)(8)(C)),

(6) A transfer of property between a trust and members of the same family (within the meaning of section 613A(c)(8)(C)) to the extent that both (i) the beneficiaries of that trust are and continue to be members of the family that transferred the property, and (ii) the tentative oil quantity is allocated among the members of such family,

(7) A reversion of all or part of an interest with respect to which the taxpayer was eligible for percentage depletion pursuant to section 613A(c), or

(8) A conversion of a retained interest which is eligible for such depletion into an interest which constituted all or part of an interest previously owned by the taxpayer also eligible for such depletion.

However, subparagraphs (2), (4), and (5) of this paragraph shall apply only so long as the tentative quantity determined under the table contained in section 613A(c)(3)(B) is allocated under section 613A(c)(8) between the transferor and transferee or among members of a controlled group of corporations. For purposes of subparagraphs (3) and (6), an individual adopted by a beneficiary is a lineal descendant of that beneficiary. For purposes of subparagraphs (7) and (8), a taxpayer previously ineligible for percentage depletion solely by reason of section 613A(d)(2) or (4) will be considered to have been eligible for such depletion. A transfer is deemed to occur on the day on which a contract or other commitment to transfer such property becomes binding upon both the transferor and transferee, or, if no such contract or commitment is made, on the day on which ownership of the interest in oil or gas property passes to the transferee.

(o) *Transferee.* The term "transferee", as used in section 613A(c)(9), paragraph (h) of § 1.613A-3, and this section includes the original transferee of proven property and his successors in interest. A person shall not be treated as a transferee of an interest in a proven oil or gas property to the extent that such person was entitled to a percentage depletion allowance on mineral produced with respect to such property immediately before the transfer. However, a person shall be treated as a transferee of an interest in a proven property to the extent that the interest such person receives is greater than the interest in such property he held immediately before the transfer. For example, where the owner of a proven oil property transfers his entire interest therein to a partnership of which he is a member and, as a consequence, becomes entitled to a depletion allowance based on only one-third of the oil produced with respect to that property, he (the transferor) is not denied percentage depletion with respect to the one-third interest in oil production which he still possesses. If the partnership agreement had made an effective allocation (under section 704 and § 1.704-1 of this chapter) of all the income in respect of such property to the transferor partner, he would be entiled to percentage depletion on the entire oil production from that property. For this purpose, a person who has transferred oil or gas property pursuant to a unitization or pooling agreement shall be treated as having been entitled to a depletion allowance immediately before the transfer to him of his interest in the unit or pool with respect to all of the mineral in respect of which he receives gross income from the property pursuant to the unitization or pooling agreement, except to the extent such income is attributable to consideration paid by him for such interest in addition to oil or gas property and equipment affixed thereto.

(p) *Interest in proven oil or gas property.* The term "interest in an oil or gas property" means an economic interest in oil or gas property, including working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments from oil or gas properties. The term also includes an interest in a partnership or trust holding an economic interest in oil or gas property but does not include shares of stock in a corporation owning such an interest. An oil or gas property is "proven" if its principal value has been demonstrated by prospecting, exploration, or discovery work. The principal value of the property has been demonstrated by prospecting, exploration, or discovery work only if at the time of the transfer:

(1) Any oil or gas has been produced from a deposit, whether or not produced by the taxpayer or from the property transferred;

(2) Prospecting, exploration, or discovery work indicate that it is probable that the property will have gross income from oil or gas from such deposit sufficient to justify development of the property; and

(3) The fair market value of the property is 50 percent or more of the fair market value of the property, minus actual expenses of the transferee for equipment and intangible drilling and development costs, at the time of the first production from the property subsequent to the transfer and before the transferee himself transfers his interest.

For purposes of this paragraph, the property is to be determined by applying section 614 and the regulations thereunder to the transferee at the time of the transfer. If the transfer is of an interest in a partnership or trust, the determination shall be made with respect to each property owned by the partnership or trust.

The term "prospecting, exploration, or discovery work" includes activities which produce information relating to the existence, location, extent, or quality of any deposit of oil or gas, such as seismograph surveys and drilling activities (whether for exploration or for the production of oil or gas).

(q) *Amount disallowed.* The amount disallowed, within the meaning of section 613A(d)(1) and paragraph (a) of § 1.613A–4, is the excess of the amount of the aggregate of the taxpayer's allowable depletion deductions (whether based upon cost or percentage depletion) computed without regard to section 613A(d)(1) over the amount of the aggregate of such deductions computed with regard to such section. Such disallowed amount shall be carried over to the succeeding year and treated as an amount allowable as a deduction pursuant to section 613A(c) for such succeeding year, subject to the 65-percent limitation of section 613A(d)(1) and the rules contained in section 613A–4(a).

(r) *Retailer.* The term "retailer" means any taxpayer who directly, or through a related person (as defined in paragraph (m)(1) of this section), sells oil or natural gas, or any product derived from oil or natural gas:

(1) Through any retail outlet operated by the taxpayer or a related person, or

(2) To any person: (i) Obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

(ii) Given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

However, such taxpayer shall not be considered a retailer in any case where, during the taxable year of the taxpayer, the combined gross receipts from sales of oil or natural gas, or products derived therefrom, of all retail outlets taken into account under the preceding sentence (including sales through a retail outlet of oil, natural gas, or a product derived from oil or natural gas, which had previously been the subject of a sale described in subparagraph (2)(i) of this paragraph) do not exceed $5 million. For purposes of the preceding two sentences, bulk sales of oil or natural gas before it has been manufactured or converted into a refined product to commercial or industrial users shall be disregarded. In addition, sales of oil, natural gas, or any product derived from oil or natural gas, which are made outside the United States shall be disregarded if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year. The term "any product derived from oil or natural gas" means gasoline, kerosene, Number 2 fuel oil, refined lubricating oils, diesel fuel, methane, butane, propone, and similar products which are recovered from petroleum refineries or field facilities. A retail outlet is any place where sales of oil, natural gas, or a product of oil or natural gas, accounting for more than 5 percent of the gross receipts from all sales made at such place during the taxpayer's taxable year, are systematically made to any person or persons for any purpose other than for resale. For purposes of this paragraph, a taxpayer shall be deemed to be selling oil or natural gas (or a product derived therefrom) through a related person in any case in which any sale of oil or natural gas (or a derivative product) by the related person produces gross income from which the taxpayer may benefit by reason of his direct or indirect ownership interest in the related person. In such cases (and in any case in which the taxpayer is himself selling through a retail outlet referred to in section 613A(d)(2)(A) or is selling such items to a person described in section 613A(d)(2)(B)), it is immaterial whether the oil or natural gas which is sold, or from which is derived a product which is sold, was produced by the taxpayer. Of course, a taxpayer shall be deemed to be selling oil or natural gas (or a derivative product) through a related person in any case in which the related person acquires for resale oil or natural gas (or a derivative product) which the taxpayer produced or caused to be made available for acquisition by the related person. An owner of a nonoperating mineral interest (such as a royalty) shall not be treated as an operator of a retail outlet merely because his oil or gas is sold on his behalf through a retail outlet operated by an unrelated person. In addition, the mere fact that a member of a partnership is a retailer shall not result in characterization of the remaining partners as retailers; however, if the partnership itself is a retailer its partners having a 5 percent or more interest in the partnership's profits or capital are treated as retailers. Similarly, if a trust is a retailer, only its beneficiaries having a 5 percent or more current income interest from the trust are treated as retailers. A person who is a retailer during a portion of the taxable year shall be treated as a retailer with respect to a fraction of his gross and taxable income from his oil or gas properties for the taxable year, the numerator of which is the number of days during the taxable year in which the taxpayer is a retailer and the denominator of which is the total number of days during the taxable year; except that a person who ceases to be a retailer during the taxable year before his first production of oil or gas during such year shall not be treated as a retailer for any portion of such year.

(s) *Refiner.* A person is a refiner if such person or a related person (as defined in paragraph (m)(1) of this section) engages in the refining of crude oil (whether or not owned by such person or related person) and if the total refinery runs of such person and any persons so related to him exceed 50,000 barrels on any day during the taxable year. Refining is any operation by which the physical or chemical characteristics of crude oil or crude oil products are changed, exclusive of such operations as passing crude oil through separators to remove gas, placing crude oil in settling tanks to recover basic sediment and water, and dehydrating crude oil.

PAR. 5. Section 1.702–1 is amended by adding new paragraph (e) at the end thereof to read as follows:

§ 1.702–1 Income and credits of partner.

* * * * *

(e) *Cross-reference.* In the case of a disposition of an oil or gas property by the partnership, see the rules contained in section 613A(c)(7)(D) and § 1.613A–3(e) of this chapter.

§ 1.703 [Deleted]

PAR. 6. Section 1.703 is deleted.

PAR. 7. Section 1.703–1 is amended by redesignating subdivision (vii) of paragraph (a)(2) as subdivision (viii) and inserting a new subdivision (vii), to read as follows:

§ 1.703–1 Partnership computations.

(a) *Income and deductions.* * * *

(2) * * *

(vii) The deduction for depletion under section 611 with respect to domestic oil and gas wells.

* * * * *

§ 1.705 [Deleted]

PAR. 8. Section 1.705 is deleted.

PAR. 9. Paragraph (a) of § 1.705–1 is amended by redesignating subparagraph (4) as subparagraph (6) and inserting new subparagraphs (4) and (5) to read as follows:

§ 1.705–1 Determination of basis of partner's interest.

(a) *General rule.* * * *

(4) The basis shall be decreased (but not below zero) by the amount of the partner's deduction for depletion allowed or allowable under section 611 with respect to domestic oil and gas wells.

(5) The basis shall be adjusted (but not below zero) to reflect any gain or loss to the partner resulting from a disposition by the partnership of a domestic oil or gas property.

* * * * *

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

[FR Doc.77-13707 Filed 5-12-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 40]

FARM LABOR CONTRACTOR REGISTRATION

Issuance by States of Certificates of Registration and Employee Identification Cards

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: Section 8 of the Farm Labor Contractor Registration Act, 7 U.S.C. 2047, authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their services

and facilities, and delegates to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under that authority, and by this proposal, the Secretary is providing the method and procedure for entering into such agreements with any State.

DATES: Comments will be received on this proposal until June 9, 1977.

ADDRESSES: Comments should be sent to the Administrator, Wage and Hour Division, Room S-3502, New Department of Labor Building, Employment Standards Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Paul E. Myerson, Counsel for Employment Standards, Division of General Legal Services, Office of the Solicitor, Room N2464, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone No. 202-523-8244.

SUPPLEMENTAL INFORMATION: The authority conferred by Section 8 does not require the issuance of regulations as a prerequisite to entering into an agreement, and contracts with one or more States may be executed prior to issuance of this regulation in final form. However, regulations are deemed necessary to inform the various States and the public that the Department is considering the execution of such contracts, and to explain the provisions thereof. This document was prepared under the direction and control of Donald S. Shire, Associate Solicitor for General Legal Services, Office of the Solicitor, Department of Labor.

Accordingly, it is hereby proposed to add to 29 CFR Part 40, an amended § 40.41 and a new § 40.43, which will read as follows: (Italics denote language added.)

§ 40.41 Office of filing, action.

(a) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed at any of the offices designated in §§ 40.11 and 40.31 respectively shall be transmitted promptly to the appropriate regional office of the Wage and Hour Division, Employment Standards Administration, *except as provided in paragraph (b) of this section.*

(b) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed in a State authorized to issue such documents on behalf of the Administrator shall be processed by the appropriate State agency. See § 40.43 of this Part.

§ 40.43 Issuance of Farm Labor Contractor Certificate of Registration and Farm Labor Contractor Employee Identification Card by States.

(a) Pursuant to Section 8 of the Act, the Secretary may enter into an agreement with any State authorizing that State to issue Cerificates of Registration and Farm Labor Contractor Employee Identification Cards on behalf of the Administrator.

(b) Every agreement entered into pursuant to this Section shall require that Certificates of Registration and Farm Labor Contractor Employee Identification Cards be issued by the State in conformity with the provisions of the Act, and the regulations, interpretations and guidelines issued thereunder.

(c) Any agreement entered into pursuant to this Section shall be terminated, without hearing, after written notice by the Secretary, the Administrator, or the appropriate State official.

(d) Every Certificate of Registration and every Farm Labor Contractor Employee Identification Card issued by a State pursuant to this Section shall have the same force and effect as if it had been issued by the Administrator under § 40.42 of this Part.

(e) Every Certificate of Registration and every Farm Labor Contractor Employee Identification Card issued by the Administrator under § 40.42 of this Part shall be valid in any State covered by an agreement under this Section.

(f) The Secretary, in accordance with the provisions of this Section, has entered into an agreement with each State listed herein below:

None.

(g) Every agreement entered into pursuant to this Section is available for public inspection and copying in accordance with 29 CFR Part 70.

Signed at Washington, D.C., on this 3d day of May 1977.

RAY MARSHALL,
Secretary of Labor,
U.S. Department of Labor.

[FR Doc.77-13860 Filed 5-12-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 261]

MOTORS AND MOTORIZED EQUIPMENT IN THE MIDDLE FORK FEATHER WILD RIVER ZONES, CALIF.

Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would continue the prohibition against possessing or using motors or motorized equipment in the Middle Fork Feather Wild River Zones except on the Stag Point and Cleghorn Bar trails or when authorized by a permit. Similar prohibitions existed under various regulations that were amended, revoked, or revised effective February 15, 1977. The revised regulations overlooked the need to protect these wild river zones. This need is being met temporarily by an interim regulation published in today's FEDERAL REGISTER which will expire August 11, 1977. Meanwhile, a permanent regulation will be drafted after written comments on this proposal have been considered.

COMMENT DATE: Comments must be in writing and must be received by June 13, 1977.

ADDRESS: Send Comments to: Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT:

Bill Derr, Telephone 415-556-4963.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) of October 2, 1968, as amended, designates the entire Middle Fork of the Feather River downstream from the confluence of its tributaries one kilometer south of Beckwourth as a component of the national wild and scenic rivers system. The Act requires the lands included in the river area to be described and classified into three types of areas, including "wild river areas" which are those sections "that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

The Chief of the Forest Service described and classified the land and issued a development plan for it at 35 FR 4219. Two wild river areas were classified and described, which are known as the Bald Rock Canyon Wild River Zone and the Upper Canyon Wild River Zone. Regarding management direction for these zones, the plan states "Public vehicular access to the river in this zone will be limited to the four 'vehicular ways' shown on the map of the river area." Two of these vehicular ways are closed to the public, and this proposed regulation would continue to require a permit for their use. The other two are known as the Stag Point and Cleghorn Bar Trails which are open for public use.

Besides the need to restrict vehicular access to these wild portions of the river, the Forest Service has previously found it necessary to prohibit other motors and motorized equipment in the area. The wild nature of the river makes the operation of motor boats unsafe. And the operation of any type of motor, whether portable or stationary, is incompatible with the primitive nature of the zones and interferes with their quiet enjoyment. Some types of motors could cause water pollution or other damage to the wild and pristine character of the property.

For all of these reasons, the California Regional Forester has prohibited all motors and motorized equipment in these wild river zones, except on the Stag Point and Cleghorn Bar trails or when authorized by permit, since April 30, 1973. These prohibitions were established under various sections in 36 CFR Chapter II as it existed before February 15, 1977. Effective on that date, each of those sections was amended, revoked, or revised so as to inadvertently preclude continuing these prohibitions. Conse-

quently, the primary purpose of this proposal is not to establish new restrictions but to continue with substantially the same prohibitions which were previously in effect.

INADEQUACY OF EXISTING PROHIBITIONS

36 CFR 261.70(b) requires that regulations issued under Subpart C of 36 CFR Part 261 not be contrary to or duplicate any prohibition established under existing regulations. 36 CFR 261.16(a) prohibits possessing or using a motor or motorized equipment, with certain exceptions, in a national forest wilderness. The two wild river zones involved in this proposal are not a part of any such wilderness so that this prohibition does not apply. However, the same considerations which establish the need for § 261.16(a) are equally applicable to this proposal. 36 CFR 261.54(a), 261.55(b), and 261.56 provide a method for prohibiting the possession or use of certain types of vehicles. 36 CFR 261.58(n) provides a method for prohibiting the possession or use of a motor boat. However, none of these regulations permits proscribing the possession or use of a motor or motorized equipment not contained in a vehicle or boat. In any case, no prohibitions in these wild river zones have been established under those regulations. It is essential that the possession and use in the wild river zones of all types of motors, whether portable or stationary, be regulated. To avoid confusion of the public as well as erroneous citations by forest officers, this should all be done in a single regulation.

PENALTY FOR VIOLATION

If the proposed regulation is promulgated, any violation of it shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. See 16 U.S.C. 551 and 1281(d).

PROPOSED RULE

In consideration of the foregoing and pursuant to 36 CFR 261.70 and the authority delegated to me at 42 FR 3009, in order to establish reasonable rules of public conduct and protect property and public safety, I propose to amend 36 CFR 261.75 to read:

§ 261.75 Regulations applicable to Region 5, California Region, as defined in § 200.2.

(a) *Definitions.* In this section: (1) "Middle Fork of the Feather River" means the river and land area in or adjacent to Plumas National Forest described as the "River Area" in the notice at 35 FR 4219 or any amendment to that notice.

(2) "Motorized equipment" means any equipment having or using an engine or motor, except small battery-powered handheld devices such as cameras, shavers, flashlights, and Geiger counters.

(3) "Wild river zone" means the area described as the Bald Rock Canyon Wild River Zone or as the Upper Canyon Wild River Zone in the notice at 35 FR 4219 or any amendment to that notice.

(b) *Prohibitions.* (1) Possessing or using motorized equipment in the wild river zone of the Middle Fork of the Feather River, except on the Stag Point Trail or the Cleghorn Bar Trail, is prohibited.

(2) Paragraph (b)(1) of this section does not apply to any equipment authorized by a permit from the Forest Supervisor, Plumas National Forest, containing such terms and conditions as he considers necessary for the protection or preservation of the wild river zone or the health, safety or welfare of its users. Violation of any term or condition of such a permit is prohibited.

(30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 10(d), Pub. L. 90-542; 82 Stat. 916 (16 U.S.C. 1281(d)); 35 FR 4219; 42 FR 2968, 7 CFR 2.60; 42 FR 2960, 36 CFR 261.70; 42 FR 3009.)

DOUGLAS R. LEISZ,
Regional Forester,
California Region.

[FR Doc.77-13687 Filed 5-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 168, 175, 176, 178, 178a, and 190]

STUDENT CONSUMER INFORMATION; STATE STUDENT ASSISTANCE TRAINING; STUDENT ELIGIBILITY; PROCEDURES FOR LIMITATION, SUSPENSION, OR TERMINATION OF INSTITUTIONAL ELIGIBILITY

Extension of Comment Period

AGENCY: Office of Education, HEW.

ACTION: Proposed rules, extension of comment period.

SUMMARY: The Office of Education extends the comment period for four Notices of Proposed Rulemaking that appeared in the FEDERAL REGISTER on April 8, 1977. The four Notices involved proposals concerning: 1. Institutional and Financial Assistance Information for Students (Student Consumer Information) (42 FR 18747); 2. Incentive Grants for State Student Financial Assistance Training Programs (42 FR 18750); 3. Eligibility for Student Assistance (42 FR 18738); and 4. Procedures for Limitation, Suspension, or Termination of Institutional Eligibility for Programs under Title IV of the Higher Education Act of 1965, as amended (42 FR 18743). The comment period is being extended because several persons have requested additional time to comment on the proposed rules.

DATES: Comments for all four documents must now be received on or before May 23, 1977.

ADDRESSES: Send comments to: Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. John R. Proffitt at the above address, Telephone 202-245-9875.

SUPPLEMENTARY INFORMATION: Availability of Comments For Public Inspection.

Comments will be available for public inspection in Rooms 3030, 3661, and 4068, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

Dated: May 4, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: May 9, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-13798 Filed 5-12-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 31]

[Docket No. 21230; FCC 71-301]

CLASS A AND CLASS B TELEPHONE COMPANIES

Uniform System of Accounts

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: These proposed rules would amend the Commission's Accounting Rules and Regulations (Uniform System of Accounts), 47 CFR §§ 31.100:2, 31.100:3, 31.2-22 and 31.6-60 (1976). The amendments are intended to bring the Commission's Uniform System of Accounts into accord with the ratemaking principles adopted in the Commission's Phase II Final Decision and Order in American Telephone and Telegraph Co., FCC 77-150, ____ FCC 2d ____ (Docket No. 19129), released March 1, 1977. The Commission noted in its Decision that certain of the ratemaking principles adopted therein would require changes to the rules under which Class A and Class B telephone companies presently keep their books of account and determined that such changes should be pursued in a separate proceeding. Under section 220(i) of the Communications Act, 47 U.S.C. 220(i) (1971), notice of proposed changes to the accounting rules must be given to the several States so that they may have opportunity to comment on the proposals. Accordingly, the present Notice of Proposed Rulemaking is issued to give the State Commissions notice of FCC's intent to change the accounting rules, appraise the State Commissions of the proposed new rules and solicit any pertinent comments on the proposed rules which they may choose to submit.

DATES: Comments from the State Commissions should be submitted on or before June 13, 1977 and reply comments on or before June 23, 1977. The proposed

effective date for the amendments is January 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Virginia O. Brockington, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, 202-632-3864.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies.

Adopted: April 28, 1977.

Released: May 9, 1977.

By the Commission: Commissioner Lee absent; Commissioner Hooks concurring in the result.

1. Notice is hereby given, pursuant to Sections 4i, 4j and 220 of the Communications Act of 1934, 47 U.S.C. 154i, 154j and 220 (1971), of proposed rulemaking in the above-captioned matter.

2. In our Phase II Final Decision and Order (Decision) in American Telephone and Telegraph Co., FCC 77-150 FCC 2d (Docket No. 19129), released March 1, 1977, we prescribed among other things, the treatment of certain plant and expense items for ratemaking purposes. Although the investigation in Docket No. 19129 was limited to the operations of the American Telephone and Telegraph Company and the Associated Bell System Companies (AT&T), we believe that the conclusions reached therein should be rules of general applicability and that the Commisison's Uniform System of Accounts, Part 31 of our rules and regulations, 47 CFR 31.1 et seq., should be rules of general applicability and that the Commission's Uniform System of Accounts, Part 31 of our rules and regulations, 47 CFR 31.1 et seq., should therefore reflect the rate base prescriptions. However, as we noted in our Decision, orderly implementation of certain of those prescriptions—namely, Plant Under Construction and Plant Held for Future Use—will require amendment of the Uniform System, See Decision, paras. 154, 162.

3. Turning first to the question of Plant Under Construction, Account 100.2, 47 CFR 31.100:2, our Decision differentiated between short- and long-term construction projects and specified the circumstances under which investment in each would be allowed in the rate base and the circumstances under which interest during construction would be accrued with respect to the latter. See Decision, paras. 150-1. Accordingly, to reflect these accounting prescriptions we propose the revisions to §§ 31.100:2 and 31.2-22 of our Rules, 47 CFR 31.100:2, 31.2-22, set forth below.

4. Similarly, with respect to Plant Held for Future Use, Account 100.3, 47 CFR 31.100:3, we prescribed in our Decision a bifurcated treatment which differentiates between property that will be placed in service in the near future and that which will enter later. We stated that continued inclusion of such property presently in the rate base turns on whether the property is held under a definite plan for imminent use. See Decision, para. 159. We further concluded that an objective test for determining "imminent use" would be appropriate and concluded that actual use within a two year period would be a reasonable standard. Id at 160. Accordingly, we propose the revisions to 47 CFR 31.100:3 set forth in the Appendix to make clear that amounts invested in property held for future use may remain in Account 100.3 no more than two years. Further, we propose that for investment in property held in Account 100.3, but not actually placed in service within two years, the amounts of such investment must be transferred to Account 103, 47 CFR 31.103, Miscellaneous Physical Property, absent a waiver, See Decision, para. 161.

5. In our Decision, we also treated the payments AT&T makes to academic institutions and individual academics for a variety of services, See Decision, paras. 231-3 and footnote III. As we noted, we are concerned whether "academia" payments benefit the interstate ratepayer. The present accounting for such payments prevents us from identifying or inquiring into the propriety of most such payments. Accordingly, we propose to add to § 31.6-60 of our rules, 47 CFR 31.6-60, a note requiring carriers to identify all academia payments and to indicate the name of the recipient, the amount and the purpose thereof.

6. Accordingly, pursuant to section 220(i) of the Act, 47 U.S.C. 220(i), we hereby give notice to the state commissions of the above proposed accounting changes. If, within 30 days from the date of the Notice, we have received no comments, the accounting changes proposed herein shall become effective for calendar year 1978.

7. This Notice of Proposed Rulemaking is issued under authority contained in sections 4(i), 4(j) and 220 of the Communications Act of 1934, 47 U.S.C. §§ 154 (i), 154(j), and 220 (1971).

8. In accordance with applicable procedures set forth in 47 CFR 1.415 (1976), interested persons may file comments on or before June 13, 1977 and reply comments on or before June 23, 1977.

9. In accordance with the provisions of § 1.419 of the Commission's rules, 47 CFR 1.419 (1976), an original and 5 copies of all statements or briefs shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Broadcast and Dockets Reference Room.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended to read as follows:

§ 31.1-15 [Amended]

1. In § 31.1-15 the reference to § 31.2-22(b)(10)(ii) in parentheses at the end of paragraphs (d), (e) and (g) is changed to read § 31.2-22(b)(10).

2. In § 31.100:2, paragraph (a) is amended, paragraph (b) is redesignated as paragraph (e), and new paragraphs (b), (c) and (d) are added to read as follows:

§ 31.100:2 Telephone plant under construction.

(a) This account shall include the original cost of construction of telephone plant, other than station apparatus and station connections, that is not completed ready for service. It shall include interest during construction, except as provided for in paragraph (c) of this section, taxes during construction, and all other elements of costs of such construction work. (Note also §§ 31.2-20 to 31.2-22 and account 231.)

(b) This account shall be subdivided so as to show separately the cost of construction projects (1) designed to be completed in 1 year or less and (2) designed to be completed in over 1 year.

(c) When plant includible in subdivision (1) is not ready for service at the end of 1 year, the cost of the plant shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. If a construction project has been suspended for six months or more, the cost of the plant includible in subdivision (1) shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. No amount of interest during construction shall be accrued retroactively in this account for any telephone plant which was once included in subdivision (1) of this account.

(d) When the cost of telephone plant has been included in subdivision (2) of this account, interest during construction shall be accrued as provided for in § 31.2-22(b)(10). (See paragraph (c) of this section.)

(e) When any telephone plant, the cost of which has been included in this account, is completed ready for service, the cost thereof shall be credited to this account and charged to the appropriate telephone plant or other accounts.

NOTE: There may be charged directly to the appropriate plant accounts the cost of any construction project which is estimated to be completed ready for service within two months. There may also be charged directly to the plant accounts the cost of any construction project for which the gross additions to plant are estimated to amount to less than $10,000.

3. In § 31.100:3 paragraph (a) is revised to read as follows:

§ 31.100:3 Property held for future telephone use.

(a) This account shall include the original cost of property other than station apparatus, owned and held for no

longer than 2 years under a definite plan for use in telephone service. At the end of 2 years the original cost of the property shall be transferred to account 103, "Miscellaneuos physical property." Should a carrier desire to retain the property in this account for a longer period, it shall request direction or approval of this Commission according to the circumstances surrounding that property.

* * * * *

4. In § 31.2–22 paragraph (b)(10) is amended to read as follows:

§ 31.2–22 Cost of construction.

* * * * *

(b) * * *

(10) "Interest during construction" includes the amount of interest upon all moneys including the company's own funds, used in the acquisition or construction of telephone property. Interest during construction, compounded annually, shall be accrued by construction projects, as provided for in § 31.100:2(d), at the prime rate and charged to account 100.2, "Telephone plant under construction," and credited to account 313, "Interest income." During a period of suspension of a construction project, no interest charge for a longer period than 6 months from the date of its suspension shall be included in these accounts unless specifically authorized by this Commission. No interest charges shall be included in these accounts on expenditures for construction projects which have been definitely abandoned.

* * * * *

5. § 31.6–60 is amended by adding a note to read as follows:

§ 31.6–60 Purpose of operating expense accounts.

* * * * *

NOTE.—The company's records shall be maintained so that payments to individuals for academic programs, payments to organizations for conducting seminars and payments for company-run seminars, identifiable by recipient and by service performed, shall be readily available for reports to this Commission.

[FR Doc.77–13784 Filed 5–12–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR–3, Notice 8]

BLUE SIGNAL PROTECTION OF WORKMEN

Railroad Operating Rules; Rescheduling of Hearing Date

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Rescheduling of Hearing on Notice of Proposed Rulemaking (NPRM).

SUMMARY: On April 18, 1977, the FRA published in the FEDERAL REGISTER an NPRM concerning the dual requirement for the use of an effective locking device and the display of a blue signal at each manually operated switch providing access to track upon which workmen are working on, under, or between railroad rolling equipment (42 FR 20154). The purpose of this notice is to change the date for the public hearing on this proposed rule to Wednesday, June 1, 1977.

DATES: Written comments must be received on or before May 31, 1977. Comments received after that date will be considered to the extent practicable.

A public hearing will be held on Wednesday, June 1, 1977, at 10 a.m.

ADDRESSES: *Submission of written comments.* Written comments should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street S.W., Washington, D.C. 20590.

Examination of written comments. All written comments received will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street S.W., Washington, D.C.

Hearing to be held at: Rm. 4234, 400 Seventh St. S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Anne-Marie Hyland, 202–426–8836.

SUPPLEMENTARY INFORMATION: On April 18, 1977, the FRA published an NPRM concerning the dual requirement for the use of an effective locking device and the display of a blue signal at each manually operated switch providing access to track upon which workmen are working on, under, or between railroad rolling equipment (42 FR 20154). The notice asked for public comment concerning the alleged redundancy of these dual requirements. Written comments received on or before May 31, 1977, will be considered before final action is taken in this proceeding. In addition, a public hearing is scheduled for May 19, 1977.

Because of conflicting commitments on May 19, 1977, the United Transportation Union (UTU) has requested that the hearing be rescheduled. In order to assure the UTU an opportunity to present its views at the public hearing, the FRA has decided to cancel the May 19, 1977, hearing and to reschedule the hearing date.

FRA has decided to hold the hearing on Wednesday, June 1, 1977, in Room 4234, 400 Seventh Street, S.W., Washington, D.C. at 10 a.m. This date has been selected because it appears to be the earliest date which will accommodate previous scheduling arrangements of FRA personnel and other parties that have advised FRA of their intent to participate at the hearing.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary, (49 CFR 1.49(n)).)

Issued in Washington, D.C., on May 11, 1977.

RAYMOND K. JAMES,
Chief Counsel.

[FR Doc.77–13901 Filed 5–12–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is hereby given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in the Jefferson Auditorium, South Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C., May 31, 1977, at 9:30 a.m.

During the meeting, consideration will be directed to the problems involved when nitrite is used at levels necessary only to give products their characteristic organoleptic properties without offering protection against the development of botulinal toxin. Other methods of preservation, such as heating, freezing, drying, salting, irradiation and use of chemical preservatives will be examined to see if the dangers of botulism can be eliminated or minimized without destruction of the product's traditional properties.

The objectives of the Panel's deliberations would be to see (1) if the reduced nitrite usage would eliminate nitrosamine formation where it is still a problem and reduce the amounts of residual nitrite to which consumers are subjected, while at the same time permitting production of products with typical cured characteristics; and (2) whether product characteristics would be retained when other means of preservation are employed; and to consider any matters relevant thereto.

A review of the botulism hazard with cured meats, requested by the panel during their last meeting, will be presented. Also, an update will be presented on the status of nitrite usage in poultry products.

The meeting will be open to the public and under the direction of the Panel Chairperson or her designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who wishes to attend or who has further questions should contact: Irwin Fried, Product Labels, Packaging and Standards Staff, Scientific and Technical Services, Food Safety and Quality Service, Room 202-Annex Building, U.S. Department of Agriculture, Washington, D.C. 20250. Area Code 202-447-6042. Any person wishing to file a statement may send it to the above address.

Subsequent meetings will be held on or about June 27, July 25, and September 7, 1977.

Dated: May 9, 1977.

HARRY C. MUSSMAN,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc.77-13832 Filed 5-12-77;8:45 am]

Rural Electrification Administration

BIG RIVERS ELECTRIC CORP.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $176,000,000 to Big Rivers Electric Corporation, of Henderson, Kentucky. These loan funds will be used to finance the construction of a 235 NW coal-fired generating unit, approximately 50 miles of 161 kV transmission line and related facilities, and new headquarters facilities and modifications.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Marshall R. Dorsey, Manager, Big Rivers Electric Corporation, P.O. Box 24, Henderson, Kentucky 42420.

In order to be considered, proposals must be submitted by June 13, 1977, to Mr. Dorsey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Big Rivers and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 5th day of May 1977.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc.77-13530 Filed 5-12-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30842, 30847, 30853; Order 77-5-26]

EMERGENCY AIR TRANSPORTATION REQUIREMENTS

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May, 1977.

On May 4, 1977, Alaska Airlines, Inc. (ASA) requested an exemption from Title 4 of the Federal Aviation Act of 1958 (The Act) pursuant to Section 416(b) of the Act to carry persons, property and mail between Fairbanks or Anchorage, Alaska, on the one hand, and Nome and Kotzebue, Alaska, on the other hand. ASA also requests exemption authority to operate between Fairbanks and Point Barrow. On May 5, 1977, Alaska International Air, Inc. (AIA) and Northern Air Cargo, Inc. (NAC) also filed a request for an exemption from Title IV of the Act to authorize the carriage of property and mail over certain designated routes currently operated by Wien Air Alaska, Inc. (Wien). All of the requests have been prompted by the imminent possibility of a pilot work stoppage against Wien which, should it occur, will commence at midnight (EDST), Saturday, May 7. The applicants maintain that the points affected are extremely isolated and have a vital dependence on air service for foodstuffs and basic supplies. The exemptions are requested for the purpose of continuing the provision of essential air service to the affected Alaskan communities. If granted, the exemptions would be contingent upon and effective for the duration of the strike.

Upon consideration of the various requests, the Board has determined that an extreme emergency may be created at points on Wien's system should the work stoppage materialize. The Board recognizes the particular vulnerability of these communities to cessations in air service due to their special dependence on air transportation. However, because of the number of requests which have been submitted and the desire of the Board to effect expeditious and effective responses to this situation, we have decided to delegate authority to the Director, Bureau of Operating Rights beginning on May 6, 1977, and, terminating on June 5, 1977 (unless sooner terminated or extended), to grant or deny, in whole or in part, any and all requests for exemption or special operating authorizations which may arise out of this exigency.

As in the past, we reiterate that, by our actions herein it is not our intention to intervene in a labor controversy to favor one side against the other, nor to contravene any national labor policy. Our sole purpose is to alleviate, to the extent possible, public hardship which inevitably results from such strikes. (See Order 75-12-77, December 17, 1975, and Order 76-9-139, September 24, 1976.) We believe that the actions taken by the Director pursuant to the authority delegated herein will not impact adversely upon any labor negotiations and can have only an extremely negligible effect, if any, upon the forces normally in play between management and labor in these situations.

Accordingly, *It is ordered*, That: 1. Authority is hereby delegated to the Director, Bureau of Operating Rights (the Director), to act for the Board on requests for emergency exemption under Section 416(b) of the Act and/or for special operating authority to conduct operations for the transportation of persons, property and mail between and among points affected by the work stoppage anticipated against Wien Air Alaska, Inc. beginning May 7, 1977;

2. In the absence of a further order of the Board, all operating authority granted pursuant to this order of delegation shall expire not later than June 5, 1977;

3. In the exercise of delegated authority, the Director is authorized in his discretion to act before the receipt of answers, and petitions for review of the Director shall not stay the effective date thereof;

4. Communications subject to the procedures established herein may be made orally pursuant to 14 CFR 300.2(c)(5), but such application shall be put into telegraphic or written form within 24 hours and, if in telegraphic form, shall be followed within 5 days with a written notice served in accordance with the Board's rules of practice;

5. Any interested person objecting to any provision of this order shall file such objections with the Board within 5 days from the date of service of this order, but the filing of objections shall not stay the effectiveness of this order;

6. This order may be amended or revoked at any time at the discretion of the Board; and

7. This order shall be served on all certificated air carriers of interest, the states of Alaska, Washington, all affected cities, and union representatives of the employees of both Alaska Airlines and Wien Air Alaska.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13778 Filed 5-12-77;8:45 am]

[Docket No. 29035; Order 77-5-28]

WIEN AIR ALASKA, INC.
Subsidy Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May 1977.

By this order, the Board is proposing to establish final subsidy rates for Wien Air Alaska, Inc. (Wien) to be effective on and after March 23, 1976. Orders 76-3-147[1] and 76-4-181[2] instituted an investigation of Wien's subsidy mail rates, reopened its final subsidy rate as of March 23, 1976[3] and directed the carrier to supply relevant information for the year ended March 31, 1976, and for forecast annual periods ending March 31, 1977, and March 31, 1978.

The requested information was received on July 30, 1976. Subsequent to analysis of this information, an informal mail rate conference was convened on March 3, 1977, pursuant to Rules 311-321 of the Rules of Practice.

After a full examination of all the available data, we have tentatively determined that under honest, economical, and efficient management, the fair and reasonable annual rates of compensation to be paid to Wien are those proposed herein.

For calendar years 1974 and 1975, Wien experienced highly favorable system rates of return on investment.[4] It was on the basis of these rates of return that this investigation was originally instituted. Preliminary reports filed with the Board indicate that Wien's system rate of return for calendar year 1976 declined to 7.1 percent from the levels reached in the previous two years.

At the informal conference, the parties recognized forecast system needs of $2.8 and $2.4 million for annual periods ending March 31, 1977, and 1978, respectively, and a projected subsidy-eligible need of $2.1 million for each period. (See attached Appendix A.[5]) These forecasts take into account labor cost increases based on currently effective contracts, as well as traffic levels projected on an assumption of declining pipeline activity. (See attached Appendix B.)

Although the general wage inflation evident in the Alaskan economy as a result of the pipeline-related activity should continue to exert pressure on Wien's operating costs, the Board feels that management possesses sufficient flexibility to deal with this problem as it arises. We, therefore, feel that an annual subsidy rate of $2.1 million for the period ending March 31, 1978, should allow Wien an opportunity to maintain and develop the air services vital to the state of Alaska.

Farther in the future, as the general inflationary trend of the Alaskan economy subsides with the stabilization of petroleum-related activity and as Wien realizes the full cost savings from closing its F-27 maintenance base in Fairbanks, we are confident that Wien's financial results will improve to the point where reduction of its subsidy rate will be necessary. We believe that the improvement will be sufficient to allow a $300,000 annual reduction in subsidy effective April 1, 1978, and a further $250,000 annual reduction effective April 1, 1979, and still afford Wien the opportunity to earn a fair and reasonable rate of return.

Although we are aware of the difficulties involved in forecasting future subsidy needs with precision, we believe that, on the basis of the carrier's historical performance and reasonable expectations of the future, these proposed subsidy rates are both fair and reasonable. We would make it clear, however, that should events prove otherwise, the Board would not hesitate to reopen this rate should it appear excessive, nor would we view with prejudice any petition from Wien requesting increased compensation should events so dictate.

Based on the foregoing, we find that under honest, economical, and efficient management, the fair and reasonable annual rates of compensation to be paid to Wien, in addition to the service mail rates as established in other Board orders, are as follows:

	Dollars
March 23, 1976, through March 31, 1978	2,061,893
April 1, 1978, through March 31, 1979	1,750,048
April 1, 1979, and thereafter	1,500,059

On May 7, 1976, Saturn Airways, Inc. (Saturn), petitioned for leave to intervene in Docket 29035. In support of its petition, Saturn alleges that it is authorized to engage in supplemental air transportation between Alaska and the other forty-nine states, it is an applicant in Docket 28731 for authorization to perform charter cargo service within Alaska, and it has been granted exemption authority to perform trips under MAC contract within the state of Alaska. Because Wien holds certificate authority to perform scheduled and charter cargo flights in these markets, Saturn alleges that it is a competitor and, thus, is directly affected by the relationship of such cargo operations and the subsidy need determinations to be made here. Saturn cites Seaboard and Western Airlines, Inc. v. CAB[6] in support of its right to intervene

[1] Dated March 23, 1976.
[2] Dated April 30, 1976.
[3] Pending the determination of a final subsidy rate, Wien has been receiving a temporary rate on the basis of the previous final rates established by Order E-26790, May 14, 1968.
[4] Reported net income, before subsidy, plus interest expense, against adjusted investment; 1974, 14.1 percent, 1975, 10.6 percent.
[5] Appendices A and B were filed as a part of the original document.
[6] 181 F. 2d 515 (D.C. Cir. 1949), cert. denied, 399 U.S. 963 (1950).

on the grounds of this competitive relationship. Saturn further alleges that its participation in this proceeding may reasonably be expected to assist in the development of a sound record, no existing party can properly represent Saturn's interests, and its participation will not unduly burden the issues or delay the proceedings.

Wien filed an answer in opposition to this petition on May 17, 1976. In this answer, Wien alleges that Saturn is not entitled to intervene of right, and that it has failed to show that any of its interests will be affected by the proceeding, or that its participation may be expected to assist the Board in resolving the issues herein and will not result in delay.

Wien further alleges that the Board has long recognized that the pendency of an application for authority to engage in air transportation within a geographical area does not entitle the applicant to intervene in proceedings relating to existing services within that area. Wien also claims that Saturn is not a competitor in any realistic sense. The only possible area of regularly authorized competition is with respect to off-route charter operations permitted by Part 292 of the Economic Regulations. Wien claims that Saturn is not assisted by Order 75–10–41, which granted Saturn an exemption to operate a specified number of military charters within Alaska, because that order recited the inability of the Alaskan certificated carriers to provide the service involved, reaffirmed the Board's prohibition against operations within Alaska by supplemental air carriers, and authorized only 27 flights.

Wien further asserts that, even if one were to assume for the sake of argument that there might be some basis for claimed competition between the two carriers, Saturn should not be allowed to intervene. Saturn has failed to set forth in sufficient detail the level of competitive activity between it and Wien and, even where competition could exist, those operations are not underwritten with subsidy. Wien also claims that Saturn cannot be expected to assist in the development of a sound record and its intervention will only result in the delay and burdening of the proceeding.

On June 7, 1976, Saturn filed a motion for leave to file an unauthorized document and a consolidated reply to the answers of Wien and Alaska Airlines, Inc.[7] In this reply, Saturn claims that although past competition with Wien may have been minimal, the possibility of substantial additional economic competition exists under the present operating authority held by the two carriers and this competition could be unfairly encouraged and supported as a result of the subsidy determinations made in this proceeding. Saturn further states that the concern here is not the direct underwriting of thesee operations, but the potential for excess mail payments for other services which would indirectly[8] subsidize them. Since the effect of subsidy determinations on the future competitive position of Wien will directly impact Saturn, the carrier claims a right to participate and protect itself, again citing the Seaboard case.

By virtue of a merger on November 30, 1976, Trans International Airlines, Inc. (TIA), has become the successor to Saturn's interests in this proceeding. We will, therefore, deal with the petition as if it were TIA's.

In arriving at a decision with regard to the disposal of this petition, we concerned ourselves with the extent of TIA's competitive interest vis-a-vis Wien. Finding that this interest is inconsequential, we will deny TIA's petition to intervene in Docket 29035.

In its original petition, TIA bases its claim of substantial interest in this proceeding on three different types of operating authority. Subsequent to the filing of its petition and consolidated reply, TIA requested that its application for intrastate operating authority within Alaska, filed in Docket 28731, be dismissed. The application was dismissed by Order 77–3–17,[9] to be effective March 21, 1977. This basis for its intervention claim is, therefore, rendered moot.

TIA also claimed a competitive interest by virtue of its exemption authority granted in Order 75–10–41. We do not view this authority as being competitive with that held by Wien, since this special authority was granted, in part, because none of the Alaskan certificated carriers possessed the equipment necessary to provide the desired military charter services.

The only truly competitive authority held by both TIA and Wien involves charter operations between Alaska and the other forty-nine states. TIA's certificate authorizes it to engage in supplemental air transportation in this market, among others. Wien's authority in this market is subject to Part 292 of the Economic Regulations, and trips operated in this market under Part 292 authority must be "* * * casual, occasional, or infrequent, * * *."

Past charter operations conducted by Wien in this market have been minimal, at best, and we have no indication that the level of future operations of this type will increase. In fact, the forecasts used in the determination of the subsidy rates proposed herein were based on operations totally exclusive of charter. Combined with the fact that these operations are not underwritten with subsidy, plus our view that the proposed subsidy rates obviously do not represent an overpayment for those services eligible for subsidy, we do not feel that denial of its petition for leave to intervene will peril any of TIA's interests.

Therefore, based on the above, we have decided to deny the petition of TIA, as successor to Saturn's interests, for leave to intervene as a party in this proceeding. We would like to make it clear, however, that denial of this petition will in no way affect the ability of TIA to submit a memorandum with respect to this order pursuant to sec. 302.302.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204 (a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

It is ordered, That: 1. Wien Air Alaska, Inc. is directed to show cause why the Board should not fix, determine, and publish as the fair and reasonable final rates of compensation to be paid Wien for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between the points between which the carrier has been, is presently, or hereafter may be authorized to transport mail by its certificate of public convenience and necessity, the sum of (a) the carrier's service mail pay as established in other orders of the Board,[10] and (b) subsidy as follows:

1. For the period March 23, 1976, through March 31, 1976, inclusive, the sum of $61,516.26;

2. For each calendar month on and after April 1, 1976, in which miles designated by the Postmaster General for the transportation of mail are flown, an amount determined by multiplying the appropriate rate stated below by the scheduled miles flown during the month, or the appropriate base mileage times the number of days in the month, whichever is lower: [11]

Period of operation	Rate per mile (cents)	Daily base mileage
Apr. 1 through Apr. 30, 1976	107.64	6,350
May 1 through Oct. 31, 1976	53.36	8,400
Nov. 1, 1976 through Apr. 30, 1977	107.64	6,350
May 1 through Oct. 31, 1977	53.36	8,400
Nov. 1, 1977 through Mar. 31, 1978	107.64	6,350
Apr. 1 through Apr. 30, 1978	91.36	6,350
May 1 through Oct. 31, 1978	45.29	8,400
Nov. 1, 1978 through Mar. 31, 1979	91.36	6,350
Apr. 1 through Apr. 30, 1979	78.31	6,350
May 1 through Oct. 31, 1979, and the like 6-month period in each succeeding year	38.87	8,400
Nov. 1, 1979 through Apr. 30, 1980, and the like 6-month period in each succeeding year	78.31	6,350

Provided, That the rates set forth above shall be reduced by any adjusted annual capital gain in accordance with the provisions set forth in Appendix B to the Capital Gains Proceeding, 29 C.A.B. 384 (1959), as such Appendix may be amended from time to time, and said Appendix B is incorporated by reference herein.

The scheduled revenue plane miles flown shall be computed on the direct airport-to-airport mileage between the points actually served on each revenue trip operated over Wien's authorized routes pursuant to its flight schedules filed with the Board including all revenue trips operated as extra sections thereto.

[8] Emphasis supplied by Saturn.

[7] We will grant Saturn's motion.

[9] March 3, 1977.

[10] This order is not intended to affect Wien's service mail rates as established in other applicable orders of the Board.

[11] In accordance with normal practice with regard to Alaskan carriers, the rate is designed to provide Wien with 60 percent of the annual payment for services during the low-revenue, higher-subsidy-need months of November through April.

The compensation proposed herein shall be in lieu of, and not in addition to, the mail compensation heretofore received by Wien for mail transported on and after March 23, 1976.

2. All further procedures herein shall be in accordance with the Rules of Practice, particularly Rule 302, et seq., and if there is any objection to the rates specified in this Order, notice thereof shall be filed within 10 days, and, if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the final subsidy rate specified herein.

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. The June 7, 1976, motion of Trans International Airlines, Inc., as successor to Saturn Airways, Inc., for leave to file an unauthorized document be and it is hereby granted.

6. The petition of Trans International Airlines, Inc., as successor to Saturn Airways, Inc., for leave to intervene in Docket 29035 be and it is hereby denied.

7. This Order shall be served on Wien Air Alaska, Inc., and the Postmaster General of the United States.

This order will be published in the FEDERAL REGISTER.

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By the Civil Aeronautics Board.

* * * * *

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13779 Filed 5-12-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Data

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1976, for which tabulations were completed between April 1, 1977, and April 30, 1977.

Dated: May 9, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
McGehee City	Desha	Feb. 1, 1977	5,413
Springdale City	Benton and Washington	Jan. 26, 1977	20,875
Idaho: Middleton City	Canyon	Feb. 28, 1977	1,488
Illinois:			
Homewood Village	Cook	Sept. 28, 1976	19,679
Lake Forest City	Lake	Feb. 15, 1977	15,243
Morris City	Grundy	do	8,563
Tinley Park Village	Cook and Will	Jan. 25, 1977	23,207
Warrenville City	Du Page	Mar. 2, 1977	4,386
Washington City	Tazewell	Feb. 24, 1977	10,045
Wayne Village	Du Page and Kane	Jan. 11, 1977	820
Indiana: Columbia City	Whitley	Feb. 23, 1977	5,022
Michigan:			
Belleville City	Wayne	Feb. 2, 1977	3,200
Chocolay Township	Marquette	do	4,780
Fraser City	Macomb	Feb. 11, 1977	13,986
Genoa Township	Livingston	Jan. 19, 1977	7,229
Portage City	Kalamazoo	Feb. 2, 1977	29,533
South Carolina: Moncks Corner Town	Berkeley	Jan. 10, 1977	3,213
Texas: Crockett County		Jan. 11, 1977	4,177
Wisconsin:			
Cedarburg Town	Ozaukee	Feb. 8, 1977	5,152
Osseo City	Trempealeau	Feb. 14, 1977	1,481
Whitewater City	Jefferson and Walworth	Jan. 19, 1977	10,942

[FR Doc.77-13535 Filed 5-12-77;8:45 am]

Domestic and International Business Administration

CHILDREN'S HOSPITAL MEDICAL CENTER ET AL

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00076. Applicant: Children's Hospital Medical Center, Department of Pathology, Bldg. G, Rm. 906, 320 Longwood Ave., Boston, MA 02115. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of plant, animal, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. In addition, the article will be used in the courses Ultrastructure and Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cyto-chemical staining methods to localize various enzymes. Application received by Commissioner of Customs: January 7, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77-00082. Applicant: University of California, San Diego, Division of Anatomy, Department of Surgery, M-004 La Jolla, California 92093. Article: Ultramicrotome, Model LKB 8800A and accessories, Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning of embryonic tissues at varying stages of gestation during fine structural studies conducted on the brain, spinal cord, and vertebral regions of normal and abnormal mutant mouse and chick embryos in which neural tube closure is defective. The objectives of the experiments conducted will be to determine developmental interactions between the embryonic neural tube and its surrounding notochordial and vertebral tissues as well as changes in intraneural cerebrovascularity in response to abnormal and neural development, and to correlate structural modifications in the surface of the neural ventricular cells observed by means of transmission electron microscopy with those seen by means of scanning electron microscopy. Application received by Commissioner of Customs: January 10, 1977. Advice sub-

mitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77-00083. Applicant: University of Arizona, Department of Plant Pathology, Room 104, Bldg. 36, Tucson, Arizona 85721. Article: Ultramicrotome, Model LKB 8800A and accessory. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning plant, animal and fungal tissues embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells introduced by changes in their biochemical and physical environments. In addition, the article will be used in the course Methods in Plant Pathology which involves a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77-00085. Applicant: Boston University School of Medicine, 80 E. Concord Street, Boston, MA 02118. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of neonatal lung, aorta, and purified elastin specimens. Investigations will include ultrastructural studies on normal and pathologic lung and other tissues, developmental studies on *in vivo* and *in vitro* lung systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interaction and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77-00088. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for the sectioning of normal and abnormal tissues from humans, dogs, rabbits, rats and mice, viruses, bacteria, leukocytes and cultured mammalian cells. Investigations will include light, fluorescence, phase-contrast and electron microscopic studies of morphologic, radioautographical, immuno-cytochemical preparations of the above cited specimens. Relatively low magnification ultrastructural studies of cell relationships, cell-substratum relationships and morphometric analyses as well as high resolution studies of enzyme localization and membrane interactions and subcellular changes induced by bio-chemical, physiological and pathological influences will be carried out. The article will also be used for the instruction of technicians, post-doctoral fellows, research associates, and research investigators who must learn techniques for thick and thin sectioning. One to several graduate students in the Department of Cell Biology will also receive the same instruction to enable them to perform research projects in electron microscopy in fulfilling requirements for the Ph.D. Degree in Cell Biology. Application received by commissioner of customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77-00098. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used to section various animal tissues which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic animal tissue, developmental studies on nervous system, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: January 19, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, s being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of 'issues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorvall Model MT2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-13741 Filed 5-12-77;8:45 am]

STANFORD UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00090. Applicant: Stanford University, 851 Welch Road, Palo Atlo, CA. 94304. Article: Electron Microscope, Model EM 201; Plate Camera and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biological materials, including fixed and stained tissues, tissue culture material, and thin films. Experiments will

involve study of synaptic populations in developing nervous tissue of the chicken and rodent. Tissues from fetal and neonatal animals will be studied in an attempt to gain information about the processes underlying the formation of connection in the adult brain. A second experiment involves the study of hypothalamic neurons which darken at specified times of the estrus cycle in rodents. The study will determine if protein synthesis or other metabolism factors correlate with this darkening. Tissue culture preparations of young neurons will involve electron microscopy as a means of assessing adhesion between developing cells. Finally, the article will be used for preparation of electron microscopic teaching materials, to be used in the cell biology and histology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (August 31, 1976).

Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-13740 Filed 5-12-77;8:45 am]

YALE UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may persent their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 2, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00195. Applicant: Yale University, Purchasing Dept., 20 Ashmun Street, New Haven, Conn. 06520. Article: Micro bomb combustion calorimeter and accessories. Manufacturer: Swedish Enthalpy, Sweden. Intended use of article: The article is intended to be used for combustion calorimetry studies to determine the thermal energy content. Application received by commissioner of customs: April 21, 1977.

Docket Number: 77-00196. Applicant: Yale University School of Medicine—Section of Cell Biology, 333 Cedar Street, New Haven, Conn. 06510. Article: Electron Microscope, Model JEM-100CX/SEG and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry on research on tissues, cells, subcellular components from a variety of sources. The structure, surface morphology, and interaction of cells and subcellular components with physiological and experimental ligands will be investigated. Experiments to be conducted will cover analysis of structural aspects of basic functions, e.g., vessel (capillary) permeability; secretary process in cells producing digestive enzymes and hormones; membrane biogenesis in hepatic cells, and membrane biogenesis as altered by neoplastic transformation in mouse leukemia cells. The article will also be used for advanced training and research of graduate students, postdoctoral fellows and research associated. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00197. Applicant: William Paterson College, 300 Pompton Road, Wayne, New Jersey 07470. Article: Cryokit for Cryo-ultramicrotomy, Model LKB 14800-1 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study the effects of cryo-protectants on animal tissues; e.g., heart, spleen and liver tissues of rats. The experiments to be conducted include the use of cryo-protectants, such as fluorocarbon compounds, as a media for storing frozen tissues for extended periods of time. Enzyme activity levels will be measured and the tissue will be examined under the electron microscope for structural damage. The objectives pursued in the course of the investigations include the development of a suitable media for storing frozen organs so that when the tissue is thawed there is negligible damage to the structure and the biochemical activities of the organ. In addition, the article will be used in the courses: Electron Microscopy and Independent Study to prepare undergraduate students for jobs as electron microscopy technicians and graduate students for conducting research and for preparation for thesis work for their doctorate in other institutions. Application received by Commisisoner of Customs: April 21, 1977.

Docket Number: 77-00198. Applicant: Oklahoma Children's Memorial Hospital, 940 N.E. 13th Street, Oklahoma City, Oklahoma 73126. Article: (Ultramicrotome) Ultrotome, Model UM IV 2128-010 LKB and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the examination and investigation of biological materials related primarily to effects of disease or experimental conditions on living systems. Experiments to be conducted will include: (i) Studies of viral infestations as possible etiological explanations for various diseases in children. (ii) Studies of role of platelets and plasma clotting proteins in the formation of clots both in vivo and in model systems. (iii) Studies of specific labeling of membrane constituents to map topography of membranes and changes which alter when parameters are altered. In addition, the article will be used for educational purposes in a course in electron microscopy to train people in fields other than morphological sciences how to use electron microscopy to acquire information about the molecular structure of their experimental systems to augment their own particular expertise. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00199. Applicant: Massachusetts General Hospital, Department of Pathology, Fruit Street, Boston, Massachusetts 02114. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study biological, mainly mammalian tissues, and culture systems derived from experimental animals and man, and exhibit both normal and pathologic structure. Properties of materials and phenomenon to be studied are those necessary for the understanding of cellular interactions in culture systems including tumor destruction, and those necessary for the understanding of vesicular transport of macromolecules into and out of individual cells under varying experimental conditions. The experiments to be conducted are designed to elucidate the function of basophils and mast cells in cell-mediated hypersensitivity reactions, particularly with regard to an understanding of the role of these cells in immunologic tumor rejection. The objectives to be pursued in the course of the investigation are to reveal at the ultrastructural level the structural basis and accurate quantitation of transport of macromolecules into and from cells under physiological and pathologic conditions. Application re-

ceived by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00200. Applicant: University of Wisconsin, Madison, Dept. Food Microbiology and Toxicology, 1925 Willow Drive, Madison, Wisconsin 53706. Article: Ultrotome III Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study biological materials including plant, animal, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic microbial plant and animal tissues, developmental studies on bacterial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human diseased tissues. The article will also be used in training of graduate and post doctorate students. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00201. Applicant: Howard University, 2400 Sixth St., NW., Washington, D.C. 20059. Article: Electron Microscope, Model Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used as part of a multiuse cell and molecular biology laboratory in which studies will be conducted involving the ultracytochemical localization of viral-induced antigens on the surface of cell membranes and in the cell nucleus; the use of autoradiography to localize sites of synthesis of proteins and nucleic acids and of hormone (iodinated) on membrane receptors of ovarian testicular and luteal tissues; in hybridization studies to localize DNA & RNA binding sites on chromosomes of normal and transformed human and non-human cells; and in cardiac dynamics to examine nerve-muscle contacts. Both very thin sections, coated and negatively stained macromolecules at varying tilt angles, autoradiograms and replicas of freeze-etched material will be examined with the article. In addition, the article will be used in the training of faculty scientists and predoctoral and postdoctoral trainees. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00202. Applicant: Mayo Foundation, 200 First Street, SW., Rochester, Minnesota 55901. Article: Electron Microscope, Model EM 400 HTG with High Tilt Goniometer and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article will be used for studies of biological materials that will include human and animal tissues and cells from normal as well as a variety of spontaneous and experimentally induced pathological states. Materials will also encompass non-cellular biologicals ranging from urine sediment to tissue fluid extracts, plasma proteins and coagulation factors. Many of the studies will include solid tissues such as kidney and skin biopsies, and others will include macromolecular biological specimens ranging from cell free DNA to purified enzymes. Non-cellular biological materials would include crystals of inorganic compounds and virus particles.

The experiments to be conducted will include: consideration of the normal function, biochemistry and ultrastructure of cells in culture and surgically obtained tissues; a consideration of subcellular enzyme activity and localization in a variety of disease states including cancer, atherosclerosis and hematologic disorders; the analysis for clinical diagnosis of kidney, cardiac and soft tissue tumor biopsies; the description and characterization through high resolution electron microscopy of enzyme, DNA, and virus structure; the intracellular localization of specific antigens or substances stored within cells (such as catecholamines, or inorganic ions); a description of plasma membrane changes associated with cell transformation or experimental manipulation; and the localization of specific subcellular sites of action of transforming chemicals. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00203. Applicant: Geophysical Institute, C. T. Elvey Bldg., University of Alaska, Fairbanks, Alaska 99701. Article: Micrometeorological System and accessories. Manufacturer: Grant Instruments Ltd., United Kingdom. Intended use of article: The article will be used for climatological research in remote areas of Alaska. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00204. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article intended to be used for the study of a wide variety of tissues from humans and experimental animals. Experiments to be conducted include the following:

(1) Studying liver biopsy material from patients with non A, B hepatitis to determine the identity of new virus not yet characterized.

(2) Studying the liver disease which occurs with high frequency in patients who have undergone renal transplantation.

(3) Investigation of channels formed by groups of microtubules within the axon.

The objectives of these investigations are to understand at a structural level the physiological phenomena which occur in these tissues were applicable to determine the etiologic agent causing the cellular dysfunction. In addition, the article will be used in the following educational courses:

(a) General Pathology for sophomore medical students—to provide a background of the existing knowledge of disease processes in human body and to provide a basis for understanding future progress which will be made in diagnosis and treatment of these diseases.

(b) Residency training in pathology—to produce trained specialist of the highest quality for clinical practice and academic medicine.

(c) Graduate study in comparative pathology and microbiology—to provide an introduction to the use of sophisticated scientific instruments in the study of experimental diseases.

Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00205. Applicant: University of Pennsylvania, 3451 Walnut Street, Philadelphia, Pennsylvania 19104. Article: Mass Spectrometer, Model CH 7-A and accessories. Manufacturer: Varian Mat GmbH, West Germany. Intended use of Article: The article will be used for investigations in respiratory physiology, particularly of gaseous exchanges, at the whole body, organ, cellular and molecular levels. The pertinent projects are as follows: (1) Measurement of CO Production and Catabolism; (2) Metabolism of Oxygen; and (3) Measurement of very low absolute concentration of gases such as O_2, CO and CO_2 in solution.

This work will be carried out in the Department of Physiology in the Medical School in which there are at any one time about 20 Postdoctoral Research Fellows and 30 graduate students in Physiology and/or Bioengineering and/or Biophysics and Biochemistry. Application received by Commissioner of Customs: April 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-13772 Filed 5-12-77;8:45 am]

Economic Development Administration

ACCESSORIES BY PEARL, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Accessories by Pearl, Inc., 330 Fifth Avenue, New York, New York 10001, a producer of apparel belts, was accepted for filing on May 5, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on May 23, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-13712 Filed 5-12-77;8:45 am]

Maritime Administration

MERCANTILE NATIONAL BANK AT DALLAS

Approval of Applicant as Trustee

In FR Doc. 75-1540 appearing in the FEDERAL REGISTER issue of January 16, 1975, (40 FR 2851), notice was given that the Mercantile National Bank at Dallas, a Texas banking corporation, with offices at 1704 Main Street, Dallas, Texas, was approved as a trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.303.

Notice is hereby given that Mercantile National Bank at Dallas, survivor as a Texas banking corporation incident to merger of Mercantile National Bank at Dallas into Mercantile Bank, National Association, with the surviving corporation being Mercantile National Bank at Dallas effective July 31, 1975, was approved as trustee pursuant to Pub. L. 89-46 and 46 CFR 221.21-221.30.

Dated: May 10, 1977.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-13747 Filed 5-12-77;8:45 am]

[Docket No. S-557]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc. (PLI) has filed an application for approval of a consulting agreement by which PLI will render advice and assistance to the Delta Queen Steamboat Co. (Steamboat) relative to the overall business and operation of river passenger vessels called the *Delta Queen* and the *Mississippi Queen* (the "vessels") which carry passengers on the U.S. inland waterway system comprising the Mississippi and Ohio Rivers. Such advice and assistance is relative to the overall business and operation of the vessels including, but not limited to, advice and assistance regarding owner's performance (1) on matters involving the operation, maintenance, and repair of the vessels and (2) on matters involving the furnishing of food and lodging ("hotel services") on the vessels and the marketing thereof. The consulting agreement is to terminate on December 31, 1980, unless sooner terminated by either party upon six months' notice. In addition to consulting fees and bonuses to be paid to PLI for reaching certain defined goals, the contract also contains a provision by which PLI has the option to purchase 40 percent of the equity of Steamboat under certain and specific conditions, at book value at the time of the exercise.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a) of the Merchant Marine Act, 1936, as amended) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on May 23, 1977, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Date: May 9, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-13748 Filed 5-12-77;8:45 am]

National Bureau of Standards

REVIEW OF NBS INTERAGENCY REPORT 75-795, RECOMMENDED CRITERIA FOR RETROFIT MATERIALS AND PRODUCTS ELIGIBLE FOR TAX CREDIT

Request for Public Comments

National Bureau of Standards Interagency Report (NBSIR) 75-795, "Recommended Criteria for Retrofit Materials and Products Eligible for Tax Credit," issued in November 1975, is being submitted for industry and public review. This report is to be revised, expanded and reissued to recommend criteria for materials and products which may be promulgated by the Federal Energy Administration (FEA) as Standards for Weatherization Materials to be used in their Weatherization Program (Sec. 413, Pub. L. 94-385, 90 Stat. 1152 (42 U.S.C. 6863)). As part of the revision, the public and industry are asked to submit to the National Bureau of Standards their comments on the report and to suggest other energy-saving materials and products which should be considered for inclusion in the FEA Weatherization Program. Suggestions of other energy-savings materials and products should be accompanied by technical information on properties and performance supporting their use and energy savings which may be achieved. These suggestions will be reviewed by NBS for consideration in the FEA Weatherization Program.

Persons and organizations wishing to participate in the public review of NBSIR 75-795 should contact Mrs. Marie Dickey, at the National Bureau of Standards, Center for Building Technology, Washington, D.C. 20234 (Telephone 301/921-3407). Those contacting NBS will be sent a copy of NBSIR 75-795. Comments concerning NBSIR 75-795 and suggestions for energy-saving materials and products to be considered in the Weatherization Program should be received by NBS before June 11, 1977.

Dated: May 9, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-13609 Filed 5-12-77;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas for Calendar Year 1977 Among Producers Located in Guam and American Samoa

On December 28, 1976, the Departments of the Interior and Commerce published in the FEDERAL REGISTER a joint notice announcing the rules to be used by the Departments in the allocation of 1977 calendar year quotas for duty-free entry into the Customs territory of the United States of watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa (41 FR 56378 et seq.). Section 5 of this notice relating to Guam provides that annual quotas for calendar year 1977 would be allocated as soon as practicable after April 1, 1977, and would be based on the following criteria:

(1) The number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976; and (2) the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation.

In making allocations under this formula, 40 percent would be assigned to production and shipment history and 60 percent to wages as specified above.

Section 9 of the annual rules provided that in the determination of calendar

year 1977 quotas for the new entrant in Guam, to which a quota allocation was previously made pursuant to Section 8 of the Rules for Allocation of Watch Quotas for Calendar Year 1976 (40 FR 59767 et seq.), and which would not have a full year's operation as a basis for computation of a quota for calendar year 1977, the Departments would take into account these circumstances and make appropriate adjustments.

Section 6 of the annual rules provided that the annual quota for calendar year 1977 would be allocated to the producer in American Samoa as soon as practicable after April 1, 1977, and referred to the Departments' policies relative to the allocation of a quota in American Samoa as set forth in their notice of June 9, 1967 (32 FR 8316 et seq.).

Representatives of the Departments visited each quota holder in Guam and American Samoa during February or March to verify the data submitted in support of individual quota applications. The verification indicated that firms had been accurate in reporting the number of units which were entered into the customs territory of the United States during calendar year 1976, as well as the amount of wages paid during calendar year 1976 to persons whose pay was attributable to Headnote 3(a) watch assembly operations in the territories. The Departments note, however, that because the new entrant firm in Guam is to receive an adjusted quota pursuant to Section 9 of the annual rules, and because there is only one other firm which received a quota in 1976 that is still active in 1977, there is no basis upon which the distributive criteria contained in Section 5 of the annual rules can be applied. Consequently, the Departments have allocated amounts to the two Guam firms which take into account the expressed needs of the firms with respect to their 1977 operations, and the Departments' estimate of the firms' ability to utilize the quota and make economic contributions to the territory. The quota amounts also reflect the setting aside of 300,000 units of the 1977 Guam quota for possible allocation to new firms, as announced in the Departments' joint notice dated April 7, 1977 (42 FR 19172).

GUAM

Name of firm:	Number of units
1. Jerlian Watch Co. Inc	236,000
2. Phoenix Industries, Inc	80,000

AMERICAN SAMOA

1. Pacific Time Corporation	309,000

Pursuant to Section 2 of the allocation rules assigned quota may be adjusted downward during the calendar year in the event it becomes apparent that shipments through December 31, 1977 by any firm will be less than 90 percent of the number of units allocated to it. Any quota which becomes available under this Section will be reallocated as appropriate in a manner best suited to contribute to the economy of the affected territory.

Dated: May 9, 1977.

RUTH G. VAN CLEVE,
Director, Office of Territorial Affairs, U.S. Department of the Interior.

ROBERT E. SHEPHERD,
Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc 77-13796 Filed 5-12-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 16, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1977, November 18, 1976 (41 FR 50975):

SIC 7349: Custodial Services, Officer's Athletic Center, Pentagon, Washington, D.C.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13770 Filed 5-12-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 a commodity produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: JUNE 16, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1977, November 18, 1976 (41 FR 50975):

CLASS 7920: Brush, Floor Sweeping—7920-00-238-2442, 7920-00-238-2443, 7920-00-263-9848, 7920-00-292-2366.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13771 Filed 5-12-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from May 2 through May 6, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 27, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 2346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Eagle Creek Dam and Reservoir, Lincoln and Otero Counties, N. Mex., May 3: Proposed is the construction of an earthen and rock fill dam on Eagle Creek to provide domestic water storage for the Village of Ruidoso. The reservoir will cover approximately 70 surface acres. A section of State Highway 532, 0.8 mile in length, and a small local service powerline will be inundated. The highway and powerline would be relocated as part of the project. (ELR Order No. 70549.)

Final

Boulder Planning Unit, Kaniksu N.F., Boundary County, Idaho, May 2: The statement refers to a land use plan for the Boulder Planning Unit, Kaniksu

National Forest. The proposed plan would allocate resources and specify land use prescriptions for National Forests lands only, which make up 96 percent, or 55,640 acres, of the 58,000 acres within the planning unit. The selected alternate was developed through a land use allocation process which utilizes current resource inventories to determine the capability and suitability of the land to support its various uses. Adverse impacts will result from timber harvest activity. Comments made by: COE, DOI, EPA, FPC, state and local agencies, and concerned citizens. (ELR Order No. 70542.)

Oregon Butte Unit Plan, Umatilla National Forest, Washington and Oregon, May 3: The proposed Oregon Butte Unit Land Use Plan sets forth the allocation of 404,840 acres of National Forest land to various resource uses and activities. This land is on the Umatilla National Forest in Asotin, Columbia, Garfield, and Walla Walla Counties, Washington, and Union, Umatilla, and Wallowa Counties, Oregon. Adverse effects include displacement of certain wildlife species, some increase in sedimentation, and intermittent reduction in air quality. Comments made by: DOI, COE, EPA, FPC, USDA, state and local agencies, and concerned citizens. (ELR Order No. 70550.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

Draft

Duluth Stormwater Flood Control (2), several counties in Minnesota, May 3: Proposed is the Duluth Stormwater Flood Control Project, which includes both structural and non-structural measures. The selected plan consists of structural measures to accommodate the 100-year or 1-percent flood on 14 of the 42 study area streams. Floodplain regulation and flood insurance will be used exclusively on the remaining 28 study area streams. Erosion control features are proposed for 6 of the 14 streams. Structural modifications include three floodwater impoundments, channel protection measures, by pass conduits along new routes, and enlargement of numerous existing drainage structures. Short term adverse impacts would result from construction. (St. Paul District) (ELR Order No. 70548.)

Final

Indian River Power Station, Unit 4, Sussex County, Del., May 6: Proposed is the construction of Unit 4 of the Indian River Power Station in Sussex County, Delaware. The Delmarva Power and Light Company has proposed the addition to the station of a 400-megawatt bituminous coal-fired electric generating unit and associated structures. The project would utilize an additional 217 acres along the Indian River and a tributary, Island Creek. Adverse effects include changes in the temperature and salinity of the water, increased salt deposition on adjacent land, decreased visibility due to smoke from the cooling tower, and the loss of 175 acres of woodland due to dry-ash disposal. (Philadelphia District). Comments made by: DOI, EPA, DOC, USDA, HUD, FEA. (ELR Order No. 70555.)

Reserve Mining Co. Discharge Structure (Permit), Lake County, Minn., May 6: The Reserve Mining Company proposes to install a heated water discharge structure in Lake Superior. This structure would enable Reserve's Lakeside Power Plant to discharge approximately 106,000 gpm of cooling water into Lake Superior. The delta stabilization dike would be an attempt to stabilize the tailings delta at Silver Bay and prevent the further release of abestiform fibers into Lake Superior. Adverse effects include the destruction of 5,850 acres of terrestrial habitat. About 4,420 acres of public land would be used along with 3.9 miles of State designated recreation trails and 8.1 miles of non-designated recreational trails. (St. Paul District). Comments made by: EPA, USDA, DOC, HEW, DOT, USCG, AHP, FPC. (ELR Order No. 70556.)

Wilkerson Creek Bridge, Replacement, Hyde County, N.C., May 5: The project involves the replacement of an obsolete swing-span highway bridge across the Atlantic Intracoastal Waterway (AIWW) at Wilkerson Creek with a high-level, fixed-span bridge. The proposed new bridge would improve traffic flow on US 264, reduce traffic hazards created by the narrow bridge, and improve the flow of land and waterborne traffic. The action will result in the elimination of 38 acres of second-growth pine woodland, and some short term construction-related impacts. (Wilmington District). Comments made by: EPA, HEW, AEC, USCG, DOT, DOI, USDA, state, and local agencies, and concerned citizens. (ELR Order No. 70554.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Final

Scarborough Wastewater Collection, Cumberland County, Maine, May 3: Proposed is the design and construction of a sewage treatment plant for the Town of Scarborough, Maine. The project consists of construction of a series of interceptors, pumpstations, and force mains to service the six Consent Ordered areas plus Prout's Neck and Pleasant Hill. This 1.8 mgd facility is expected to serve a projected sewered population of 14,558 by the year 2000. The effluent from the new Oak Hill Treatment plant will be discharged to the Fore River in Sputh Portland. Long term adverse effects resulting from the action are related to impacts on land use, socioeconomic characteristics, and air and water quality. (Region I). Comments made by: DOC, HUD, DOI, COE, DOT, EPA, AHP, state and local agencies. (ELR Order No. 70551.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Maple Grove and Boundary Creek Additions, Hennepin County, Minn., May 2: Proposed is the provision of HUD mortgage insurance under Section 203(b) for the 1170 dwelling unit Boundary Creek Development in the city of Maple Grove, Minnesota. The development, bound on the north by the city of Chaplin, and on the east by the city of Brooklyn Park, is approximately 15 miles from the Minneapolis Central Business District, and covers an area of one square mile. A small, three-acre neighborhood shopping center is also planned to serve the residential project. Adverse effects include increased noise pollution, and an increased demand for public services and facilities. (ELR Order No. 70543.)

Sommerall Subdivision, Harris County, Texas, May 2: Proposed is the development of 273.82 acres into a planned community composed of single-family homes, with some commercial reserves in Harris County, Texas. The development provides for the planning and controlling of a wide range of living accommodations for approximately 4200 people. Adverse effects would include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70546.)

Mission Bend Subdivision, Harris and Fort Bend Counties, Tex., May 6: Proposed is the acceptance of an application by Fox & Jacobs, Inc. for approval of the Mission Bend Subdivision for home mortgage insurance purposes. The development plan includes the construction of 588 single family units on 134 acres. The average FHA insured house proposed for Mission Bend will have approximately 1700 sq. ft. and will contain, on the average, 3.5 bedrooms. Adverse impacts include disruption or destruction of plant and animal communities on the site, conversion of agricultural land to residential use, and increases in air and noise pollution. (ELR Order No. 70557.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Section 104(h)

Final

Helena, Mont.—Eastside No. 2 Sanitary Sewer, Lewis and Clar Counties, Mont., May 2: The proposed action is the installation of 7,300 feet of sanitary sewer main in Helena, Montana. The sewer main, which varies in diameter from 12 to 24 inches, is an extension of an existing main, and will tie into a major outfall main 24 inches in diameter. Sewerage collected by the proposed facility flows to a sewage plant and is discharged, after secondary treatment, into Lake Helena. Construction impacts will result. Comments made by: HEW, EPA, local agencies, and, interested parties. (ELR Order No. 70545.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Ave. NW., Washington, D.C. 20423, 202-275-7692.

Final

E. Cooper and Berkeley Railroad Co., Berkeley County Line, Berkeley County, S.C., May 4: Proposed is the granting of authority to South Carolina Public Railways Commission, in behalf of the East Cooper and Berkeley Railroad Company, to construct and operate a line of railroad in Berkeley County, South Carolina. The 15.5-mile project runs between a connection with a mainline of the Seaboard Coast Line Railroad at State Junction, located at milepost 393 between Codesville and Bethera; and the property of Amoco Chemical Corporation. Construction of this line will require the commitment of approximately 221 acres of undeveloped land. Operation of the facility will result in increased energy consumption and air pollution. Comments made by: EPA, USDA, DOI, state agencies and interested parties. (ELR Order No. 70553.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHAY ADMINISTRATION

Draft

I-630, I-430—I-30, Pulaski County, Ark., May 2: The proposed action is the construction of a multi-lane interstate facility in

Little Rock, Arkansas. The completed project will be approximately 7.4 miles in length and will connect Interstate Routes 30 and 430. Approximately 2.56 miles of this route have been completed and 2.44 miles are currently under construction. These portions were designed as a six-lane interstate facility. Adverse effects include the relocation of residences and businesses, and the utilization of approximately 433 acres for the roadway and its right-of-way. (ELR Order No. 70541.)

I-91 (Hartford-Enfield), I-29 (Windsor-Manchester) Hartford County, Conn., May 3: This statement presents proposals for the Interstate 91 (I-91) and Interstate 291 (I-291) transportation corridors located in Hartford County, Connecticut. It is proposed to reconstruct I-91 to provide three travel lanes in each direction from I-84 in Hartford to the Massachusetts State Line in Enfield, a distance of 19.5 miles. I-291 is proposed to be constructed as a new limited access expressway providing two travel lanes in each direction between its termini at I-91 and I-86, a distance of 5.9 miles. The construction of both proposals would require the relocation of 97 families and 18 businesses. (Region 1.) (ELR Order No. 70552.)

Final

Daly Avenue Route, Wisconsin Rapids, Wood County, Wis., May 2: The proposed action involves construction of an urban, four-lane divided street located within the city limits of Wisconsin Rapids, Wisconsin. The project termini are the intersection of West Grand Avenue (S.T.H. 13,73) on the west and Eighth Street (S.T.H. 13) on the east. Project length is approximately two miles. The construction will require acquisition of two acres of right-of-way. A 4(f) statement is included concerning encroachment upon Lyons and Demitz parks. (Region 5). Comments made by: DOT, DOI, EPA, HEW, COE and concerned citizens. (ELR Order No. 70544.)

Supplement

U.S. 18–151 Corridor, Dodgeville-Mt. Horeb (8–1), Dane, Iowa Counties, Wis., May 2: This statement supplements two final approved EISs for proposed highway improvements in the USH 18–151 corridor extending from the Dodgeville area to the Mt. Horeb area. The first statement discussed impacts for the 21 mile segment between Dodgeville and Mt. Horeb, while the second statement discussed impacts for a bypass of Mt. Horeb, a segment of about 3.6 miles. This supplement incorporates additional studies subsequently undertaken, as directed by the Wisconsin Highway Commission, and addresses the following issues of public concern: Land conservation, project cost, local service, and staging potentials. (ELR Order No. 70539.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-13630 Filed 5-12-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 2, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold open meetings at the Human Resources Laboratory, Williams AFB, Arizona on June 7, 8, and 9, 1977 from 8:30 a.m. to 5:30 p.m. each day.

The Committee will receive briefings and hold discussions on Air Force simulator programs and technology.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13732 Filed 5-12-77;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Wednesday, June 15, 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter is to work on a study of specialized intelligence data requirements.

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

MAY 6, 1977.

[FR Doc.77-13631 Filed 5-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 727-6; OPP-50297]

AGRICULTURE DEPARTMENT ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 11312-EUP-20. U.S. Department of Department of Agriculture, Hyattsville, Maryland 20782. This experimental use permit allows the use of 220 pounds of the insecticide carbaryl on rangeland to evalute control of Mormon crickets. A total of 2,560 acres is involved; the program is authorized only in the States of Colorado, Idaho, Nevada, Utah, and Wyoming. The experimental use permit is effective from April 14, 1977, to April 14, 1978. A permanent tolerance for residues of the active ingredient in or on grasses and grass hay has been established (40 CFR 180.169).

No. 39644-EUP-1. Environmental Chemicals, Inc., Barrington, Illinois 60010. This experimental use permit allows the use of 15.84 pounds of the insecticide temephos in flooded areas and mosquito breeding areas to evaluate control of mosquitoes. A total of 143 acres is involved; the program is authorpany, Marysville, Ohio 43040. This experimental use permit is effective from April 14, 1977, to April 14, 1978.

No. 538-EUP-8. O. M. Scott & Sons Company, Marysville, Ohio 43040. This experimental use permit allows the use of 240 pounds of the herbicide oxadiazon on ornamentals to evaluate control of grassy and broadleaf weeds. A total of 20 acres is involved; the program is authorized only in the States of Alabama, California, Florida, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, and Texas. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202–755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated May 4, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-13627 Filed 5-12-77;8:45 am]

[FRL-727-4]

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

List of Violating Facilities

Pursuant to Section 306 of the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Pub. L. 91–604), Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 92–500), and Executive Order 11738, EPA has been authorized to provide certain prohibitions and requirements concerning the administration of the Clean Air Act and Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans. On April 16, 1975, regulations implementing the requirements of the statutes and the Executive Order were promulgated in the FEDERAL REGISTER (see 40 CFR Part 15, 40 FR 17124, April 16, 1975). Section 15.20 of the regulations provides for the establishment of a List of Violating Facilities which will reflect those facilities ineligible for use in nonexempt Federal contracts, grants or loans.

The representatives of any facility under consideration for listing are afforded the opportunity to appear at a Listing Proceeding conducted by the Director, Office of Federal Activities. Listing occurs when the Director determines there is adequate evidence of noncompliance with clean air or water standards. Federal, State, and local criminal convictions, civil adjudications, and administrative findings of noncompliance may serve as a basis for consideration of listing. However, in the case of a State or local civil adjudication or adminis-

trative finding, EPA may consider listing only at the request of the Governor.

The List of Violating Facilities is contained in two sublists. Sublist 1 includes those facilities listed on the basis of a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. Sublist 2 includes those facilities listed on the basis of any injunction, order, judgment, decree, or other form of civil ruling by a Federal, State, or local court issued as a result of noncompliance; or a conviction in a State or local court for noncompliance; or on the basis of noncompliance with an order under seciton 113(a) of the Clean Air Act or section 309(a) of the Federal Water Pollution Control Act, have given rise to the initiation of court action under section 113(b) of the Clean Air Act or section 309(b) of the Federal Water Pollution Control Act, or have been subjected to equivalent State or local proceedings to enforce clean air or water standards.

No agency in the Executive Branch of Government shall enter into, renew, or extend any nonexempt contract, subcontract, grant, subgrant, loan or subloan where a facility listed would be utilized for the purposes of any such agreement.

The purpose of this Notice is to remove from Sublist 2 the facilities of Star-kist Caribe, Inc., Mayaguez, Puerto Rico, and Del Monte de Puerto Rico, Inc., Mayaguez, Puerto Rico.

Pursuant to this authority, the Director, Office of Federal Activities, U.S. Environmental Protection Agency, certifies that the following facilities are on the List of Violating Facilities as of April 22, 1977. The List of Violating Facilities will be revised periodically as any listings or de-listings occur.

LIST OF VIOLATING FACILITIES

Sublist 1: Allied-Chemical Corporation, Semet-Solvay Division, Ashland, Kentucky.
Sublist 2: No facilities listed.

Dated: April 29, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities (A-104).

[FR Doc.77-13629 Filed 5-12-77;8:45 am]

[OPP-50296]

HERCULES INC., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency mits to the following applicants. Such permits are in accordance with, and sub- (EPA) has issued experimental use per- ject to, the provisions of 40 CFR Part 172, which refines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 891-EUP-30. Hercules Incorporated, Wilmington, Delaware 19899. This experimental use permit allows the use of 10,800 pounds of the herbicide N-chloroacetyl-N-(2,6-diethylphenyl glycine ethyl ester on sugarbeets and soybeans to evaluate control of annual weeds and seedlings of certain perennial grasses. A total of 4,020 acres of sugarbeets and 3,670 acres of soybeans is involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from April 11, 1977, to April 11, 1978. Temporary tolerances for residues of the active ingredient in or on sugarbeets and soybeans have been established.

No. 476-EUP-75. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 708 pounds of the herbicide S-ethyl cyclohexylethylthiocarbamate on sugarbeets to evaluate control of annual grasses and broadleaf weeds. A total of 180 acres is involved; the program is authorized only in the States of Idaho, Nebraska, and Washington. The experimental use permit is effective from April 19, 1977, to April 19, 1978. A permanent tolerance for residues of the active ingredient in or on sugarbeets has been established (40 CFR 180.212).

No. 239-EUP-79. Chevron Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 6,285 pounds of the insecticide acephate on forests to evaluate control of spruce budworms, Gypsy moth larvae and larch casebearers. A total of 17,620 acres is involved; the program is authorized only in the States of Idaho, New Hampshire, Maine, and Vermont. The experimental use permit is effective from May 11, 1977, to May 11, 1978.

Interested parties wishing to review the experimental use permits are referred to oom E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.))

Dated: May 4, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-13625 Filed 5-12-77;8:45 am]

[FRL 727-7]

SCIENCE ADVISORY GROUP ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9:00 a.m. on June 1, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to conclude the Committee's deliberations on a report of the Study Group on Mutagenicity Testing which reviewed the scientific aspects of draft EPA Guidelines for the registration of pesticides relating to mutagenicity testing; (2) to hear and discuss a preliminary report of the Committee's Study Group on Pentachlorophenol Contaminants which, i.a., is examining the potential hazard to humans attributable to registered uses of pentachlorophenol; (3) to discuss an Agency request for advice and assistance on an evaluation of the scientific principles and premises underlying Agency policies and procedures for establishing tolerances for pesticide residues on agricultural commodities; and (4) to be briefed on and to discuss currently contemplated proposed regulations under section 4 (Testing of Chemical Substances and Mixtures) of the Toxic Substances Control Act, and particularly some of the scientific aspects of the contemplated regulations relating to health. The Agenda will also include (5) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. May 24, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

LLOYD T. TAYLOR,
Acting Staff Director, Science Advisory Board.

MAY 9, 1977.

[FR Doc.77-13626 Filed 5-12-77;8:45 am]

[FRI 728-4; PP5G1826/T99]

GLYPHOSATE

Establishment of a Temporary Tolerance

Monstanto Co., 800 North Lindbergh Blvd., St. Louis Mo. 63166, has submitted a pesticide petition (PP6G1826) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for residues of the herbicide glyphosate (*N*-(Phosphonomethyl) glycine and its metabolite aminomethylephosphonic acid in or on the raw agricultural commodities sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 per per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The scientific data considered in making these determinations were that the metabolism of glyphosate in plants and

animals is adequately understood, and there is an adequate analytical method of enforcement (gas chromatography with a phosphorus specific flame photometric detector). The toxicological data reviewed included acute dog and rat feeding studies, a mouse carcinogenic study, rat reproduction tests, mouse mutagenicity results, rabbit teratogenic analysis, 2-year rat and dog feeding studies as well as cholinesterase-inhibition and hen neurotoxicity studies. A no-effect level of 100 ppm has been determined. Permanent tolerances have been established for residues of glyphosate in or on grain crops at 0.1 ppm (negligible residue), forage grasses at 0.2 ppm (negligible residue), soybeans at 0.2 ppm (negligible residue), and soybean forage and hay at 0.4 ppm (40 CFR 180.364). Food and feed additive tolerances have also been established for residues of glyphosate in potable water at 0.1 ppm (21 CFR 193.235) and dried citrus pulp at 0.4 ppm (21 CFR 561.253). The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires May 6, 1978. Residues not in excess of 0.1 ppm remaining in or on sugarcane after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: May 6, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13799 Filed 5-12-77;8:45 am]

[FRL 728-1; PF71]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

ICI United States, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897 has submitted a petition (PP 7E1941) to the Environmental Protection Agency which proposes amending 40 CFR 180 by establishing a tolerance for residues of the fungicide 5-butyl-2-(ethylamino)-4-hydroxy-6-methylpyrimidine in or on the raw agricultural commodity melons at 0.2 part per million (ppm). The proposed analytical method for determining residues is a gas chromatographic procedure using a nitrogen detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/426-2454. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13802 Filed 5-12-77;8:45 am]

[FRL 728-3; OPP-33000/501]

RECEIPT OF APPLICATION 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 (39 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 ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington D.C. 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim 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 or the status of such data under Section 10 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 Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 20—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 12, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquires and assertions that data relied

upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 13, 1977.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/501)

EPA File Symbol 115-GT. Continental Chemical Co., 2750 Grand Ave., Cleveland OH 44104. DI-SAN NO. 180. Active Ingredients: Octyl decyl dimethyl ammonium chloride 5.0%; Didecyl dimethyl ammonium chloride 2.5%; Dioctl dimethyl ammonium chloride 2.5%; Isopropyl alcohol 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 115-GI. Continental Chemical Co. DI-SAN NO. 175. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA Reg. No. 239-2211. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. ORTHO DIFOLATAN 4 FLOWABLE. Active Ingredients: Captafol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Significant new use pattern. PM21.

EPA Reg. No. 239-2369. Chevron Chemical Co. ORTHO DIFOLATAN 4 FLOWABLE SEED PROTECTANT. Active Ingredients: Captfol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Significant new use pattern. PM21.

EPA Reg. No. 239-2418. Chevron Chemical Co. ORTHO ORTHENE 75S SOLUBLE POWDER. Active Ingredients: Acephate (0,S Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM16.

EPA File Symbol 239-EUGE. Chevron Chemical Co. ORTHO LIQUID LAWN DISEASE CONTROL. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 29.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EUGL. Chevron Chemical Co. ORTHO ROSE DISEASE CONTROL. Active Ingredients: Triforine-N,N'-[1,4-piperazinediylbis(2, 2, 2 - trichloroethylidene)] bis (formamide) 6.5%. Republished: Application proceeds under method of support 2(b) rather than 2(a). PM21.

EPA File Symbol 239-EUGI. Chevron Chemical Co. ORTHO VEGETABLE & GARDEN FUNGICIDE. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 29.6%. Republished: Application proceeds under method of support 2(b) rather than 2(c). PM21.

EPA Reg. No. 239-2443. Chevron Chemical Co. ORTHENE FOREST SPRAY. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM16.

EPA File Symbol 239-EUUI. Chevron Chemical Co. ORTHO DIFOLATAN VITAVAX 1-2 FLOWABLE SEED PROTECTANT. Active Ingredients: Captafol 10%; Carboxin 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EULR. Chevron Chemical Co. ORTHOCIDE VITAVAX 25-50 SEED PROTECTANT. Active Ingredients: Captan 25%; Carboxin 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EULL. Chevron Chemical Co. ORTHO TRIFORINE EC. Active Ingredients: Triforine (N,N'-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide]) 18.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA Reg. No. 241-243. American Cyanamid Co., Agricultural Div., PO Box 400, Princeton NJ 08540. PROWL HERBICIDE. Active Ingredients: ([N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine]) 43.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use and revised offer to pay statement submitted. PM25.

EPA File Symbol 241-ELU. American Cyanamid Co. PROWL 10-C HERBICIDE. Active Ingredients: ([N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine]) 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25.

EPA File Symbol 372-UI. Mallinckrodt, Inc., 3600 N. Second St., St. Louis MO 63147. DUOSAN. Active Ingredients: Thiophanatemethyl (Dimethyl [(1,2-phenylene) bis (iminocarbonothioyl)] bis [carbamate]) 15%; A coordination product of zinc ion and manganese ethylenebis dithiocarbamate 60%. Republished: Application proceeds under method of support 2(b) rather than 2(a). PM21.

EPA File Symbol 400-RGE. Uniroyal Chemical—Div. of Uniroyal, Inc., 74 Amity Rd., Bethany CT 06525. VITAVAX 90 DBC. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4 - oxathiin - 3 - carboxanilide) 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 476-ERIU. Stauffer Chemical Co., 1200 S. 47th St., Westport CT 06880. DEVRINOL 10G SELECTIVE HERBICIDE GRANULES FOR USE ON CRANBERRIES. Active Ingredients: 2-(alphanaphthoxy)-N, N-diethylpropionamide 10%. Method of Support: Application proceeds under 2(a) of interim policy. PM25.

EPA Reg. No. 851-26. Commercial and Industrial Products Co., Manufacturing Chemists, Rear Main St., Childs PA 18407. CIPCO PYNOCID PINE ODOR DISINFECTANT. Active Ingredients: Pine Oil 11.9%; Ortho-Benzyl-Para-Chlorophenol 5.2%; Soap 5.0%; Isopropyl Alcohol 3.7%. Method of Support: Application proceeds under 2 (b) of interim policy. Republished: Additional data and revised offer to pay statement submitted. PM32.

EPA File Symbol 869-RAE. Green Light Co., Box 17985, San Antonio TX 78217. GREEN LIGHT DACTHAL GRANULES. Active Ingredients: Dimethyl tetrachloroterephthalate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM23.

EPA File Symbol 891-RIN. Hercules Inc., Organics Dept., 910 Market St., Wilmington DE 19899, U.S.A. TORAK. Active Ingredients: Dialifor [0,0-diethyl S-(2-chloro-1-phthalimidoethyl) phosphorodithioate] 90%; Related reaction products 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM16.

EPA Reg. No. 10022-354. Chapman Chemical Co., PO Box 9158, Memphis TN 38109. PERMATOX 100. Active Ingredients: Sodium tetrachlorophenate 17.960%; Sodium salts other chlorophenols 4.850%; Sodium metaborate octahydrate 13.250%; Phenylmercuric acetate 0.366%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 1023-50. Tuco, Div. of the Upjohn Co., 7171 Portage Rd., Kalamazoo MI 49001. ACTI-DIONE TGF. Active Ingredients: Cycloheximide 2.1%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 1297-LE. Buckingham Wax Co., Inc., Van Dam St. & Borden Ave., Long Island City NY 11101. BUCKINGHAM CWT ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) diemethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) diemthyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 1562-T. The Great Atlantic & Pacific Tea Co., Inc., 500 Ann Page Rd., Horseheads NY 14845. A&P TOILET BOWL CLEANER. Active Ingredients: Sodium Bisulfate 62.00%; Sodium Dodecylbenzenesulfonate 1.12%; Monopotassium Peroxysulfate 0.15%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34.

EPA Reg. No. 1706-146. Nalco Chemical Co., 6216 W. 66th Pl., Chicago IL 60638. NALCO 2532. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 12.5%; Bis(tri-n-butyltin) oxide 2.5%. Republished: Application proceeds under method of support 2(b) rather than 2(a). PM33.

EPA Reg. No. 2224-44. Mobil Chemical, PO Box 26683, Richmond VA 23261. MOBIL MOCAP EC. Active Ingredients: Ethoprop-(*O*-Ethyl *S,S*-Dipropyl Phosphorodithioate) 70.6%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims. PM16.

EPA File Symbol 2342-ULN. Kerr-McGee Chemical Corp., PO Box 25861, Oklahoma City OK. GRO-TONE LIQUID COPPER FUNGICIDE. Active Ingredients: Copper salts of fatty and rosin acids (copper as metallic 4.0%) 46%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 2439-RR. Apperson Chemical, Inc., PO Box 2555, Jacksonville FL 32203. 9% CHLORINATION SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 2817-1. Pine-O-Pine Co., 523 W. 22nd St., Houston TX 77008. PINE-O-PINE CLEANSER DISINFECTANT-DEODORANT. Active Ingredients: Pine oil 60%; Soap 15%; Isopropanol 15%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 3125-280. Mobay Chemical Corp., PO Box 4913, Hawthorn Rd., Kansas City MO 64120. MONITOR 4 LIQUID INSECTICIDE. Active Ingredients: O,S-Dimethyl phosphoramidothioate 40%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New use. PM16.

EPA Reg. No. 3339-18. Parke-Hill Chemical Corp., 29 Bertel Avenue., Mt. Vernon NY 10550. AIR-CON TABLETS. Active Ingredients: Sodium Pentachlorophenate 7.90%; Sodium Salts of other Chlorophenols 1.10%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32.

[FR Doc.77-13800 Filed 5-12-77;8:45 am]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

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the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

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In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim 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 or the status of such data under Section 10 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 Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

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PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 12, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 13, 1977.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/502)

EPA File Symbol 3682-UU. E. W. Smith Chemical Co., 15020 E. Proctor Ave., City of Industry CA 91746. EMSTROL D-D. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C10) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (60% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 4170-RE. Betco Corp., 1125 Brown Ave., Toledo OH 43607. SANI-BET DISINFECTANT-SANITIZER FUNGICIDE DEODORIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 4476-TO. Morton Pharmaceuticals, 1625-39 N. Highland, Memphis TN 38108. MORTON INSECT SPRAY NO. 2. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 6.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 4476-IN. Morton Pharmaceuticals. MORTON FLEA SPRAY NO. 2. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of support: Application proceeds under 2(b) of interim policy. PM17.

EPA Reg. No. 4643-14. Dearborn Chemical Div., Chemed Corp., 300 Genesee St., Lake Zurich IL 60047. DEARCIDE 708. Active Ingredients: Methylene Bisthiocyanate 5.0%; Sodium Bisulfate 71.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 5667-99. Barrett Chemical Co., Inc., H & Luzerne Sts., Philadelphia PA 19124. BARRETT'S CLEANER CONCENTRATE NO. 18. Active Ingredients: Butoxy polypropoxy polyethoxy ethanoliodine complex 12.47%; Polyethoxy polypropoxy polethoxy ethanol-iodine complex 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted PM34.

EPA File Symbol 5667-RNL. Barrett Chemical Co., Inc., BARRETT'S SANITIZER NO. 26. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. MP31.

EPA File Symbol 5700-T. Kellermeyer Chemical Co., 1025 Brown Ave., Toledo OH 43607. TEAM ALAGE CONTROL. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 5700-A. Kellermeyer Chemical Co. TEAM COOLING TOWER TREATMENT. Active Ingredients: Poly[oxyethylene - (dimethyliminio)ethylene(dimethyliminio)ethylenedichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 6020-RO. MOM Chemical Co., Inc., 7775 N.W. 66th St., Maimi FL 33166. DEODORIZING BRIGHTNER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 6125-GR. Bixon Chemical Co., 50-19 97th Pl., Corona NY 11368. QUAT NO. 8. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-L. Palmetto Chemical & Supply Co., Inc., PO Box 1218, 600 Stitt St., Monroe NC 28110. AQUACIDE CONCENTRATED SWIMMING POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM 24.

EPA File Symbol 6889-A. Palmetto Chemical & Supply Co., Inc., DEO-CIDE DISINFECTANT DEODORIZER SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-T. Palmetto Chemical & Supply Co., Inc., SLIMETROL INDUSTRIAL WATER COOLING TOWER ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 5% Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-I. Palmetto Chemical & Supply Co., Inc., POWERCIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 0.8%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium Ethylenediamine Tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-0. Palmetto Chemical & Supply Co., Inc., DC-1000. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5.0%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 6900-148. The J. J. Dill Co., 1407 Ravine Rd., PO Box 788, Kalamazoo MI 49006 DILL DIAZINON EMS INSECTICIDE.

Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 47.33%; Aromatic petroleum derivative solvent 29.94%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15.

EPA File Symbol 6921–A. Tesch Chemical Co., Inc., 1281 E. Midway Rd., Appleton WI 54911. SPEEDEE Q. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 7173–RAI. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. ROZOL CANARY SEED HOUSE MOUSE KILLER. Active Igredients: 2-[(p-chlorophenyl) phenylacetyl]-1,3-Indandione 0.005%. Method of Support: Application proceeds under 2(b) of interim policy. PM11.

EPA File Symbol 7401–RTG. Volunteer Purchasing Group, Inc., PO Box 460, Bonham TX 75418. FERTI-LOME SPECIAL VEGETATION KILLER. Active Ingredients: Sodium Chlorate 18%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 8075–O. Allen Chemical Co., 3235 NW 37th St., Miami FL 33142. SANICHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 8901–RO. Kocide Chemical Corp., PO Box 45539, Houston TX 77045. KOCIDE FLOWABLE SULFUR. Active Ingredients: Sulfur 52%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 9019–L. Malco Products, Inc., 316 Fairvico St., Barberton OH 44203. MALCO DS–75. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9619–I. Synthetic Labs, Inc., Victory Ln., Dracut MS 01826. GC #1. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9480–G. Professional Disposables, Inc., 150 N. MacQueaten Pkwy., Mount Vernon NY 10550. DISINFECTANT TOWELETTE. Active Ingredients: n-Alkyl Dimethyl Benzyl Ammonium Chlorides 0.1%; n-Alkyl Dimethyl Ethylbenzyl Ammonium Chlorides 0.1%; Isopropyl Alcohol 64.23%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9702–G. Allstate Chemical Co., 601 Treblsky Ave., Euclid OH 44143. ALGAE-KNOC 616. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 10114–E. Asplundh Tree Expert Co., Blair Mill Rd., Willow Grove PA 19090. ASPLUNDH CLEAR WAY. Active Ingredients: Bromacil (5-bromo-3-Sec-butyl-6-methyluracil) 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA Reg. No. 10182–7. ICI United States, Inc., Agricultural Chemicals Div., Concord Pike & New Murphy Rd., Wilmington DE 19897. PIRIMOR 50W. Active Ingredients: 2-(dimethylamino)- 5,6-dimethyl-4-pyrimidinyl dimethylcarbamate 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims. PM16.

EPA File Symbol 10600–L. Suhm Laboratories, Inc., 6901 Industrial Loop, Greendale WI 53129. EX–A(3). Active Ingredients: Disodium cyanodithiomidocarbonate 3.68%; Potassium N–methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 10807–16. Aero Mist, Inc., 990 Industrial Park Dr., Marietta GA 30060. MISTY WASP & HORNET KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 26.375%. Method of Support: Application proceeds under 2(a) of interim policy. PM17.

EPA File Symbol 11511–RL. Shalco Chemical Corp., PO Box 2508, 2421 Lexington Ave., Toledo OH 43606. SHALCO VEGETATION CONTROLLER. Active Ingredients: Diquet dibromide (6,7-dihydrodipyrido (1,3-a:2',1'-c) pyrazinedilium dibromide) 0.464%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24.

EPA File Symbol 11511–RA. Shalco Chemical Corp. SHALCO LIQUID VEGETATION CONTROL. Active Ingredients: Diquat dibromide [6,7-dihydrodipyrido (1,2-A:2', 1'-c) pyrazinedilum dibromide] 1.85%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24.

EPA File Symbol 11515–AU. ABC Chemical Corp., 14288 Meyers Rd., Detroit MI 48227. ABC TOWER ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene - (dimethyliminio)ethylene - dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11515–AL. ABC Chemical Corp. ABC POOL ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) - ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11589–E. Pan America Chemical, 1201 NW 1 Ave., Miami FL 33123. PACCO CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 11694–74. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. DC–450. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 12264–RE. Allstates Chemical Corp., PO Box 7482A, Houston TX 77008. ONWARD HD DISINFECTANT DETERGENT. Active Ingredients: Sodium Metasilicate 2.4%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzy ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 12288–R. Pompano Chemical & Cleaning Supply, Inc., 100 SE 26 Ave., Pompano Beach FL 33060. SUPER BLEACH. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12646–R. Economy Chemical Co., PO Box 1197, Ft. Pierce, FL 33450. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12711–E. Ike's Carter Pool, 1290 E. Commercial Blvd., Ft. Lauderdale FL 33339. IKECHLOR SUPER–12 SANITIZER. Active Ingredients: Sodium Hypochlorite 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12724–R. Key West Chemical & Janitor Supply Inc., 909 Simonton St., Key West FL 33040. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 13978–E. South Miami Pool Company, Inc., 9619 S. Dixie Hwy., Miami FL 33156. SOUTH MIAMI SANI GUARD. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14639–R. Clear Pool Maintenance, Inc., PO Box 9586, Riviera Beach FL 33404. CLEARINE. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14770–E. Aaron & Douglas Pool Service, Inc., 735 S. Military Trail, West Palm Beach FL 33406. LIQUID CHLORINATING PRODUCT. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14961–RT. Rex Chemical Corp., 2300 NW 23 St., Miami FL 33142. CLORO. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

APPLICATIONS RECEIVED (OPP–33000/503)

EPA Reg. No. 15575–17. Southland Agricultural Chemical, PO Box 6207, 1075 Chandler St., Montgomery AL 36106. CYTHION. Active Ingredients: Malathion 57.0%; Xylene 30.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16.

EPA File Symbol 15749–E. Vermillion Chemical Service, Inc., 1306 Charity St., Abbeyville LA 70510. VERMILLION Q.A.C. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alykl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 18280–R. Aqua Pool, Inc., 940 NW 44th St., Ft. Lauderdale FL 33309. AQUA POOLS, INC. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 15749–G. Vermillion Chemical Service. VC–ALGAWAY. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Me-

thod of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 20429-G Warren Chemical Mfg., Inc., 600 Pleasant St., Norwood MA 02062. #520 LIQUID SANITIZER. Active Ingredients: Alkyl (C14, 50%; C12, 40%; C16, 10%) Dimethyl Benzyl Ammonium Chloride 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 20653-R. Crescent Pool Supply Co., 2310 S. State Rd. #7, Miramar FL 33023. CRESCENT POOL-TROL. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 21277-E. Palm Beach Chemical Co., 530 24th St., West Palm Beach FL 33407. PABECO POOL GUARD SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 21340-7. Chemlab Products, Birmingham AL. 35217 CHEM GUARD LEMON DISINFECTANT CONCENTRATE COEF. 38. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 10.00%; Isopropanol 5.00%; Essential oils 1.25%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 26764-R. Miller Machinery & Supply Co., PO Box 52, 604 Biscayne Annex, Miami FL 33152. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 30464-A. Willis Pool & Chemical, 1802 Butternut St., Abilene TX 79602. ALGAE GO CONCENTRATE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 30464-T. Willis Pool & Chmeical. W P TOWERCIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 32922-G. Holiday Industries, 523 E. Rock Island, Grand Prairie TX 75050. POOL-GUARD ALGAE CONTROL NF CONCENTRATE. Active Ingredients: Poly[oxethylene (dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33356-E. Quality Chemical Company, 1835 NE 144th St., North Miami FL 33161. AQUA-KLEAR 100. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33356-L. Quality Chemical Co. CHLORO GUARD. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33633-R. Water Maintenance Service, 8 S. 335 Madison St., Hinsdale IL 60521. WMS 300. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 34973-1. Down East Chemical Corp., 233 Oxford St., Portland ME 04111. D.E. FOOD PLANT CLEANER. Active Ingriedients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl chlorides 1.6%; Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 35054-R. Makiki Electronics, PO Box 629, Hauula HA 96717. TERM-OUT. Kills Termites, Roaches, Ants. Active Ingredients: (5-Benzyl-3-Furyl) Methyl 2, 2-Dimethyl-3-(2-Methylpropenyl) Cyclopropanecarboxylate 00.250%; Related compounds 00.034%; Aromatic petroleum hydrocarbons 00.331%; Petroleum distillates 29.385%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added data. PM17.

EPA File Symbol 35135-U. Markay Laboratories, 209 S. Van Norman Rd., Montebello CA 90640. BIOCIDE 615-L. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 35300-E. Guardian Pools Inc., 650 N. State Rd., #7, Wollywood FL 33021. GUARDIAN CHLORINATING SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37921-R. North Miami Pool Co., Inc. 1658 NE 123rd St., N. Miami FL 33181. SANI CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim. PM34.

EPA File Symbol 363330-E. Ronbar Labs., Inc., 32-02 Greenpoint Ave., L.I.C. NY 11101. SAN-IT. Active Ingredients: Alkyl (C14, 60%; C16, 30%; C12, 5%; C18, 5%) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (C12, 68%; C14, 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of intermi policy. PM31 EPA File Symbol 37829-E. The Pool Supply People Inc., 4202 Peter Rd., Plantation FL 33317. PSP POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim. PM34.

EPA File Symbol 37829-E. The Pool Supply People Inc., 4202 Peter Rd., Plantation FL 33317. PSP POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37837-R. Spec Pool Service & Equipment Corp., 14855 NW 7th Ave., Miami FL 33168. SPEC CHLOR POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37840-R. Superior Swimming Pool Co., 4678 E. 10 Ln., Hialeah FL 33013. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37808-R. Everwhite Inc., 20450 NE 15th Ct., Miami FL 33179. EVERWHITE SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 37815-R. Ihnen Pools, 3129 NW 35 Ave., Lauderdale Lake FL 33317. IHNEN SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37789-R. A.B.C. Pool Service, Inc., 1550 W. 84 St., Hialeah FL 33014. A.B.C. HOT SHOT SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 38459-G. Dolphin Chemical Co., 270 SW 33rd Ct., Ft. Lauderdale FL 33315. DOLPHINGUARD. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 38459-A. Dolphin Chemical Co. DOLPHINGUARD CONCENTRATE. Active Ingredients: Poly [oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 38688-E. C. H. Dexter Division, The Dexter Corp., One Elm St., Windsor Locks CT 06096. DEXSAN SC. Active Ingredients: Silver as metallic 0.1%. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 38723-E. Walter Louis Chemicals, 530 S. 5th St., Quincy IL 62301. INDUSTRIAL MICROBIOCIDE AM-41. Active Ingredients: Didecyl Dimethyl Ammonium Chlorides 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 38819-E. Solvent Manufacturing Co., Inc., 1517 Ocama Blvd., Midwest City OK 73110. SWIMMING POOL ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)ethyline dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39047-R. 4 Share, Inc. 649 Ionia, NW, Grand Rapids MI 49502. 4-ALGAECIDE 18. Active ingredients: Poly (oxyethylene (dimethyliminio) Ethylene (dimethyliminio) ethylene dichloride) 18.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39310-E. Dominion Laboratories, Inc., 1922 Skyler Dr., Kalamazoo MI 49008. ALGAECIDE 12. Active ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39502-R. Intercem, 3703 E. Melville Way, Anaheim CA 92806. ULTRA GUARD. Active ingredients: Alkyl Dimethyl Benzyl Ammonium Chloride (C14, 60%; C12, 25%; C16, 15%) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 39589-E. Delaware Valley Water Treatment Corp., PO Box 185, Medford NJ 08055. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39562-R. Consolidated Chemex Corp., 855 Industrial Hwy., Cinnaminson NJ 08077. CONSOLIDATED CHEMEX 60-E. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium

Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14, 50%; C12, 40%; C16, 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 39754–R. ChemRite Industries, Inc., PO Box 371 Lannon WI 53046. SANI-CLEANSE. Active Ingredients: Alkyl (60%, C14; 30%, C16; 5%, C12; 5%, C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68%, C12; 32%, C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New PM31.

EPA File Symbol 39754–G. ChemRite Industries, Inc. SANIQUAT II. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammoniunf Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride, Alkyl (C14, 50%; C12, 40%; C16, 10%) 1.875%; Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 39764–R. Industrial Consultants, 27801 Euclid Ave., Euclid OH 44132. ALGAECIDE IC-W. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39840–R. Westmoreland Pool Co., 4613 Wyoming, Wichita Falls TX 76310. WESTMORELAND ALGAECIDE CONTROL. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39919–R. Bohrer Chemical Co., 1915 W. Summers Dr., Abbeville LA 70510. ALGAE-BAN. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 39920–R. Westmoreland Pool Co. WESTMORELAND ALGAECIDE CONTROL CONCENTRATE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene- (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39971–R. Culligan of Central Arkansas, 1025 Valley, Hot Springs AR 71901. ALGAE-CLEAN. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39971–E. Culligan of Central Arkansas. TOWER-CIDE W. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylenedichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39974–R. Star Line Pools, Inc., 601 Holliday St. Wichita Falls TX 76301. STAR LINE ALGI-BAN. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39938–R. North American Systems, Inc., 24700 Miles Rd., Bedford Heights OH 44146. PILTER FRESH AUTOMATIC WATER FILTRATION SYSTEM. Active Ingredients: Metallic Silver 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 39974–E. Star Line Pools, Inc. STAR LINE ALGI-BAN CONCENTRATE. Active Ingredients: [Polyoxyethylene (dimethyliminio) ethylene (dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 40231–R. Sunbeam Products, Inc., 623 Main St., Toledo OH 43605. SUNBEAM. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl 68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

APPLICATION RECEIVED (OPP 33000/504)

EPA File Symbol 168–LNI. Wasatch Chemical Div., Entrada Industries, Inc., 1979 S. 7th West, Salt Lake City UT 84106. WASCO BRAND TREE FUNGICIDE BLP. Active Ingredients: Methyl 2-benzimidazolecarbamate phosphate 0.70%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 211–32. Central Chemical Co., Inc., 3130 Brinkerhoff Rd., Kansas City MO 62115. PHENO-CEN SPRAY DISINFECTANT DEODORANT. Active Ingredients: o-Phenylphenol 0.1706%; o-Chloro-p-Phenylphenol 0.0348%; Ethanol 67.6460%. Method of Support: Application proceeds under 2(a) of interim policy. PM32.

EPA Reg. No. 257–46. Fuld-Stalfort, 1354 Old Post Rd., Havre de Grace MD 21018. P–19 PINE ODOR DISINFECTANT. Active Ingredients: Pine Oil 10.9%; o-Benzyl-p-Chlorophenol 5.0%; Soap 2.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 257–165. Fuld-Stalfort, Inc. MINTO-O-GREEN DISINFECTANT. Active Ingredients: Isopropyl Alcohol 27.000% Soap 6.280%; Essential Oils 2.190%; Sodium Salt of Ethylene Diamine Tetraacetic Acid 0.100%; O-benzyl-p-chlorophenol 3.890%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 352–270. E. I. du Pont de Nemours & Co., Inc., Biochemicals Dept., 7056 DuPont Bldg., Wilmington DE 19898. LOROX LINURON WEED KILLER WETTABLE POWDER. Active Ingredients: Linuron [3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] 50%.Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added tank mix with Surflan on soybeans. PM25.

EPA File Symbol 400–REO. UniRoyal Chemical, Div. of UniRoyal, Inc., 74 Amity Rd., Bethany CT 06525. VITAVAX-75W SYSTEMIC FUNGICIDE. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) 75%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 400–RGN. UniRoyal Chemical. VITAVAX-10G. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 453–ETE. Koppers Co., Inc., Wood Treating Chemicals Dept., 5137 Southwest Ave., St. Louis, MO 63110. TRIBUCIDE 65 READY TO USE. Active Ingredients: Bis (Tri-n-Butyltin) Oxide 0.65%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453–ETG. Koppers, Co., Inc. TRIBUCIDE 75 READY TO USE. Active Ingredients: Bis (Tri-n-Butlytin) Oxide 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453–ETU. Koppers Co., Inc. KOPPERS TRIBUCIDE 50 READY TO USE. Active Ingredients: Bis (Tri-n-Butyltin) Oxide 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 524–308. Monsanto Co., Agricultural Products, 800 N. Lindbergh Ave., St. Louis, MO 63166. ROUNDUP. Active Ingredients: Isopropylamine salt of Glyphosate 41.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Addition to list of weeds controlled and revised offer to pay statement submitted. PM25.

EPA File Symbol 655–LET. Prentiss Drug & Chemical Co., Inc., 363 7th Ave, New York, NY 10001 PRENTOX ROACH BAIT INSECTICIDE (CONTAINS 2% BAYGON) Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12.

EPA File Symbol 876–EAR. Velsicol Chemical Corp., 341 E. Ohio St., Chicago, IL 60611. VELSICOL RAVAGE 75 WP. Active Ingredients: Buthidazole 75.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM24.

EPA Reg. No. 891–278. Hercules, Inc., Agricultural Chemical, Synthetics Dept., Wilmington, DE. 19898. TORAK P. EMULSIFIABLE CONCENTRATE INSECTICIDE. Active Ingredients: Dialifor [0,0-diethyl S-(2-chloro-1-phthalimidoethyl) phosphorodithioate] 40.5%; Related reaction products 4.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amended use. PM16.

[FR Doc.77-13801 Filed 5-12-77;8:45 am]

[FRL 727–8]

WASTEWATER COLLECTION AND TREATMENT FACILITIES

Availability of Final Environmental Impact Statement

Pursuant to section 102(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Wastewater Collection and Treatment Facilities, Scarborough, Maine.

The proposed project involves Federal financial assistance for the design and construction of a sewage treatment plant and a series of interceptors, pump stations, and force mains to service the six Consent Ordered areas plus Prout's Neck and Pleasant Hill, within the Town of Scarborough. The proposed sewage treatment facility is to be located on the site of the existing Oak Hill treatment facility, and is designed to handle 13 million gallons per day. This 1.8 mgd facility is expected to serve a projected sewered population of 14,558 by the year 2000.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on May 3, 1977. In accordance with CEQ's Guidelines (40 CFR 1500.11), no administrative action will be taken until thirty days after receipt of this

FEIS by the Council. Copies of the FEIS are available for review from: Mr. Wallace Stickney, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts (telephone 617-223-4635).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region I Library, JFK Federal Center, Boston, Massachusetts.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

Information copies of the FEIS are available at cost (10 cents/page) from the Environmental Law Institute, Washington, D.C. 20036. Please reference ELR No. 70552.

Copies of the FEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 10, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-13803 Filed 5-12-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. RM-2772]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

Amherst, Virginia

Adopted: May 3, 1977.

Released: May 9, 1977.

By the Chief, Broadcast Bureau:

1. The Commission has before it a petition for rule making filed by Amherst Broadcasting Associates, Inc. ("petitioner"), proposing the assignment of Channel 300B to Amherst, Virginia, as a first FM assignment.

2. On May 21, 1976, the Commission sent petitioner a letter advising him that, since Amherst, a community of 1,108 persons, would normally only be assigned a Class A channel, a coverage showing under Roanoke Rapids and Anamosa and Iowa City[1] would be required before a Class B proposal could be considered. The letter requested petitioner to furnish data showing the extent of expected coverage and the area and population that would be receiving a first and second FM service based on the assumption of reasonable facilities. Also, the letter specifically called for data showing the extent of nighttime service provided by standard broadcast stations in this area.

3. On October 15, 1976, the Commission received petitioner's response in the form of an engineering report supplement. Although this supplement provided the requested Roanoke Rapids analysis indicating that some first and second FM service would be provided, the Anamosa-Iowa City showing indicating whether one or more AM stations already serve these areas at night was not provided. Therefore, we lack the necessary data regarding the extent of first and second nighttime aural service on which to premise issuance of a Notice of Proposed Rule Making. Therefore, the Commission has no other choice in these circumstances but to deny the petition. This action does not preclude consideration of a new petition should petitioner or other interested party come forward in the future with the required data as part of a complete petition.

4. Accordingly, *it is ordered*, That the petition for rule making (RM-2772), filed by Amherst Broadcasting Associates, Inc., is denied.

5. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-13814 Filed 5-12-77;8:45 am]

[1] Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 2d 672 (1967); Anamosa and Iowa City, Iowa, 40 F.C.C. 2d 520 (1974).

FEDERAL ENERGY ADMINISTRATION

STATE ENERGY CONSERVATION PROGRAM

Negative Determination of Environmental Impact; Oklahoma Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Oklahoma, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon the environmental assessment of impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment." National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration concludes that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Oklahoma are available upon request from the FEA Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box ML, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Oklahoma Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., May 23, 1977, in order to receive full consideration.

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

Issued in Washington, D.C., May 9, 1977.

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

[FR Doc.77-13723 Filed 5-12-77;8:45 am]

FEDERAL MARITIME COMMISSION

MARSILLES NORTH ATLANTIC USA, FREIGHT CONFERENCE

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. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 2, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a 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 said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

John R. Attanasio, Esquire, Billig, Sher, & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No. 5660-22, among the members of the above-named Freight Conference, amends the basic agreement to provide that final decisions on conference matters may be made by telex, cable or telephone poll, and that all such decisions shall require the unanimous approval of the members.

Dated: May 10, 1977.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13821 Filed 5-12-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-4953, etc.]

SUN OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 4, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 31, 1977, 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.

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 a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-4953 ..... B 4-14-77	Sun Oil Co., 2 Northpark East, P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipeline Co., Red Fish Bay and Mustang Island Fields, Nueces County, Tex.	(1)	.....
CI62-113 ..... C 4-14-77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Natural Gas Pipeline Co. of America, West Chester Field, Woodward County, Okla.	[2] 29.5¢	14.73
CI67-152 ..... B 4-14-77	Sun Gas Co.	Panhandle Eastern Pipe Line Co., South Peak Field, Ellis County, Okla.	(3)	.....
CI75-722 ..... B 4-14-77	Pioneer Production Corp.	El Paso Natural Gas Co., Eddy County, N. Mex.	(3)	.....
CI77-138 ..... C 4-25-77	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Beaver County, Okla.	[4] [5] 81.8360¢	14.65
CI77-250 ..... A 4-14-77	Pioneer Production Corp.	El Paso Natural Gas Co., Elizando Federal "A" No. 3 well, Eddy County, N. Mex.	[6] 145¢	14.73
CI77-405 ..... B 4-11-77	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Union Texas Petroleum, Pine and Cabin Creek units, Montana.	(7)	.....
CI77-420 ..... A 4-20-77	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island block 296 field, offshore Louisiana.	[8] [9] $1.44	15.025
CI77-424 ..... B 4-21-77	Jake L. Hamon, P.O. Box 663, Dallas, Tex. 75221.	Valley Gas Transmission, Sejita field, Duval County, Tex.	(3)	.....
CI77-425 ..... A 4-25-77	Ladd Petroleum Corp., 830 Denver Club Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., blocks 290 and 291, ship shoal south addition area, offshore Louisiana.	[6] [9] $1.45	15.025
CI77-426 ..... A 4-25-77	Harper Oil Co., 904 Hightower Bldg., 105 North Hudson, Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Smith A-1 well, sec. 14-15N-18W, Custer County, Okla.	[10] $1.58	14.65
CI77-428 ..... A 4-15-77	Southern Union Supply Co., 1800 First International Bldg., Dallas, Tex. 75270.	Western Gas Interstate Co., North Vacuum Morrow field, Lea County, N. Mex.	[8] [9] $1.6764	14.73
CI77-429 ..... (G-18041) E 4-19-77	W. C. DeArman, et al., successor to Coastal States Gas Producing Co.), 1100 Milam Bldg., Houston, Tex. 77002.	Consolidated Gas Supply Corp., Newberry Lands, Wyoming and Logan Counties, W. Va.	[11] 62.85¢	15.025
CI77-430 ..... (G-18041) E 4-19-77	do	Consolidated Gas Supply Corp., Eunice, Dorothy-Sarita, Welch, and Oglebay-Norton lands, Raleigh and Boone Counties.	[11] 62.85¢	15.325
CI77-431 ..... (CI62-249) E 4-19-77	do	United Fuel Gas Co., Skillet, Fork, and Hare lands, Stafford district, Mingo County, W. Va.	62.85¢	15.325
CI77-432 ..... (CI63-1128) E 4-19-77	do	Consolidated Gas Supply Corp., Y. & O. lands, Crook district, Boone County, W. Va.	[11] 62.85¢	15.325
CI77-433 ..... (G-18041) E 4-19-77	do	United Fuel Gas Co., E. K. McClintin lease, Scott district, Putnam County, W. Va.	62.85¢	15.325
CI77-434 ..... (G-18041) E 4-19-77	do	Columbia Fuel Corp., Sharp-McMillen land, Jefferson district, Nicholas County, W. Va.	62.85¢	15.325
CI77-435 ..... (G-4241) B 4-14-77	R. Lacy, Inc., et al., P.O. Box 2146, Longview, Tex. 75601.	Lone Star Gas Co. (now Enserch Exploration, Inc.) Carthage field, Panola County, Tex.	[12]	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Plugged and abandoned.
[2] Pursuant to opinion Nos. 749, 770, and 770-A.
[3] Well depleted.
[4] Applicant proposes to collect the national rate as prescribed in opinion No. 770-A.
[5] Subject to adjustments pursuant to opinion No. 770-A.
[6] Subject to upward and downward Btu adjustments.
[7] Reserves depleted to the extent that it is unwarranted to continue sales.
[8] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended.
[9] Nonproductive.
[10] Includes base $1.44, tax $0.1046 and Btu adjustments.
[11] Includes tax reimbursement of ¾ of any increase payable to seller.
[12] Includes 100 pct tax reimbursement.
[13] Applicant is filing for abandonment pursuant to Commission order issued Dec. 18, 1972.

[FR Doc.77-13589 Filed 5-12-77;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

CENTRAL NATIONAL BANCSHARES, INC.

Proposed Acquisition of First Kansas Financial, Inc.

Central National Bancshares, Inc., Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through merger, the assets of First Kansas Financial, Inc., Wichita, Kansas. Notice of the application was published on April 3, 1977, in The Kansas City Star and on April 8, 1977, in the Wichita Beacon, newspapers circulated in Kansas City, Missouri, and Wichita, Kansas, respectively.

Applicant states that following the proposed transaction First Mortgage

Investment Company, Kansas City, Missouri, a subsidiary of First Kansas Financial, Inc., would, as a subsidiary of Applicant, engage in the following activities:

(1) Making, originating, acquiring, purchasing, arranging for, holding, warehousing, and selling, for its own account and for the accounts of others, loans of all types, and other extensions of credit, secured by mortgages or deeds of trust of real property, such as would be made by a mortgage company;

(2) Servicing such loans and other extensions of credit for any person; and

(3) Acting as insurance agent or broker selling credit life, accident and health, credit disability, mortgage redemption, and mortgage cancellation insurance related to loans and extensions of credit made by First Mortgage Investment Company, and selling general property damage and casualty insurance to bank subsidiaries of Central National Bancshares, Inc.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13735 Filed 5-12-77;8:45 am]

[Reg. C; Docket No. R-0047]

NEW YORK STATE

Exemption Application Under the Home Mortgage Disclosure Act of 1975

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: On December 8, 1976, the Board issued an Order exempting New York State depository institutions that are subject to the State Banking Department's loan disclosure regulation (Supervisory Procedure G-107) from the disclosure requirements of the Home Mortgage Disclosure Act and implementing Regulation C. Pursuant to the Board's Order, the State Banking Department submitted amendments to its disclosure regulation, and the Board has determined that the amendments satisfy the requirements of the Order.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne J. Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

SUPPLEMENTARY INFORMATION: On June 22, 1976, the Banking Department of the State of New York applied to the Board for an exemption from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-2809), as implemented by Regulation C (12 CFR 203). The Department's application was filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and § 203.3(a)(3) and the Supplement to Regulation C (12 CFR 203.3(a)(3)), and was based upon the requirements of the Department's Supervisory Procedure G-107. Notice of the application, affording an opportunity for interested parties to submit comments, was published in the FEDERAL REGISTER on July 20, 1976 (41 FR 29917).

On December 8, 1976, based on the record before it, the Board approved the Department's exemption application. The Board's Order was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55583). The Board in its Order, however, required:

> That the New York State Banking Department promulgate an amendment to the provisions of its Supervisory Procedure G 107 to require depository institutions subject to that Procedure to disclose all mortgage loans acquired by any means during each fiscal year, commencing with the last full fiscal year ending prior to July 1, 1976, in at least the detail required pursuant to Section I of Appendix 9 of the Procedure.

Pursuant to that requirement, the Department submitted to the Board amendments to its Supervisory Procedure G-107. Notice of the submission, affording an opportunity for interested parties to submit comments, was published in the FEDERAL REGISTER on April 8, 1977 (42 FR 18659).

Having reviewed the amendments and the comments that were received, the Board has determined that the amendments satisfy the condition stated in its December 8, 1976 Order for the continuance of the exemption. Accordingly, pursuant to the Board's December 8 Order, all New York State-chartered commercial banks, mutual savings banks, and savings and loan associations that are subject to Supervisory Procedure G-107 continue to be exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C. All Federally-chartered depository institutions and any New York-chartered depository institutions that are not covered by Supervisory Procedure G-107 remain subject to Regulation C to the extent that they are not exempt pursuant to subparagraphs (a)(1) and (a)(2) of § 203.3 because of their asset size and the location of their offices.

By order of the Board of Governors, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-13734 Filed 5-12-77;8:45 am]

NORTHEAST UNITED BANCORP, INC. OF TEXAS

Acquisition of Bank

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, has amended its application for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares of First State Bank, Bedford, Texas ("Bank"). On January 19, 1976, the Board approved Applicant's proposal to acquire all of the voting shares of Bank; and on November 5, 1976, the Board approved Applicant's amended proposal to acquire 75 per cent or more of the voting shares of Bank. Applicant has now applied to acquire 51 per cent or more of Bank's voting shares. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application, as amended, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13736 Filed 5-12-77;8:45 am]

ROGER BILLINGS, INC.

Order Approving Acquisition of Additional Shares of Bank

Roger Billings, Incorporated, Delphos, Kansas, a registered bank holding company,[1] has applied for the Board's ap-

[1] Applicant registered as a bank holding company in 1971 at the request of the Federal Reserve Bank of Kansas City. Under § 225.2(b) of the Board's Regulation Y (12 CFR 225.2(b)) a rebuttable presumption existed that Applicant controlled The State Bank of Delphos, Delphos, Kansas; however, the Board has not made a determination that Applicant controlled that bank. By Order of September 14, 1976 the Board approved the application of Applicant to acquire 4.6 percent of the voting shares of Bank. See 62 Federal Reserve Bulletin 863.

proval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 10 per cent of the voting shares of The State Bank of Delphos, Delphos, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant currently owns 26.8 per cent of the voting shares of Bank, and also engages in insurance activities.[2] Bank, with total deposits as of June 30, 1976 of approximately $4.7 million, controls approximately .05 per cent of the total deposits in commercial banks in the State[3] and is the fourth largest of the five banks in the relevant market with approximately 15.2 per cent of the total deposits in the market.[4] Applicant proposes to acquire 50 shares of Bank from a principal shareholder of Bank and Applicant. The proposed acquisition of additional shares of Bank would have no effect on competition, since Applicant and its officers, directors and principal shareholders together already control a majority of Bank's outstanding voting shares. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are considered generally satisfactory. Although Applicant would incur some debt in connection with this acquisition, it appears that income from Bank and Applicant's insurance activities would provide sufficient revenue to service the debt adequately without adversely affecting the financial condition of Bank. Accordingly, considerations relating to banking factors are consistent with approval. Although there are no immediate changes contemplated in the services or facilities of Bank as a result of this acquisition of additional voting shares, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Therefore, it is the Board's judgment that the proposed transaction is consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors,[5] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13737 Filed 5-12-77;8:45 am]

SYB CORP.

Order Approving Formation of Bank Holding Company

CYB Corporation, Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of Stock Yards Bank, Oklahoma City, Oklahoma ("Bank").[1]

Notice of the amended application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company. Upon acquisition of Bank,[2] Applicant would control .06 percent of the total deposits in commercial banks in Oklahoma.[3] Bank, the ninth largest of 72 banking organizations in the relevant market,[4] holds deposits of approximately $59.6 million, representing approximately 1.8 percent of the total deposits in commercial banks in the market.

Upon consummation of the proposal, 16 one-bank holding companies[5] would each acquire less than 5 percent of Applicant's voting shares, and the remainder of Applicant's shares would be held by present shareholders of Bank. The 16 banking organizations hold aggregate deposits of approximately $1.0 billion, representing approximately 9.6 percent of the total deposits in commercial banks in Oklahoma. Three of the 16 organizations are represented in the Oklahoma City market and hold aggregate deposits, including deposits held by Bank, amounting to $215.8 million or 6.6 percent of total market deposits. In this circumstance, it is doubtful that the acquisition of less than 5 percent of Applicant's stock by each of these organizations would adversely affect existing competition within the Oklahoma City market. Each of the other 13 organizations that would own shares of Applicant is located in a separate banking market. In light of the small interest each of the 16 organizations would acquire in Applicant, the Board concludes that consummation of the proposal would not increase the concentration of banking resources in any relevant market and would not have a significant adverse effect upon either existing or potential competition. Accordingly, the Board finds that competitive considerations are consistent with approval of the application.

Where, as here, a number of bank holding companies agree to acquire less than 5 percent each of the outstanding voting shares of another company or a bank, at least two issues warranting regulatory concern may arise: First, the companies' participation in the management or business of the other company or bank may be so extensive as to support the conclusion that each of the holding company-shareholders is not merely a passive investor, but is in fact engaging as an entrepreneur in the business of the other company or bank.[6]

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[2] Applicant claims section 4(c)(11) as authority for its continuing to engage in its nonbanking activities. In the event the Board determines that Applicant is not entitled to that exemption, Applicant has agreed to either file an application pursuant to section 4(c)(8) or reduce its holdings of Bank's stock to less than 25 per cent of the outstanding voting shares.

[3] All banking data are as of December 31, 1975, except as noted.

[4] The relevant market is approximated by northern Ottawa and southern Cloud Counties.

[5] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

[1] By Order of May 6, 1975 (40 FR 21076), the Board approved an application by SYB Corporation to become a bank holding company through the acquisition of Bank. Consummation of the approved proposal was delayed pending receipt of a tax ruling from the Internal Revenue Service. In view of the length of time that has elapsed since the Board issued its Order approving the application and the substantial amendments that Applicant has made to the proposal, the Board has considered the amended proposal as if it were a new application.

Effective April 25, 1977, Bank changed its name to United Oklahoma Bank.

[2] Under a trust arrangement, shareholders of Bank are the beneficial owners of 20 percent of the shares of Oklahoma Bankers Life Insurance Company, Oklahoma City, Oklahoma ("OBLIC"). Under sections 2(g)(1) and 2(g)(2) of the Act, control of these shares would be attributed to Applicant upon its acquisition of Bank. The activities of OBLIC have not been determined to be permissible under section 4(c)(8) of the Act and, therefore, the indirect control of these shares by Applicant is prohibited. Accordingly, upon acquisition of Bank, Applicant is required to divest its indirect interest in OBLIC within the applicable time period provided in section 4(a)(2) of the Act.

[3] All banking data are as of June 30, 1976.

[4] The relevant market is approximated by the Oklahoma City Standard Metropolitan Statistical Area.

[5] At this time, only ten of the 16 bank holding companies have been formed. Regulatory approval has been granted to formation of an eleventh. The participation of the remaining holding companies in the above-described arrangement is contingent upon regulatory approval of their formation.

[6] The Board recently stated, in an interpretation under section 4 of the Act, that the exemption in section 4(c)(6) of the Act, under which a bank holding company is generally permitted to own up to 5 percent of the voting shares of a nonbank company without Board approval, should be interpreted as applicable only to passive investments, and does not authorize control relationships or entrepreneurial activity (63 Federal Reserve Bulletin 60 (1977)). The rationale of that interpretation is equally

Second, the group of shareholders itself may, through agreement or understanding among the members or through its structure alone, constitute a "company" within the meaning of section 2(b) of the Act (12 U.S.C. 1841(b)).

On the basis of the facts of record in the present case, the Board is not persuaded that the intention of the holding company-shareholders is to expand their banking businesses further through Applicant. Moreover, the Board does not find it necessary at this time to make a determination that the proposed stockholders of Applicant will themselves constitute an organization that fits the definition of "company" in section 2(b). The Board remains concerned, however, that the close association of bank holding companies as stockholders of Applicant could create potential opportunities for additional investments in banking or nonbanking businesses by this group under circumstances that could be insistent with the purposes of the Act. Accordingly, the Board's approval of this application, and its decision not to treat the stockholder group as a bank holding company itself, are subject to the following conditions:

1. The companies owning or controlling shares of Applicant will not engage in any other banking or nonbanking activities as part of a group that consists of substantially the same companies as are shareholders of Applicant.

2. The companies owning shares of Applicant will not enter into any formal or informal agreement or understanding among themselves concerning the manner in which shares of Applicant are to be voted.

3. None of the companies owning shares of Applicant will sell, assign, or transfer any of its shares of Applicant unless and until it has obtained the agreement of any purchaser, assignee or transferee to be bound by the provisions of this Order.

Should the Board have reason to believe at some future date that these companies are not acting independently as essentially passive investors, it will take appropriate steps to ensure that the regulatory purposes of the Act are not evaded.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank, which are regarded as satisfactory. Applicant will issue voting common stock and nonvoting cumulative preferred stock in exchange for Bank's shares. Accordingly, considerations relating to banking factors are consistent with approval of the application. Although consummation of the transaction would have no immediate effect on area banking needs, considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record[7] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[8] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13738 Filed 5-12-77;8:45 am]

[Docket No. TCR 76-132]

WACHOVIA CORP.

Prior Certification Pursuant to the Bank Holding Company Tax Act of 1976

The Wachovia Corporation, Winston-Salem, North Carolina ("Wachovia") has requested a prior certification pursuant to Section 6158(a) of the Internal Revenue Code (the "Code"), as amended by Section 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its proposed sale of all the 20,000 issued and outstanding shares of common stock of Financial Courier Corporation (formerly Wachovia Courier Corporation), Winston-Salem, North Carolina ("Courier"), now held by Wachovia is neessary or appropriate to effectuate Section 4 of the Bank Holding Company Act (12 U.S.C. 1843 et seq.) ("BHC Act"). Wachovia has agreed to sell the shares of Courier to Pony Express Courier Corp., Atlanta, Georgia ("Pony Express") for $2,250,000 cash payable on the closing date.

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification.[1]

1. Wachovia is a corporation organized under the laws of the State of North Carolina in September 1968 to acquire and hold all the shares of Wachovia Bank and Trust Company, N.A. ("Bank").

2. On December 31, 1968, Wachovia acquired ownership and control of all of the outstanding voting shares (less directors' qualifying shares) of Bank.

3. Wachovia became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its ownership and control at that time of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on January 20, 1972. Wachovia would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date of more than 25 percent of the voting shares of Bank. Wachovia presently owns and controls 100 percent (less directors' qualifying shares) of the outstanding voting shares of Bank.

4. Courier was organized in May 1969 as a wholly owned subsidiary of Wachovia to engage in the business of providing courier service for transportating financial documents and data processing material. Such services are currently performed by its Bank, its correspondent banks, customers of Bank's data processing subsidiary and the Federal Reserve Bank of Richmond. Wachovia presently owns and controls the 20,000 issued and outstanding shares of common stock of Courier, all of which it acquired before July 7, 1970.

5. Wachovia has not filed an application with the Board, or otherwise obtained the Board's approval, pursuant to section 4(c)(8) of the BHC Act to retain the shares of Courier or engage in the activities carried on by Courier.[2]

6. Wachovia has contracted to sell the shares of Courier to Pony Express for cash.

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applicable to the acquisition of 5 percent holdings in banks or bank holding companies within the leeway provided in section 3(a)(3) of the Act.

[7] Dissenting Statement of Governor Coldwell filed as part of the original Document. Copies are available upon request from the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[8] Voting for this action: Vice Chairman Gardner and Governors Wallich, Partee and Lilly. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governor Jackson.

[1] This information derives from Wachovia's correspondence with the Board concerning its request for this certification, Wachovia's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.

[2] Although Wachovia has not sought Board approval to retain Courier, some or all of Courier's activities may be among those activities that the Board has previously determined to be closely related to banking, under section 4(c)(8). See CFR 225.4(a)(11) and 225.129; *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F. 2d 1229 (D.C. Cir. 1975). Under the Board's present procedures, however, the question whether, or to what extent, Wachovia would be permitted to retain these activities would not be determinable unless and until Wachovia filed an application for permission to retain the activities. In passing upon such an application the Board would be required to apply the second test set forth in § 4(c)(8) and to determine whether the performance of these activities by a subsidiary of Wachovia "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." In the absence of favorable action on such an application Wachovia would have no authority for retaining Courier beyond December 31, 1980, if it continued to be a bank holding company beyond that date. The legislative history of the Tax Act does not indicate a Congressional intent that companies subject to such a divestiture requirement exhaust the possibilities for retaining the activity before being eligible for tax relief, and in view of the paramount purpose of section 4 of the BHC Act, that "banking and commerce should remain separate," S. Rep. No. 1084, 91st Cong., 2d Sess. 12 (1970), it would appear that the disposition of a potentially permissible activity, without first seeking approval for retention, is at least "appropriate" to effectuate section 4.

On the basis of the foregoing information it is hereby certified that:

(A) Wachovia is a qualified bank holding corporation, within the meaning of section 6158(f)(1) and subsection (b) of section 1103 of the Code; and satisfies the requirements of that subsection;

(B) Courier is "prohibited property" within the meaning of sections 6158(f)(2) and 1103(c) of the Code; and

(C) the sale of Courier is necessary or appropriate to effectuate section 4 of the BHC Act.

This certification is based upon the representations made to the Board by Wachovia and upon the facts set forth above. In the event the Board should hereafter determine the facts material to this certification are otherwise than as represented by Wachovia, or that Wachovia has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(3)), effective May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-13817 Filed 5-12-77;8:45 am]

WELLS FARGO & CO.

Order Approving Acquisition of Ben G. McGuire & Co.

Wells Fargo & Company, San Francisco, California, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire, through a recently established subsidiary, WF-BGM, Inc., San Francisco, California, all of the voting shares of Ben G. McGuire & Company, Houston, Texas ("Company"), a company that engages in the activities of mortgage lending and servicing loans and other extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 13060). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the third largest banking organization in California, controls one bank with total deposits of approximately $10.4 billion representing 10 per cent of the total deposits in commercial banks in the State.[1] Applicant also controls a number of other subsidiaries, including subsidiaries engaged in commerical leasing, real estate advisory services, loan servicing, and mortgage lending.

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

Company, operating from one office in Houston, Texas, is a mortgage lending and loan servicing company engaged in arranging interim financing with lenders for origination of permanent mortgage loans on commerical and income properties and in the ultimate servicing of such loans. Company has not been directly involved in funding mortgage loans, and loans that it has arranged have been closed in the loan investor's name, with the investor's funds. Although none of Applicant's subsidiaries is engaged in servicing mortgage loans in the Houston banking market,[2] Applicant's real estate advisory subsidiary operates an office in the Houston market and, among other things, originates real estate mortgage loans. However, the amount of such loans made by Applicant's subsidiary is not deemed significant when viewed in light of the large number of other competitors in the market.[3] Applicant's mortgage lending subsidiary also has an office in Houston, but it has not originated or serviced any mortgage loans through that office and Applicant has stated that it intends to close the office upon consummation of the proposed transaction. Therefore, in view of the limited nature of Applicant's present activities in the Houston banking market and the competitive structure of mortgage lending in that market, it appears that consummation of the proposal would not have any significant adverse effects on competition in the relevant area. Furthermore, there is no evidence in the record indicating that consummation of this proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects upon the public interest.

Upon consummation of the proposed acquisition, Applicant would offer McGuire the capability to fund directly mortgage loans and warehouse them for short periods of time. To fund such operations, Applicant proposes to downstream some of its commercial paper funds to Company. Through increased access to money markets, Company should also be able to offer a wider range of mortgage loan closings, including residential loans, and to enter additional service markets in Texas. In addition, the policies of Applicant's mortgage lending subsidiary regarding the financing of public housing projects and servicing of FHA loans to low-income borrowers would be extended to McGuire. Accordingly, it appears that the acquisition proposal would produce benefits to the public that are consistent with and lend weight toward approval of this application.

As a source of funds for the proposed acquisition ($3.5 million), Applicant will use a portion of excess proceeds remaining from a $50 million debt issue in 1973. Thus, it appears that the cost of the proposed acquisition will be met with funds currently on hand, without diverting financial resources from Applicant's operations.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that Applicant's acquisition of Company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[4] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13739 Filed 5-12-77;8:45 am]

[2] The relevant market for purposes of reviewing this application is the Houston RMA, approximated by Harris County and portions of Brazoria, Fort Bend, Liberty, Montgomery and Waller Counties.

[3] Within the Houston banking market, McGuire and Applicant generally compete with 6 commercial banks, 17 mortgage banking firms, and 10 savings and loan associations.

FEDERAL TRADE COMMISSION

CORRECTIVE ADVERTISING

Additional Opportunity To Present Views

On March 7, 1977, there was published in the FEDERAL REGISTER (42 FR 12924) a notice of opportunity to submit comments on a petition to adopt an interpretive rule or policy statement on corrective advertising. Interested parties were afforded the opportunity to present the Commission their written views concerning the proposed rule or policy statement, including such pertinent information, suggestions or objections as they may desire to submit. Such views were to be submitted not later than May 6, 1977, to the Assistant Director for National Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

The Commission has determined that additional opportunity for presentation of written views is warranted. Accordingly, the Commission extends the time during which such views may be submitted to not later than June 6, 1977.

Issued: May 13, 1977.

By direction of the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13708 Filed 5-12-77;8:45 am]

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D-146]

PUBLIC BUILDINGS AND SPACE

Designations and Redesignations of Federal Buildings

APRIL 22, 1977.

To: Heads of Federal agencies.

1. *Purpose.* This bulletin announces the designations of 6 Federal buildings and the redesignations of 24 Federal buildings.

2. *Expiration date.* This bulletin expires June 30, 1977. However, the building designations and redesignations announced by this bulletin will remain in effect until canceled or superseded.

3. *Designation.* The names of the buildings being designated are as follows:

DESIGNATED NAMES
Social Security Building, 104 North Mentor Street, Pasadena, CA 91101.
U.S. Post Office, Loop Station, 211 South Clark Street, Chicago, IL 60604.
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, NY 10007.
Federal Building, U.S. Courthouse, 100 South Clinton Street, Syracuse, NY 13202.
Federal Building, U.S. Courthouse, Carlos E. Chardon Avenue, Hato Rey, PR 00918.
Federal Building, U.S. Courthouse, 26 Veterans Drive, Charlotte Amalie, St. Thomas, VI 00801.

4. *Redesignation.* The former and new names of the buildings being redesignated are as follows:

Former name	*New Name*
Federal Bldg., U.S. Post Office and Courthouse, 4th and F Sts., Anchorage, Alaska 99510.	Federal Bldg., U.S. Courthouse, 4th and F Sts., Anchorage, Alaska 99510.
Federal Office Bldg. and Parking Facility, Fairbanks, Alaska.	Federal Bldg., 101 12th Ave., Fairbanks, Alaska 99701.
Courthouse, FOB and Parking Facility, East Broward Blvd. and Northeast 3d Ave., Fort Lauderdale, Fla. 33302.	Federal Bldg., U.S. Courthouse, East Broward Blvd. and Northeast 3d Ave., Fort Lauderdale, Fla. 33302.
Courthouse and Federal Office Bldg., Orlando, Fla. 32801.	Federal Bldg., U.S. Courthouse, 80 North Hughey Ave., Orlando, Fla. 32801.
U.S. Post Office and Courthouse, 56 Forsyth St., Atlanta, Ga. 30301.	U.S. Courthouse, 56 Forsyth St., Atlanta, Ga. 30301.
U.S. Post Office and Courthouse, East Ford St., Augusta, Ga. 30901.	U.S. Courthouse, East Ford St., Augusta, Ga. 30901.
U.S. Courthouse and Federal Office Bldg. Alton, Ill. 62002.	Federal Bldg., U.S. Courthouse, 501 Belle St., Alton, Ill. 62002.
Federal Office Bldg., Mount Vernon, Ill. 62864.	Federal Bldg., 105 South 6th St., Mount Vernon, Ill. 62864.
Federal Office Bldg., Indianapolis, Ind. 46204.	Federal Bldg., 575 North Pennsylvania St., Indianapolis, Ind. 46204.
U.S. Courthouse and Federal Office Bldg., New Albany, Ind. 47150.	Federal Bldg., U.S. Courthouse, 121 West Spring St., New Albany, Ind. 47150.
Federal Office Bldg., Ann Arbor, Mich. 48104.	Federal Bldg., Liberty and 4th Sts., Ann Arbor, Mich. 48104.
Federal Office Bldg., Saginaw, Mich. 48607.	Federal Bldg., Warren and Genesee Aves., Saginaw, Mich. 48607.
Courthouse and Federal Office Bldg., Winston-Salem, N.C. 27101.	Federal Bldg., U.S. Courthouse, 251 North Main St., Winston-Salem, N.C. 27101.
U.S. Courthouse and Federal Office Bldg., Akron, Ohio 43308.	Federal Bldg., U.S. Courthouse, 2 South Main St., Akron, Ohio 44308.
National Environmental Research Center, Vine St. and St. Claire Ave., Cincinnati, Ohio 45220.	Environmental Research Center, 26 St. Clair St., Cincinnati, Ohio 45268.
Federal Office Bldg. and Parking Facility, Columbus, Ohio 43215.	Federal Bldg., 200 North High St., Columbus, Ohio 43215.
U.S. Courthouse and Federal Office Bldg., Dayton, Ohio 45402.	Federal Bldg., U.S. Courthouse, 200 West 2nd St., Dayton, Ohio 45402.
Federal Office Bldg., Oklahoma City, Okla. 73102.	Federal Bldg., 5th and Robinson Sts., Oklahoma City, Okla. 73102.
Federal Office Bldg., Huron, S.D. 57350.	Federal Bldg., 201 4th St. SW., Huron, S.D. 57350.
U.S. Border Station Facility, Laredo, Tex. 78040.	U.S. Border Station, Termination of I-35, Laredo, Tex. 78040.
Border Patrol Sector, headquarters, Marfa, Tex. 79843.	U.S. Border Patrol Sector, headquarters, Old Fort D.A. Russell, Marfa, Tex. 79843.
U.S. Court, San Antonio, Tex. 78205.	U.S. Courthouse, 655 East Durango Blvd., San Antonio, Tex. 78205.
Federal Office Bldg., San Antonio, Tex. 78205.	Federal Bldg., 727 East Durango Blvd., San Antonio, Tex. 78205.
U.S. Post Office Courthouse, 221 Ferguson St., Tyler, Tex. 74701.	Federal Bldg., U.S. Post Office and Courthouse, 221 West Ferguson St., Tyler, Tex. 74701.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-13729 Filed 5-12-77;8:45 am]

SECRETARY OF DEFENSE

Revocation of delegations of authority

[FPMR Temporary Regulation F–424]

1. *Purpose.* This regulation revokes certain delegations of authority granted to
1. *Purpose.* This regulation revokes certain delegations of authority granted to
other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires May 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–22	Sept. 12, 1968	Delegation of authority to the Secretary of Defense—regulatory proceeding.
F–307	Oct. 11, 1974	Do.
F–319	Dec. 27, 1974	Do.
F–381	Apr. 2, 1976	Do.

Dated: April 29, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–13730 Filed 5–12–77;8:45 am]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

[FPMR Temporary Regulation F–425]

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires May 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–29	Oct. 17, 1968	Delegation of authority to the Secretary of Defense—Regulatory Proceeding.
F–44	Mar. 14, 1969	Do.
F–328	Jan. 27, 1975	Do.
F–392	June 2, 1976	Do.

Dated: April 29, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–13731 Filed 5–12–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.

Date: June 2–3, 1977.

Place: Linden Hill Hotel, Room 111, 5400 Pooks Hill Road, Bethesda, Maryland 20014.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 10:20 a.m., on June 2; Closed: Remainder of meeting.

Contact Person: John F. Bester, Ph. D., Executive Secretary, Park Building, Room 3–40, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857. Phone: 301–443–4493.

Purpose: The Committe is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include reading of minutes of previous meeting, and administrative and staff reports. During the closed session beginning at 10:35 a.m., June 2, 1977, through adjournment on June 3, 1977, the Study Section will be performing the initial review of research grant and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Determination of the Director, Center for Disease Control, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 9, 1977.

WILLIAM C. WATSON, Jr.,
Director, Center for Disease Control.

[FR Doc.77-13727 Filed 5-12-77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Pulmonary Functions and Respiratory Therapy Subcommittee of the Anesthesiology Device Classification Panel.	June 1, 8:30 a.m., room 5051, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4 p.m.; Dennis J. Cotter (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of pulmonary function devices as listed below to Dennis J. Cotter, acting executive secretary. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The subcommittee will continue to complete the supplementary data sheets for the following devices: blood gas analyzer kit; indwelling hydrogen ion (pH) gas analyzer; non-indwelling hydrogen ion (pH) gas analyzer; indwelling carbon-dioxide partial pressure gas analyzer; indwelling carbon-monoxide partial pressure gas analyzer; non-indwelling carbon monoxide partial pressure gas analyzer; indwelling oxygen partial pressure gas analyzer; non-indwelling oxygen partial pressure gas analyzer; ear oximeter; gas densitomer.

Committee name	Date, time, and place	Type of meeting and contact person
2. Dentifrice and Dental Care Panel.	June 1 and 2, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 1, 9 a.m. to 10 a.m.; open committee discussion June 1, 10 a.m. to 4:30 p.m., June 2, 9 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
3. Anesthesiology Device Classification Panel.	June 2, 8:30 a.m., room 5051, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4:30 p.m.; Dennis J. Cotter (HFK-450), 8757 Georgia Ave., Silver Spring Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of anesthesiology devices as listed below to Dennis J. Cotter, executive secretary. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will continue to complete the supplementary data sheets for the following devices: ocsillometer; spyhgmomanometer; transcutaneous ultrasonic blood flowmeter; automatic non-ultrasonic blood pressure monitor. manual non-ultrasonic blood pressure monitor; noninvasive carbon-dioxide monitor; infusion rate monitor; noninvasive oxygen monitor; noninvasive pH monitor; spinal-fluid pressure monitor; AC-powered spinal-fluid pressure monitor; invasive blood pressure transducer; invasive blood-flow transducer; noninvasive blood-flow transducer; carbon-dioxide exhaled gas monitor; electrical impedance ventilatory frequency monitor; carbon-dioxide absorbent; carbon-dioxide absorber; breathing circuit connector; breathing circuit bacterial filter; head strap; non-rebreathing valve; breathing circuit Y-piece; conduction anesthesia block anesthesia kit; spinal needle introducer; stopcock; board arm; manual infusion apparatus; transfusion set; dry heat blood warmer; water bath blood warmer; ether dropper; ether hook; nonheated anesthesia vaporizer; laryngo-tracheal (lta) anesthesia kit; medicinal atomizer; bit block; dental protector; tube introducing forceps; nonrigid laryngoscope; rigid laryngoscope; catheter stylet; portable air compressor cylinder/pipeline gas pressure gauge; gas cylinder stand; medical gas yoke assembly; binasopharyngeal (with connectors) airway; inflatable cuff; tracheal tube fixers; cuff spreader; differential ventilation tracheal/bronchial tube clinical hyperbaric chamber; cardio-pulmonary (excluding equipment) emergency cart; mechanical cardiac resucitator; collection bottle; trap bottle; bronchial suction catheter; tracheal suction catheter; tracheostomy suction catheter; suction gauge; suction kit; aspiration pump; suction tip; levin tube; anesthetist cabinet; patient cart; patient restraint; conductive shoe cover; conductive shoe; anesthetist stool; positioning support; anesthetist table; operating room table; anesthetist tray.

Committee name	Date, time, and place	Type of meeting and contact person
4. Dermatology Advisory Committee.	June 2, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dermatology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of human skin sensitization and phototoxicity data on topicycline; review of new safety and effectiveness data and labeling for Kwell; guidelines for clinical studies on topical steroids; review of adrenal suppression studies; evaluations of other aspects of the current guidelines; consideration of the labeling for bichloracetic acid; and update of FDA actions.

Committee name	Date, time, and place	Type of meeting and contact person
5. Radiological Device Classification Panel.	June 3, 8:30 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Earl R. Miller, M.D., will report on the "Second Image Receptor Conference." Interested persons are encouraged to present information pertinent to classification of radiological devices to the executive secretary. Submission to data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 18, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will review the classification of radiological devices and will recommend exemptions for devices in Class I (General Controls Category) from registration, records and reports, and good manufacturing practices.

The panel will classify medical cyclotron, medical neutron generator, and medical synchrotron.

Committee name	Date, time, and place	Type of meeting and contact person
6. Ophthalmic Panel.	June 3 and 4, 9 a.m., Conference room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 3, 9 a.m. to 10 a.m.; open committee discussion June 3, 10 a.m. to 4:30 p.m., June 4, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
7. Miscellaneous External Drug Products Panel.	June 5 and 6, 9 a.m., Conference room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion June 5, 9 a.m. to 4:30 p.m.; open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
8. Obstetrical and Gynecological Device Classification Panel.	June 6, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 3 p.m.; open committee discussion 3 p.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-4238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulations.

Agenda—Open public hearing. Howard Ory, M.D., will discuss "A Review of the Association Between Intrauterine Contraceptive Devices and Acute PID"; Robert Israel, M.D., will discuss "Recurrence of Fertility Following Use of Contraceptive Agents"; Richard Sweet, M.D., will discuss "Pelvic Infection—The Role of the IUD"; Louise Tyrer, M.D., will discuss "Pelvic Infection and Subsequent Fertility with IUD's"; and Richard Soderstrom, M.D., will discuss "The IUD and Salpingitis—A Frequent Response." Interested persons are encouraged to present to the executive secretary, information pertinent to the risk to future fertility of intrauterine contraceptive devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will discuss the risk to future fertility of intrauterine contraceptive devices.

Committee name	Date, time, and place	Type of meeting and contact person
9. Ophthalmic Drugs Advisory Committee.	June 6, 9 a.m., Conference room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Mary K. Bruch (HFK-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in diseases and disorders of the eye.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the status of review of data on pimaricin; status of antiviral drugs for ophthalmic use; specific elements required in guidelines for ophthalmic antiviral drugs; review of NDA 17-918 for celestone ophthalmic solution; and discussion of the update of FDA actions.

Committee name	Date, time, and place	Type of meeting and contact person
10. Gastrointestinal Drugs Advisory Committee.	June 6 and 7, 9 a.m., Conference Room A, Parklawn Bldg., Rockville, Md.	Open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 5 p.m., June 7, 9 a.m. to 2 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the report from the Hepatotoxicity Subcommittee; IND 11,134 (chenodeoxycholic acid); and IND 13,020 (ursodeoxycholic acid).

Committee name	Date, time, and place	Type of meeting and contact person
11. Endoscopic and Electrosurgical Devices Subcommittee of the Obstetrical and Gynecological Device Classification Panel.	June 7, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7228.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. John Gunning, M.D., will discuss "Thermal Coagulator for Laparoscopic Tubal Sterilization"; Robert Neuwirth, M.D., will discuss "Approaches to the Evaluation of New Methods of Hysteroscopic Sterilization"; and Herbert Patrick, M.S.E.E., will discuss "Electrical Considerations for Laparoscopy." Interested persons are encouraged to present to the executive secretary, information pertinent to devices used in hysteroscopic female sterilization and thermal coagulators. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The subcommittee will draft guidelines for a product development protocol for devices used in hysteroscopic female sterilization and thermal coagulators.

Committee name	Date, time, and place	Type of meeting and contact person
12. Clinical Chemistry Device Classification Panel.	June 9 and 10, 9 a.m., room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 9, 9 a.m. to 10 a.m.; open committee discussion June 9, 10 a.m. to 5 p.m., June 10, 9 a.m. to 5 p.m.; Kaiser Azir, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7231.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of clinical chemistry devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 3, 1977, and submit a brief statement pertinent to classification, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will classify the following in vitro diagnostic products: adolase; beta-gulcuronidase; hydroxybutyric dehydrogenase; prostaglandins; sorbitol dehydrogenase; pregnenolone; desoxycorticosterone; lactose; corticoids; lysozyme; leucine arylamidase (LAP); ornithine carbamyl transferase; malic dehydrogenase; phosphohexose isomerase; phospholipids; lipids (total); cystine; tyrosine; hydroxyproline; trypsin; chymotrypsin; aminolevulinic acid; oxytocin; bradykinin; calcitonin; carbon monoxide; formininoglutamic acid (FIGLU); fatty acids; general purpose instruments; blood pH; blood volume.

Committee name	Date, time, and place	Type of meeting and contact person
13. Oral Cavity Panel.	June 9 and 10, 9 a.m., Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 9, 9 a.m. to 10 a.m.; open committee discussion June 9, 10 a.m. to 4:30 p.m., June 10, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4900.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the contest of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
14. Dental Device Classification Panel.	June 13 and 14, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 13, 9 a.m. to 10 a.m.; open committee discussion June 13, 10 a.m. to 4 p.m., June 14, 9 a.m. to 4 p.m.; D. Gregory Singleton, D.D.S., (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7228.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of the listed devices to the executive secretary. Submission of data relative

to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The dental panel will discuss the classification and complete supplementary data sheets for the following devices: abrasives; polishing agents; strip; wheel; articulators; cavity varnish; preformed crown; preformed lusp; impression material; denture adhesive; pin system; root canal post; splint; x-ray training device; bracket adhesive; cavity primer; denture coating; gold and stainless steel crisp; plastic denture; artificial backing and facing teeth; artificial posterior teeth with metal insert; rapid wax applicator; wax carver; plastic filling instrument; depth gauge instrument; dental instrument handle; periodontic probe; crown remover; collar and crown scissors; surgical tissue scissors; instrument sharpener; cement spatula; tongue depressor; wedge; surgical illuminator, with sheath; fiberoptic light unit; surgical operating light; electric bone saw; suture; ionator; parallelometer; retractor; rubber dam; ethylene oxide gas sterilizer; dental syringe; restorative syringe; tray; atomizer bottle; cuspidor.

Committee name	Date, time, and place	Type of meeting and contact person
15. Hepatotoxicity Subcommittee of the Gastrointestinal Drugs Advisory Committee.	June 13 and 14, 9 a.m., Conference room A, Parklawn Bldg., Rockville, Md.	Open public hearing June 13, 9 a.m. to 10 a.m.; open committee discussion June 13, 10 a.m. to 5 p.m., June 14, 9 a.m. to 2 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of functional evaluation of hepatotoxicity, specific tests, screening, and toxicology.

Committee name	Date, time, and place	Type of meeting and contact person
16. Hematology Device Classification Panel	June 14 and 15, 9 a.m., room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 14, 9 a.m. to 10 a.m.; open committee discussion June 14, 10 a.m. to 5 p.m., June 15, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of automated differential cell counters (peripheral blood cell differential analyzers for WBC, platelets, and RBC characteristics); semiautomated cell-locating devices; P&B (prothrombin and proconventin); heparin neutralization test and heparin assays. Submission of data relative to classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the information they wish to present, the names and addresses of proposed participants, data and references pertinent to classification, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will classify the following in vitro diagnostic products: automated differential cell counters (peripheral blood cell differential analyzers for WBC, platelets, and RBC characteristics); P&P (prothrombin and proconvertin) semiautomated cell-locating devices; heparin neutralization test and heparin assays.

Committee name	Date, time, and place	Type of meeting and contact person
17. Psychopharmacological Agents Advisory Committee.	June 16, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Stephen C. Groft (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Review of NDA 16-949 (Limbitrol), report of the Toxicology Advisory Committee on Prolactin; and followup action report.

Committee name	Date, time, and place	Type of meeting and contact person
18. Contraceptive and Other Vaginal Drug Products Panel.	June 22 and 23, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 22, 9 a.m. to 10 a.m.; open committee discussion June 22, 10 a.m. to 4:30 p.m., June 23, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
19. Vitamin, Mineral, and Hematinic Panel.	June 23 and 24, 9 a.m., Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 23, 9 a.m. to 10 a.m.; open committee discussion June 23, 10 a.m. to 4:30 p.m., June 24, 9 a.m. to 4:30 p.m.; Thomas DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
20. Biometric and Epidemiological Methodology Advisory Committee.	June 24, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Robert T. O'Neill, Ph. D., (HFD-232), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4594.

General function of the committee. Reviews and evaluates scientific studies and data with respect to, and otherwise advises the Commissioner on, epidemiological and biometrical methodology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Consideration of oral contraceptive guidelines and the report crossover designs.

Committee name	Date, time, and place	Type of meeting and contact person
21. Gastroenterological and Urological Device Classification Panel.	June 24 and 25, 8 a.m., Captain's room, Channel Inn Motel, 650 Water St. SW., Washington, D.C.	Open public hearing June 24, 8 a.m. to 9 a.m.; open committee discussion June 24, 9 a.m. to 5 p.m.; open public hearing June 25, 8 a.m. to 9 a.m.; open committee discussion June 25, 9 a.m. to 4 p.m.; Thomas L. Anderson, M.D., (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to dialysis devices and endoscopes/surgical devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The following devices will be classified: dialysis devices-organ preservation devices: pulsatile hypothermic perfusion apparatus with or without oxygenator; nonpulsatile hypothermic perfusion apparatus with or without oxygenator; disposable perfusion set; freezing container with or without bag and/or preservatives; ice storage container with or without bag and/or preservatives.

Endoscopes/surgical devices, biopsy instruments: biopsy forcep covers, gastrointestinal biopsy instrument set; endoscopic equipment: cytology brush, electric cord for endoscopes, enteroscope, esophago-gastroduodenoscope, esophagoscope, eyepiece attachment for insertion of prescription lens, flexible fiberoptic teaching attachment, gastroscope, endoscopic inflation bulb, automatic CO_2, laparoscope, measuring device for panendoscope, miscellaneous adaptor bulbs, nephroscope, obturators, fiberoptic peritoneoscope, flexible sigmoidoscope, rigid sigmoidoscope, endoscopic smoke removal tube, special lens instruments, sphyncteroscope, trocar, ureteroscope, urethroscope; gastrointestinal intraluminal diagnostic devices: electrode PH stomach, electrogastrograph, gastrointestinal motility system (electrical), GI string and tubes to locate internal bleeding; physiologic function monitors: closed circuit TV and video tape, external pressure recorders, amplifiers and transducers, photographic equipment, nonpowered rectal probe, radio pill; urine collecting devices: paste on devices for incontinence; electrosurgical units and accessories: patient return wristlet, flexible snare, rigid self-opening snare; evacuators: manual operated bladder evacuator, blood evacuator system, urine evacuator system; stone removal nonelectric: bladder stone tripsor, dislodger stone basket ureteral metal, flexible stone dislodger; suprapubic drainage devices: punch catheter instruments, punch catheter kits, suprapubic drainage sets, suprapubic drainage tubes, suprapubic drains, surgical instruments, applicator, esophageal bougie, gastrointestinal bougie, injection cannula, circumcision shield, clamp holder, electrical clamps, non-electrical clamps, colostomy spur crusher, cotton carrier, electric forceps, nonelectric forceps, hemorrhodial ligator hooks, irrigators, locking device for intestinal clamp, needle holder, needles, penile clamps, plastic bell circumcision device, pneumoperitoneum needle, probe, rectal dilators, rectal directors, rectal probes, rectal speculum; surgical devices: non-self-retaining retractors, self-retaining retractors, rings laparotomy, scissors, scoops, nonelectrical snare, sponge holder, bladder neck spreader; surgical light sources: fiberoptic retractors, transabdominal instruments; administration set for peritoneal dialysis.

June 25—Endoscopes/surgical devices—transurethral surgical instruments: adaptors to the cord, cystoscopic rongeur, electric cords, endoscopic needles, contact jelly, lubricating jelly, miscellaneous electrical adaptors and attachments, and bulbs, scissors for cystoscope; intestinal tubes (X-ray opaque): double lumen tube for intestinal decompression, double lumen tube for small intestinal intubation with balloon, single lumen tube with mercury-weighted balloon; therapeutic devices—accessory therapeutic devices: corrugated rubber sheath, pure latex sheet drape with self-retaining finger cot, leggings, protective garments for incontinence, ribdam, sheath with finger cot with straps for attachment for patient, sterile lubricant, stirrups, table, tourniquet, vidrape type barriers; cooling devices: esophageal cooler, prostatic cooler; therapeutic devices—endoscopic equipment: Renal

water jet catheter system, instruments for dilatation: ureteral catheter dilators, esophageal dilators, filiform followers, filiforms, interconnected metal sounds, mechanical urethral dilators, urethral sounds, urethrometers, urethrotomes, intraluminal therapy: intragastric hypothermia apparatus, kangaroo tube feeding set, sterile infant gavage set; upper tract catheters: nephrostomy catheter, pyelostomy catheter, ureterostomy catheter; ureteral catheters and accessories: ureteral catheter adaptors, ureteral catheter connectors, ureteral catheter holders, ureteral stylet; urethral catheters: foley catheter, special foley catheter, hemostatic type catheter, inflation valves catheter, pediatric catheter, three-way catheter, tieman catheter, urethral-diverticulum catheter, closed bottom-emptying drainage unit, closed urine drainage sets, guide for catheters, sterile irrigation trays, stylets for catheters; diagnostic device—surgical instruments; urological bougie.

Committee name	Date, time, and place	Type of meeting and contact person
22. Antimicrobial panel.....	June 24, 25, and 26, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on June 24; Hancock room, Holiday Inn, Chevy Chase, Md. on June 25 and 26.	Open public hearing June 24, 9 a.m. to 10 a.m.; open committee discussion June 24, 10 a.m. to 4:30 p.m., June 25 and 26, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The members of the Panel on Review of Miscellaneous External Drug Products will also attend the above meeting on June 25 only.

Committee name	Date, time, and place	Type of meeting and contact person
23. Neurologic Drugs Advisory Committee.	June 27 and 28, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 27, 9 a.m. to 10 a.m.; open committee discussion June 27, 10 a.m. to 4:30 p.m.; open public hearing June 28, 9 a.m. to 10 a.m.; open committee discussion June 28, 10 am. to 4:30 p.m.; Stephen C. Groft (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3600.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in neurologic diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the update on hepatotoxicity related to Dantrium; L-5-Hydroxytryptophan in the treatment of myoclonus; ACTH treatment of multiple sclerosis; review of NDA 17-965, 17-966 and 17-967 (Parke-Davis); review of drug efficacy study implementation (DESI) data for Antivert; and review of DESI data for Tigan.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be annouced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14 (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 10, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13774 Filed 5-12-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Microbiology Device Classification Panel.	June 6 and 7, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 5 p.m., June 7, 9 a.m. to 2:30 p.m.; closed committee deliberations June 7, 2:30 p.m. to 4:30 p.m.; Thomas M. Tsakeris (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of microbiology culture media products to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Microbiology Device Classification Panel will discuss the classification of microbiological culture media products. Included for consideration by the panel will be microbiological rapid identification kits and systems.

Closed committee deliberations. The panel will review a transitional new drug application. This portion of the meeting will be closed to protect trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Pulmonary Allergy and Clinical Immunology Advisory Committee	June 16 and 17, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 16, 9 a.m. to 10 a.m.; open committee discussion June 16, 10 a.m. to 4 p.m., June 17, 10 a.m. to 1:30 p.m.; closed presentation of data June 17, 1:30 p.m. to 3 p.m.; I. David Wolfson (HFD-160), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergenic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the role of aerosol adrenergic agents in the treatment of childhood asthma; experimental design and labeling for bronchodilators used in the treatment of asthma: role of "acute" and "stable" asthmatic population and employment of predicted values of pulmonary tests; IND 11-998 (oral cromolyn) benefit/risk status in the treatment of food allergies and ulcerative colitis/proctitis; an evaluation of safety and efficacy considerations with respect to oral "mucolytic" agents; and discussion of IND 8292 (carbocysteine).

Closed presentation of data. Review of IND 8292. This portion of the meeting will be closed to permit the presentation of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
3. Blood and Blood Derivatives Panel	June 17 and 18, 9 a.m., room 115, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing June 17, 9 a.m. to 10 a.m.; open committee discussion June 17, 10 a.m. to 5:30 p.m., June 18, 8:30 a.m. to 12 noon; closed committee deliberations June 18, 1 p.m. to 4 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of blood products labeling; donor frequency recommendations; blood grouping and typing reagents; source plasma (human); revision of reviews of stored red blood cell products; revision of reviews of plasma fraction products; and any comments or questions from the public.

Closed committee deliberations. Review of data submissions of producers of plasma fractionation products including normal serum albumin (human), plasma protein fraction (human), Rh_o (D) immune globulin (human), factor IX complex (human) and blood grouping and typing reagents. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14 (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal

privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to signficantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 7, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-13717 Filed 5-12-77;8:45 am]

[Docket No. 77G-0092]

FISHER, CHRISTEN, AND SABOL

Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP 2G0005) proposing affirmation that magnesium acetate and zinc acetate used in a vitamin-mineral food supplement are generally recognized as safe (GRAS).

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202-472-4750).

SUPPLEMENTARY INFORMATION: Purusant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7, *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7, formerly § 121.52, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), Fisher, Christen, and Sabol, Suite 507-511, 1000 Connecticut Ave. NW., Washington, DC 20036, has withdrawn its petition (GRASP 2G0005), notice of which was published in the FEDERAL REGISTER of March 7, 1973 (38 FR 6214), proposing that magnesium acetate and zinc acetate for use in vitamin-mineral food supplements are generally recognized as safe.

Dated: May 2, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-13775 Filed 5-12-77;8:45 am]

[Docket Nos. 76N-0172, 76N-0231, 76N-0232, 76N-0233]

FURAZOLIDONE, ET AL.

Hearing

Correction

In FR Doc. 77-10387, appearing in the issue of Friday, April 8, 1977 (42 FR 18660), the docket numbers in the heading should read as set forth above.

[Docket No. 77N-0148]

METABOLIC, INC.

Opportunity for Hearing on Intent To Revoke U.S. License No. 415

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is proposing to revoke U.S. License Number 415, issued to Metabolic, Inc., issued to Metabolic, Inc., 4520 Yoakum Blvd., Houston, TX, for the manufacture of four biological products at six locations. The proposed revocation is based upon (1) failure of the establishment's locations to conform with standards designed to ensure the continued safety, purity, and potency of the manufactured products and health of donors, and (2) failure of the "responsible head" to exercise control of the establishment in matters related to compliance with the standards.

DATES: The licensee may submit a written request for a hearing to the Hearing Clerk, Food and Drug Administration, by June 13, 1977, and any data justifying a hearing must be submitted by July 12, 1977. Other interested persons may submit comments on the proposed revocation to the Hearing Clerk by July 12, 1977.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Donna C. Williams, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014 (301-443-1920).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is proposing to revoke U.S. License Number 415, issued to Metabolic, Inc., with locations at 417 LaBranch St., Houston, TX; 4520 Yoakum Blvd., Houston; 2429 Jensen St., Houston; 47-49 W. Ashley St., Jacksonville, FL; 822 Howard Ave., New Orleans, LA; and 300 Luckie St., Atlanta, GA, and the product licenses for the manufacture and preparation of of Source Plasma (Human), Normal Serum Albumin (Human), Immune Serum Globulin (Human), and Tetanus Immune Globulin (Human).

Food and Drug Administration inspections of several locations operating under the establishment license revealed that the establishment and the licensed products manufactured there do not comply with the applicable standards, which are designed to ensure the continued safety, purity, and potency of the manufactured products and to protect human donors. The Commissioner concludes that the pattern and types of noncompliance with the standards demonstrate a failure of the responsible head to control the operations and constitute a danger to public health.

In a letter dated February 25, 1977, issued pursuant to §§ 601.5(b)(4) and 601.6 (21 CFR 601.5(b)(4) and 601.6), FDA suspended the licenses and advised Metabolic, Inc., of the Commissioner's intent to revoke U.S. License Number 415 for four locations and the products manufactured at those locations, and set forth the grounds for such suspension and proposed revocation. Pursuant to § 601.6(b), and at the request of the licensee, revocation was held in abeyance pending resolution of the matters involved. The licensee closed two of the suspended locations, and licenses to manufacture Source Plasma (Human) at those locations were revoked at the request of the manufacturer. After a reasonable period for the licensee to achieve compliance and at the request of the licensee, the two remaining suspended locations were reinspected. In addition, a previously unsuspended location was also inspected to determine if similar significant deviations existed at other locations of the establishment. Continued noncompliance at the suspended locations as well as the disclosure of the same types of deviations from standards at the previously unsuspended location resulted in the agency suspending all locations of the establishment and the decision to proceed to revoke the license.

Copies of the letter of February 25, 1977 and of a letter of April 26, 1977, concerning the recent followup inspections, are on file at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

The grounds for revocation include the following significant deviations found during the recent inspections at one or more of the locations, most of which continued from the earlier inspections that lead to the suspension. Further grounds are set forth in the February 25 and April 26 letters.

1. More than the maximum permissible amount of whole blood was removed from donors at one time (21 CFR 640.65 (b)(6)).

2. The amount of whole blood removed from donors within a 7-day period exceeded the maximum permissible amount; donors were plasmapheresed more than twice within 7 days (21 CFR 640.65(b)(5)).

3. Donor suitability was not adequately determined in that:

(a) Samples of blood for the serum protein electrophoresis test were not always drawn at least every 4 months, or at the earliest opportunity thereafter; nevertheless, the donors continued to be plasmapheresed (21 CFR 640.65(b)(1)(i) and (ii)).

(b) Although test results for the serum protein electrophoresis were not in the donor file, donors continued to be plasmapheresed (21 CFR 640.65(b)(1)(i)).

(c) Donors were plasamapheresed, up to 22 times, past the date when the required annual physical examination was to have been performed (21 CFR 640.63 (b)).

4. Equipment was not performing in the manner for which it was designed so as to assure compliance with the official requirements prescribed for Source Plasma (Human)—there were discrepancies between known protein and hematocrit control values and the actual values obtained when controls were tested; nevertheless, no action was taken to resolve the discrepancies (21 CFR 606.60 (a)).

5. Temperature records showed that freezers used to store Source Plasma (Human) had not been maintained at a temperature of −20° C or colder. There were no records to identify the units involved, or to explain the conditions that caused the plasma to be exposed to excessive warm storage temperatures (21 CFR 640.76(a) and 600.12(a).

6. There were inadequate procedures for notifying collection facilities and donors of a reactive test for hepatitis B surface antigen (HB•Ag), resulting in multiple collections of Source Plasma (Human) from donors having a reactive test for HB•Ag before receipt of test results (21 CFR 610.41 and 640.63(a)).

7. Records of each step in the manufacture and distribution of products were not made in such a manner that successive steps in the manufacture and distribution of any lot could be traced by the FDA inspector (21 CFR 600.12(a)).

8. There was a lack of control and supervision by the responsible head of the establishment in all matters related to compliance with the applicable provisions of the license and regulations (21 CFR 600.10(a)).

In addition, FDA inspections discovered evidence of (1) at least two interstate shipments of products made after the February suspension of the license in violation of the Public Health Service Act (42 U.S.C. 262(a)) and (2) shipments of a product designated as Immune Serum Globulin based upon a release obtained from the Bureau of Biologics, FDA, but which product was further processed after release and prior to shipment contrary to the provisions of 21 CFR 610.1 and resulting in the product being misbranded.

Pursuant to § 12.21(b) (21 CFR 12.21 (b), formerly 21 CFR 2.111(b) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), the Commissioner is offering an opportunity for a hearing. A written request for a hearing by the licensee may be submitted to the Hearing Clerk, Food and Drug Administration, by June 13, 1977, and any data justifying a hearing must be submitted by July 12, 1977. Other interested persons may submit comments on the proposed revocation to the Hearing Clerk, Food and Drug Administration, by July 12, 1977.

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13715 Filed 5-12-77;8:45 am]

[Docket No. 77N-0148]

METABOLIC, INC.

Revocation of License To Manufacture Source Plasma (Human) at Two Locations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner has revoked the establishment and product licenses of Metabolic, Inc., U.S. License No. 415, to manufacture Source Plasma (Human) at two locations: Metabolic, Inc., 1907 S. Staples St., Corpus Ghristi, TX, and 5104 Almeda St. Houston, TX.

DATE: Revocation has been effective since March 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Donna C. Williams, Bureau of Biologics, (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014 (301–443–1920).

SUPPLEMENTARY INFORMATION: On February 25, 1977, pursuant to §§ 601.5(b) and 601.6 of the biologics regulations (21 CFR 601.5(b) and 601.6), the Food and Drug Administration (FDA) suspended U.S. License No. 415, issued to Metabolic, Inc., for locations at 1907 S. Staples St., Corpus Christi, TX, and 5104 Almeda St., Houston, TX, and the product license for Source Plasma (Human) and advised the manufacturer of its intention to revoke the license. The suspension followed FDA inspections of these locations. The inspections revealed that the product manufactured at those locations failed to comply with the provisions of the license and the applicable standards established in Parts 600, 606, and 640 of the biologics regulations (21 CFR Parts 600, 606, and 640), which are designed to ensure the continued safety, purity, and potency of the manufactured products and to protect human donors. The agency concluded that the types of noncompliance constituted a danger to public health.

In response to the suspension, and in lieu of either holding the matter in abeyance or going forward to a hearing, the manufacturer advised FDA, in a letter of March 24, 1977, that the two locations were closed and requested revocation of the license for these locations and the product manufactured there. In so doing, the manufacturer waived an opportunity for a hearing. Copies of the FDA letter of February 25, 1977, and the March 24, 1977, letter from Metabolic, Inc., are on file at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

Pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262) and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), U.S. License No. 415 was revoked for the two locations designated in the letter dated March 31, 1977. This notice of revocation is published pursuant to § 601.8 (21 CFR 601.8), which was published in the FEDERAL REGISTER of January 25, 1977 (42 FR 4718).

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13716 Filed 5-12-77;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on May 20, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9 a.m. and adjourn at 3:15 p.m.

The National Council on Educational Research is established under Section 405(b) of the General Educational Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and

to insure the implementation of educational renewal and reform based upon the findings of educational research.

The entire meeting will be open to the public. The tentative agenda is as follows:

9:00—Convene.
9:00–9:05—Approve March 17–18 minutes.
9:05–9:30—Acting Director's Report.
9:30–11:30—Program Committee Report: Presentation on Fundamental Research by Dr. Sheldon White, Chairman, Committee on Fundamental Research Relevant to Education, Assembly of Behavioral and Social Sciences of the National Research Council; Comments by the Committee.
11:30–12:15—Review and Reports Committee Report: Implementation of Council Resolution No. 18.
12:15–1:00—Lunch.
1:00–1:30—Executive Committee Report: NCER Policy Framework Council Bylaws.
1:30–2:15—Executive Committee and Acting Director: FY 1979 Planning.
2:15–3:15—General Business.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after adoption. Minutes require approval by the Council at a subsequent meeting and are available to the public one week following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202–254–7900.

Dated: May 2, 1977.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[FR Doc.77–13754 Filed 5–12–77;8:45 am]

Office of Human Development

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

Announcement of Grants for FY '77 (Program Announcement No. 13638–771)

The Administration on Aging, Office of Human Development, announces that applications will be accepted until June 20, 1977 from public and nonprofit private agencies, organizations, and institutions seeking to compete for new grant awards in Fiscal Year 1977 under the Multidisciplinary Centers of Gerontology Program authorized by Title IV–C of the Older Americans Act of 1965, as amended (42 U.S.C. 3001, 3035 et. seq.). It is expected that awards will be made by the Administration on Aging in August 1977. Regulations applicable to this program include the Administration on Aging general regulations, 45 CFR Part 901, and the cost principles in 45 CFR Part 74 Subpart Q.

A. PROGRAM PURPOSE

The Title IV–C legislative mandate sets forth basic functions and purposes to be met by a multidisciplinary center of gerontology. Thus, an application for a grant to establish or support a multidisciplinary center of gerontology should indicate that the center has or will take steps toward establishing the resources and capabilities for performing the following tasks:

(1) Recruit and train personnel at the professional and sub-professional levels;

(2) Conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas;

(3) Provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services to them;

(4) Serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research;

(5) Stimulate the incorporation of information on aging into the teaching of biological, behavorial, and social sciences at colleges or universities;

(6) Help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities, and;

(7) Create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging.

These tasks, as set forth by Title IV–C of the Older Americans Act, assign responsibility to the center to act as a focal point for aging related activity within the grantee institution. The research, training, demonstrations, consultation, and assistance carried out by multidisciplinary centers under the Title IV–C program are not intended to duplicate or supplant similar activities supported by other Older American Act programs, or by other Federal agencies such as the National Institute on Aging. Rather, such centers are designed to build upon, augment, and integrate work in gerontology across the biolmedical, behavioral, and social sciences, and to apply those resources to the problems of older persons at the community level.

B. ELIGIBLE APPLICANTS

Applications for grants to establish or support multidisciplinary centers of gerontology may be submitted by any public or private nonprofit agency, organization, or institution.

C. AVAILABLE FUNDS

Funds to support grants under the Title IV–C multidisciplinary centers of gerontology program have been appropriated at a level of $3.8 million for fiscal year 1977. About $1.7 million will be available for new Title IV–C grant awards. The remaining $2.1 million is reserved for continuation grants to center projects which were begun in fiscal year 1976, the first year of the Title IV–C program.

New grants will be awarded in two categories:

(1) *Developmental grants*— to support the establishment of multidisciplinary centers or to assist recently established institutes on aging in developing and realizing their potential for becoming multidisciplinary centers of gerontology. It is expected that 10–12 grants will be awarded in this category, ranging from $50,000 to $75,000 per year. Applicants may apply for support for a project period up to two years in duration.

(2) *Operational grants*—to assist already well established multidisciplinary centers of gerontology to strengthen and integrate their research, training, demonstration, education, and service activities in the field of aging. It is expected that 5–6 grants will be awarded in this category, ranging from $150,000 to $200,000 per year. Applicants may apply for support for a project period up to two years in duration.

In fiscal year 1976, the first year of the program, 64 developmental grant applications were submitted. Of these 13 were funded at an average annual budget of $65,000. In addition, 28 operational grant applications were submitted, of which 7 were funded at an average annual budget of $160,000.

D. PROGRAM OBJECTIVES AND PRIORITIES FOR FUNDING

Under the Title IV–C program, a multidisciplinary center of gerontology is intended to be a focal point for research, training, demonstration, and education in the field of aging. It will constitute a point of leadership within its institutional and community setting for initiating, developing, and coordinating research, training, demonstration projects, and related efforts in aging on a multidisciplinary basis. Equally important, the center will have the responsibility of linking its resources for multidisciplinary research, training, and education in aging for practical application to the multifaceted problems of older persons. Through affiliations with community care and service agencies, by providing consultation and assistance to Network on Aging agencies, by disseminating information relating to programs and services for older persons, the center of gerontology would realize its full potential for improving the lives of the nation's older population.

In this regard, an applicant for a Title IV–C grant is expected to show significant levels of ongoing interests and activity in training and research related to aging. Further, applicants are expected to have or be able to quickly develop affiliations with Network and Aging agencies, and with public and private institutions providing direct services to older persons. Such affiliations include an acute care teaching hospital serving older persons, and extended care facility,

day care and home care services, senior centers, an organization providing legal services to older persons, recreational and cultural facilities and institutions, a community mental health center, or a gerontology research, education, and clinical center operated by the Veterans Administration which in itself has such affiliations.

E. Cost Sharing

Although no mandatory cost sharing policy is in effect for Title IV–C projects, it is generally expected that grantees will provide at least 5 percent of total project costs. Grantee contributions must be project related and allowable under the Departments' applicable cost principles in 45 CFR Part 74 Subpart Q.

F. The Application Process

(1) *A–95 Clearinghouse Notice*—In compliance with the Office of Management and Budget circular A–95, applicants who request grant support must, prior to submission of an application, notify *both* the State *and* Areawide Clearinghouses of the intent to apply for Federal assistance. Some State and Areawide Clearinghouses provide forms on which such information is to be submitted. Applicants should contact the appropriate State and Areawide Clearinghouses (listed in the Federal Register, Volume 42, p. 2210, Jan. 10, 1977) for information on how they can meet the A–95 requirements.

(2) *Application Submission*—To be considered for a grant under the Multidisciplinary Center of Gerontology Program, all applications must be submitted on Standard Form 424 *Application for Federal Assistance*. Two additional forms are to be submitted, *Grant Cost Sharing Proposal* (OMB No. 85–R–0019), and *Protection of Human Subjects, Assurance/Certification/Declaration*. These forms are provided by the Administration on Aging in the Title IV–C application kit.

One signed original and two copies of the grant application and all pertinent documents are required for submission and four additional copies are requested with the original. The original and the four additional copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development (See Section H below).

Copies are to be submitted concurrently to the cognizant State Agency on Aging and the Office of Aging in the cognizant Department of Health, Education, and Welfare regional office. These agencies review the applications and forward their comments to the Commissioner on Aging.

(3) *Application Consideration*—Applications which do not conform to this announcement, or are received after the June 20, 1977 deadline or are not complete, will not be accepted and applicants will be notified accordingly.

All accepted grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside of the Administration on Aging, Office of Research, Demonstrations, and Manpower Resources. The results of the competitive review supplement and assist the Commissioner on Aging's discretionary consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouses, State and Area Agencies on Aging, the HEW Regional Offices and the Administration on Aging headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside the Government.

The Commissioner determines the final action to be taken with respect to each grant application, and the applicant is notified of that action.

(4) *Grant Awards*—(a) The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting center projects. No grant is made in any State unless the Commissioner has consulted with the designated State Agency on Aging regarding such grant.

(b) The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total period for which support is anticipated.

G. Criteria for Review and Evaluation of Grant Applications

Competing applications for developmental and operational grants will be reviewed and evaluated by the review panel against the following criteria, respectively.

(1) *Criteria for Evaluating Developmental Grant Proposals.*

a. The applicant's resources and capabilities for undertaking the tasks mandated for multidisciplinary centers of gerontology by Title IV–C of the Older Americans Act. (Weight 0–30 points)

b. The capability and commitment on the part of the applicant for continued activity as the focal point within its institutional setting for: (a) initiating, developing, and coordinating multidisciplinary research, training, demonstration projects and related activities in aging; and (b) providing technical assistance and consultation to public and voluntary agencies responsible for service programs to the elderly (Weight 0–40 points)

c. Clarity, specificity and appropriateness of project objectives and of the proposed steps to accomplish these objectives. Weight 0–20 points)

d. The nature and extent of the center's commitment to developing resources responsible to the needs of low income and minority older persons. (Weight 0–25 points)

e. Appropriateness and reasonableness of proposed budget. (Weight 0–10 points)

(2) *Criteria for Evaluating Operational Grant Proposals.*

a. The applicant's resources and capabilities for carrying out the tasks mandated for multidisciplinary centers of gerontology by Title IV–C of the Older Americans Act. (Weight 0–30 points)

b. The capability and commitment on the part of the center for sustaining its focal point position within its institutional and community settings for linking multidisciplinary research and training to service programs on behalf of older persons. (Weight 0–40 points)

c. Clarity, specificity, and appropriateness of project objectives and of the proposed steps to accomplish these objectives. (Weight 0–20 points)

d. The nature and extent of the center's commitment to developing resources responsible to the needs of low income and minority older persons. (Weight 0–25 points)

e. Appropriateness and reasonableness of proposed budget. (Weight 0–10 points)

H. Closing Date for Receipt of Applications

Grant applications must be received by the Office of Human Development at the following address no later than 4:30 P.M., June 20, 1977: Department of Health, Education, and Welfare, Office of Human Development, Grants and Contracts Division, Mary E. Switzer Building, 330 C Street, S.W., Room 1427, Washington, D.C. 20201. (Attention 13638–771.)

Applications should not be sent or carried directly to the Administration on Aging. The Office of Human Development will receive all applications, acknowledge their receipt by return post card, and transmit them to the Administration on Aging.

I. Late Applications

Late applications will not be accepted and applicants will be notified accordingly.

J. Availability of Application Forms

Applicant kits are available from:

Office of Research, Demonstrations, and Manpower Resources, Administration on Aging, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Room 4644, Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program Number 13.638 Multidisciplinary Centers of Gerontology.)

Dated: April 29, 1977.

Arthur S. Flemming,
Commissioner on Aging.

Approved: May 9, 1977.

Arabella Martinez,
Assistant Secretary for Human Development.

[FR Doc.77–13753 Filed 5–12–77;8:45 am]

[Program Announcement No. 13627–772]

RESEARCH AND DEMONSTRATIONS IN VOCATIONAL REHABILITATION

Announcement of Grants for Fiscal Year 1977

The Rehabilitation Services Administration, Office of Human Development, announces that applications will be accepted until June 20, 1977, from State vocational rehabilitation agencies and other public or nonprofit agencies or or-

ganizations wishing to compete for grants in Fiscal Year 1977 under the Research and Demonstration Projects for Vocational Rehabilitation authorized by Title II, section 202(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762) to assist in the rehabilitation of handicapped individuals.

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for award.

Regulations applicable to this program were published in the FEDERAL REGISTER in Subpart A and Subpart D of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

Scope of this program announcement. This program announcement identifies general program objectives and funding priorities of the Research and Demonstration Projects for Vocational Rehabilitration Projects for Vocational Rehabilitation for Fiscal Year 1977. Competitions in special emphasis areas will be announced separately in the FEDERAL REGISTER.

A. *Program purpose.* The purpose of the Research and Demonstration Program in Vocational Rehabilitation is to conduct research, design demonstration projects, and plan related activities which bear directly on the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially the most severely handicapped ones.

Grants made under Title II, Section 202(a), research, test and demonstrate new methods, systems and approaches that can be used promptly, effectively and efficiently.

B. *Eligible applicants.* Any State vocational rehabilitation agency, and other public or nonprofit agency or organization, including institutions of higher learning may apply for a grant under this announcement.

C. *Available funds.* Of the $29 million appropriated by the Congress for research and demonstration projects in Fiscal Year 1977, the Rehabilitation Services Administration expects to award an estimated $3.4 million for new and competing extension grants in the program areas identified below.

It is expected that some 27 grants will be awarded pursuant to this announcement. The range of funds per grant is expected to be from $50,000 to $200,000, with the average award expected to be $126,000. Generally, projects will be supported for periods of one to five years. The funds currently available will sustain the budget for the first year of the project. Support of any additional time remaining in the project will depend on funds available, the grantee's satisfactory performance in achieving the project objectives for which the grant was awarded, and the grantee's continued assurance of supporting the priorities of the Rehabilitation Research and Demonstration Program.

D. *Project objectives and funding priorities.* Research and demonstration projects in vocational rehabilitation are intended to discover new knowledge and to overcome knowledge gaps in significant areas by the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to disabled individuals, especially those with severe handicaps. The primary function of research is to make service delivery more effective.

Fiscal Year 1977 project objectives and funding priorities have been developed for the following research areas. These have been developed to enable applicants to be responsive to the information and service needs of the Rehabilitation Services Administration. The number after each funding priority should be included in any inquiries regarding a specific research objective:

1. UNIVERSE OF NEEDS

Objective. To review current research efforts on conceptualization of disability based on functional limitations; categorize current efforts; identify approaches which have the greatest promise for assisting in the planning and delivery of vocational rehabilitation services; and prioritize gaps in research so that future efforts may address them.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Function limitations: State of the Art Review (A-3). (A conference of investigators who are researching functional limitations will be organized as a part of the project effort.)

2. REHABILITATION—GENERAL

Objective #1. To study the clinical course and rehabilitation associated with severe head trauma; to identify the rehabilitation needs of patients with severe head trauma, and to develop service delivery models to meet those needs.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Severe Head Trauma: A Comprehensive Medical Approach to Rehabilitation (Collaborative) (D-37 and D-38).

Objective #2. To study the clinical course and problems during and after medical care associated with severe burns, and to develop service delivery models to meet these needs.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Comprehensive Medical Rehabilitation Approach for Severe Burns (D-39 and D-40).

Objective #3. To demonstrate a community outreach rehabilitation program for the homebound.

Funding priority. Priority will be given to those applications which address the objective in terms of: Homebound Prevention Through a Community Outreach Rehabilitation Program (D-44).

3. REHABILITATION IN SPINAL CORD INJURY

Objective #1. To provide new knowledge in treating and preventing secondary complications of SCI.

Funding priority. Funding priority will be given to those applicaitons which address the objective in terms of: Innovative Preventive and Treatment Techniques in Spinal Cord Injury Complications (Urologic Management) (E-46, E-47, and E-48).

Objective #2. To provide new knowledge in treating and preventing secondary complications of SCI.

Funding priority. Funding priority will be given to those applications which address the objective in terms of: Innovative Preventive and Treatment Techniques in Spinal Cord Injury Complications (Thrombophlebitis and Circulatory Problems) (E-49).

Objective #3. To provide new knowledge of the psychological adjustment and other characteristics of persons following spinal cord injury (Competition limited to existing RSA supported Model SCI Systems).

Funding priority. Funding priority will be given to those applications which address the objective in terms of: Psychological Adjustment and Characteristics in Recent Spinal Cord Injuries Related to Rehabilitaiton Outcomes (Collaborative research within eleven designated RSA Model SCI Systems) (E-53).

4. REHABILITATION IN PULMONARY DISEASE

Objective. To develop predictive criteria of the rehabilitation potential of persons with chronic obstructive pulmonary disease. This work is based upon presently supported research at the University of Nebraska Regional Chest Center.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Predictive Criteria of Rehabilitation Potential in COPD (A collaborative study) (H-2).

5. REHABILITATION IN SENSORY DISABILITIES

Objective. To study preparation and placement of partially sighted handicapped persons, and identification of potential job settings.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Job Placement Activities for Partially Sighted Persons (I-16).

6. END-STAGE RENAL DISEASE

Objective #1. To develop supplemental data collection in relation to the medical, psycho-social, and vocational aspects of end-stage renal disease utilizing the data collection system developed by Bureau of Quality Assurance/Health Services Administration in order to ade-

quately plan and budget for provision of services.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Development of a Special Project Survey Questionnaire Supplemental to ESRD-Medical Information System Relating to the current Medical, Psycho-Social and Vocational Aspects of End-Stage Renal Disease (J–5).

Objective #2. To review all literature and current data to bring up-to-date what is currently known about the medical, psycho-social, vocational, and technological aspects of end stage renal disease in order to have a basis for the planning of comprehensive rehabilitation services.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A State of the Art in the Medical, Psycho-Social, Vocational, Technological, and Legislative Aspects of End-Stage Renal Disease (J–6).

Objective #3. To develop a series of models for flow paths in the rehabilitation of categorized types of clients with end stage renal disease. Categorization based on setting of treatment, i.e. center dialysis, self-care dialysis, home dialysis and transplantation will be used to develop as practical rehabilitation plans for the subject/clients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Feasibility Study on the Development of a Series of Model Plans for Rehabilitation of Clients with End-Stage Renal Disease (J–7).

Objective #4. To obtain quantitative data regarding the types of patients in need of rehabilitative and supportive programs, the types of social-psychological problems most severe for long term dialysis and transplant patients, and the factors helping or hindering the rehabilitation of these patients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Medical, Psycho-Social and Vocational Evaluation of Kidney Transplant and Dialysis Patients/Clients Whose Treatment Began Four (4) or More Years Ago (J–8).

7. Rehabilitation in Mental Illness

Objective #1. To develop and validate procedures for the delivery of rehabilitation services for the maintenance of the ex-mental patient on the job.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Determination of the Rehabilitation Services Necessary to Maintain the Ex-Mentally Ill Client on the Job (K–2).

Objective #2. To determine the kinds, nature and optimum combination of services necessary to place the ex-mental patient in a job.

Funding priority. Funding priority will be given to thoose applications which dress the above objective in terms of: A Determination of the Rehabilitation Services Necessary for the Placement of the Ex-Mentally Ill Client (K–3).

8. Barrier Removal

Objective #1. To develop a model for the delivery of sexual adjustment counseling services that meet the needs of rehabilitation clients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Sexual Adjustment Counseling Services for Rehabilitation Clients (P–3).

Objective #2. To assess what visual presentations are effective in creating positive attitudes toward disabled persons.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Use of Visual Presentation in Barrier Removal (P–4).

9. Program Management Capacities

Objective #1. To obtain accurate data on present staffing patterns of rehabilitation employees currently employed at all levels in state, private and public programs. To project types and number of employees needed, and turnover rates of all categories for the next five years. To project data on numbers and types of employees needed to fill gaps in manpower needs for next five years and project data on types of education and training required for each category of employee. To suggest ways of recruiting and utilizing staff effectively.

To analyze all of the factors that contribute to a total viable manpower program and present information on how to develop a total manpower program, including data, policy guidelines, education training and recruiting.

Funding priority. Funding priority will be given to those applications which address the above objectives in terms of: Manpower Development Research on Total Manpower Needs for the Rehabilitation Program and How to Effectively Recruit, Train and Use Manpower with Particular Reference to Shortage Categories (R–22).

Objective #2. To lay out the parameters for three separate telework demonstrations aimed at improving the delivery of services to the severely handicapped via alternative telecommunications modes; to prepare test and evaluation plans for these demonstrations which will compare costs, benefits and effectiveness of the various delivery systems and measure the overall impact of each delivery system on meeting the needs of the severely handicapped; comparing the systems with each other and with current modes of delivering the same services.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Telecommunications and the VR Client—Analysis (R–23).

Objective #3. To prepare test and evaluation plans for three demonstrations of vocational rehabilitation staff training via alternative modes of telecommunications to test the cost effectiveness and benefits of the various delivery systems and its impact on staff training.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Staff Training Via Telecommunications—Analysis (R–24).

10. Research and Evaluation Utilization

Objective #1. To train service agency personnel in recent available knowledge and techniques in service delivery to the severely disabled and to develop guidelines on Independent Living Programs.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Research Utilization Conference: Capacity Building Based Upon New Knowledge from R&E Projects to Serve the Most Severely Disabled (S–20).

Objective #2. To establish a National Rehabilitation Information Center, including establishing a collection of information, a catalogue of information, circulation and copy services, access to computerized data, and dissemination procedures for summaries of new R&D reports.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: National Rehabilitation Information Center (S–23).

11. Rehabilitation in Cardiovascular Disease

Objective. To develop a state of the art on psycho-social and vocational aspects related to overall coronary care, including the role of the family, employer, and community in the patient's rehabilitation.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Comprehensive Review of Psychological, Sociological, and Vocational Research and Practice in Cardiovascular Research (F–16).

E. The Application Process

Application Submission. In order to be considered for a grant under the Rehabilitation Research and Demonstration Program, all applications must be submitted on standard forms available from the Division of Grants and Contract Management, Office of Human Development. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for projects on Rehabilitation Research and Demonstrations.

One signed original and three copies of the grant application, including all attachments, are required. The original and two copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development. The other copy is to be submitted concurrently to the cognizant State Vocational Rehabilitation Agency. This agency reviews the appli-

cations and forwards its comments to the Commissioner.

Application Consideration. The Commissioner determines the final action to be taken with respect to each grant application. Applications in response to this announcement which are late are not accepted and applicants are notified accordingly. Otherwise, all applications will be considered for funding.

All accepted applications are subjected to a competitive review and evaluation conducted by qualified persons outside of Federal employment. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State Agencies of Vocational Rehabilitation, the HEW Regional Offices and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

When the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant Awards. The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting Rehabilitation Research and Demonstration projects. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated.

F. Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated by persons outside of the Rehabilitation Research and Demonstrations Office against the following criteria:

1. The project objectives address the RSA objectives listed above in this program announcement and those stated in the application package relating to the specific funding priority.

2. The project objectives focus on the development of new or innovative techniques to achieve the RSA project objective(s).

3. The application contains a substantive plan for dissemination of findings to potential users including feedback mechanisms on use and specific outcomes.

4. The project findings will be presented so that they are immediately implementable.

5. The hypotheses to be tested in each project are clearly stated so that the findings relate directly to the project objective(s).

6. The application contains a plan for the thorough review and analysis of literature related to the project.

7. The project's proposed design is complete and feasible, includes measurable objectives and an evaluation component.

8. The project's proposed staff is capable; the staffing pattern appropriate and the applicant organization's facilities and resources are adequate.

9. Applicant organization has a good track record in the conduct of similar and related activities.

10. Project's budget is feasible, and reasonable; all costs are well justified in relation to anticipated project results.

11. Project seems likely to be completed within the proposed time schedule.

12. Projects which will utilize other public resources (in addition to this grant) will receive special consideration.

13. Project does not supplant activities which are funded under other Federal programs (DDO, AoA, VA, etc.).

G. Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is June 20, 1977. Applications may be mailed or hand delivered to: Receiving Office; Division of Grants and Contracts Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street SW.; Washington, D.C. 20201 (Attention: 13627–772). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:

1. The application was sent by registered or certified mail no later than June 20 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, the Office of Human Development, or the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than COB June 20, in any case.

H. Late Applications

Late Applications will not be accepted and applicants will be notified accordingly.

I. Availability of Application Forms

Application kits which contain the prescribed application forms, the project description, and information for the application may be obtained by making a request, containing the funding priority, and number to:

Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. Attention: (13627–772).

(Catalogue of Federal Domestic Assistance Program Number: 13.627, Research and Demonstrations.)

Dated: May 6, 1977.

Joseph A. Mottola,
Acting Commissioner, Rehabilitation Services Administration.

Approved: May 9, 1977.

Arabella Martinez,
Assistant Secretary for Human Development.

[FR Doc.77-13722 Filed 5-10-77;1:53 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-756]

LAND O LAKES ESTATES

Hearing

In the matter of: Land O Lakes Estates Jack L. Cooper, President and Leisure America, Inc. Respondent, OILSR No. 0-3479-46-72, 77-38-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Land O Lakes Estates, Jack L. Cooper, President and Leisure America, Inc., authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 25, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Land O Lakes Estates subdivision, located in Edgefield County, South Carolina, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 12, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160 (d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 9, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list

of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before May 18, 1977.

Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13781 Filed 5-12-77;8:45 am]

[Docket No. N-77-755]

McSHEPHERD RANCHES

Notice of Hearing

In the matter of: McShepherd Ranches (River Oaks Unit), Milton A. Rister, Vice President and McShepherd Ranches, Inc. Respondent, OILSR No. 0-3575-49-525, 77-28-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. McShepherd Ranches (River Oaks Unit), Milton A. Rister, Vice President and McShepherd Ranches, Inc., authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 21, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for McShepherd Ranches (River Oaks Unit) located in Williamson County, Texas, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 11, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 3, 1977 at 10 a.m.

5. The followng time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 16, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13782 Filed 5-12-77;8:45 am]

[Docket No. N-77-757]

SAN JUAN MEADOWS

Notice of Hearing

In the Matter of: San Juan Meadows, Seymour Brier, Co-Trustee and San Juan Meadows, Trust Respondent, OILSR No. 0-1029-02-146, 76-341-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. San Juan Meadows, Seymour Brier, Co-Trustee and San Juan Meadows, Trust, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 5, 1976, with was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)() and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales. Registration alleging that the Statement of Record and Property Report for San Juan Meadows located in Apache County, Arizona, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 10, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 15, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 16, 1977.

Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13780 Filed 5-12-77;8:45 am]

Bureau of Land Management

[Serial No. I-8872]

IDAHO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 2, 1977.

The Bureau of Reclamation, Department of the Interior, filed application Serial No. I-8872, on August 30, 1974, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN

T. 7 S., R. 30 E.,
Sec. 13, SW¼SE¼.
T. 6 S., R. 31 E.,
Sec. 1, Lot 1.

The areas described aggregate 80.19 acres in Power and Bingham Counties.

The applicant desires to acquire the land to facilitate the operation, maintenance, and protection of the American Falls Reservoir Irrigation Facility.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 24, 1974, page 37785, Volume No. 39, Document No. 74-24862.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Man-

agement, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within 30 days of date of publication of this notice.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of
Lands and Minerals Operations.

[Filed Doc.77-13724 Filed 5-12-77;8:45 am]

[Serial No. I-10293]

IDAHO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 2, 1977.

The Bureau of Land Management, Department of the Interior, filed application Serial No. I-10293, on January 15, 1976, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN

HUCKLEBERRY RECREATION SITE

T. 45 N., R. 3 E.
Sec. 4: Lot 14;
Sec. 9: Lot 4.

The area described aggregates 54 acres in Shoshone County.

The applicant desires to protect the scenic and recreation values of the land for future public use.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on March 11, 1976, page 10455, Volume No. 41, Document No. 76-6953.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within 30 days of date of publication of this notice.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-13725 Filed 5-12-77;8:45 am]

[OR 2375 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Land

MAY 4, 1977.

1. Pursuant to the Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869 et seq.), the following land has been voluntarily reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 26 N., R. 22 E.,
Sec. 8, lot 1.

The area described contains 20.50 acres in Chelan County.

2. The subject land is subject to the conditions and limitations of Sec. 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075), as amended (16 U.S.C. 818).

3. The subject land is located adjacent to the Columbia River approximately 28 miles north of the City of Wenatchee. Elevation ranges from 700 to 830 feet above sea level, and the topography is characterized by a gentle to moderate slope. Vegetation consists primarily of sagebrush and native grasses. In the past, the land has been considered for public recreational use, and it will be managed, together with adjoining national resource lands, for multiple use management.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 9, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-13632 Filed 5-12-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Illinois Natural History Survey,
Urbana, Illinois 61801,
Brooks M. Burr.

OMB NO. 42-R1275

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one):
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Collect 24 specimens of the fountain darter, Etheostoma fonticola, for scientific study.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Brooks M. Burr
Illinois Natural History Survey
Urbana, Illinois 61801
(217) 333-6848

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6' 0" WEIGHT: 155 lbs.
DATE OF BIRTH: 8/15/49
COLOR HAIR: brown COLOR EYES: brown
PHONE NUMBER WHERE EMPLOYED: (217) 333-6848
SOCIAL SECURITY NUMBER: 554-76-4575
OCCUPATION: Student-Research Assistant

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Scientific collecting (by dip net or seine) in the San Marcos River near or at the town of San Marcos, Hays Co., Texas.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list its name or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document)
I have been informed that one must first obtain a federal permit for collection of an endangered species before the state permit.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 15 June 1977

11. DURATION NEEDED: about 1 month

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Section 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Brooks M. Burr
DATE: 30 March 1977

FWS FORM 3-200
10-76

Attachments under 50 CFR: Section 17.22 "permit for scientific purposes," (1) a. Common and scientific name of species sought to be covered by permit: Fountain darter, *Etheostoma fonticola*.

b. Number to be taken-24 individuals; Age-1 or 2 years olds; Sex-12 males; 12 females.

c. Activity sought to be authorized: "taking" for scientific study.

(2) The species sought to be taken is still in the wild and according to J. R. Schenck and B.G. Whiteside, 1976 Copeia:697–702, *E. fonticola* population estimates stand at about 103,000 individuals rather than 1,000 individuals as was formerly thought. They further state that the San Marcos population is in no "immediate threat * * * with regard to scientific collecting."

(3) Removal of 24 individuals would result in their being sacrificed for study.

(4) not applicable.

(5) Illinois Natural History Survey, Urbana, Illinois 61801.

Species sought will not be displayed or maintained, but used for a scientific study detailed below.

(6) Not applicable.

(7)–(8) My purpose for obtaining a federal permit to take 24 specimens of the endangered fountain darter is to further clearify the evolutionary and systematic position of this species which has been almost completely ignored in taxonomic studies. I have conducted a thorough morphological study of the darter subgenus *Microperca* which contains the fountain darter and 2 other species. I desire to add further supporting evidence to my phylogenetic placement of the 3 species by conducting a biochemical study of a number of their enzyme systems. This would consist of quick-freezing on dry ice 24 specimens of *E. fonticola* from the San Marcos River at San Marcos, Hays Co., Texas and later removing muscle and liver tissue for the enzyme analysis. The remaining portions of the caracasses would be preserved and deposited in the permanent fish collection of the Illinois Natural History Survey. I have pointed out in paragraph (2) of this attachment that taking 24 individuals from the San Marcos locality will in no way threaten the "endangered" status of this species.

My friend, Mr. John R. Schenck has agreed to collect the 24 individuals for me. He is the person who conducted the ecological studies on the species and is best qualified to know where, when, and how to collect them. Mr. Schenck held a federal permit for collection of this species up until its expiration a few months ago.

Specimens will be collected by dip net or seine and will be taken if/when this permit is approved. Therefore, the duration of the permit would only be for a month or so depending on how soon Mr. Schenck's schedule permits a trip to the San Marcos site. If the permit is approved within 60 days then we could collect the specimens sometime in June, 1977.

This work is part of a PhD thesis being conducted at the University of Illinois. Allowing me to collect this species would greatly enhance my dissertation and I will be glad to make known to the Department of the Interior my findings.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–731–07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-13526 Filed 5-12-77;8:45 am]

ENDANGERED SPECIES PERMIT
Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant:

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112, Charles L. Bieler, Director.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Export 1/1 black lemur, Lemur macaco endangered species for breeding in captivity.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
San Diego Zoological Garden
P.O. Box 551
San Diego, Calif. 92112
Phone: 231-1515

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public Zoo - Wildlife exhibition research program - in addition to educational and related activities.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Charles L. Bieler Director, San Diego Zool. Garden
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Export from San Diego, California to Bristol, United Kingdom

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number(s))
1962 - 10 (under 1944 law issued 1962)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdiction and type of document(s))
Pending issuance of this permit.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
ASAP

11. DURATION NEEDED
until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a), (b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) — DATE: 9 December 1976

3-200
10-74)

ZOOLOGICAL SOCIETY OF SAN DIEGO,
9 December 1976.

DIRECTOR (FWS/LE),
Fish and Wildlife Service, Department of the Interior, Washington, D.C.

DEAR SIR: The San Diego Zoological Garden requests an endangered species permit to export one male and one female black lemur, *Lemur macaco*.

1. Common and scientific names of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

The San Diego Zoo has a male and female black lemur, *Lemur macaco*, born at our institution. We propose to sell these primates to the Bristol, Clifton and West of England Zoological Society, Clifton, Bristol BS8 3HA United Kingdom. The male was born on 24 May 1971 and the female 15 March 1975.

2. Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife.

Attached are photocopies of letters from G. R. Greed, Zoo Director. Data to fulfill this section are contained in these letters.

3. A full statement of justification for the permit, including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project.

In 1965, after years of negotiation with the Malagasy Government, the San Diego Zoo was made an official depository of various lemur species, including *Lemur macaco*. Our goal was to learn the captive husbandry of the primates, propagate them and send them to zoos within the United States and the rest of the world so that the species could be conserved in captivity. By establishing them in different continents and countries we should ensure their survival regardless of national calamity, whether natural or manmade. The pair going to Bristol are an effort to continue and expand the captive breeding population.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The black lemurs will be held on the premises of the Bristol, Clifton and West of England Zoological Society, which has the reputation of being one of Briton's leading zoological gardens. It is a privately owned Society and is totally independent. It is a non-profit making organization and financed by its own endeavors. There is an admission charge to the zoo and the attendance averages three quarters of a million visitors annually. The postal address is: Bristol, Clifton and West of England Zoological Society, Clifton, Bristol BS8 3HA.

5. A statement that of the time of the application the wildlife to be removed is still in the wild, was born in captivity, or has been removed from the wild.

The pair of lemurs to be sent to the Bristol Zoo was born in the San Diego Zoo. The male was born on 24 May 1971, the female on 15 March 1975.

6. The resume of the applicant's attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild.

All the animals in this transaction were born in captivity, thus will not be a drain on the natural population of wild lemurs.

(v). For the five years preceding the date of this application, provide a detailed description of all mortalities involving the species covered in the application and held by the applicant, if any (or any other wildlife of the same genus or family held by the applicant), including the causes of such mortalities and the steps taken to avoid or decrease such mortalities.

The Bristol Zoo formerly exhibited the black lemur in 1950 and bred one animal which survived 48 hours. Attached is a list of five *Lemur catta* which died within the last five years, detailing birth or acquisition, medical histories and post morten findings for these animals.

Lemur fulvus mayottensis. No deaths, but one female has aborted twice, on 25 February 1975 and 2 April 1976. No cause found for this.

Lemur mongos. A youngster born 1 May 1976 was found dead at two days. Post mortem showed neonatal colibacillosis.

7(i). A complete description, including photographs or diagrams, of the area and facilities in which the wildlife will be housed.

The Bristol Zoo maintains lemurs both in its zoo gardens which are open to the public and on its conservation area within its country estate which is not open to the public. The following is an inventory of the species of lemurs owned by this Society which also shows their present location. *Lemur catta*, 8 males, 5 females (including 6 males, 3 females at Hollywood Tower Estate); *Lemur fulvus mayottensis*, two pairs, all at Hollywood Tower Estate; *Lemur mongoz*, four pairs, all at Hollywood Tower Estate; *Lemur macaco*, 1 male at Hollywood Tower Estate.

The pair of black lemurs to be sent to England are to be kept on the Hollywood Tower Estate in their conservation area and it is intended only to exhibit their progeny within the zoo. The holding facilities for these animals will consist of a wooden, well insulated building, approximately 16' x 16' x 8' high with four main enclosures and a fifth holding pen. The pair of lemur will be allocated two internal enclosures and have access to one outside enclosure, 20' x 16' x 12' high, south facing and covered in 1" weld mesh, wind protection being given by marine plywood. Heating is given to the internal enclosures by electric heating and

the indoor facilities are adequately furnished with shelves and perches. Likewise the outside enclosures, which have grass floors.

7 (ii). A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported.

Personal resumes of the Bristol, Clifton and West of England Zoological Society's senior staff are enclosed. In their zoo careers these officers have experience in the propagation of the following closely related lemurs:

Mongoose Lemur, *Lemur mongoz.*
Ring-tailed Lemur, *Lemur catta.*
Brown Lemur, *Lemur fulvus mayottensis* (partial success).

7 (iii). A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

No studbook for the black lemur exists. Both zoos are willing to participate in a studbook if one is started.

7 (iv). A detailed description of the type, size and construction of the container: Arrangements for feeding, watering and otherwise caring for the wildlife in transit: And the arrangements for caring for the wildlife on importation into the United States.

The lemurs will be trucked to the Los Angeles Airport in a zoo vehicle accompanied by two zoo keepers. The animals will be placed on TWA's flight No. 760 at 12:35 PM arriving London the next morning at 6:40 AM. In the event TWA should not be operating we would use the following alternate route: British Airways flight No. 598 leaving Los Angeles 5:30 PM arriving next day at 12:40 PM. Both of these flights are nonstop.

In addition, the Bristol, Clifton and West of England Zoological Society will have a licensed vehicle available to transport the animals from Heatherow Airport, London to their quarantine premises, as authorized under the Ministry of Agriculture, Fisheries and Foods, London regulations.

8 (iv). The planned disposition of such wildlife upon termination of the activities sought to be authorized.

All dead mammals are sent to the Bristol University where a thorough post mortem examination is undertaken. This work is done in the Department of Comparative Pathology under Professor I. A. Silver, M.A., M.R.C.V.S. who is authorized by the Bristol, Clifton and West of England Zoological Society to cooperate fully with other scientific organizations, who might require dead specimens for scientific research.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and other applicable parts in Subchapter B of Chapter I, Title 50 and I further certify that the information submitted in this application for permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

CLYDE A. HILL,
Curator of Mammals.

Lemur catta deaths within last 5 yr (Bristol Zoo)

Date of death	Sex	Date acquired or born	Post mortem findings
June 15, 1972	Female	Born Mar. 24, 1972	Injuries (caused by monkey in adjoining cage.)
Aug. 16, 1974[1]	Male	Purchased June 27, 1968 (father of baby below).	No gross lesions found. Histology showed no pathological abnormality. No sign of any inflammatory process and no indications of a possible viral infection. Cause of death undetermined.
Aug. 17, 1974[1]	do	Born Mar. 25, 1974	Corneal ulceration and keratitis. Severe ulceration of tongue. Terminal bronchopneumonia.
May 4, 1975	do	Born May 2, 1975	Abandoned by mother May 3, 1975.
Mar. 13, 1976	do	Purchased Oct. 16, 1963	Question clinical diabetes.

[1] Baby treated for conjunctivitis from Aug. 8, developed nervous signs the day before death. Father was taken ill suddenly on Aug. 15, with vomiting and respiratory symptoms. The twin baby also showed signs of conjunctivitis Aug. 17, but recovered in a few days.

Name: Geoffrey R. Greed.
Position: Director, Bristol, Clifton & West of England Zoological Society
Date of birth: 30th May 1937.
Duties: See attached position description.
Education: G.C.E. (Oxford/Cambridge) 1954/55.
Experience: January 1962 to August 1964. Chester Zoo, Keeper, Section Officer. November 1964 to April 1966. Munich Zoo, Keeper. May 1966 to May 1974. Bristol Zoo, Assistant to the Director, Curator of Animal Assistant Director. June 1974—to date. Bristol Zoo, Director.
Supplemental: Presently in charge of Bristol, Clifton and West of England Zoological Society with a permanent staff slighty in excess of 100, augmented during the season by a further 250 staff. The animal collection consists of 262 specimens of 66 species.

Function of Job

The Zoo Director is responsible for the development and operation of the Zoo. He provides technical advice relating to the care, exhibition, and collection of animals. Performs promotional duties.

Duties and Responsibilities

1. Supervises the development and operation of the Zoo.

2. Identifies and classifies all Zoo specimens, determining their requirements with regard to space, shelter, climate, feed, etc., and acts accordingly. Secures Zoo specimens as required.

3. Directs feeding schedules and modifications as required.

4. Organises and directs a daily log of operations, permanent record of acquisitions, natural increases, exchanges, sales, sickness, treatment, deaths, etc.

5. Maintains herd records and pedigrees as required.

6. Initiates the draft current and capital budgets for the Zoo.

7. Arranges and conducts tours through the Zoo and other educational functions, maintaining good public relations at all times.

8. Formulates and directs advanced employee training programmes.

9. Responsible for initiating new phases of Zoo development (planning and design).

10. Maintains effective working relationships with other zoos, research institutions, veterinary persons, governmental agencies, and other allied groups.

11. Maintains effective working relationships between all employees engaged in care, development, and operations.

12. Assembles data, prepares administrative reports, and handles business correspondence.

13. Carries out or directs zoological and related research in co-operation with the University and similar institutions. May publish papers on his work.

14. Prepares new releases regarding activities at the Zoo, for distribution upon approval of the Council.

15. Prepares monthly and annual reports, including in them recommendations for improvements in the Zoo.

16. Performs related duties as required.

Supervision Received and Given

General supervision is received from the Council of the Bristol, Clifton and West of England Zoological Gardens. The Zoo Director is given wide scope for use of independent judgment in the operation of the Zoo, pertaining to animal care. He has important supervisory responsibilities.

Name: Brian Moore.
Position: Overseer.
Date of birth: 24th July 1947.
Duties: See attached position description.
Education: English Language, English Literature and French to O Level standard at Grammar School.
Experience: 1966—Keeper, Bristol, Clifton & West of England Zoologic Society. 1972—Senior Keeper, Bristol, Clifton & West of England Zoological Society. 1973—Overseer, Bristol, Clifton and West of England Zoological Society.

Overseer—Function of Job

Under a minimum of supervision from the Zoo Director and the Head Keeper, an employee in this position is responsible for supervising and assisting a medium size group of subordinate employees in all phases of care and cleaning maintenance in the breeding estate area, outside of all animal enclosures.

Duties and Responsibilities

1. Is responsible for the administration and operation of the day-to-day function of the livestock department of the breeding estate, outside of the animal enclosures, including the cleaning, maintenance, and upkeep of the breeding estate, walkways, roads and landscaped areas.

2. Is responsible to bring to the attention of the Director all necessary repairs in his department.

3. Performs various administrative duties such as timekeeping, and related personnel matters. Assembles data, prepares reports such as occurrence, damage etc. Handles correspondence related to his duties.

4. Is responsible for the day-to-day safety of employees.

5. Performs related duties as required.

Name: Donald Packham.
Position: Head Keeper.
Date of birth: 15th June 1932.
Duties: See attached position description.
Education: Educated to the standard of Technical College.
Experience: 1948—Keeper, Bristol, Clifton & West of England Zoological Society. 1956—Senior Keeper, Bristol, Clifton & West of England Zoological Society. 1973—Head

Overseer, Bristol, Clifton & West of England Zoological Society. 1975—Head Keeper, Bristol, Clifton & West of England Zoological Society.

Organization Membership: Associated British Wild Animal Keepers. (A.B.W.A.K.)

HEAD KEEPER—Function of Job

To perform supervisory work with a minimum of direction from the Zoo Director, involving responsibility for the operation of the Livestock Department.

Duties and Responsibilities

1. Supervises a large group of skilled workers engaged in the care of the animal collection.

2. Controls the condition of the animal collection in regard to health and takes appropriate action to maintain a high level throughout, involving the assistance of a veterinary surgeon under contract.

3. Assists the Zoo Director in the detailed planning and development of animal accommodation and exhibits.

4. Initiates improvements to animal accommodation and exhibits, in regard to animal compatibility, sanitation, servicing, maintenance, and the aesthetic appearance of exhibits.

5. Carries out public relations and Zoo tour duties as assigned.

6. Performs and supervises on the job training and assists the Zoo Director in the formulating of advanced employee training programmes.

7. Deputies for the Zoo Director in his absence.

8. Performs related duties as required.

Supervision Received and Given

General supervision is received from the Zoo Director but an employee in this position is allowed considerable scope in the use of independent thought and action.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or argumuents, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-582-07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-13527 Filed 5-12-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Barbara Tata Rice, P.O. Box 264, Seagoville, Texas 75159.

OMB NO. 42-R439

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR: [X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Import 5 baby elephants (F. S.) Propagation, public display, entertainment, educational lectures, behavioral science, scientific research

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Barbara Tata Rice
P.O. Box 264
Seagoville, Texas 75159
214 287-4226

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [X] MS.
HEIGHT: 5' 7" WEIGHT: 145
DATE OF BIRTH: 1-15-50 COLOR HAIR: Br. COLOR EYES: Br.
PHONE NUMBER WHERE EMPLOYED:
SOCIAL SECURITY NUMBER: 015-36-8215
OCCUPATION: Elephant exhibitor, breeder, & Trainer.
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Columbus Zoo att. Mr. Sharpe
Caldwell Zoo Att. Hayes Caldwell
South West Research Ins. San Antonio, Texas att. Dr. Dean
Walt Disney Prod. Att. Larry Landsburg & Gatti- Charles Prod.

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION:
Self employed business - amusement for mass audience , breeding, lecture for educational purposes, study of behavioral science.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.:
Same
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Import from Calcutta, India direct to Dallas , Texas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
IF "YES," LIST NUMBER AND TYPE:
U.S. Dept. of Agriculture
Barbara Rice Exhibitor 74-RE-14
Breeder Permit, Texas, 00244

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(Specify which and attach copy of document(s))
Calcutta, India
Invoice enclosed

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:
$ 50.00

10. DESIRED EFFECTIVE DATE:
soon as possible

11. DURATION NEEDED:
as long as it takes to make arrangements by air

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.22(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Barbara Tata Rice
DATE: 3/18/1977

17.22

(12)

(1) Indian elephants: 5 female, age 3-4 years, importing.

(2) Born in captivity.

(3) Not applicable as they were born in captivity.

(4) Born in captivity on logging farm, Calcutta, India.

(5) Corner of Combine and Ballard Rd., Seagoville, Texas, five acre farm with three acres fenced and secured for exercise and play. Trees for shade and a 50' lake for swimming. New 150' by 75' barn under construction with concrete floor, running water, drains, electric, heat, and ventilation, will be complete within 30 days. Elephants will be used by various zoos for breeding and for entertainment all over United States and Canada: 1 promised to Columbus Zoo, Columbus, Ohio, on 2 year breeding loan, attn. Mr. Sharpe; 1 promised to South West Research Institute, San Antonio, Texas, for scientific research, one summer only, attn. Dr. Dean; 1 for donation to Caldwell Zoo, Tyler, Texas, to be later replaced by adult male, attn. Hayes Caldwell, no money involved; remainder to go on exhibitional tour and exhibited by Bucky Steele or myself only; Gatti-Charles Prod., attn. Patricia Gatti, Orange, Calif.

(6) Yes.

(i) Refer to number 5.

(ii) I have had first hand experience for raising and caring for baby elephants for the past 8 years. My partner, Bucky Steele, has been involved with elephants for the past 30 years.

(iii) I agree to cooperate with breeding program and to maintain a studbook.

(iv) I just had built a new elephant semi-trailer for transport, completely planked, insulated, and ventilated, 40 ft. length.

(v) In the 5 years preceding the date of this application there have been no mortalities.

(7) Enclosed.

(8) I am justified in obtaining a permit because I had my order in for the baby elephants before they went on the endangered species list and because this has been my livelihood for the past 8 years.

(i) Exhibition, entertainment, propagation, study of behavioral science, educational lectures, and scientific research.

(ii) By loaning elephants to various zoos and research centers, by making extensive personal studies of their behavior, and by going on exhibitional tour.

(iii) By offering my animals to be used for breeding and also for scientific research as we are most interested in every aspect concerned. I also will readily agree that if in the future, if there are any studies or Government projects involving elephants that you may feel free to contact us as our animals and facilities will be at your disposal. We will be most happy to accommodate you in any way.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO, U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-660-07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONABOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-13528 Filed 5-12-77;8:45 am]

National Park Service

HISTORIC AMERICAN BUILDINGS SURVEY ADVISORY BOARD

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Buildings Survey (HABS) Advisory Board will be held on June 2 and 3, 1977, starting at 9:15 a.m., in the conference room of the Del Coronado Hotel in San Diego, California.

The HABS Advisory Board was established by the Secretary of the Interior on November 17, 1933, and sanctioned by an Act of Congress, August 21, 1935, to render advice on matters related to the task of preserving records of the historic architectural monuments of the United States.

The present membership of the HABS Advisory Board is as follows:

Mr. D. O. Davies, New Castle, Pennsylvania.
Dr. John Douglas Forbes, Hon. AIA, Charlottesville, Virginia, Sec'y.
Mr. John Drews Henderson, AIA, San Diego, California, Chairman.
Mrs. Victorine Du Pont Homsey, FAIA, Wilmington, Delaware.
Mr. George McMath, AIA, Portland, Oregon, Vice Chairman.
Ms. Barbara Wriston, Art Institute of Chicago, Illinois.
Mr. John Cullinane, Chmn., AIA Historic Resources Committee (ex officio).
The Librarian of Congress (or his representative) (ex officio).

Among other things, the Advisory Board agenda will consist of reports from the Chief of the Historic American Buildings Survey, staff reports on HABS projects and exhibits, and reports of the subcommittee.

The meeting is open to the public, and any person may file with the Board a written statement concerning the matters being discussed; however, facilities and space for accommodating members of the public are limited.

Further information concerning these meetings may be obtained from the Historic American Building Survey Division, National Park Service, Washington, D.C. (202) 523-5474. Minutes of the meeting may be acquired through the Executive Secretary of the Board, Mrs. Lucy Pope Wheeler, HABS (202) 523-5474, after the succeeding meeting.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

[FR Doc.77-13720 Filed 5-12-77;8:45 am]

PICTURED ROCKS NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Pictured Rocks National Lakeshore Advisory Commission will be held June 2, 1977, at 10:00 a.m. (EDT) in the Community Building in Munising, Michigan.

The Commission was established by Public Law 89-668 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Pictured Rocks National Lakeshore.

The members of the Commission are:

Mr. Edward N. Locke (Chairman).
Mr. Leo Gariepy.
Mr. Glenn C. Gregg.
Mr. David C. West.
Mr. James Becker.

Matters to be discussed at the meeting include a road system for Pictured Rocks National Lakeshore including a major "cross-park" road.

The meeting is open to the public. Interested persons may file written statements with the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert L. Burns, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, telephone 906-387-2607.

Minutes will be available for public inspection two weeks after the meeting at Pictured Rocks National Lakeshore headquarters at Sand Point, four miles east of Munising, Michigan.

Date: May 5, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-13719 Filed 5-12-77;8:45 am]

Office of the Secretary

[INT FES 77-13]

PROPOSED NAVAJO-EL PASO/CONSOLIDATION COAL LEASE AND MINING ON THE NAVAJO RESERVATION, SAN JUAN COUNTY, NEW MEXICO

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Navajo-El Paso/Consolidation Coal Lease and Mining Plan on the Navajo Reservation, San Juan County, New Mexico. The statement supplements the final environmental statement for the proposed El Paso Gasification Project (INT FES 77-3).

The statement considers the human, economic and physical environmental affects associated with the Federal approvals of a lease and mining and reclamation plans for coal strip mining operation. It is anticipated that 677,940,000 tons of low sulphur coal will be excavated from 40,287 acres of Navajo Reservation lands during the next 35 years.

Copies of the final statement are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245, Telephone (202) 343-8248.

Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona 86515, Telephone: (602) 871-4366.

Bureau of Indian Affairs, Albuquerque Area Office, First National Bank Bldg.—East, 5301 Central Avenue, N.E., Albuquerque, New Mexico 87108, Telephone: (505) 766-3060.

Bureau of Indian Affairs, Shiprock Agency, Shiprock, New Mexico 87420.

Single copies of the final environmental statement may be obtained from the Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515.

Dated: May 11, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-13844 Filed 5-12-77;8:45 am]

WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas for Calendar Year 1977 Among Producers Located in Guam and American Samoa

Cross Reference: For a document issued jointly by the Department of the Interior and the Department of Commerce dealing with the allocation of duty-free quotas for watches and watch movements assembled in Guam and American Samoa, see FR Doc. 77-13796 appearing under the Department of Commerce in the Notices section of this issue.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-23]

COLOR TELEVISION RECEIVING SETS

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with this investigation, at 10:00 a.m., on May 24, 1977, in the Hearing Room of the International Trade Commission, Room 331, 701 E Street, N.W., Washington, D.C. On or before May 17 and May 23, the parties will have filed and served Prehearing Briefs in conformity with the Order for Prehearing Briefs issued May 6, 1977. The purpose of this Prehearing Conference is to review such prehearing briefs and resolve and other necessary matters in preparation for the hearing. With respect hereto, counsel shall submit proposed agendas on or before May 20, 1977, to the Presiding Officer.

Notice is also given that the hearing in this proceeding will commence at 10:00 a.m. on June 7, 1977, in the Hearing Room of the International Trade Commission, Room 331, 701 E Street, N.W., Washington, D.C., and will continue daily until completed.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued May 10, 1977.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13818 Filed 5-12-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE 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 from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Setcretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this ninth day of May, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending May 6, 1977

Name of applicant	Location of enterprise	Principal product or activity
G & H Building Components, Inc.	Riverside, N.J.	Manufacture of panels and roof trusses for building contractors.
L. B. J & T. Inc.	Cookeville, Tenn.	Bowling and recreation center.
Flourde Bros. Hardware, Inc.	Hudson, Wis.	Retail sales of hardware and related items.
Urania Enterprises, Inc.	Urania, La.	Retail sale of groceries, household items, and gasoline.
Sheridan Retirement Center, Inc.	Sheridan, Wyo.	Retirement and nursing care center.
High Country Development Corp.	Rawlins, Wyo.	Motel.
The Building Block, Inc.	Las Animas, Colo.	Sales of home remodeling products.
Broulim's Super Market, Inc.	Montpelier, Idaho.	Supermarket.
Petersen Enterprises.	Rexburg, Idaho	Restaurant.

[FR Doc.77-13744 Filed 5-12-77;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Thursday, June 2, 1977, in the Shore Room, Edgewater Inn, 2411 Alaskan Way, Seattle, Washington. The meeting is open to the public.

The purpose of this meeting is to discuss and consider recommendations on proposed citation guidelines for multi-employer worksites, review the OSHA standards on scaffolds, and hear from committee members on safety and health problems in the construction industry.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue, NW, Room N-3635, Washington, D.C. 20210. Phone: (202-523-8024).

Materials provided to members of the committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 10th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor, Occupational Safety and Health.

[FR Doc.77-13825 Filed 5-12-77;8:45 am]

[V-77-7]

BAKER TANK CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of Application.* Notice is hereby given that Baker Tank Company, P.O.

Box 40, Arp, Texas 75750, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.451 (a) (4), (5), and (10) dealing with scaffolds.

The place of employment affected by the application is as follows:

Baker Tank Company, P.O. Box 40, Arp, Texas 75750.

The applicant certifies that employees who would be affected by the variance have been notified of the application by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by §1926.451(a) (4), (5), and (10). Section 1926.451(a) (4) and (5) reads as follows:

(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beams scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds 4 to 10 feet in height having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2×4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be minimum of 4 inches in height.

The applicant states that its business is of a specialized nature involving steel plate erection by members of the boilermaker's trade.

The applicant contends that the scaffolds used in building tanks are mobile and are frequently raised as are the tank sections, in order to position the next set of steel plates. The scaffolds used do not have toeboards because tools are placed in well designed "loose tool" containers provided for that purpose. In addition, the applicant proposes to rope off the area directly below and in close proximity to the scaffold and to permit only those employees, and tools currently being used by them, on the scaffolds. As a further precaution, a taut wire is installed midway betwen the innermost plank face of the scaffold platform and the tank face. The applicant states that because the scaffolds must be moved frequently, it would be more hazardous to constantly remove and replace toeboards.

The applicant also proposes to place guardrail supports at 10' 6'' intervals in lieu of the 8' requirement of § 1926.451 (a)(5). This would allow consistent bracket spacing since the applicant further desires to use 10' 6'' spans for its scaffold planking although § 1926.451 (a)(16) allows a maximum span of 10'. The planks proposed to be used are rough full-dimensioned 2''×12''×13' planks of Douglas Fir or Southern Yellow Pine of select structural grade. The Douglas Fir has a fiber stress of 1,900 and a modulus of elasticity of 1,900,000, while the Southern Yellow Pine has a 2,500 fiber stress and a modulus of elasticity of 2,000,000. The applicant contends that the scaffolds he is using are safe, even though the span is one-half foot longer than the maximum length allowed, because of the increased strength of the wood.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination, U.S. Department of Labor, Room N-3668, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1425 W. Pioneer Drive, Irving, Texas 75061.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than June 13, 1977. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than June 13, 1977, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. *Interim Order.* It appears from the application for variance and interim order that the proposed scaffolding described in the application, with certain variations, will provide a place of employment as safe as those which would prevail if the applicant were to comply fully with 29 CFR 1926.451(a) (4), (5), and (10). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to the applicant and its employees. Therefore, it is ordered, pursuant to section 6(d) of the Occupational Safety and Health Act of 1970, 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that the Baker Tank Company, be, and is hereby authorized to use scaffolds in accordance with the following conditions, in lieu of complying with the toeboard and span requirements in § 1926.451(a) (4), (5), and (10):

(a) The applicant's loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long handled maul which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgement from the scaffold area.

(b) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(c) The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12'' without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12'' in lieu of using a guardrail or tie-off system.

(d) Not more than three employees shall be working on a 10' 6'' span of scaffold planking at any time.

(e) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10' 6''. These brackets shall be welded to the steel plates.

(f) Scaffold planks of rough full-dimensioned 2''x12''x13' Douglas Fir or Southern Yellow Pine of select structural grade or equivalent planking shall be used. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least 2,500 fiber stress and 2,000,000 modulus of elasticity. Three planks with full thickness 2''x12''x13' dimensions may be used in lieu of two 2''x12'' x13'' planks provided that they are clamped or bonded together at the midpoint of the span, in order to spread the weight of the employees.

(g) All planking shall be secured from movement or overlapped in accordance with § 1926.451(a)(12).

(h) Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2''×4'' wood rails by 29 CFR 1926.451(a)(5). Guardrail supports shall be located at no greater than 10' 6'' intervals.

Baker Tank Company, shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of May 13, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 9th day of May, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-13826 Filed 5-12-77;8:45 am]

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, continued under Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees,

will meet on June 1, starting at 9:30 a.m., in Room S4215 ABC, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Proposed Amendment to Part 1960, Final review and approval on the expansion of Subpart F—Field Federal Safety and Health Councils.

II. Ad Hoc Committee on 29 CFR Part 1960, Review and approval of the Committee recommendations regarding § 1960.31—Report by Employees of Unsafe or Unhealthful Working Conditions.

III. Ad Hoc Committee on Recommendations of House Report, January 26, 1976, "Safety in the Federal Workplace" review and approval of proposed Implementation Plan.

IV. Reports by: A. Standing Committee on National Programs, status of the next national safety and health program "Target—Prevention and Protection."

B. Standing Committee on Federal Safety and Health Conferences, status report of Philadelphia, New Orleans and Anaheim Conferences.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business May 27 will be provided to members of the Council and included in the record of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business May 25. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Mr. Walter J. Mason, Executive Director, FACOSH, Department of Labor, OSHA, First Floor—South, 2100 M Street NW., Washington, D.C. 20210, telephone 202–653–5500.

Signed at Washington, D.C., this 9th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-13824 Filed 5-12-77;8:45 am]

Office of the Secretary

ALL ITEMS CONSUMER PRICE INDEX

U.S. City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the FEDERAL REGISTER the fact that the United States City Average All Items Consumer Price Index (1967=100) increased 15.4 percent from its 1974 annual average of 147.7 percent to its 1976 annual average of 170.5. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index thus increased 15.4 percent from its 1974 annual average of 100 to its 1976 annual average of 115.4.

Signed at Washington, D.C., on this 5th day of April, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-13831 Filed 5-12-77;8:45 am]

BOB LEE MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

In F.R. Doc. 77–7588 appearing at page 14185 in the FEDERAL REGISTER of March 15, 1977, the following dates in the Appendix under Petitioner Carmen Garcia, Inc., No. TA–W–1712, are corrected:

1. The "Date received" is corrected to read "Feb. 7, 1977" and

2. The "Date of petition" is corrected to read "Jan. 31, 1977."

Signed at Washington, D.C., this 4th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-13827 Filed 5-12-77;8:45 am]

BOB LEE MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Correction

In FR Doc. 77–7588 appearing at page 14185 in the FEDERAL REGISTER of March 15, 1977, the following dates in the Appendix under Petitioner Henry Garcia Industrial Co., No. TA–W–1724, are corrected:

1. The "Date received" is corrected to read "Feb. 7, 1977" and

2. The "Date of petition" is corrected to read "Jan. 31, 1977."

Signed at Washington, D.C., this 4th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-13828 Filed 5-12-77;8:45 am]

[TA–W–1712]

CARMEN GARCIA, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1712: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 7, 1977, which was filed by the International Ladies' Garment Workers' on behalf of workers and former workers producing brassieres at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Suzanne Foundations, Inc., its customers, Carmen Garcia, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

Significant total or partial separations. Average annual employment at the Cidra plant declined 26.8 percent in 1976 compared to 1975. The plant closed in December 1976 and all workers were permanently laid off.

Sales or production, or both, have decreased absolutely. Annual sales by the Cidra plant declined 29.7 percent in value in 1976 compared to 1975.

Annual production at the Cidra plant decreased 24.8 percent in quantity in 1976 compared to 1975.

Increased imports. Imports of brassieres, bras-lettes and bandeaux increased in quantity in each year between 1971 and 1976; from 4,995 thousand dozens in 1971 to 8,751 thousand dozens in 1976. The ratio of imports to domestic production of brassieres, bra-lettes and bandeaux increased in each year between 1971 and 1975; from 26.2 percent in 1971 to 42.3 percent in 1975.

Contributed importantly. Carmen Garcia Inc. was a stitching shop for Lady Suzanne Foundations Inc. in Brooklyn, N.Y. Both companies were owned by the same parent corporation. All of the brassieres sewn at the Cidra plant were shipped to Lady Suzanne. The Office of Trade Adjustment Assistance conducted a survey of customers of Lady Suzanne. Most of the customers indicated that they decreased purchases from Lady Suzanne and increased purchases of imported brassieres. The single largest customer of Lady Suzanne reported that 90 percent

of the brassieres supplied by their other domestic suppliers were produced abroad.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated, contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated, who became totally or partially separated from employment on or after January 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13829 Filed 5-12-77;8:45 am]

[TA-W-1724]

HENRY GARCIA, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1724: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 7, 1977, which was filed by the International Ladies' Garment Workers' on behalf of workers and former workers producing brassieres at the Las Piedras, Puerto Rico plant of Henry Garcia, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Suzanne Foundations, Inc., its customers, Henry Garcia Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

Significant total or partial separations. Average annual employment at the Las Piedras plant declined 32.6 percent in 1976 compared to 1975. The plant closed in December 1976 and all workers were permanently laid off.

Sales or production, or both, have decreased absolutely. Annual sales by the Las Piedras plant declined 37.3 percent in value in 1976 compared to 1975.

Annual production at the Las Piedras plant decreased 38.2 percent in quantity in 1976 compared to 1975.

Increased imports. Imports of brassieres, bra-lettes and bandeaux increased in quantity in each year between 1971 and 1976; from 4,995 thousand dozens in 1971 to 8,751 thousand dozens in 1976. The ratio of imports to domestic production of brassieres, bra-lettes and bandeaux increased in each year between 1971 and 1975; from 26.2 percent in 1971 to 42.3 percent in 1975.

Contributed importantly. Henry Garcia Inc. was a stitching shop for Lady Suzanne Foundations Inc. in Brooklyn, N.Y. Both companies were owned by the same parent corporation. All of the brassieres sewn at the Las Piedras plant were shipped to Lady Suzanne. The Office of Trade Adjustment Assistance conducted a survey of customers of Lady Suzanne. Most of the customers indicated that they decreased purchases from Lady Suzanne and increased purchases of imported brassieres. The single largest customer of Lady Suzanne reported that 90 percent of the brassieres supplied by their other domestic suppliers were produced abroad.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at the Las Piedras, Puerto Rico plant of Henry Garcia, Incorporated, contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Las Piedras, Puerto Rico plant of Henry Garcia, Incorporated, who became totally or partially separated from employment on or after January 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13833 Filed 5-12-77;8:45 am]

TELEVISION RECEIVERS

On March 22, 1977, the International Trade Commission determined that increased imports of television receivers are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 16489).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on television receivers. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received 11 petitions for certification of eligibility for adjustment assistance from workers engaged in the final assembly of television receivers. To date, the Department has certified seven of these petitions and denied three of them. An investigation is in process in the remaining case. As of January 31, 1977, 8596 workers had applied for adjustment assistance, and $6,280,642 had been paid out to 5775 of them.

2. The Department of Labor estimates that another 600 workers at plants whose workers have been certified may apply for and may receive adjustment assistance. Employment at the majority of plants in the industry, including those whose workers have been certified, has either remained constant or increased slightly over the past year. Two of the plants, however, have laid off a total of about 1700 workers over the past year. In spite of an improvement in the domestic industry's fortunes in 1976, the Labor Department estimates that as many as 500 workers may be laid off from plants producing television receivers over the coming year. An increase in import penetration of the domestic market should add to the number.

3. New York and Arkansas have been most seriously affected by layoffs that have occurred at final assembly plants in the television industry since 1976. Local unemployment rates in the counties of primary impact were well above the national average, exceeding 11 percent in December 1976. The rural nature and depressed economic climate of these impacted areas limit the reemployment prospects of the displaced workers. Consequently, a number of them may enroll in training programs and/or consider relocating.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the program claims of most of the displaced workers. Although actual levels of enrollment are higher than expected levels in the areas of greatest need, funding appears to be adequate to sustain the programs. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department's report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C., this 10th day of May 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-13830 Filed 5-12-77;8:45 am]

AMERICAN CAN CO., ET AL.

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 23, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 23, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
American Can Co. (USWA).	Hillside, N.J.	May 2, 1977	Apr. 26, 1977	TA-W-2,035	Beer, soda, coffee, and and peanut cans.
Canteen Corp. (United auto, aerospace, agricultural, and implement workers).	Springfield, Ohio	do	Apr. 28, 1977	TA-W-2,036	Vending machines.
Crystal Systems, Inc. (workers)	Chardon, Ohio	Apr. 27, 1977	Apr. 22, 1977	TA-W-2,037	Watch crystal blanks for electronic digital watches.
Elder's Manufacturing Co. (workers).	Webb City, Mo.	Apr. 26, 1977	Apr. 21, 1977	TA-W-2,038	Men's and boys' dress and sport shirts.
Do	Carl Junction, Mo.	do	do	TA-W-2,039	Do.
Prairie Manufactor Co. (workers).	East Prairie, Mo.	May 2, 1977	Apr. 25, 1977	TA-W-2,040	Women's dress slacks, postal uniforms, industrial uniforms, and jeans.
Saudler of Boston (workers).	New Bedford, Mass.	do	Apr. 27, 1977	TA-W-2,041	Women's boots and shoes.
Vogue Industries, Inc. (company).	Lowell, Mass.	Apr. 28, 1977	Apr. 26, 1977	TA-W-2,042	Stainless steel flatware.

[FR Doc.77-13285 Filed 5-12-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-33]

SPACE PROGRAM ADVISORY COUNCIL (SPAC) LIFE SCIENCES COMMITTEE

Meeting

The SPAC Life Sciences Committee will meet on June 1-2, 1977, at NASA Headquarters, 400 Maryland Avenue, Washington, D.C. 20546. The meeting will be held in Room 5026, Federal Office Building 6. Members of the public will be admitted on a first-come first-served basis, up to the seating capacity of the room, which is about 60 persons.

The SPAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel, with exobiology, and with other life forms. Its academic interests include: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, plant biology, nutrition and food technology, exbiology, biology of gravity and rhythms, ecology and biotechnology. The current Chairman is Dr. G. Donald Whedon. There are 19 members.

The following list sets forth the approved agenda and schedule for the June 1-2, 1977, meeting of the Life Sciences Committee. For further information, please contact Dr. S. P. Vinograd: Area Code 202-755-3723.

JUNE 1, 1977

TIME AND AGENDA

0830-0945 Teleoperators. (Purpose: To brief the Life Sciences Committee on the teleoperator program and to review teleoperator technology from the perspective of the Life Sciences.)

0945-1020 Gravitational Biology Program. (Purpose: To advise the Life Sciences Committee of the current status of this program and to discuss new initiatives.)

1030-1050 Administrative. (Purpose: To inform the Committee members of views and comments of the Chairman, to approve the minutes of the last meeting, and to review the status of action items.)

1050-1150 NASA Life Sciences Overview. (Purpose: Briefing by the NASA Director for Life Sciences on the progress and status of the program and review of the SRAT program components for the Life Sciences Committee.)

1300-1350 Closed Environmental Control System. (Purpose: To apprise the Life Sciences Committee of the status of program planning in this area for Life Sciences Committee discussion and comments.)

1350-1405 Report of Planetary Quarantine and Containment Task Team. (Purpose: The Life Sciences Committee task team, appointed by the Chairman during the November, 1976 meeting, will present its findings and recommendations.)

1405-1435 Basic Ecology Program. (Purpose: Review and discussion of program planning in basic biological ecology.)

1445-1700 Future Studies of Mars. (Purpose: Three briefings on the subject presented for Life Sciences Committee discussion and comments):

- 1445-1535 Plans for Future Mars Exploration.
- 1535-1555 Science Payload Planning.
- 1555-1610 Returned Sample Studies on Earth vs. Earth Orbit.
- 1610-1700 Life Sciences Committee Discussion.

JUNE 2, 1977

0830-1100 Potential Uses of Space. (Purpose: Presentation of a series of six briefings by NASA organizational elements active in this general area for Life Sciences Committee discussion and comments regarding Life Sciences aspects.)

- 0830-0850 Space Processing.
- 0850-0910 Satellite Power System Program.
- 0910-0930 Space Industrialization.
- 0930-0950 Technology Utilization Program.
- 0950-1010 University Space Applications Program.
- 1010-1030 Life Sciences Perspective.
- 1030-1100 Life Sciences Committee Discussion.

1100–1230 Discussion. (Purpose: To formulate position on the Life Sciences program goals, objectives, and plans; to finalize recommendations on the specific issues discussed.)

KENNETH R. CHAPMAN,
Assistant Administrator for the Department of Defense and Interagency Affairs National Aeronautics and Space Administration.

[FR Doc.77-13709 Filed 5-12-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EDUCATION PROGRAMS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Education Programs Panel will convene at 9:00 a.m. each day in Rooms 1023 and 1025 at 806 Fifteenth Street NW., Washington, D.C. on June 8 and 9, 1977.

The purpose of the meeting is to review Projects applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 Fifteenth Street NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-13710 Filed 5-12-77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

MAY 9, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806-15th Street NW., Washington, D.C. 20506, in Room 1130, from 9 am to 5:30 pm on June 9 & 10, 1977.

The purpose of this meeting is to review applications submitted to the Editing Program of the National Endowment for the Humanities, for projects beginning October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange on internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506 or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-13711 Filed 5-12-77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Special Projects Advisory Panel to the National Council on the Arts will be held on June 6-7, 1977, from 9:30 a.m. to 5:30 p.m. each day, in Room 1340 (6) and Room 1422 (7), Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 6, 1977.

[FR Doc.77-13726 Filed 5-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-133]

FLOAT GLASS FROM ITALY

Countervailing Duties

AGENCY: Customs Service, Treasury.

ACTION: Notice of desire to contest filed by American manufacturer, producer or wholesaler.

SUMMARY: This notice is to advise the public that the Customs Service has received notification of the desire of a number of American manufacturers to contest a negative countervailing duty determination with regard to float glass from Italy.

EFFECTIVE DATE: This notice is effective on May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-2938).

The Customs Service received on May 31, 1974, a petition filed on behalf of ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Company, and C-E Glass, alleging that imports of float glass from Italy benefit from the payment or bestowal of bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). On January 7, 1976, Treasury Decision 76-9, published in the FEDERAL REGISTER (41 FR 1274), stated that it had been determined that imports of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SIV) and Fabbrica Pisana, S.p.A. (Pisana) did indeed benefit from bounties or grants "by reason of various incentive programs including investment grants, special tax reductions, low-interest rate financing and the reduction of the contribution to state welfare organizations by the float glass manufacturers."

Upon the subsequent receipt of information with respect to SIV, it was determined "that no bounty or grant is being or has been paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SIV)", and T.D. 76-9 was thereby modified so as to exclude float glass from Italy produced by SIV (42 FR 13016). Notification was received by the Department of the Treasury on March 25, 1977, of the desire of the petitioners in this matter, ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Company, and C-E Glass, to contest the above negative determination with regard to imports of float glass from Italy produced by SIV. In accordance with the provisions of section 516(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19

U.S.C. 1516(d)), notice is hereby given of the petitioner's desire to contest such determination.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: May 3, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-13745 Filed 5-12-77;8:45 am]

[T.D. 77-130]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

MAY 4, 1977.

Notice is hereby given that pursuant to section 24.18(b), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 22, 1977.

Installation:	*Biweekly excess cost*
Montreal, Canada	$14,017.00
Toronto, Canada	20,818.00
Kindley Field, Bermuda	7,481.00
Nassau, Bahama Islands	10,505.00
Vancouver, Canada	7,488.00
Winnipeg, Canada	1,905.00

JOHN A. HURLEY,
Assistant Commissioner of Customs (Administration).

[FR Doc.77-13752 Filed 5-12-77;8:45 am]

[T.D. 77-134]

TUNA FISH; TARIFF-RATE QUOTA

Calendar Year 1977

MAY 9, 1977.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for calendar year 1977.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, Tariff Schedules of the United States (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1977 tariff-rate quota is applicable to tuna fish described in item 112.30, TSUS, entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20209 (202-566-8592).

SUPPLEMENTARY INFORMATION: It has now been determined that 111,245,982 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1977 at the rate of 6 per centum ad valorem under item 112.30, Tariff Schedules of the United States. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Pursuant to the provisions of item 112.30, Tariff Schedules of the United States, the above quota is based on the United States pack of canned tuna during the calendar year 1976.

JOHN A. HURLEY,
Acting Commissioner of Customs.

[FR Doc.77-13751 Filed 5-12-77;8:45 am]

Office of the Secretary

ASSET DEPRECIATION RANGE GUIDELINES

Study of Industrial Steam and Electric Generation and/or Distribution Systems and Waste Reduction Plants

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated simultaneous studies of guideline depreciation periods and repair allowance percentages for industrial steam and electric generation and/or distribution systems and waste reduction plants, assets currently included in asset guideline classes 00.4 and 39.0 respectively, (Rev. Proc. 77-10 1977-12 I.R.B. 4), under the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(f), and Reg. Sec. 1.167 (a)-11).

All persons interested in these studies may submit comments in writing to OIE. While OIE has obtained information on industrial steam and electric generation and/or distribution systems from some of OIE's past industry studies (e.g. pulp and paper industry, textile industry, chemical industry, steel industry, etc.), information from all interested persons is solicited. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on May 26, 1977, at which information needs and procedures for obtaining and analyzing the requisite information will be discussed. Agenda for the meeting, exact time and place, and background material may be obtained by writing to OIE.

All communications concerning this study should be addressed to:

Office of Industrial Economics, Projects 00.4 & 39.0, P.O. Box 28018, Washington, D.C. 20005.

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc.77-13742 Filed 5-12-77;8:45 am]

ASSET DEPRECIATION RANGE GUIDELINES

Study of Professional, Scientific, & Controlling Instruments, Photographic & Optical Goods, Watches & Clocks

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated a study of guideline depreciation periods and repair allowance percentages for assets used in the manufacture of professional, scientific, and controlling instruments, photographic and optical goods, watches and clocks currently covered by asset guideline class 38.0 (Rev. Proc. 77-10 1977-12 I.R.B. 4), under the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(f), and Reg. Sec. 1.167 (a)-11).

All persons interested in this study may submit comments in writing to OIE. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on June 7, 1977, at which information needs and procedures for obtaining and analyzing the requisite information will be discussed. Agenda for the meeting, exact time and place, and background material may be obtained by writing to OIE.

All communications concerning this study should be addressed to:

Office of Industrial Economics, Project 38.0, P.O. Box 28018, Washington, D.C. 20005.

Dated: May 10, 1977.

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc.77-13743 Filed 5-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 19 (Sub-No. 35)]

ALLEGHENY AND WESTERN RAILWAY CO., ET AL.

Abandonment Near New Castle, Lawrence County, Pennsylvania

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Allegheny and Western Railway Company, Buffalo, Rochester, and Pittsburgh Railway Company and the Baltimore and Ohio Railroad Company of its line of railroad near New Castle, in Lawrence County, Pa., a total distance of 2.5 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 of the low level of traffic over the line in the last few years. Consequently, there will not be any change in air quality and fuel consumption, although there may be some temporary adverse effects on the environment during salvage operations.

The Greater New Castle Development Corporation recently constructed an industrial park near New Castle along the subject right-of-way. The proposed ac-

tion will have a serious adverse effect on the park due to the potential loss of industrial investment by rail dependent firms. Although this action may retard development that could substantially increase the economic base of the community, abandonment will not preclude development. The right-of-way has been determined to be suitable for recreation use following abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13807 Filed 5-12-77;8:45 am]

[Notice 388]

ASSIGNMENT OF HEARINGS

MAY 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-No. 631), Curtis, Inc., MC 115331 (Sub-No. 413), Truck Transport Incorporated, MC 116763 (Sub-No. 348), Carl Subler, Trucking Inc. MC 118989 (Sub-No. 141), Container Transit, Inc., MC 124211 (Sub-No. 281), Hilt Truck Line, Inc., MC 128273 (Sub-No. 240), Midwestern Distribution, Inc., MC 135732 (Sub-No. 25), Aubrey Freight Lines, Inc. and MC 123048 (Sub-No. 343), Diamond Transportation System, Inc. now being assigned for continued hearing on July 25, 1977 (2 weeks), at the Milwaukee Inn, 916 East State Street, Milwaukee, Wisconsin.

MC 142370, Paul Londino, DBA Scranton Transfer, now assigned May 23, 1977, at Little Rock, Ark. is canceled and reassigned for May 23, 1977 (1 week) in the Grand Jury Room 229, Federal Courthouse, Fort Smith, Arkansas.

No. 36027, Van Waters & Rogers, Inc., V. Transport Clearings of Los Angeles, ET AL, now being assigned May 27, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105045 Sub 66, R. L. Jefferies Trucking Co., Inc. now being assigned May 17, 1977 (1 day) at Jacksonville, Florida and will be held at the Voyager Building, Room 100, 2255 Phillips Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13811 Filed 5-12-77;8:45 am]

[Notice 389]

ASSIGNMENT OF HEARINGS

MAY 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 134922 Sub No. 226, B. J. McAdams, Inc. now assigned June 7, 1977 (1 day) at San Francisco, California instead of June 6, 1977 at San Francisco, California in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13812 Filed 5-12-77;8:45 am]

[AB 19 (Sub-No. 32)]

BALTIMORE AND OHIO RAILROAD CO.

Abandonment Near Green Spring and Petersburg in Hampshire, Hardy and Grant Counties, West Virginia

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Baltimore and Ohio Railroad Company of a portion of its South Branch between Green Spring and Petersburg, a distance of 51.40 miles, all in Hampshire, Hardy, and Grant Counties, W. Va., 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 expected increases in fuel consumption, air pollution, and noice instrusions resulting from the proposed action should not be significant. Although several commercial sites have been established along the affected corridor, no industries are scheduled to locate in these areas and no active industrial recruitment program appears to exist. Therefore, approval of the proposed abandonment should not seriously affect community and rural development. Should the action be approved, interest has been expressed in obtaining the corridor for a public use trail and public access to the South Branch of the Potomac River.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13792 Filed 5-12-77;8:45 am]

[AB 6 (Sub-No. 42)]

BURLINGTON NORTHERN INC.

Abandonment Between Nifa and West Batavia in Kane County, Illinois

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of

Energy and Environment has concluded that the proposed abandonment by Burlington Northern Inc., of 3.15 miles of branch line between Nifa and West Batavia, in Kane County, Ill., 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 in view of the fact that only two carloads moved over the line in the 30-month period ending June 30, 1976, diversion to motor carrier and the associated environmental impacts will be minimal. Furthermore, abandonment should have little or no effect on plant and animal species on or adjacent to the rail right-of-way.

There are no economic development plans in the area reliant upon continued service from the subject rail line. Consequently, the proposed abandonment should have no serious adverse effect on rural or community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13793 Filed 5-12-77;8:45 am]

[AB 18 (Sub-No. 17)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Portion Greenbrier Branch Between North Caldwell and Durbin, in Greenbrier and Pocahontas Counties, West Virginia

APRIL 28, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that 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.

Said comments, which were made by the applicants, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13795 Filed 5-12-77;8:45 am]

[Rule 19, Ex Parte No. 241;
Exemption No. 137]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

TO: *All Railroads: It appearing,* That there are substantial shortages of plain gondolas on the lines of the Southern Pacific Transportation Company (SP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the SP of certain of these cars; that the SP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the SP; and that use of these cars by the SP will substantially relieve gondola shortages on the SP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondolas owned by the National Railways of Mexico (NDM) identified herein may be used by the Southern Pacific Transportation Company (SP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain gondolas identified herein available empty on lines other than the SP must be returned to the SP either loaded or empty and may not be returned to the NDM by any line other than the SP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto:

Effective May 6, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., May 6, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO
REVISED EXEMPTION NO. 137
REPORTING MARKS NDM

NDM 55001
NDM 55006
NDM 55030
NDM 55050
NDM 55052
NDM 55057
NDM 55061
NDM 55075
NDM 55080
NDM 55086
NDM 55089
NDM 55093
NDM 55096
NDM 55105
NDM 55108
NDM 55112
NDM 55115
NDM 55129
NDM 55140
NDM 55145
NDM 55160
NDM 55162
NDM 55182
NDM 55189
NDM 55195
NDM 55196
NDM 55213
NDM 55228
NDM 55241
NDM 55243
NDM 55244
NDM 55245
NDM 55251
NDM 55253
NDM 55261
NDM 55266
NDM 55272
NDM 55273
NDM 55275
NDM 55281
NDM 55286
NDM 55298
NDM 55307
NDM 55332
NDM 55338
NDM 55340
NDM 55347
NDM 55351
NDM 55364
NDM 55379
NDM 55388
NDM 55394
NDM 55395
NDM 55403
NDM 55406
NDM 55411
NDM 55426
NDM 55449
NDM 55466
NDM 55470
NDM 55472
NDM 55475
NDM 55476
NDM 55481
NDM 55487
NDM 55491
NDM 55495
NDM 55497
NDM 55509
NDM 55522
NDM 55527
NDM 55538
NDM 55552
NDM 55588
NDM 55603
NDM 55606
NDM 55612
NDM 55616
NDM 55617
NDM 55621
NDM 55647
NDM 55658
NDM 55660
NDM 55667
NDM 55669
NDM 55677
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NDM 55693
NDM 55701
NDM 55707
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NDM 55740
NDM 55753
NDM 55759
NDM 55764
NDM 55772
NDM 55776
NDM 55787
NDM 55796
NDM 55805
NDM 55809
NDM 55815
NDM 55817
NDM 55822
NDM 55824
NDM 55825
NDM 55834
NDM 55835
NDM 55847
NDM 55855
NDM 55857
NDM 55858
NDM 55864
NDM 55868
NDM 55870
NDM 55879
NDM 55886
NDM 55890
NDM 55891
NDM 55897
NDM 55901
NDM 55910
NDM 55917
NDM 55922
NDM 55927
NDM 55930
NDM 55933
NDM 55946
NDM 55949
NDM 55953
NDM 55956
NDM 55958
NDM 55962
NDM 55985
NDM 55999
NDM 56013
NDM 56028
NDM 56045
NDM 56054
NDM 56060
NDM 56065
NDM 56071
NDM 56085
NDM 56086
NDM 56094
NDM 56102
NDM 56112
NDM 56115
NDM 56125
NDM 56134
NDM 56137
NDM 56149
NDM 56150
NDM 56173
NDM 56205
NDM 56208
NDM 56224
NDM 56237
NDM 56240
NDM 56248
NDM 56252
NDM 56254
NDM 56263
NDM 56270
NDM 56278
NDM 56296
NDM 56300
NDM 56308
NDM 56309
NDM 56328
NDM 56329
NDM 56346
NDM 56364
NDM 56365
NDM 56369
NDM 56376
NDM 56379
NDM 56380
NDM 56399
NDM 56418
NDM 56423
NDM 56427
NDM 56431
NDM 56440
NDM 56448
NDM 56455
NDM 56458
NDM 56462
NDM 56465
NDM 56477
NDM 56489
NDM 56490
NDM 56494
NDM 56497

[FR Doc.77-13788 Filed 5-12-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 10, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before May 31, 1977.

FSA No. 43362—*Joint Water-Rail Container Rates—Far Eastern Shipping Company.* Filed by Far Eastern Shipping Company, (No. 8), for itself and interested rail carriers. Rates on general commodities, between rail carriers terminals on the U.S. Atlantic and Gulf Coast, and ports in Japan, Hong Kong, Australia, The Philippines, Singapore, Thailand and West Malaysia. Grounds for relief—Water competition. Tariffs—Far Eastern Shipping Company Westbound tariffs I.C.C. Nos. 4, 6, and 7, F.M.C. Nos. 16, 22, and 28, respectively, and Eastbound triffs I.C.C. Nos. 3 and 5, F.M.C. Nos. 21 and 29, respectively. Rates are published to become effective on June 5, 1977, and later.

FSA No. 43363—*Iron and Steel Articles to Almeda, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-672), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from specified points in Delaware, Maryland, and Pennsylvania, to Almeda, Texas. Grounds for relief—Rate relationship. Tariff—Supplement 269 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on June 9, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13789 Filed 5-12-77;8:45 am]

[AB 45 (Sub-No. 33)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Pyatts and Vergennes in Perry and Jackson Counties, Illinois

APRIL, 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad Company of its line of railroad between Pyatts and Vergennes, a distance of 7.4 miles, in Perry and Jackson Counties, Ill., 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), 24 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 traffic on the subject line has been declining to a point where 117 cars were handled in the 12 month period ending June 1976. Given this level of traffic, abandonment would result in the addition of less than 2 trucks each working day on the area highways. A diversion of this magnitude will not significantly affect air quality, fuel consumption or traffic congestion. Furthermore, there are no definitive economic development plans which would conflict with the proposed abandonment. The line is not considered suitable for other public purposes upon abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13791 Filed 5-12-77;8:45 am]

[AB 43 (Sub-No. 32)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between LeRoy and Fisher in McLean and Champaign Counties, Illinois

APRIL 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad Company of 20.96 miles of its branch line between LeRoy and Fisher, in McLean and Champaign Counties, Ill., 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 diversion of current traffic moving over the line to motor carriers would involve only a small amount of additional highway miles traveled in the involved area. Consequently, air pollution, highway congestion, fuel consumption, noise levels, and other ecological conditions will only be minimally affected.

In view of the lack of definitive economic or industrial plans in the area, rural and community development would not be seriously affected by abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13804 Filed 5-12-77;8:45 am]

[AB 43 (Sub-No. 30)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Illinois

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad of its line between Waggoner and Glen Carbon, a distance of 53.92 miles, in Montgomery, Macoupin, and Madison Counties, Ill., 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 all but one of the stations served by the line proposed for abandonment are served by other railroads, and that the resultant diversion of rail traffic to motor carrier would have minimal impact on air pollution, fuel consumption and ecological conditions.

Illinois Terminal Railroad Company traffic moving over the subject line via trackage rights will be rerouted over a parallel ICG line with little or no circuitry.

No definitive economic or industrial plans exist which rely upon continued rail service over the line proposed for abandonment. Consequently, there will not be a serious adverse effect on rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13806 Filed 5-12-77;8:45 am]

[Notice No. 166]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by June 13, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76932 filed April 29, 1977. Transferee: Service Transport Lines, Inc., 618 Galveston, West Sacramento, California, 95691. Transferor: PCP Transportation Company, 9500 South Norwalk Boulevard, Santa Fe Springs, California, 90670. Transferee's representative: Art Hayashida, 618 Galveston, West Sacramento, California, 95691. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 127756, issued March 9, 1967, as follows: *General commodities*, with normal exceptions and except livestock, commodities requiring mechanical refrigeration or temperature control, and automobiles, trucks, and buses, Between the San Francisco Bay Area (the San Francisco Bay area includes all points in the cities of San Francisco, San Jose, and Richmond, and the unincorporated community of San Pablo, and those points within a described boundary) and Sacramento, Stockton, Manteca, and Modesto, Calif., serving all intermediate points and off-route points within 15 miles of specified highways, restricted against service at the plants and facilities of Pacific Clay Products, over certain specified regular routes; *General commodities*, with normal exceptions, and except livestock, commodities requiring mechanical refrigeration or temperature control and automobiles, trucks, and buses, over irregular routes, Between points in the San Francisco Bay area; Between points within 15 miles of Sacramento, including Sacramento; Between points within 15 miles of Modesto, including Modesto. Restriction: The service authorized is subject to the following conditions: No service shall be rendered in the transportation of clay pipe, clay pipe fittings, brick and flue lining, sacked fire clay, concrete utility vaults and burial vaults. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77064, filed April 19, 1977. Transferee: GOLDEN TRIANGLE TRUCKING, INC., 1131 S. Memorial Drive, Nederland, Tex. 77627. Transferor: Kermic Smith and Clarence Joseph Herbert, Jr., doing business as Golden Triangle Trucking Company, 1131 S. Memorial Drive, Nederland, Tex. 77627. Applicant's representative: Austin L. Hatchell, Attorney at Law, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 138270 (Sub-No. 2), issued April 28, 1977 as follows: *Gravel*, in bulk, from Longville, La., to Beaumont, Orange, Port Arthur, and Vidor, Tex. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77079, filed April 12, 1977. Transferee: BUILDING SYSTEMS TRANSPORTATION, INC., Box 142, Washington Court House, Ohio, 43160. Transferor: Van's Transportation, Inc., 2803 Cincinnati-Dayton Road, P.O. Box 367, Middletown, Ohio 45042. Applicant's representative: Paul F. Berry, 8 East Broad Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 139083, issued November 18, 1974, as follows: *Steel buildings*, knocked down, *and fabricated metal products*, from points within 3 miles of Washington Court House, Ohio, to points in Kentucky, that part of Pennsylvania on and west of U.S. Highway 15, that part of West Virginia on and north of U.S. Highway 60, and that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois State line; and *empty containers* used for the transportation of the commodities specified above, from points in Kentucky, that part of Pennsylvania on and west of U.S. Highway 15, that part of West Virginia on and north of U.S. Highway 60, and that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois State line, to points within 3 miles of Washington Court House, Ohio. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77098, filed April 21, 1977. Transferee: LESLIE A. PARKER, R.D. No. 2, Eldred, Pa. Transferor: Floyd E. Hubbard, Jr., East Main Rd., North East, Pa. 16428. Applicants' representative: William J. Hirsch, Attorney at Law, 43 Court St., Suite 1125, Buffalo, N.Y. 14202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits, Nos. MC 111848 Sub-1, Sub-4, and Sub-6, issued November 7, 1972, October 30, 1974, and June 11, 1976, respectively, as follows: *Engines* (except aircraft and missile engines), *pumps, compressors*, and *parts thereof* (transported separately or in connection therewith), between points in Erie and Cattaraugus Counties, N.Y., and Erie and McKean Counties, Pa., on the one hand, and, on the other, points in Arizona, Colorado, Illinois, Indiana, Kansas, Louisiana, Michigan, Mississippi, New Mexico, Ohio, Oklahoma, Pennsylvania, and Texas. *Engines, pumps, compressors*, and *parts thereof* (transported separately or in connection therewith), *rough castings, rough forgings, steel bars, patterns, weldments, fire brick, ferro alloy briquettes*, and *tooling*, between points in McKean, Crawford, Clearfield, Warren, Franklin, and Erie Counties, Pa., on the one hand, and, on the other, Olean, N.Y. *Engines, pumps,*

compressors, and *parts thereof* (transported separately or in connection therewith), *rough castings, rough forgings, steel bars, patterns, weldments, ferro alloy briquettes*, and *tooling*, between points in McKean County, Pa., and Olean, N.Y., on the one hand, and, on the other, points in Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Dresser Industries, Inc., of Olean, N.Y. *Engines* (except aircraft and missile engines), *pumps, compressors*, and *parts*, for the foregoing commodities, between Olean, N.Y., on the one hand, and, on the other, points in Alabama, Kentucky, Minnesota, Missouri, Tennessee, West Virginia, and Wisconsin. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Dresser Industries, Inc., Dresser Clark Division of Olean, N.Y. *Engine parts*, between Olean, N.Y., on the one hand, and, on the other, points in Alabama, Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Van Der Horst Corporation of America, Olean, N.Y. *Railroad diesel engine parts*, between Olean, N.Y., on the one hand, and, on the other, points in Iowa. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Van Der Horst Corporation of America. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77100, filed April 26, 1977. Transferee: GILBERT TRANSPORT, INC., 1219 Twinbrooke, Houston, Tex. 77088. Transferor: Hunt Transportation Inc., 10770 I Street, Omaha, Nebr. 68127. Applicants' representative: Donald Stern, Attorney at Law, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 82841, Sub-No. 66 and Sub-No. 83, issued May 7, 1970, January 24, 1972, and July 5, 1972, respectively as follows: *Paper and paper products*, and *products produced or distributed by manufacturers and converters of paper and paper products* (except commodities in bulk), from the plant site of Bowaters Southern Paper Corporation at or near Calhoun (McMinn County), Tenn., to points in Oklahoma, Missouri, Kansas, Nebraska, Iowa, Wisconsin, Colorado, and New Mexico, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized under the commodity description immediately above is restricted to traffic originating at the immediately above-named plant site. Also *wood pulp, paper*, and *paper products*, from the plant sites of Southland Paper Mills, Inc., at Herty and Sheldon, Tex., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska, New Mexico, South Dakota, Utah, Wisconsin, and Wyoming, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized next above are restricted against the transportation of newsprint from Herty, Tex., to points in Kansas. And *charcoal briquettes*, in bags, from points in Baxter County, Ark., to points in the United States (except Memphis, Tenn., Kansas City, St. Louis, and Springfield, Mo., Little Rock, Ark., and points in Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. And *materials and supplies*, except in bulk, used in the manufacture of the commodities next above, from points in Louisiana, Illinois, Kansas, and Missouri (except Kansas City, St. Louis, and Springfield), to points in Baxter County, Ark. Transfere presently holds no authority from this Commission. Application has not been fild for temporary authority under Section 210a(b).

No. MC-FC-77104, filed April 9, 1977. Transferee: DELIGHT TRANSPORTATION, INC., doing business as Delight Transportation Company, 307 W. Calvert Street, South Bend, Ind. 46613. Transferor: Edward Bruce Wagoner, doing business as Delight Transportation Company, 307 W. Calvert Street, South Bend, Ind. 46613. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 139697, issued August 6, 1976, as follows: *Lawn and garden tractors, parts* and *attachments* thereof, and materials, equipment, and supplies used in the manufacture of such commodities (except in bulk), with restrictions, between South Bend, Ind., on the one hand, and, on the other, points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77106, filed May 3, 1977. Transferee: MOSER MACHINERY MOVERS, a corporation, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Transferor: Kenneth Moser, doing business as Machinery Movers, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Applicants' representative(s): Kenneth Moser, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 127134 (Sub-No. 1), issued July 25, 1968, as follows: Irregular routes: *Printing machinery and equipment*, and *printing materials and supplies* when the transportation thereof is incidental to the transportation of printing machinery and equipment, between Los Angeles, Calif., on the one hand, and, on the other, points in Maricopa, Pima, and Yuma Counties, Ariz., and Clark County, Nev. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77107, filed May 3, 1977. Transferee: A-1 TRANSIT, INC., 6202 East Concord Boulevard, Inver Grove Heights, Minn. 55075. Transferor: Dakota Express, Inc., 550 East Fifth St. South, South St. Paul, Minn. 55075. Applicants' representatives: Bradford E. Kistler, Attorney for Transferee, P.O. Box 82028, Lincoln, Nebr. 68401; Donald L. Stern, Attorney for transferor, 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought for purchase by transferee of that portion of the rights of transferor set forth in Certificates Nos. MC 83217, MC 83217 (Sub-No. 8), and MC 83217 (Sub-No. 9), issued by the Commission July 9, 1969, April 4, 1958, and August 27, 1958, respectively, as follows: *Household goods* as defined by the Commission, and general commodities, with the usual exceptions, between Flandreau, S. Dak., and points within 15 miles of Flandreau, on the one hand, and, on the other, points in Minnesota; *household goods*, as defined by the Commission, between Flandreau, S. Dak., and points in South Dakota within 100 miles thereof, on the one hand, and, on the other, points in Nebraska and Iowa; *general commodities*, with the usual exceptions, between points in Lincoln County, Minn., on the one hand, and, on the other, Sioux Falls, Gary, Brookings, and Watertown, S. Dak.; and general commodities, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, and commodities requiring special equipment, between Flandreau, S. Dak., and Lake Benton, Minn., over specified routes, serving the intermediate point of Elkton, S. Dak. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13813 Filed 5-12-77;8:45 am]

[AB 10 (Sub-No. 9)]

NORFOLK AND WESTERN RAILWAY CO.

Abandonment Between Boaz and Jarratt, in Isle of Wight, Southampton and Sussex Counties, Va.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of En-

ergy and Environment to modify its previous conclusion that 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.

Said comments, which were made by the Crater Planning District Commission and Sussex County, Va., have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13790 Filed 5-12-77;8:45 am]

[AB 36 (Sub-No. 3)]

OREGON SHORT LINE RAILROAD CO.

Abandonment and Abandonment of Operation by Union Pacific Railroad Company of Oregon's West Belt Branch Between Menan and Edmonds, in Jefferson and Madison Counties, Idaho

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Oregon Short Line Railroad Company of its line and the abandonment of operations by the Union Pacific Railroad Company over the same line between a point near Menan to a point near Edmonds, a distance of 15.68 miles, in Jefferson and Madison Counties, Idaho, 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 line has handled no traffic since 1973, there are alternative rail heads in close proximity to the subject line, and there is an adequate highway network in the area. The line to be abandoned crosses over the Snake River and appropriate state agencies are aware of and shall be responsible for assuring salvage activities are consistent with state law governing such actions. Interest has been expressed in acquiring the right-of-way for possible recreation uses; therefore, the assessment recommends an appropriate public use condition.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13810 Filed 5-12-77;8:45 am]

[AB 15 (Sub-No. 1)]

PETALUMA AND SANTA ROSA RAILROAD CO.

Abandonment Between Sebastopol and Turner in Sonoma County, Calif.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Petaluma and Santa Rosa Railroad Company (P&SR) of its line between Sebastopol and Turner, in Sonoma County, Calif., a distance of 5.52 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 since P&SR will continue to serve the northernmost 1.4 miles of the line, no shippers will lose direct rail access as a result of abandonment. Therefore, there will be no diversion of rail traffic to motor carrier and no increases in fuel consumption, air pollution, or highway congestion.

Abandonment could eliminate future job opportunities in the case of one company at Turner. However, due to the relatively small number of these jobs, such elimination is not expected to have a serious adverse impact on rural and community development.

It is determined that the right-of-way is suitable for use for other public purposes. Therefore, a condition is suggested which would give interested public agencies 120 days in which to offer to purchase the right-of-way.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13809 Filed 5-12-77;8:45 am]

[AB 12 (Sub-No. 45)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Biola Junction and Biola, in Fresno County, Calif.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Biola Jct. and Biola, in Fresno County, Calif., a distance of approximately 8.68 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 inasmuch as Southern Pacific will continue to serve the easternmost 0.686 miles on the line following abandonment, diversion of rail traffic to motor carrier on the remaining portion of line would not result in a significant increase in energy consumption, air pollution, or highway traffic.

Abandonment would adversely affect an industrial development project at Biola. However, due to the relatively small number of jobs involved, and due to Biola's location outside the part of the county in which industrial development efforts are to be concentrated, abandonment is not expected to have a serious adverse impact on rural and community development. Also, abandonment is not expected to prevent the local community services district from carrying out its operational plans. It was determined that the right-of-way is suitable for use for other public purposes. Therefore, the TAS suggests imposition of a condition which would give public agencies 180 days to offer to purchase the right-of-way.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washing-

ton, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13794 Filed 5-12-77;8:45 am]

[AB 12 (Sub-No. 48)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Culver Junction and Inglewood in Los Angeles County, California

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Culver Junction and Inglewood, a distance of 8.57 miles, in Los Angeles County, Calif., 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 no significant environmental impacts would result from abandonment because the line has handled a minimal volume of traffic, and alternative lines of the Atchison, Topeka and Santa Fe Railroad Company, as well as the applicant's "Exposition Line", are within four highway miles from stations on the line to be abandoned. Interest has been expressed in acquiring the right-of-way for alternative transportation, utility and possible recerational uses; therefore, the assessment recommends an appropriate public use condition. Impacts upon air quality and fuel consumption resulting from a diversion to motor carrier are considered minimal. Other impacts resulting from this action upon water quality, noise and wildlife are found to be likewise minimal.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

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 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13808 Filed 5-12-77;8:45 am]

WASHINGTON COUNTY RAILROAD CO., ET AL

Abandonment of Service and Leasing

[AB 19 (Sub-No. 20); Finance Docket No. 28348]

APRIL 29, 1977.

Washington County Railroad Company and Baltimore and Ohio Railroad Company, abandonment portion Hagerstown branch between Weverton and Hagerstown, also portion of the Antietam branch near Security, all in Washington County, Maryland.

Western Maryland Railway Company—lease and operate—Washington County Railroad Company, subsidiary of Baltimore and Ohio Railroad Company in Washington County, Maryland.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that 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.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13805 Filed 5-12-77;8:45 am]

[Notice No. 5]

WATER CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following is notice of filing of application for temporary authority under section 311(a) of the Interstate Commerce Act. One copy of a petition, if any, must be served on applicant, or its authorized representative, if any, and the petitioner must certify that such service has been made. The petition must identify the operating authority upon which it is predicated, specifying the "W" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the petitioner shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a petition shall be governed by the completeness and pertinence of the petitioner's information.

A copy of the application is on file and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office of the Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. W-1316 TA. By order entered May 10, 1977, the Motor Carrier Board granted American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004, 180-days temporary authority to engage in the business of transportation by water vessel, in interstate commerce, by non-self propelled vessels with the use of separate towing vessels, of internal reactor components and accessories, from Portsmouth, N.H., via the Panama Canal, to Long Beach, Calif., under a continuing contract with Combustion Engineering, Inc. A. E. Leo, 17 Battery Place, New York, N.Y. 10004 representative for applicant. Any interested person may file a petition for reconsideration by June 2, 1977. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13786 Filed 5-12-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 9 a.m., May 11, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Briefing by Ambassador Boyd on U.S.–U.K. Talks to be held in London beginning May 16, 1977.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: Ambassador Boyd will be leaving for London at the end of this week and his schedule permits him to brief the Board on May 11, 1977. The following Members have voted that agency business requires that the Board be briefed at the earliest possible time and that no earlier notice of the meeting was possible. Acting Chairman Lee R. West, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member R. Tenney Johnson. Additionally, the following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B): Acting Chairman Lee R. West, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member R. Tenney Johnson.

EXPLANATION OF THE CLOSING

This meeting will concern the current U.S.–U.K. negotiations and the position to be taken by the United States during these negotiations. Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies in the negotiations could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the Board finds that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action without the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed to public observation.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

ASSISTANTS TO BOARD MEMBERS

Mr. Charles M. Palmer
Mr. John T. Golden
Mr. Elias C. Rodriquez
Mr. Frederic D. Houghteling
Mr. Robert E. Cohn
Mr. John R. Hancock
Mr. James L. Casey

OFFICE OF THE MANAGING DIRECTOR

Dr. Norma Maine Loeser

OFFICE OF THE GENERAL COUNSEL

Mr. James C. Schultz
Mr. Peter B. Schwarzkopf
Ms. Carol Light

BUREAU OF INTERNATIONAL AFFAIRS:

Mr. Rosario J. Scibilia

BUREAU OF OPERATING RIGHTS:

Mr. Bruce E. Cunningham

OFFICE OF THE SECRETARY:

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

OTHER:

Ambassador Alan Boyd, Department of State
Dr. W. Stephen Piper, Assistant to Ambassador Alan Boyd
Ms. Rose Basiliko, Alderson Reporting Company

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B).

JAMES C. SCHULTZ,
General Counsel.

MAY 9, 1977.

[S-387-77 Filed 5-11-77;9:11 am]

2

AGENCY HOLDING THE MEETING: Federal Communications Commission.

FEDERAL REGISTER DATE OF PREVIOUS ANNOUNCEMENT: May 11, 1977.

PREVIOUSLY ANNOUNCED TIMES AND DATE OF MEETINGS: 9:30 a.m. (Closed), 10:00 a.m. (Open), May 12, 1977.

CHANGES IN THE MEETINGS: The following agenda items were inadvertently listed and should be deleted:

Agenda and Item No.	*Subject*
Cable television, 1	Application for Review of Bureau action dismissing as moot a petition for order to show cause, filed by Apple Valley Broadcasting, Inc., licensee of Television Broadcast Station KAPP (ABC, Channel 35), Yakima, Washington.
Hearing, 2	Application for review of a Review Board decision denying an application for additional time in which to construct UHF television station WCTF, Channel 19, Cleveland, Ohio (Docket No. 20585).

Actions on the above items were completed by the Commission on May 4, 1977, via the Notation Action procedure.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: May 9, 1977.

[S-388-77 Filed 5-11-77;9:11 am]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 89, page 23579, May 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 11, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFOMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting: Personal Request by Mr. Philip Glasgo for Access to Board Records No. 22, May 11, 1977.

[S-389-77 Filed 5-11-77;10:52 am]

4

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: May 18, 1977—10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public: 1. Monthly Report of Actions Pursuant to Delegated Authority.

2. Agreements Nos. 8090-14, 9522-26, 9615-19, and 10117-1; modifications of conference and rate agreements providing for intermodal authority.

3. (1) Agreement 10175: Discussion Agreement between the Atlantic and Gulf-Indonesia Conference (Agreement 8080) and the Pacific/Indonesian Conference (Agreement 6060); (2) Agreement 10176: Discussion Agreement between the Atlantic and Gulf-Singapore, Malaya and Thailand Conference (Agreement 8240) and the Pacific-Straits Conference (Agreement 5680); (3) Agreements 5680-18, 6060-17, 8080-14, 8240-11: Modifications of four Conference's basic agreements.

4. Agreement No. 10235: the Consolidated Forwarders Intermodal Corporation.

5. Agreement 10117-2—Extension of Term of the U.S. North Atlantic Spain Rate Agreement.

6. Agreement No. 3103-64: Modification of the Japan/Korea-Atlantic and Gulf Freight Conference Agreement; Agreement No. 5700-26: Modification of the New York Freight Bureau Agreement; Agreement No. 3103-64(A): Petition of the J/KAGFC for Interim Extension of Intermodal Authority.

7. Docket No. 76-45: *Eastern Cement Corporation* v. *Port of Palm Beach District*, Possible Violation Section 15, Shipping Act, 1916.

8. Special Docket No. 493—*Union Camp International Sales Corp.* v. *Sea-Land Service, Inc.*

9. Special Docket No. 494—*Brunswick Corporation* v. *Sea-Land Service, Inc.*

10. Special Docket No. 497—*Smith and Johnson (Shipping) Inc.* v. *Sea-Land Service, Inc.*

11. Special Docket No. 498—*Union Carbide Corporation* v. *Sea-Land Service, Inc.*

12. Special Docket No. 499—*Letraset Consumer Products Inc.* v. *Lykes Bros. Steamship Co., Inc.*

Portions closed to the public: 1. Seatrain Gitmo, Inc.—New Provisions and Rates For Movement of Government Cargo; U.S. Atlantic and Gulf to Puerto Rico.

2. Docket No. 72-43—Criteria for Establishing Level of Military Rates Not Detrimental to Commerce of United States Under Section 18(b)(5), Shipping Act, 1916; Order of Discontinuance.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-390-77 Filed 5-11-77;10:52 am]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM

The Board of Governors has previously announced a meeting to be held on Wednesday, May 11, 1977, which will be closed to public observation under exception(s) of the Government in the Sunshine Act (5 U.S.C. § 552b(c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such item, postponed from April 27, 1977, will be considered at this meeting:

Possible candidates for a position at a Federal Reserve Bank. This item will therefore no longer be scheduled for the previously announced closed meeting on Friday, May 13, 1977.

The previously announced closed item for the May 11 meeting is:

Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.

The meeting will be held at 10:00 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-384-77 Filed 5-11-77;9:11 am]

6

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, May 18, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. The appointment of a Federal Reserve Bank director.

2. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.

3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-385-77 Filed 5-11-77;9:11 am]

7

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2 p.m., Friday, May 20, 1977.

PLACE: Room 432, Federal Trade Commission Building 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) The Bureau of Consumer Protection will brief the Commission as to the status of the following evaluation studies: Unavailability of advertised items, ad monitoring and substantiation, over-the-counter drugs (antacid warning) rule, warranties rule, franchise rule, and the holder-in-due-course rule.

CONTACT PERSON FOR MORE INFORMATION:

Leonar J. McEnnis, Jr., Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-391-77 Filed 5-11-77;2:18 pm]

8

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 9:30 a.m., Tuesday, May 17, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue, N.W., Washington, D.C.

STATUS: Open-Regular Conference.

MATTERS TO BE CONSIDERED: 1. Briefing on Rail Abandonments; and 2. Empty/Loaded Truck Mile Study.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone (202) 275-7552.

[S-386-77 Filed 5-11-77;9:11 am]

federal register

FRIDAY, MAY 13, 1977

PART II

FEDERAL ENERGY ADMINISTRATION

■

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Construction Orders; Intention To Issue to Certain Major Fuel Burning Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; General Motors Corp., Et Al.

The Federal Energy Administration (FEA) hereby gives Notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Unit No.	Location
OCU—3090-1-1 3090-1-2 3090-1-3	General Motors Corp./GMAD	Proposed truck assembly plant.	3	Undesignated.
OCU—7490-1-1	The Upjohn Co.	Portage Rd. plant	1	Kalamazoo, Mich.
OCU—0540-1-1 0540-1-2	Anheuser-Busch, Inc.	Morehead Malt plant	2	Morehead, Minn.
OCU—7410-2-1 7410-2-2	United States Steel Corp.	Gary works	2	Gary, Ind.
OCU—6290-2-1 6290-2-2	Republic Steel Corp.	Lime plant	2	Grand River, Ohio.
OCU—7410-5-2 7410-5-4	United States Steel Corp.	Minnesota ore operations (Minntac).	2	Mountain Iron, Minn.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents make publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102.(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environment impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173(a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9 a.m. on May 23 and 24, 1977, at the Federal Building, Room 1903, 219 S. Dearborn Street, Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, FEA Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 313-886-5168. The request should be received before 4:30 p.m. Wednesday, May 18, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to N. Allen Andersen, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604, before 4:30 p.m., Friday, May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m. Thursday, May 19, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentation and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible,

for the presentation of all relevant data, views and arguments.

AN FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentation, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 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 Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the —— Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction 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 in accordance with that determination.

Copies of the regulations implementing Section 2of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree St. N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C-607-S-0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;

(2) Copper refining and melting furnaces;

(3) Chemical plant process heaters and recovery furnaces;

(4) Oxygen blown steelmaking vessels;

(5) Primary float glass tanks;

(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's

that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185)).

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-3000-1-1	General Motors Corp./GMAD	Proposed truck assembly plant.	Boiler 1	Not disclosed.
OCU-3000-1-2			Boiler 2	
OCU-3000-1-3			Boiler 3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

General Motors Corporation/GMAD shall be referred to as the "owner". The Proposed Truck Assembly Plant Boilers 1, 2, and 3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicabe to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to understimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows: (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-7400-1-1	The Upjohn Co.	Portage Rd. plant	Boiler 8	Kalamazoo, Mich.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

The Upjohn Company shall be referred to as the "Owner". Portage Road Plant Boiler 8 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-O and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including,

as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-O submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A-2 of Form FEA C-607-S-O submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey," the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report," cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs requested in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change

costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historicaly shown a profit profile.

APPENDIX C—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installaton	Unit	Location
OCU-0540-1-1 OCU-0540-1-2	Anheuser-Busch, Inc.	Morehead malt plant.	29-100 29-101	Morehead, Minn.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Anheuser-Busch, Incorporated shall be referred to as the "owner". Morehead Malt Plant Units 29-100 and 29-101 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal

transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MBFI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an indepedent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX D—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-7410-2-1	United States Steel Corp.	Gary works	8	Gary, Ind.
OCU-7410-2-2			9	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

United States Steel Corporation shall be referred to as the "owner". The Gary Works Units 8, and 9 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.-(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

FEA expects, however (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX E—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and detetrminations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-6290-2-1	Republic Steel Corp.	Lime plant.	Kiln 4.	Grand River, Ohio.
OCU-6290-2-2			Kiln 5	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Republic Steel Corporation shall be referred to as the "owner". Lime Plant Kiln 4 and Kiln 5 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey"). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985

already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
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1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the *"Availability Report"*, cited above), that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX F—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-7410-2-1	United States Steel Corp.	Gary works	8	Gary, Ind.
OCU-7410-2-2			9	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

United States Steel Corporation shall be referred to as the "owner". The Gary Works Units 8, and 9 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBIs' location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER.

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, the FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13695 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; Dartmouth College

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue a Construction Order pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installation in the early planning process:

Docket No.	Owner	Installation	Unit	Location
OCU-2350-1-1	Dartmouth College, trustees of Dartmouth College.	Dartmouth College heating plant.	1	Hanover, N.H.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding this proposed Construction Order.

The proposed order would require the above-named installation in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue a Construction Order to the above-named installation. The Construction Order will not become effective, however, until FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or (2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installation listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the enviromental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on May 24, 1977, at the J. W. McCormack Post Office and Courthouse Building, Room 208, Park Square, Boston, Massachusetts 02109. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Richard Meister, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-3701. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit 10 copies of

their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Robert Mitchell, Regional Administrator, Federal Energy Administration, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building 12th and Pennsylvania Avenue, N.W., Washington, D.C., and the FEA Regional Office, Library, 7th Floor, 150 Causeway Street, Boston, Massachusetts 02114, 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 Construction Order to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the ———— Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction 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 in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113 (617) 223-3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007 (212) 264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry Street, Rm. 1001, Philadelphia, Pennsylvania 19102 (215) 597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree Street NE., 8th Floor, Atlanta, Georgia 30309 (404) 526-2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604 (312) 353-0540.

VI—Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235 (214) 749-7345.

VII—Neil Adams, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226 (816) 374-2061.

VIII—William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111 (415) 556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (206) 442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source

because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C–607–S–0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;
(2) Copper refining and melting furnaces;
(3) Chemical plant process heaters and recovery furnaces;
(4) Oxygen blown steelmaking vessels;
(5) Primary float glass tanks;
(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of FSECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ------ Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.X.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-2350-1-1	Dartmouth College/trustees of Dartmouth College.	Dartmouth College heating plant.	3	Hanover, N.H.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Dartmouth College/Trustees of Dartmouth College shall be referred to as the "owner". Dartmouth College Heating Plant 3 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned

national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey," the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, EPA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book,* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13699 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; General Motors Corp., Et Al.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Number of Unit	Location
OCU-3090-2-1	General Motors Corp./GMAD	Proposed passenger car assembly plant.	3	Oklahoma City, Okla.
OCU-3090-2-2				
OCU-3090-2-3				
OCU-8160-1-1	E. I. DuPont de Nemours and Co., Inc./National Distillers and Chemical Corp./Syngas Co.	Deer Park plant	2	Deer Park, Tex.
OCU-8160-1-2				
OCU-7230-1-1	Texaco, Inc./Jefferson Chemical Co., Inc.	Neches plant	1	Port Neches, Tex.
OCU-8340-1-3	Exxon Corp./Exxon Chemical Co., U.S.A.	Baton Rouge chemical plant.	3	Baton Rouge, La.
OCU-8340-1-4				
OCU-8340-1-5				
OCU-6650-4-1	Shell Oil Co./Geismar Chemical Co.	Geismar plant	1	Geismar, La.
OCU-6650-6-1	Shell Oil Co.	Norco manufacturing complex.	3	Norco, La.
OCU-6650-6-2				
OCU-6650-6-3				
OCU-6650-7-1	do	Deer Park manufacturing complex.	2	Deer Park, Tex.
OCU-6650-7-2				
OCU-8240-1-1	Fort Howard Paper Co.	Muskogee mill	1	Muskogee, Okla.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and construction to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectivness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on May 24 and 25, 1977, in Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235, (214) 749-7727. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state way the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA

and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., and the FEA Regional Office, Reading Room, 2626 West Mockingbird Lane, Dallas, Texas 75235, 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 Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction 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 in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. *Determination of candidate universe.* On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred.

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C-607-S-0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

1. Refinery heaters and furnaces;
2. Copper refining and melting furnaces;
3. Chemical plant process heaters and recovery furnaces;
4. Oxygen blown steelmaking vessels;
5. Primary float glass tanks;
6. Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A-3 of Form FEA C-607-S-0. Schedule A-3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A-3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A-3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a

Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-3060-2-1	General Motors Corp./GMAD	Proposed passenger car assembly plant.	Boiler 1	Oklahoma City, Okla.
OCU-3060-2-2			Boiler 2	
OCU-3060-2-3			Boiler 3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

General Motors Corporation/GMAD shall be referred to as the "owner". The Proposed Passenger Car Assembly Plant Boilers 1, 2 and 3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1979 National Energy Outlook*):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observers, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change cost discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the FMBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-8160-1-1	Syngas Co./E. I. DuPont de Nemours and Company, Inc./National Distillers and Chemical Corp.	Deer Park Plant	Boiler	Deer Park, Tex.
OCU-8160-1-2			Superheater.	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Syngas Company/E.I. DuPont de NeMours and Company, Incorporated/National Distillers and Chemical Corporation shall be referred to as the "owner". The Deer Park Plant Boiler and Superheater shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS.

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the

MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the own-

er's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX C—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-7236-1-1	Texaco, Inc./Jefferson Chemical Co., Inc.	Neches plant	Boiler HK-9.	Port Neches, Tex.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Texaco, Incorporated/Jefferson Chemical Company, Incorporated shall be referred to as the "owner". Neches Plant Boiler HK-9 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to understimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Cost transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX D—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-8340-1-3 OCU-8340-1-4 OCU-8340-1-5	Exxon Corp./Exxon Chemical Co., U.S.A.	Baton Rouge plant	MEX-B-1 MEX-B-2 MEX-B-3	Baton Rouge, La.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Exxon Corporation/Exxon Chemical Company, U.S.A. shall be referred to as the "owner". Baton Rouge Plant MEX-B-1, MEX-B-2, and MEX-B-3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to asure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 93% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
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1982	369.9
1983	396.2
1984	475.5
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(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFB's' location. FEA observes, however, that the FMBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-O Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX E—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-6650-4-1	Shell Oil Co./Geismar Chemical Co.	Geismar plant	EPP-GEP-BLR-1	Geismar, La.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company/Geismar Chemical Company shall be referred to as the "owner". Geismar Plant EPP-GEP-BLR-1 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This propcsed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (millions tons)*
1977	732.1
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Cost transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

FEA FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX F—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-6650-6-1	Shell Oil Co.	Norco manufacturing complex.	EPP-MOP-BLR-1	Norco, La.
OCU-6650-6-2			EPP-MOP-BLR-2	
OCU-6650-6-3			EPP-MOP-BLR-3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner." The Norco Manufacturing Complex, EPP-MOP-BLR-1, EPP-MOP-BLR-2, and EPP-MOP-BLR-3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI"s which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

Appendix G—Proposed Findings and Rationale for Notice of Intention to Issue a Construction Order

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-6650-7-1	Shell Oil Co.	Deer Park manufacturing complex.	EPP-DPM-BLR-1	Deer Park, Tex.
OCU-6650-7-2			EPP-DPM-BLR-2	

These findings, determinations and consideration, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner". The Deer Park Manufacturing Complex, EPP-DPM-BLR-1 and EPP-DPM-BLR-2 shall be referred to as the "MFBI's".

I. Proposed Findings

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data shows a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developements will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million ton)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook:

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER.

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX H—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-8240-1-1	Fort Howard Paper Co.	Muskogee mill	Pulverized coal boiler	Muskogee, Okla.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Fort Howard Paper Company shall be referred to as the "owner". Muskogee Mill Pulverized Coal Boiler shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves as expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable

to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from EPA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13704 Filed 5-12-77;8:45 am]

federal register

FRIDAY, MAY 13, 1977
PART III

FEDERAL ENERGY ADMINISTRATION

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ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Prohibition Orders; Intention To Issue to Certain Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; International Paper Co. and Fraser Paper, Ltd.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0738	International Paper Co.	Jay plant	1, 2	Jay, Maine.
OCU-1888	Fraser Paper, Ltd.	Madawaska Mill	6, 7	Madawaska, Maine.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act; and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(7) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance data extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9:00 a.m. on May 24, 1977, at the J. W. McCormack Post Office and Courthouse Building, Room 208, Park Square, Boston, Massachusetts 02109. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Richard Meister, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-3701. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Robert Mitchell, Regional Administrator, Federal Energy Administration, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the

hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, Library, 7th Floor, 150 Causeway Street, Boston, Massachusetts 02114, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

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

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibtion Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental qusetionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to

enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified thhat the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each FMBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.
b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.
b. Twice the cost of land acquisitions required for conversions to coal burning.
c. The total of 1) and 2) is divided by 2 and then multiplied by a 10-percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFB's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, that is, projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: _____ Installation), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy seq.), as amended by Pub. L. 94-385; E.O. seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
COU-0738	International Paper Co.	Jay plant	1,2	Jay, Maine.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". Jay Plant Units 1 and 2 shall be referred to as the "MFBI's" and as "Jay 1 and 2".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Jay 1 and 2 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C-602-S-0), filed on May 16, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Jay 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Scales.
7. Air heaters.
8. Combustors.
9. Soot blowers.
10. Special instrumentation and controls.
11. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Jay 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Jay 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.* 1. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Jay 1 and 2 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Jay 1 and 2 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resoulting from the conversion of Jay 1 and 2 will represent an annual cost increase of $712,138.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Jay 1 and 2 is reasonable.

As a result of conversion, International will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Jay 1 and 2 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Jay 1 and 2, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determineration is based on consideration of the substantial savings of petroleum products that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of International as examined in the following analysis of financial capability, the nature of the expected operation of these boilers, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Jay 1 and 2 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Jay 1 and 2.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under the authority of Section 2(a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings attributable to compliance with this NOI, and all other NOI's currently under consideration, International's total annual costs after conversion will increase by $783,345.

B. Because the issuance of a Prohibition Order to Jay 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Jay 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	*791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Jay 1 and 2 will be able to burn coal of the following characteristics and comply with all appplicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately)	[2] 2.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	172

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BON Districts 1 through 6 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,998
1979	50,226
1980	59,538
1981	70,626
1982	74,364
1983	79,254
1984	96,525

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with a 2.21–2.51 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 2.21–2.51*
1978	175
1979	555
1980	966
1981	966
1982	966
1983	3,006
1984	3,006

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of Jay 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Jay 1 and 2 would probably come from BOM District 1 as the primary source of supply and from BOM District 2 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to Jay 1 and 2, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Jay 1 and 2 is to originate coal in the Altoona, Pennsylvania region in BOM District 1 on the Consolidated Railroad Corporation (ConRail). ConRail would move it to Boston, Massachusetts, where the Boston and Maine would pick it up and move it to Portland, Maine. The Maine Central would then deliver the coal to Jay 1 and 2. The total rail distance is about 720 miles.

The alternate route from the primary supply area orignates coal from BOM District 1 on Conrail to their docks at Ashtabula Harbor, Ohio where it would be loaded on self-propelled carriers or barges and carried to unloading docks in Montreal, Canada. The Canadian National and Grand Trunk Railway would move it to Danville Junction, Maine where the Maine Central would pick up the coal and deliver it to Jay 1 and 2. The total rail distance is about 480 miles with a water leg of about 500 miles.

An alternate route from the alternate supply area would orignate coal in Washington and Greene Counties, Pennsylvania, in BOM District 2 from mines served by Conrail which would move it via Pittsburgh, Pennsylvania, and Buffalo, New York, to Worcester, Massachusetts. The Boston and Maine would then move the coal via Lowell and Haverhill, Massachusetts, to Portland, Maine. The Maine Central Railroad would deliver it to Jay 1 and 2. The total rail distance is about 975 miles.

3. *Originating trunk carrier.* ConRail, the originating carrier of coal from both the primary and alternate sources for Jay 1 and 2 has approximately 47,000 hopper cars in service with an active repair and replacement program. Using an average number of 20 deliveries per year per 79 ton car, ConRail may require as many as 127 additional cars to handle the increased demand from Jay 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carries in the originating vicinity. Their capacity to build new hopper cars in their own shops exceeds 6,000 per year, and they anticipate no significant constraints in adding adequate capacity for all foreseeable demands.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under section 2(a) of ESECA. FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI's facilities.* Freight service to Jay 1 and 2 is provided by the Maine Central as illustrated above. Jay 1 and 2 have indicated that coal receiving, storage, and handling equipment would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Jay 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Jay 1 and 2 presently exist, and alternate routes are available.

Appendix B—Proposed Findings and Rationale for Notice of Intention to Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1888	Fraser Paper Ltd.	Madawaska Mill	6,7	Madawaska, Maine.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Fraser Paper Ltd. shall be referred to as the "owner" and as "Fraser Paper". Madawaska Units 6 and 7 shall be referred to as the "MFBI's" and as "Madawaska 6 and 7".

I. Capability and Necessary Plant Equipment to Burn Coal

FEA proposes to find that on June 22, 1974, Madawaska 6 and 7 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Fraser Paper, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA IC-602-S-0), filed on March 31, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Fraser Paper filed with FEA dated July 23, 1976, and other information available to FEA, the following plant equipment and facilities at Madawaska 6 and 7 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source: 1. Combustors; 2. Soot blowers; 3. Unloaders; 4. Conveyors; 5. Crushers; 6. Pulverizers; 7. Scales; 8. Feeders; 9. Special instrumentation and controls; 10. Ash handling and ponding; 11. Additional storage property; 12. Bunkers; 13. Building.

C. FEA proposes to find that on June 22, 1974, Madawaska 6 and 7 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. The Burning of Coal in Lieu of Natural Gas or Petroleum Products is Practicable and Consistent with the Purposes of ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Madawaska 6 and 7 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total estimated initial capital investment costs, including financial costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Madawaska 6 and 7 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel

cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Madawaska 6 and 7 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Madawaska 6 and 7 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Madawaska 6 and 7 is reasonable.

As a result of conversion, Fraser Paper will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, an average net decrease in the annual cost of operation of the boilers should result.

The use of coal at Madawaska 6 and 7 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Madawaska 6 and 7 are totally offset by the current fuel cost differential between oil and coal burning at Madawaska 6 and 7, and potential future increases in the fuel cost differential, in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*— a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Madawaska 6 and 7 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977).

Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Fraser Paper. FEA related these additional capital investment costs to the total capitalization of Fraser Paper and the remaining useful life after conversion of Madawaska 6 and 7.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Fraser Paper to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and costs exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Fraser Paper MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Fraser Paper's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Madawaska 6 and 7 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Madawaska 6 and 7 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to understate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	243.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(b) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not

respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Madawaska 6 and 7 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

BTU's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 2.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1978 and thereafter	175

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 1 through 6 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	23,998
1979	50,226
1980	59,538
1981	70,626
1982	74,364
1983	79,254
1984	96,525

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with 2.21–2.51 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons), percent sulfur 2.21–2.51
1978	175
1979	555
1980	966
1981	966
1982	966
1983	3,006
1984	3,006

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of Madawaska 6 and 7 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be brought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Madawaska 6 and 7 would probably come from BOM District 1 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Madawaska 6 and 7 is to originate coal in BOM District 1 in the Altoona, Pennsylvania region on Consolidated Railroad Corporation (Conrail) which would move it to Boston, Massachusetts. The Boston and Maine Railroad would pick it up and move it to Portland, Maine. From Portland, the Maine Central would move the coal via Augusta to Bangor and then the Bangor and Aroostook Railroad would pick it up and deliver it to Madawaska 6 and 7. The total rail distance is about 1,015 miles.

The alternate route from the primary supply area would originate coal on Conrail to its docks at Ashtabula Harbor, Ohio. Self-propelled carriers or barges would move it through the Welland Canal, Lake Ontario and the St. Lawrence River to coal docks at Quebec, Canada. The Canadian National Railroad would then move the coal to St. Leonard, New Brunswick and the Bangor and Aroostook would deliver it to Madawaska 6 and 7. The total rail distance is about 400 miles, with a water leg of about 600 miles.

As an alternate route from an alternate source, coal would originate in Greene and Washington Counties, Pennsylvania in BOM District 2 and be moved by Conrail via Pittsburgh, Pennsylvania, and Buffalo, New York, to Worcester, Massachusetts. The Boston and Maine would move it via Lowell and Haverhill, Massachusetts, to Portland, Maine. The Maine Central would then move the coal via Augusta to Bangor, Maine, and the Bangor and Aroostook Railroad would deliver it to Madawaska 6 and 7. The total rail distance is about 1,260 miles.

3. *Originating trunk carrier.* Conrail, the originator of coal for Madawaska 6 and 7 has approximately 47,000 hopper cars in service, and capacity in its shops to build over 6,000 new hopper cars per year. Using an average of 20 deliveries per year per 79 ton car, Conrail may need as many as 95 additional cars to handle the increased demand from Madawaska 6 and 7. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. Conrail visualizes no difficulty in increasing capacity to meet this and other foreseeable increases in demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to car-

rying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* The Bangor and Aroostook Railroad is the destination carrier to Madawaska 6 and 7. Coal was used as the primary boiler fuel at Madawaska 6 and 7 until 1969. The plant reports that coal receiving and handling facilities will have to be reinstalled and some facilities moved. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Madawaska 6 and 7.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Madawaska 6 and 7 presently exist, and alternate routes are available.

[FR Doc.77-13696 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; International Paper Co.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0779	International Paper Co.	Texarkana plant	1	Texarkana, Tex.
OCU-0786	.....do.	Pine Bluff plant	1,2	Pine Bluff, Ark.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to the issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 24 and 25, 1977, in Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Darryl Greenwell, FEA Region VI, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214-749-7727. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Fri-

day, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Reading Room, 2626 West Mockingbird Lane, Dallas, Texas 75235, 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, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen (15) copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

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

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02114—617-223-3701.

II. Alfred Kleinfield, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order.)

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control

requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (repondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.
b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.
b. Twice the cost of land acquisitions required for conversions to coal burning.
c. The total of (1) and (2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C. May 9, 1977.

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

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0779	International Paper Co.....	Texarkana plant.....	1	Texarkana, Tex.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". The Texarkana Plant Unit 1 shall be referred to as the "MFBI" and as "Texarkana 1".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Texarkana 1 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12-14, (Form FEA C-602-S-0) filed on May 20, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Texarkana 1 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Combustors; 2. Air heaters; 3. Soot blowers; 4. Special instrumentation and controls; 5. Crushers; 6. Unloaders; 7. Conveyors; 8. Pulverizers; 9. Scales; 10. Feeders; 11. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Texarkana 1 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Texarkana 1 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973-1975, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.*

Curtailment of natural gas supply. Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Texarkana 1 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Texarkana 1 will result in an increase in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.-c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential hereafter "NOCD", (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Texarkana 1, will represent an annual cost increase of $1,005,837.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable. By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the prohibition order were not issued to the MFBI it could alternately replace its current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $1,005,837

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Texarkana is not unreasonable.

Burning of coal by Texarkana 1 as its primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that the MFBI could experience annual savings in its total fuel costs should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to the MFBI.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Texarkana 1 by $1,005,837 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of the MFBI.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Texarkana 1 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Texarkana 1 will experience a substantial curtailment of its present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Texarkana 1 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position

as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Texarkana 1.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, International's total annual costs after conversion will increase by $738,345.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Texarkana 1 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Texarkana 1 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THIS MFBI DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" indentifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at Texarkana 1 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately)	[2] 0.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1980 and thereafter	151

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	Production (thousand tons)
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755

1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to the MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 0.61–1.0 percent sulfur content (which includes the 0.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons), Percent sulfur 1.61–1.0
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Texarkana 1 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Texarkana 1 would probably come from BOM District 8 as the primary supply area and from BOM District 17 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be tranferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Texarkana 1 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Louisville, Kentucky to Memphis, Tennessee where the St. Louis Southwestern (SSW) picks it up for delivery to Texarkana 1. The total rail distance is about 900 miles.

The alternate route for coal delivery from the primary supply area would originate in BOM District 8 on the Kanawha River, West Virginia. Barges of the Ohio River Company or the Crounse Corporation would carry it via the Ohio and Mississippi Rivers to coal docks at Memphis, Tennessee where the Chicago, Rock Island and Pacific (CRIP) would reload the coal and move it to Little Rock, Arkansas where the Missouri Pacific (MP) would pick it up to deliver to Texarkana 1. The total rail distance is about 280 miles with a water leg of about 980 miles.

An alternate route for coal delivery from the alternate supply area would originate in BOM District 17 in the Grand Junction, Colorado area. The Denver and Rio Grande Western (D&RGW) would carry it to Pueblo, Colorado. The Atcheson, Topeka and Santa Fe (ATSF) will then take the coal via Boise City, Oklahoma, to Amarillo, Texas where the Fort Worth and Denver would then take the coal to Fort Worth, Texas. The St. Louis and Southwestern would pick up the coal for delivery to Texarkana 1. The total rail distance is about 1210 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Texarkana 1 has about 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 117 additional cars to handle the increased demand from Texarkana 1. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major contraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at those mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* The SSW and MP both provide freight service to Texarkana, Texas. Texarkana 1 has indicated that coal unloading and handling facilities would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Texarkana 1.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Texarkana 1 presently exist, and alternate routes are available.

Appendix B—Proposed Findings and Rationale for Notice of Intention to Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0786	International Paper Co.	Pine Bluff plant	1, 2	Pine Bluff, Ark.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". Pine Bluff Plant Units 1 and 2 shall be referred to as the "MFBI's" and as "Pine Bluff 1 and 2".

I. Capability and Necessary Plant Equipment to Burn Coal

FEA proposes to find that on June 22, 1974, Pine Bluff 1 and 2 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section

II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 20, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Pine Bluff 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders; 2. Conveyors; 3. Crushers; 4. Scales; 5. Feeders; 6. Air heaters; 7. Combustors; 8. Soot blowers; 9. Controls; 10. Ash handling and ponding.

C. FEA proposes to find that on June 22, 1974, Pine Bluff 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Pine Bluff 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the year 1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.*

Curtailment of natural gas supply. Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Pine Bluff 1 and 2 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Pine Bluff 1 and 2 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Pine Bluff 1 and 2 will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at these MFBI's is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at these MFBI's would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Pine Bluff 1 and 2 will experience a substantial curtailment of their present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Revort Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.) This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Pine Bluff 1 and 2 would be substantially curtailed.

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Pine Bluff 1 and 2 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Pine Bluff 1 and 2.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, International's total annual costs after conversion should increase by $738,345.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Pine Bluff 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Pine Bluff 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984.

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974. Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these

recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	723.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	843
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers, of the type used at Pine Bluff 1 and 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[2] 2,375
Sulfur (percent)	[2] 0.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1979 and thereafter	303

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristics expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 0.61–1.0 percent sulfur content (which includes the 0.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 0.61 to 1.0*
1978	2,831
1979	5,578
1980	9,834
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Pine

Bluff 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Pine Bluff 1 and 2 would probably come from BOM District 8 as the primary supply area and from BOM District 13 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to these plants, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Pine Bluff 1 and 2 would originate in BOM District 8 in the Hazard, Kentucky, area on the Louisville and Nashville (L&N) Railroad. The L&N would move the coal via Louisville, Kentucky to Memphis, Tennessee, where the St. Louis Southwestern (SLSW) would then deliver the coal to Pine Bluff 1 and 2. The total rail distance is about 750 miles.

An alternate route for coal delivery from the primary supply area originates in BOM District 8 near Clinton, Tennessee, on the Southern Railway (Southern) which moves the coal via Chattanooga to Memphis, Tennessee, where the SLSW would then deliver the coal to Pine Bluff 1 and 2. The total rail distance is about 560 miles.

An alternate route from the alternate supply area would originate coal in BOM District 13 in the Birmingham, Alabama area on the Southern Railway. Southern would carry the coal to meridian, Mississippi where the Illinois Central Gulf would then haul the coal via Vicksburg, Mississippi, to Tallulah, Louisiana. Missouri Pacific would then carry the coal for delivery to Pine Bluff 1 and 2. The total rail distance about 460 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Pine Bluff 1 and 2 has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 223 additional cars to handle the increased demand from Pine Bluff 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at these mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Heavy rail freight service is provided to plants in the Pine Bluff, Arkansas area by both the St. Louis Southwestern and the Missouri Pacific Railroads. Pine Bluff 1 and 2 has reported that coal unloading and handling equipment and facilities would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Pine Bluff 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Pine Bluff 1 and 2 presently exist, and alternate routes are available.

[FR Doc.77-13697 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; Kennecott Copper Corp.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-2079	Kennecott Copper Corp.....	Utah Copper division.....	1, 2, 3, 4	Salt Lake City, Utah.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4 (b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may re-

quest a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance data extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective data specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 24, 1977, at The Salt Palace, Room 220, South Temple West, Salt Lake City, Utah 84101. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther Clemmer, FEA Region VIII, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, 303-234-2165. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Dudley Faver, Regional Administrator, Federal Energy Administration, P.O. Box 262 47, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request .

Detailed technical data, views, and arguements should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, 1075 South Yukon Street, Lakewood, Colorado 80226, 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, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Installation". Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

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

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02114—617-223-3701.

II. Alfred Kleinfield, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order

to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million Btu's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million Btu's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-O), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a suplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effect of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS.

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate base on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including con-

sideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows: a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows: a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of (1) and (2) is divided by 2 and then multipled by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage.) FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs oc operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent Btu basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: _____ Installation), Washington, D.C. 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX: PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2979	Kennecott Copper Corp.....	Utah Copper division.....	1, 2, 3, 4	Salt Lake City, Utah.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Kennecott Copper Corporation shall be referred to as the "owner" and as "Kennecott". "Utah Copper Division Units 1, 2, 3 and 4" shall be referred to as the "MFBI's" and as "Utah Copper 1, 2, 3 and 4."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Utah Copper 1, 2, 3 and 4 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretation stated below:

A. Kennecott, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6 and 12-14 (Form FEA C-602-S-0), filed on June 26, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Kennecott filed with FEA dated August 12, 1976, and other information available to FEA, the following plant equipment and facilities at Utah Copper 1, 2, 3 and 4 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Coal handling facilities;
2. Car thaw shed;
3. Car unloading system; and
4. Coal storage.

C. FEA proposes to find that on June 22, 1974, Kennecott had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Utah Copper 1, 2, 3 and 4 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973-1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the Owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Utah Copper 1, 2, 3 and 4 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in

appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Utah Copper 1, 2, 3 and 4 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD" (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Utah Copper 1, 2, 3 and 4, will represent an annual cost increase of $792,606.

3. *Reasonableness of additional cost of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source, these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $792,606.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Utah Copper 1, 2, 3 and 4 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFBI's would experience annual savings in their total fuel costs should they convert to coal instead of converting to petroleum products, there would be a net increase in the costs of these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Utah Copper 1, 2, 3 and 4 by $792,606 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Utah Copper 1, 2, 3, and 4 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Utah Copper 1, 2, 3, and 4 will experience a substantial curtailment of their present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities, Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Utah 1, 2, 3 and 4 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dunn and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Kennecott. FEA related these additional capital investment costs to the total capitalization of Kennecott and the remaining useful life after conversion of Utah Copper 1, 2, 3 and 4.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Kennecott to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Kennecott MFBI's. Notwithstanding the potential value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Kennecott's total annual costs after conversion will increase by $792,606.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Utah Copper 1, 2, 3 and 4 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Utah Copper 1, 2, 3 and 4 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BCM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1

1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1966 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Utah Copper 1, 2, 3 and 4 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.0

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1978 and thereafter	521

c. *National planned production, characteristic coal.* FEA's "Availability Report" has has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following (Availability Report):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 19, 21, and 22 as follows (Availability Report):

Year:	*Production (thousand tons)*
1978	24,781
1979	41,692
1980	53,947
1981	64,581
1982	69,510
1983	75,863
1984	93,722

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 19, 21, and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	4,696
1979	7,195
1980	7,416
1981	7,416
1982	9,017
1983	9,017
1984	9,017

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 19, 21, and 22 with a 0.61–1.01 percent sulfur content (which includes the 1.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons), percent sulfur 0.61–1.01*
1978	1,955
1979	4,043
1980	4,133
1981	4,133
1982	5,733
1983	5,733
1984	5,733

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has indentified nationally and in BOM Districts 19, 21, and 22 uncommitted coal production that meets the requirements of Utah Copper 1, 2, 3, and 4 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 19, 21, and 22. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal from Utah Copper 1, 2, 3, and 4 would probably come from BOM District 19 as the primary supply area and from BOM District 20 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Utah Copper 1, 2, 3, and 4 is to originate coal in BOM District 19, in the Casper, Wyoming, area on the Burlington Northern (BN) Railroad. The BN would move it to Wendover, Wyoming, where Colorado & Southern (C&S) would then carry the coal to Cheyenne, Wyoming. Union Pacific would then pick it up and deliver it to Utah Copper 1, 2, 3, and 4. The total rail distance is about 735 miles.

The alternate route from the primary supply area originates coal in the Casper, Wyoming area, on the BN which moves it to Wendover, Wyoming where the C&S picks it up to move it to Denver, Colorado via Cheyenne, Wyoming. The Denver and Rio Grande Western (D&RGW) then moves it via Grand Junction, Colorado and Provo, Utah, for delivery to Utah Copper 1, 2, 3 and

4. The total rail distance is about 945 miles.

An alternate route from the alternate supply area originates coal in BOM District 20 in the Salt Lake City area where trucks would deliver the coal to Utah Copper 1, 2, 3 and 4.

3. *Originating trunk carrier.* The BN, originating carrier of coal for Utah Copper 1, 2, 3 and 4 has about 19,000 hopper cars in service. Using an average number of 20 deliveries per year per 77-ton car, the BN may need as many as 146 additional cars to handle the increased demand from Utah Copper 1, 2, 3 and 4. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Utah Copper 1, 2, 3 and 4 has indicated that the boilers currently burn coal and natural gas on an interruptable basis. Both rail (D&RGW) and trucks have been used for coal deliveries, however, if coal is used exclusively, additional storage must be developed. Coal is presently transported to the plant site by trucks. A new coal pile location has been considered along with a new rail spur line to the new location. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Utah Copper 1, 2, 3 and 4.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Utah Copper 1, 2, 3 and 4 presently exist, and alternate routes are available.

[FR Doc.77-13698 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; Brown Co., et al.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0004	Brown Co., Specialty Papers Division.	Parchment plant	9, 10	Parchment, Mich.
OCU-1356	A. E. Staley Manufacturing Co.	Decatur plant	19, 20, 21	Decatur, Ill.
OCU-1853	Marathon Oil Co.	Robinson refinery	9, 10	Robinson, Ill.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plan equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determing the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held

beginning at 9 a.m. on May 23 and 24, 1977, at the Federal Building, Room 1903, 219 S. Dearborn Street, Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, FEA Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 312-886-5168. The request should be received before 4:30 p.m., Wednesday, May 18, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to N. Allen Anderson, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A-333, before May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Thursday, May 19, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

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

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 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, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

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

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E.—8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the ef-

fects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a Btu equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or wether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} Btu's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows: a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of 1) and 2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and mainte-

nance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461 (202-566-7941).

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

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

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0004	Brown Co., Specialty Papers Division.	Parchment plant.....	9,10	Parchment, Mich.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

The Brown Company shall be referred to as the "owner" and as "Brown." Parchment Plant Units 9 and 10 shall be referred to as the "MFBI's" and as "Parchment 9 and 10."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Parchment 9 and 10 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Brown, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12-14, (Form FEA C-602-S-0), filed on April 28, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Brown filed with FEA dated August 20, 1976, and other information available to FEA, the following plant equipment and facilities at Parchment 9 and 10 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source: 1. Special instrumentation and controls; 2. Bunkers; 3. Unloaders and shakers; 4. Conveyors; 5. Ash handling and ponding equipment; 6. Burners; 7. Thawers; 8. Crushers; 9. Pulverizers; 10. Scales; 11. Pile handling equipment.

C. FEA proposes to find that on June 22, 1974, Parchment 9 and 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Parchment 9 and 10 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973-1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Parchment 9 and 10 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Parchment 9 and 10 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.-a.-c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Parchment 9 and 10, will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at these MFBI's is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at these MFBI's would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Parchment 9 and 10 will

experience a substantial curtailment of their present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.) This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Parchment 9 and 10 would be substantially curtailed.

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Parchment 9 and 10 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Brown. FEA related these additional capital investment costs to the total capitalization of Brown and the remaining useful life after conversion of Parchment 9 and 10.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Brown to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all Other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Brown MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Brown's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Parchment 9 and 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Parchment 9 and 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Parchment 9 and 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,700
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demands from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	130

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259

Year:	Production (thousand tons)
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availabilfly Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,651
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 1.41 to 1.8
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Parchment 9 and 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Parchment 9 and 10 would probably come from BOM District 8 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery in Parchment 9 & 10 is to originate coal in BOM District 8 near Wayland, Kentucky, on the Chesapeake and Ohio (Chessie System). The Chessie System would move it via Ashland, Kentucky, Columbus and Toledo, Ohio, to Wayne, Michigan, where Consolidated Railroad Corporation (Conrail) picks up and delivers the coal to Parchment 9 and 10. The total rail distance is about 610 miles.

The alternate route from the primary supply area originates coal in BOM District 8 near Hazard, Kentucky, on the Louisville and Nashville (L&N) which moves it to Cincinnati, Ohio, where Conrail would pick up and deliver the coal Parchment 9 and 10. The total rail distance is about 530 miles.

An alternate route from the alternate supply area would originate coal in BOM District 2 near Pittsburgh, Pennsylvania, on Conrail which would deliver the coal to Parchment 9 and 10. The total rail distance is about 520 miles.

3. *Originating trunk carrier.* The Chessie System, the originating carrier of coal for Parchment 9 & 10 has approximately 75,000 hopper cars in service and plans to add 5,000 more in the near future. Using an average number of 20 deliveries per year per 75-ton car, the Chessie System may need as many as 130 additional cars to handle the increased demand from Parchment 9 and 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticapted demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating, alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* Freight service to Parchment 9 and 10 is provided by Conrail as illustrated above. Parchment 9 and 10 has indicated that coal has been used in the past and has been delivered by Conrail.

There are no obstacles to the delivery of coal to Parchment 9 and 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Parchment 9 and 10 presently exist, and alternate routes are available.

Appendix B—Proposed Findings and Rationale for Notice of Intention to Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1356	A. E. Staley Manufacturing Co.	Decatur plant	19, 20, 21	Decatur, Ill.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

A. E. Staley Manufacturing Company shall be referred to as the "owner" and as "Staley". Decatur Plant Units 19, 20, and 21 shall be referred to as the "MFBI's" and as "Decatur 19, 20 and 21."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Decatur 19, 20 and 21 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Staley, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 21, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Staley filed with FEA dated July 22, 1976, and other information available to FEA, the following plant equipment and facilities at Decatur 19, 20 and 21 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source.

1. Scales.
2. Feeders.
3. Air heaters.
4. Combustors.
5. Soot blowers.
6. Special instrumentation and controls.
7. Ash handling and ponding equipment.
8. Unloaders.
9. Conveyors.
10. Crushers.
11. Stokers.

C. FEA proposes to find that on June 22, 1974, Decatur 19, 20 and 21 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Decatur 19, 20 and 21 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*

a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Decatur 19, 20, and 21 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Decatur 19, 20 and 21 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c, above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Decatur 19, 20 and 21 will represent an annual cost increase of $228,024.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $624,886.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas of petroleum products as the primary energy source at Decatur 19 20 and 21 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFB's could experience annual savings in its total fuel cost should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Decatur 19, 20 and 21 by $624,886 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable in further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

4. *Financial capability of the owner.*

a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Decatur 19, 20 and 21 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Staley. FEA related these additional capital investment costs to the total capitalization of Staley and the remaining useful life after conversion of Decatur 19, 20 and 21. FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Staley to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Staley MFBI's.

Notwithstanding the potential offsetting value of fuel lost savings attributable to compliance with this NOI and all other NOI's currently under consideration; Staley's total annual costs after conversion will increase by $624,886.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Decatur 19, 20 and 21 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Decatur

19, 20 and 21 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*

1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine development will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8

3. *Characteristic coal production and demand. FEA's* "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Response from those companies identified planned production of coal which is not now committed to specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the types used at Decatur 19, 20 and 21 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per lb (minimum)	10,000
Moisture (percent maximum)	15
Ash (percent maximum)	20
Volatile (percent minimum)	15
Ash softening temperature (degrees fahrenheit, minimum)	1,900
Sulfur (percent maximum, approximate)	1.06

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1979 and thereafter	211

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	61,390
1979	112,993
1980	141,696
1981	169,688
1982	179,742
1983	193,201
1984	228,474

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of the MFBI's from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,720
1979	41,682
1980	46,902
1981	54,781
1982	58,159
1983	62,984
1984	72,417

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1979	3,268
1979	9,149
1980	16,321

Year:	Demand (thousand tons)
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61 to 1.4 percent sulfur content (which includes the 1.08 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent Sulfur 0.61 to 1.4
1978	2,831
1979	5,825
1980	10,484
1981	11,673
1982	16,937
1983	16,937
1984	16,937

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Decatur 19, 20 and 21 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Ditsricts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.* Based on an FEA Study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for the Decatur Plant would probably come from BOM District 8 as the primary supply area and from BOM District 11 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Decatur 19, 20 and 21 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville Railroad (L&N). The L&N would move it via Louisville, Kentucky and Rerra Nourte, Indiana.

The total rail distances is about 568 miles.

The alternate route from the primary supply area originates coal in BOM District 8 area Hazard, Kentucky on the L&N which would haul it via Louisville, Kentucky to Bloomington, Indiana where the Illinois Central Gulf Railroad (ICG) would pick it up and carry via west to Newton, Illinois for delivery to Decatur 19, 20 and 21. The total rail distance is about 518 miles.

An alternate route from the alternate supply area would originate coal in BOM District 11 near Vincennes, Indiana on the Baltimore and Ohio line (Chessie System) which would move it to Olney, Illinois, where ICG picks up and delivers the coal to Decatur 19, 20 and 21. The total rail distance is about 136 miles.

3. *Originating trunk carrier.* The L&N, originating carrier of coal for Decatur 19, 20 and 21 has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 165 additional cars to handle the increased demand from Decatur 19, 20, and 21. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at these mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* The destination carrier of coal from the primary supply area is N&W which, Staley indicated, has delivered coal to Decatur 19, 20 and 21 in the past.

There are no other obstacles to the delivery of coal to Decatur 19, 20, and 21.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Decatur 19, 20 and 21 presently exist, and alternate routes are available.

Appendix C—Proposed Findings and Rationale for Notice of Intention to Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1853	Marathon Oil Co.	Robinson refinery	9, 10	Robinson, Ill.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Marathon Oil Company shall be referred to as the "owner" and as "Marathon". Robinson Refinery Units 9 and 10 shall be referred to as the "MFBI's" and as "Robinson 9 and 10".

I. Capability and Necessary Plant Equipment to Burn Coal

FEA proposes to find that on June 22, 1974, Robinson 9 and 10 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Marathon, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 21, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Marathon filed with FEA dated July 23, 1976, and other information available to FEA, the following plant equipment and facilities at Robinson 9 and 10 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders
2. Crushers
3. Conveyors
4. Pulverizers
5. Feeders
6. Air heaters
7. Combustors
8. Soot blowers
9. Special instrumentation and controls
10. Ash handling and ponding equipment
11. Electric switch gear

C. FEA proposes to find that on June 22, 1974, Robinson 9 and 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Robinson 9 and 10 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*
1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result

from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Robinson 9 and 10 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on infomation supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Robinson 9 and 10 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Robinson 9 and 10, will represent an annual cost increase of $403,378.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Robinson 9 and 10 is reasonable.

As a result of conversion, Marathon will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Robinson 9 and 10 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Robinson 9 and 10, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of petroleum products that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Marathon as examined in the following analysis of financial capability, the nature of the expected operation of these boilers and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Robinson 9 and 10 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Marathon. FEA related these additional capital investment costs to the total capitalization of Marathon and the remaining useful life after conversion of Robinson 9 and 10.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Marathon to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Marathon MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Marathon's total annual costs after conversion will increase by $403,378.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Robinson 9 and 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Robinson 9 and 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Robinson 9 and 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Ash softening temp. (°F)	[2] 2,000
Sufur (approximately) (percent)	[2] 3.7

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	104

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8, and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	28,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,668
1984	89,345

f. *Regional ESECA prohibition order demand for coal, regardless or characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 2.21–3.71 percent sulfur content (which includes the 3.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 2.21–3.71
1978	77
1979	1,330
1980	1,530
1981	1,531
1982	1,531
1983	1,531
1984	1,531

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Robinson 9 and 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders isued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8, and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Robinson 9 and 10 would probably come from BOM District 8 as the primary supply area and from BOM District 11 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Robinson 9 and 10 is to originate coal in BOM District 8 near Hazard, Kentucky, on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Louisville, Kentucky, to Bloomington, Indiana, where the Illinois Central Gulf (ICG) picks it up for delivery to Robinson 9 and 10. The total rail distance is about 420 miles.

The alternate route from the primary suply area originates coal near Stearns, Kentucky, on the Southern Railway which moves it via Louisville, Kentucky, to Mt. Carmel, Illinois, where Conrail picks it up to deliver to Robinson 9 and 10. The total rail distance is about 350 miles.

An alternate rout from the alternate supply area would originate coal in BOM District 11 in Sullivan County on Illinois Central Gulf which would deliver the coal to Robinson 9 and 10. The total rail distance is about 30 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Robinson 9 and 10, has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75 ton car, the L&N may need as many as 125 additional cars to handle the increased demand from Robinson 9 and 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities as-

suming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Freight service to Robinson 9 and 10 is provided by Illinois Central Gulf and Conrail, as illustrated above. This refinery used coal as a boiler fuel until about 1970 and no delivery problems are foreseen. These carriers report that unloading and handling facilities would need to be modernized. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Robinson 9 and 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Robinson 9 and 10 presently exist, and alternate routes are available.

[FR Doc.77-13703 Filed 5-12-77;8:45 am]

federal register

FRIDAY, MAY 13, 1977

PART IV

DEPARTMENT OF LABOR

Office of the Secretary

■

PUBLIC JOB PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PUBLIC JOB PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These rules are promulgated to amend the Comprehensive Employment and Training Act of 1973 (CETA) regulations in 29 CFR Parts 94, 95, 98, and 99. These changes relate primarily to the public jobs program under title VI of CETA. The principal purpose of this rulemaking document is to further implement the amendments made to title VI by the "Emergency Jobs Program Extension Act of 1976" by providing additional guidance to prime sponsors for the operation and administration of the "projects" which were authorized by the amendments.

EFFECTIVE DATE: June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Pierce A. Quinlan, Director, Office of Comprehensive Employment Development, U.S. Department of Labor, 6th and D Streets NW., Washington, D.C. 20213, Telephone No. 202-376-6254.

SUPPLEMENTARY INFORMATION: The Emergency Jobs Programs Extension Act of 1976 amended Title VI of CETA by adding Secs. 607, 608 and 609. The Title VI program was divided into two separate programs as follows:

(1) Sec. 607 required prime sponsors to continue the old Title VI public service employment program by reserving enough funds to sustain throughout Fiscal Year 1977 the number of Title II and Title VI public service job participants who were in the program on June 30, 1976. Sec. 607 also required prime sponsors to fill at least 50 percent of the slots which become vacant in the Title VI level of sustainment with low-income welfare (AFDC) recipients and long-term unemployed persons.

(2) Secs. 607–609 created a second Title VI program by requiring prime sponsors to use all remaining Title VI funds to run "projects" in which only low-income, long-term unemployed and AFDC recipients would be eligible to participate.

Section 702(a) of CETA states that the Secretary may prescribe such rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor, Employment and Training Administration published in the March 15, 1977, FEDERAL REGISTER (42 FR 14288) proposed rulemaking to revise the regulations.

At that time, the Department invited interested persons to submit comments on the proposed rulemaking to the Department by April 14, 1977. About 125 letters containing comments were received by the Department. Each of the comments in these letters was carefully studied with respect to its merits and in relation to other comments received on the same or similar subjects. The following significant changes have been made in response to these comments received on the March 15, 1977, proposed rulemaking.

DISCUSSION OF MAJOR COMMENTS AND CHANGES

SEC. 94.4 DEFINITIONS

The Department received many letters commenting on the definition of "ineligible for unemployment compensation" in paragraph (sss). The commenters felt that the language used was not entirely consistent with the intent of Congress because of various technical problems with individual State unemployment compensation laws. Under these laws individuals are eligible for unemployment compensation, but may not be able to receive benefits because of a technical disqualification. They are therefore both ineligible for participation in the title VI program and unable to receive unemployment benefits. The Department agrees with these commenters and has changed the definition to include any individual who is eligible for unemployment compensation, but is not able to receive unemployment benefits for any reason.

95.33 TYPES OF MANPOWER ACTIVITIES ALLOWABLE

The Department proposed that day care programs comply with applicable State and local standards, including State licensing requirements. The Department also proposed to delete the requirement that day care programs meet the Federal Interagency Day Care Standards because it had learned that those standards and requirements were extremely burdensome for the prime sponsors. Three commenters opposed this change because they believed that the standards were basically sound and because they believed that deletion of the requirements was premature. The commenters noted, however, that Congress recently suspended the staffing provisions of the standards for social services programs funded under Title XX of the Social Security Act, which is the major source of Federal funding for day care programs. They also noted that Congress has required the Department of Health, Education, and Welfare to reassess all the standards by July 1, 1977, a process which is now underway. The Department will follow this reassessment closely. In the meantime, however, because of the very real administrative burdens the present standards entail, the Department will only require day care under CETA to conform to State and local standards.

SEC. 98.25 RETIREMENT PROGRAMS

The majority of the comment letters received by the Department concerned this revised section of the regulations. Commenters brought to the Department's attention the probability that the proposed change would create problems for prime sponsors in the some States where State retirement laws require that certain CETA participants be covered by the appropriate retirement systems and where the laws also mandate that the employers' contribution to these retirement systems on behalf of the participants may not be withdrawn. In addition several comments were received stating that the existing retirement systems in several localities preclude the establishment of an escrow or reserve account as described in paragraphs (b)(1) and (3) of this section.

In proposing this revised section the Department gave serious consideration to the fact that changes, including amending existing laws and procedures, might be necessary to enable some prime sponsor areas to provide continued retirement benefits. However, these concerns were outweighed by the need to insure that CETA funds are used to most effectively benefit participants. Participation in retirement programs, especially for public service employment positions or projects of limited duration, is not the most effective way to use public employment funds; not only does such participation greatly reduce the amount of money available for jobs, but in many cases it has been found that the money was not providing any real benefit to the participants. It should be noted, however, that the regulations do not prevent CETA employees from participating in retirement systems. They only restrict the use of CETA funding to those cases in which CETA participants clearly benefit by obtaining vesting or transitioning into employment covered by the retirement system.

Section 98.25 shall become effective on prime sponsors and eligible applicants on October 1, 1977. However, the Regional Administrator, with the approval of the Regional Solicitor, may allow a prime sponsor or eligible applicant which is in a State whose law prohibits the implementation of procedures required by § 98.25, an extension of not more than one calendar year or up to the end of the next regular session of the State legislature, whichever occurs earlier. Such an extension may be granted only upon a showing by a legally supported opinion of the State Attorney General that the State legislature must change or modify a particular State law or laws so that the prime sponsor or eligible applicant may comply with § 98.25 in its use of CETA funds and that the procedures of § 98.25 may not be legally implemented by order of the Governor or by other executive authority. An extension may only be given on a Statewide basis and will be applicable to all prime sponsors and eligible applicants within the State which are covered by the affected State laws.

SEC. 99.1 SCOPE AND PURPOSE

Several comments were received recommending that the language in paragraph (e) of this section be strengthened to mandate that a 35 percent vet-

erans quota be established for the filling of the newly created jobs. However, several other comment letters opposed the setting of any such goals or quotas. The CETA statute does not provide for the establishment of any such quotas. Consequently, the Department reiterates the Secretary's expressed desire for a national goal of 35 percent for veteran participation in the newly created public service employment jobs under Title II and Title VI of CETA.

SEC. 99.33 PUBLIC SERVICE JOB ACTIVITIES IN THE TITLE VI LEVEL OF SUSTAINMENT

The language relating to community capital improvement projects in areas of excessively high unemployment has been deleted for two reasons. First, it is largely duplicative of the language in § 98.12. And secondly, it contains inappropriate restrictions not contained in § 98.12. In addition the parallel language contained in § 99.74 has been deleted.

SEC. 99.42 ELIGIBILITY FOR PARTICIPATION IN TITLE VI PROGRAMS

The Department received many letters commenting on the unemployment status portion of the Title VI eligibility criteria in paragraphs (a)(1)(i) and (ii) of this section. The commenters felt that the criteria were not entirely consistent with the intent of Congress. Further, the use of the criteria eliminated many individuals from eligibility because of the technical provisions of various State unemployment compensation laws. The Department agrees with the commenters and has made the following change. An individual will be eligible if he/she is unemployed at the time of application and has been unemployed for 15 weeks out of the 20 weeks immediately prior to application and during the period of unemployment either (1) has been eligible for and receiving unemployment compensation benefits, or (2) has been ineligible for unemployment compensation.

A number of comments were received regarding the income eligibility criteria in paragraph (a)(1) of this section. It was brought to the Department's attention that in the cases of some families of less than four persons, the 70 per centum of the lower living standard income level is actually lower than the poverty guidelines established by the Office of Management and Budget (OMB). Since, in providing the lower living standard income level Congress intended to raise the income criteria for participation in Title VI programs from that which is used for Title I programs, paragraph (a)(1) was amended to state that an eligible person must either be economically disadvantaged as defined in § 94.4(s) or a member of a family whose income is at or below 70 per centum of the lower living standard income level.

The Department also received several comments which expressed concern over the methodology for determining current family income in the computation of the lower living standard income level. Specifically, the commenters recommended that the second sentence of paragraph (a)(2)(i) be deleted. That sentence read "only that portion of public assistance payments received by the applicant which the applicant will be disqualified from receiving due to the enrollment of the applicant under Title VI (e.g., payments under the Aid to Families with Dependent Children of Unemployed Fathers program) shall be excluded." The commenters felt that this regulation was almost impossible to administer and would result in a great deal of confusion on the part of prime sponsors, State employment security agencies (SESA's), public assistance agencies and applicants.

The Department agrees with the commenters. The language of the regulation was taken from section 608 of the statute which was added by the "Emergency Jobs Programs Extension Act of 1976". The intent of the provision is exceedingly unclear, except that Congress wanted to protect public assistance recipients from being excluded from participation in the title VI program because of the amount of their public assistance payments. However, the methodology apparently envisioned by the provision is administratively inconsistent not only with the income computation methodology of the Social Security Act (public assistance), but also with the income computation methodology used to qualify economically disadvantaged" individuals for CETA programs. The Department, therefore, while remaining faithful to the congressional intent, has simplified the proposed methodology by deleting the second sentence in paragraph (a)(2)(i).

Additionally editorial, stylistic and technical changes have been made in this revision.

Parts 94, 95, 98, and 99 of Title 29, of the Code of Federal Regulations are amended as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 94.4, Definitions, is amended by revising paragraphs (ooo) and (ppp), and adding paragraphs (rrr), (sss), and (ttt) to read as follows:

§ 94.4 Definitions.

* * * * *

(ooo) "Project" shall mean, for purposes of Part 99 of this title the same thing as the term "project and activity" used in Sections 607–9 of the Act, that is, "project" shall mean a definable task or group of related tasks which:

(1) Will be completed within a definable time period, not exceeding one year;

(2) Will have a public service objecjective;

(3) Will result in a specific product or accomplishment; and

(4) Would otherwise not be done with existing funds.

(ppp) "Project applicant" shall mean:

(1) A State;

(2) A State agency;

(3) A unit of general local government;

(4) An agency of a unit of general local government;

(5) A combination or association of units of general local government the primary purpose of which is to assist the governmental units to provide puolic services;

(6) A special purpose political subdivision having the power to levy taxes and spend funds within an area served by one or more units of general local government;

(7) A local education agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(8) An institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965;

(9) A community based organization as defined in paragraph (k) of this section;

(10) A community development corporation;

(11) A nonprofit group or organization serving Indians or Native Hawaiians; or

(12) A private non-profit organization or institution engaged in public service.

* * * * *

(rrr) "Exhaustee" shall mean an individual who has made a claim for unemployment compensation and has exhausted all such benefits to which the individual was entitled including Extended Benefits (EB), Federal Supplemental Benefits (FSB), Disaster Unemployment Assistance (DUA), Trade Readjustment Allowance (TRA), Special Unemployment Assistance (SUA), Unemployment Compensation for Federal Employees (UCFE), and/or Unemployment Compensation for Exservicemen (UCX). Exhaustee status will continue through the existing regular benefit year, at which time a new claim may be filed creating a new status of eligible or ineligible for unemployment compensation.

(sss) "Ineligible for unemployment compensation" shall mean the status of an individual who is for any reason, including disqualification ineligible for unemployment compensation benefits including SUA, DUA, EB, TRA, FSB, UCX, and UCFE. This includes any individual who is employed in an occupation not covered by unemployment compensation laws, or who is a new entrant or reentrant to the labor force, or who has been unemployed for such an extended period of time that the individual has no work history for unemployment compensation purposes.

(ttt) "Level of sustainment" shall mean, the number of Title II and Title VI slots which the prime sponsor may sustain throughout FY 1977, that is, the number of slots which the program contained on June 30, 1976, or on October 31, 1976, whichever was higher.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Section 95.33(d)(5)(iii)(B) is revised to read as follows:

§ 95.33 Types of manpower activities allowable.

* * * * *

(d) * * *

(5) * * *

(iii) * * *

(B) Child care: Day care programs shall comply with applicable State and local standards, including State licensing requirements.

3. Section 95.34 is amended by renumbering paragraph (f) as (f)(1) and by renumbering paragraph (f)(1) as (f)(2) to read as follows:

§ 95.34 Training allowances.

* * * * *

(f) (1) Dependents allowances. Dependents allowances of $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum of $20 for six or more dependents shall be provided to participants receiving basic allowances or who would be receiving basic allowances were it not for their receipt of unemployment compensation payments. Participants eligible for dependents allowances from other sources shall not be precluded from receiving dependents allowances funded under the Act.

(2) Dependents allowances shall be reduced pro rata only for absences without good cause. The reduction of the weekly dependents allowance shall be based on the ratio of the number of hours of absence without good cause to the number of hours which the individual is scheduled to participate in activities for which he/she receives allowances.

* * * * *

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

4. Section 98.12 is amended by adding the following sentence at the end of paragraph (b)(3).

§ 98.12 Allowable Federal costs.

* * * * *

(b) * * *

(3) * * * Participants, however, may participate in the winterization/weatherization of privately owned rental housing under projects funded and approved by the Federal Energy Administration or the Community Services Administration, (704(f).)

* * * * *

5. Section 98.25 is revised to read as follows:

§ 98.25 Retirement programs.

(a) The Act provides for temporary training and employment. Therefore, the inclusion of CETA participants in a retirement system is not encouraged. Funds under the Act, however, may be paid into a retirement system on behalf of participants in on-the-job training, work experience and public service employment in public or private non-profit agencies who:

(1) Obtain unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the employer's retirement plan;

(2) Obtain unsubsidized employment with another employer provided benefits are portable; or

(3) Obtain vesting.

(b) Examples of methods of administering such retirement system accounts are as follows:

(1) Payments are made first into a reserve account and are not paid into the retirement fund until the participant obtains a status described in paragraphs (a) (1) through (3) to this section. The amount held in the reserve account is then adjusted quarterly to reflect the turnover of participants and the projected funds needed to cover current participants; or

(2) Payments are made first into a reserve account for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section, and the payments are not paid into the retirement fund until the participants obtain that status. If this method is used, the amount held in the reserve account and the actuarial rate shall be adjusted or determined at least annually; or

(3) Payments are made directly into the retirement fund for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section. The amount held in the fund shall be adjusted or redetermined at least quarterly to reflect the actual number of participants who have acquired a status described in paragraph (a) (1) through (3) of this section. If this method is used, the amount of accumulated principal and interest earned on contributions made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation or who, for whatever reason, are no longer considered members in the retirement program must be retrievable.

(c)(1) If other than an actuarial method of benefit determination is used, there shall be at least a quarterly reprogramming back into the CETA program of any contributions (principal and interest) made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation, or who, for whatever reason, are no longer considered members in the retirement program.

(2) If an actuarial method is used in determining the number of participants who will benefit, a redetermination of the actuarial rate shall be made at least annually.

(3) Funds set aside in a reserve account may earn interest. Any interest earned shall be retained in the reserve account and shall be taken into consideration during reprogramming. Any interest earned on what may reasonably be determined to be a participant's portion of the reserve fund account may also be paid into the retirement fund when the participant obtains a status described in paragraphs (a) (1) through (3) of this section.

(d) Effective October 1, 1977, costs for retirement programs will be allowed only under an approved plan that meets the requirements of paragraph (a) of this section.

(e) Expenditures may be made from program funds for taxes under the Federal Insurance Contributions Act (FICA), 26 U.S.C. 3101 et seq.

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6. Part 99 is revised to read as follows:

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.

Subpart B—Grant Application

99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Application for Federal assistance.
99.14 Comprehensive Title VI plan.
99.15 Assurances and certifications.
99.16 Grant signature sheet.
99.17 Comment and publication procedures relating to submission of grant application.
99.18 Submission of grant application; standards for reviewing grant applications.
99.19 Application approval; application disapproval; grant agreement.
99.20 Use of alternative eligible applicant; services by the Secretary.
99.21 Modifications.

Subpart C—Program Operation Requirements for Prime Sponsors

99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities in the Title VI level of sustainment.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

99.40 Apportionment of the prime sponsor's allocation.
99.41 Project approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Special considerations on selection.
99.45 Administrative staff selection and compensation.

Subpart E—Administrative Provisions

99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.

Sec.
99.75 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
99.84 Hearings and judicial review.

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99.100 Nondiscrimination; political activities.
99.101 Subgrants.

Subpart A—General

§ 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444.

(b) This program is intended to sustain enrollment under Titles II and VI of the Act throughout Fiscal Year 1977, and to create project opportunities with funds in excess of those needed for sustaining enrollment.

(c) Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 percent or less of the lower living standard income level. All persons enrolled in projects must meet the above criteria. In addition, at least 50 percent of the vacancies which occur or which already exist in the Title VI level of sustainment must be filled with long-term unemployed persons and AFDC recipients. Persons filling the remaining vacancies may meet the original Title VI eligibility criteria. A prime sponsor, however, may fill all vacancies with long-term unemployed persons and AFDC recipients.

(d) Definitions for terms and abreviations used in this part which are not found in this Part may be found at § 94.4 of this title.

(e) Prime sponsors are encouraged to develop to the maximum extent feasible ways of assuring participation of veterans in the newly created public service employment positions.

(f) Pursuant to § 98.21 of this title, prime sponsors shall assure equal employment opportunity in the selection of eligible participants for projects. In the establishment of eligibility pools for participants, prime sponsors shall have ample lead time to assure that those in the pool adequately reflect the characteristics of their unemployed populations (i.e., minorities, women).

(g) Statutory authority for the regulations contained in this part is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

(h) Pub. L. 94-444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94-444 became immediately applicable, including sections 3(a)(1), 3(a)(2), and 11.

§ 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603 (a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligible applicants' areas in all the States (sec. 603 (a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I or Title II), whichever is greater (sec. 603 (a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(b)).

(c)(1) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(2) When any portion of these funds is to be allocated using a formula, the Secretary shall not later than 30 days prior to such allocation publish in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603 (d)).

(d) For purposes of paragraphs (b) and (c) of this section, the term "jurisdiction" means the jurisdiction of each unit of general local government as described in § 95.3(a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603 (c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program. In which case, the eligible applicant shall make other arrangements to serve the residents of the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same rationale used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such

units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make agreements agreed to by the consortium for the administration of funds for the benefit of the residents of the eligible program agent's area:

§ 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant which is a unit of local government, within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Regional Administrator, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in § 99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its area (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial unemployment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

Subpart B—Grant Application

§ 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off of currently employed participants.

§ 99.11 Planning process; advisory councils.

To receive financial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils pursuant to § 95.13 (b), (c), (d), and (e) of this subtitle.

§ 99.12 Content and description of grant application.

(a) To apply for a grant, each eligible applicant shall complete and submit a grant application.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook (ET Handbook No. 311).

(c) Each grant application shall consist of an Application for Federal Assistance, a Comprehensive Title VI Plan, Assurances and Certifications, and a Grant Signature Sheet. §§ 99.13–16 describes the contents of the grant application.

§ 99.13 Application for Federal Assistance.

The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested. It provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74–7 is being used as the Application for Federal Assistance.

§ 99.14 Comprehensive Title VI Plan.

(a) The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within its jurisdiction. The Comprehensive Title VI Plan consists of the Narrative Description of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, the Project Data Summary, and the Program Summary which are described below in paragraphs (b) through (h) of this section.

(b) The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and states the results expected from the program. The Narrative Description requirements in this paragraph (b) are an abbreviated version of the Narrative Description requirements for Title II (§ 96.14(b)(2)(1) of this title). If the information required has already been provided in the current Title II Narrative Description, a copy of the Title II Narrative Description may be attached in order to comply with the requirements in this paragraph. The Narrative Description of the Title VI program must include the following items:

(1) *Objectives and needs for the assistance.* (i) Program purpose; and

(ii) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(2) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(3) *Approach.* (i) What provisions have been made to sustain the June 30, 1976, level of enrollment in both Titles II and VI, or to retain the October 31, 1976 level, if higher?

(A) Identify the June 30, 1976, level of enrollment in Titles II and VI. Identify the October 31, 1976, level, if different.

(B) Identify the level of enrollment at the time of grant execution, if higher than either of the preceding. If the level of enrollment is higher, describe how these excess participants will be accommodated (e.g., transfer to projects, terminate, place in jobs).

(C) Estimate the amount of funds it will take to sustain the June 30, 1976, level of enrollment or to retain the October 31, 1976, level of enrollment, whichever level of enrollment is higher.

(D) Identify the number of participants that will be sustained under Title II.

(E) Identify the number of participants that will be in the Title VI level of sustainment.

(F) If any former participants are to be reinstated in the program under the provisions of § 99.40(c), state the number of individuals involved. Submit ade-

quate documentation to allow the RA to determine that such individuals qualify for reinstatement, including the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(ii) Describe the methods which will be used to provide any training and supportive services to long-term unemployed persons.

(iii) Provide the estimated average annual wage rate for PSE occupations and the method of obtaining this wage rate, keeping in mind the aim of obtaining a nationwide rate of $7,800.

(iv) Describe unmet public service needs.

(v) Describe the method of recruiting low-income AFDC recipients and long-term unemployed persons, and the method which will be used to verify such persons' eligibility for the program. Describe the procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of § 99.42(a) and (b).

(vi) Explain the basis for distributing funds within the eligible applicant's area.

(vii) Describe what steps will be taken to provide services to disabled, special and recently discharged veterans and to welfare recipients.

(viii) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(ix) Describe the process for selecting delivery agents and project operators including:

(A) The methods and criteria to be used in the selection of delivery agents and project operators;

(B) The methods and criteria to be used for soliciting and approving project applicants.

(x) Describe the linkages established with other employment and training and related agencies.

(xi) Identify the percentage of Title VI positions planned to be filled with veterans.

(4) *Management and administrative plan.* (i) Provide an organizational chart.

(ii) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(5) *Maintenance of effort data.* Estimate the number of jobs that will be filled by rehiring former employees who have been terminated or laid off. (Under § 99.34, the RA may request additional documentation on this item.)

(c) *Program planning summary.* The program planning summary requires an eligible applicant to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities), and planned outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals in each to be served.

(d) *Budget information summary.* The budget information summary requires an eligible applicant to:

(1) Provide a quantitative statement of planned expenditures and obligations;

(2) Indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); and

(3) State planned quarterly obligations and planned expenditures by program activity.

(e) *Monthly schedule.* The monthly schedule contains an estimate of total number of participants who will be enrolled in Title VI programs at the end of each month and of the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public service employment occupational summary.* The public service employment occupational summary provides a description of proposed job opportunities, occupations and wages for similar nonsubsidized jobs in the employing agency at the sustaining level. The above information should not be provided for projects.

(g) *Project data summary.* The project data summary provides a description of each proposed project.

(h) *Program summary.* The program summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. The above information should not be provided for projects.

§ 99.15 Assurances and certifications.

(a) The assurances and certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The assurances and certifications form will be provided in the grant application package.

(b) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the RA in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

§ 99.16 Grant Signature Sheet.

The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides.

§ 99.17 Comment and publication procedures relating to submission of grant application.

(a) Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle, except that newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Indian prime sponsors, and appropriate labor organizations may be simultaneous with submission of the grant application to the RA.

(b) Each eligible applicant shall submit a copy of its grant application to appropriate State and sub-state clearinghouse(s) at the same time that it submits its application to the RA.

§ 99.18 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grants application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this subtitle.

§ 99.19 Application approval; application disapproval; grant agreement.

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

§ 99.20 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

§ 99.21 Modifications.

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

Subpart C—Program Operation Requirements for Prime Sponsors

§ 99.30 General.

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of exces-

sively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

§ 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a)(1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21(c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

§ 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b)(1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level in variance from the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

§ 99.33 Public service job activities in the Title VI level of sustainment.

(a) A prime sponsor may use funds reserved for sustaining enrollment under Title VI to provide:

(1) Public service jobs which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602(a));

(3) Basic manpower activities and services described in § 95.33(d) (1), (2), (4), (5), and (6) of this title (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b)(c)(d)(e)(g) and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those provisions applicable for program under Title I, or Part A of Title III shall apply. However, when Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b)(2), (3), and (8) shall not apply.

§ 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (sec. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that all programs under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If layoffs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(7)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employers will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable.

Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State, political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

§ 99.35 Linkages with other employment and training programs; training and supportive services.

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

§ 99.36 Placement goals.

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33(c)–(f), however, shall not be applicable to participants in projects as described in § 99.40(a)(2).

§ 99.37 Compensation and working conditions for participants.

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to relieve a prime sponsor from compensating participants in accordance with paragraphs (a), (c), (d), (e), and (f) of this section. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer. When a participant in a work experience activity is performing the tasks of a regular public service employment type job, wages must be comparable to those paid for the regular public service job, as specified in § 96.34 of this subtitle.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

(g) Participants in public service employment may only be placed in above entry level positions or in supervisory positions in projects to the extent consistent with the provisions of § 96.23(b)(11) and (12) of this subtitle.

§ 99.38 Place of residence for participants.

(a) *General.* (1)(i) At time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more jurisdictions eligible to be prime sponsors have found a consortium to operate programs under Titles I, II, and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided*, That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

§ 99.40 Apportionment of the prime sponsor's allocation.

(a) *General.* (1)(i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI on October 31, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level or the level of opportunities on the date of grant execution.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 31, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section or the level of opportunities on the date of grant execution.

(iv) Where the enrollment level at the time of grant execution is higher than the Title VI level of sustainment, prime sponsors may transfer these excess participants into projects or into their programs under Titles I or II, to the extent that the participants being transferred met the appropriate eligibility criteria at the time of enrollment in CETA.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(ooo) of this title, not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants enrolled in vacancies or openings in the Title VI level of sustainment shall meet the eligibility criteria in § 99.42(a).

(2) Those vacancies not filled by individuals meeting the new eligibility criteria shall be filled by individuals meeting the eligibility criteria in § 99.42 (b).

(3) All participants enrolled in projects as specified in § 99.40(a)(2) and § 99.41 shall meet the eligibility criteria in § 99.42(a) of this Part.

(4) Individuals enrolled in Title VI may be rehires as defined in § 94.4(qqq), of this title, provided that the maintenance of effort provisions of § 99.34 are not violated. In addition, prime sponsors may give preference to unemployed, qualified former health and safety personnel for public health and safety positions, when selecting individuals pursuant to paragraph (b)(2) of this section (sec. 607(c)(2)).

(5) The cumulative and current number of participants meeting the eligibility criteria in § 99.42(a) who are enrolled in vacancies or openings in the Title VI level of sustainment shall at all times approximate 50 percent or greater of all participants enrolled in vacancies or openings in the Title VI level of sustainment.

(6) In paragraphs (b) (1), (2), and (3) of this section, persons enrolled after grant execution shall not include Title II participants who are moved into Title VI during the initial separation of Titles II and VI participants.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24 (e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a)(1) of this section without regard to requirements of paragraphs (b) (1) and (2) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24 (e) and (f), after review of information provided in § 99.14 (b)(3)(i)(F). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

§ 99.41 Project approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a)(1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), not to exceed one year in duration. (As part of these new projects, prime sponsors may utilize those funds for manpower program activities as described in § 95.33(d) (1), (2), (4), (5), (6), and (7) of this title (sec. 607(b)).

(b) Such projects shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project funds to project applicants which are nonprofit agencies.

(4) In reviewing project applications, prime sponsors, and program agents should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects.

(5) Prime sponsors and program agents shall not disapprove a project application without first considering any comments and recommendations submitted by the planning council and providing the project applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project applications shall be made in accordance with § 96.22 of this subtitle.

(7) Appropriate labor organizations should be consulted in the design of projects where collective bargaining agreements exist with the employing agency.

§ 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40(a)(2) and (b)(1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must either be economically disadvantaged as defined in § 94.4(s) of this subtitle or be a member of a family which has a current total family income, determined pursuant to paragraph (a)(2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4 (nnn), and must meet the residency requirements of § 99.38 of this Part, and must be a person.

(i) Who is unemployed at the time of application and during the 20 weeks immediately prior to application has been receiving unemployment compensation for 15 or more weeks; or

(ii) Who is unemployed at the time of application and during the 20 weeks immediately prior to application is ineligible for unemployment compensation as defined in § 94.4(sss) and has been unemployed for 15 or more weeks; or

(iii) Who is unemployed at the time of application and was unemployed during 15 of the 20 weeks immediately prior to application, and who, during that 15 week period, was first ineligible for unemployment compensation as described in paragraph (a)(1)(ii) of this section and then became eligible for and received unemployment benefits.

(iv) Who, at the time of application, is unemployed and is an exhaustee as defined in § 94.4(rrr) of this title; or

(v) Whose family is receiving Aid to Families with Dependent Children (AFDC), including AFDC—Unemployed Fathers, under Title IV of the Social Security Act.

(2)(i) In determining current family income, the prime sponsor shall annualize, based on the three months preceding application, total family income, utilizing the same exclusions (e.g., unemployment compensation) used to determine family income for the Participant Record.

(ii) In instances where, due to seasonal employment, summer employment for youth, or other circumstances, the three months period is unrepresentative, the prime sponsor shall compute family income by totaling all family income received during the twelve months prior to application, except for those exclusions indicated in paragraph (a)(2)(i) of this section (sec. 608(a)(2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40 (a)(2) and (b)(1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a)(1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the prime sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I, Title IV, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred pursuant to § 99.40 (a)(2) or (b)(1) if they met the requirements of paragraph (a)(1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release discharge, for participation in a project under § 99.40 (a)(2) and (b)(1) without regard to paragraphs (a)(1) (i), (ii), (iii), and (iv) of this section which would otherwise pertain

(38 U.S.C 2013): *Provided*, The veteran has not obtained permanent full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(b) In order to be eligible pursuant to § 99.40(b)(2), an individual shall be:

(1)(i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4 (fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b)(2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in § 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release, for participation in an activity under § 99.40 (a)(1) and (b)(2) without regard to the 15- or 30-day unemployment requirement which would otherwise pertain (38 U.S.C. 2013): *Provided*, The veteran has not obtained permanent, full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5 or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40 (b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, Title IV, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities funded through the Department may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employment program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filled under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirements of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or refugees, including refugees who are parolees.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing for such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of §§ 96.28 and 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraphs (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

§ 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of subdivisions (i), (ii), (iii), and (iv) of § 99.42(a)(1) are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor except as provided in paragraphs (b) and (c)(3) of this section.

(b) To facilitate the rapid implementation of this program, the prime sponsor may enroll without prior verification, applicants who attest to their eligibility. Within 60 days of these participants' enrollment, the prime sponsor shall obtain written verification of their eligibity from the State employment security agencies (SESAs) and/or welfare agencies. Participants who are found to be ineligible shall be terminated immediately and the prime sponsor shall not be liable for wages and benefits paid to these participants prior to the receipt of the written verification.

(c) In order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to subdivisions (i), (ii), and (iii) of § 99.42(a)(1); and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(3) To the extent that there are arrangements pursuant to paragraphs (c)(1) and (2) of this section and these arrangements are described in an approved grant, the prime sponsor shall not be responsible for verifying those eligibility requirements covered in those arrangements, nor shall it be liable for any costs resulting from its reliance on such arrangements.

(d) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

§ 99.44 Special considerations on selection.

In providing public service jobs and determining hours of work for individuals eligible pursuant to §§ 99.40(a)(2) and 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration

to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

§ 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Subpart E—Administrative Provisions

§ 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

§ 99.71 Payments, financial management systems and audit.

Sections 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

§ 99.72 Reporting requirements.

(a) Section 98.7 of this subtitle shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI. To assure the effective implementation of the program and the least disruption during its phase-down, the Secretary may require the prime sponsor to submit information on a more frequent basis.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply to programs under Title VI.

§ 99.73 Reallocation of funds.

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

§ 99.74 Allowable Federal costs.

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the 15 percent administrative funds may be used to purchase construction supplies and materials to be used in projects.

99.75 Grantee contracts and subgrants.

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

§ 99.76 Allocations of allowable costs among program activities.

Section 98.13 of this subtitle shall apply to Title VI grants.

§ 99.77 Basic personnel standards for eligible applicants.

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filing public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

§ 99.78 Adjustments in payments.

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.79 Termination of grant and closeout procedures.

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.80 Retention of records.

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

§ 99.81 Program income and procurement standards.

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712);

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

§ 99.83 Assessment and evaluation.

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

§ 99.84 Hearings and judicial review.

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

§ 99.90 General.

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this part 99 apply to programs under this subpart.

§ 99.91 Grant responsibility.

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of subpart, all references to RA in this part

§ 99.92 Distribution of funds.

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available. Within prime sponsors which are consortia, the Secretary shall allocate funds among the member reservations on the basis of identifiable areas of high unemployment. To the extent feasible, a nonconsortium prime sponsor shall allocate funds within its area on the basis of identifiable areas of high unemployment.

§ 99.93 Eligibility for funds.

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

§ 99.94 Funding of prime sponsors.

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF–424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;

(2) A program planning summary;

(3) A budget information summary;

(4) An occupational summary;

(5) A program summary; and

(6) A monthly plan.

§ 99.95 Participant eligibility.

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 Comments and publication procedures relating to submission of application for funding.

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 Planning process; advisory councils.

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition, the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 Travel requirements.

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 Nepotism and conflict of interest.

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 Non-discrimination; political activities.

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b)

§ 99.101 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accordance with 42 U.S.C. 2000e–2(i).

Signed in Washington, D.C., this 4th day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-13797 Filed 5-12-77;8:45 am]

federal register

FRIDAY, MAY 13, 1977
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ENVIRONMENTAL PROTECTION AGENCY

CONSUMER PRODUCT SAFETY COMMISSION

■

FULLY HALOGENATED CHLOROFLUOROALKANES

Proposed Prohibitions and Notice of CPSC Action

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 2, 189, 310, 500, 510, 700, 801]

[Docket No. 76N-0460]

CERTAIN FLUOROCARBONS (CHLOROFLUOROCARBONS) IN FOOD, FOOD ADDITIVE, DRUG, ANIMAL FOOD, ANIMAL DRUG, COSMETIC AND MEDICAL DEVICE PRODUCTS AS PROPELLANTS IN SELF-PRESSURIZED CONTAINERS

Proposed Prohibition on Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to prohibit the use of certain fluorocarbons, which are fully halogenated chlorofluoroalkanes (chlorofluorocarbons), as propellants in self-pressurized containers in products subject to the Federal Food, Drug, and Cosmetic Act (FFDCA). This action is proposed because chlorofluorocarbons may deplete stratospheric ozone, leading to an increase in skin cancer, climate changes, and other adverse effects. Essential uses of chlorofluorocarbons, specified in the regulation, would not be subject to the regulation.

Related actions: (1) A final rule has been published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) that requires warning statements on foods, drugs, animal food, animal drugs, cosmetics, and medical devices in self-pressurized containers that contain chlorofluorocarbon propellants. (2) The Environmental Protection Agency (EPA) is issuing in the FEDERAL REGISTER a proposed rule which would prohibit, under the Toxic Substances Control Act (TSCA) the manufacture, processing or initial distribution in commerce of chlorofluorocarbons for aerosol propellant uses except for specified essential uses. (3) The Consumer Product Safety Commission (the Safety Commission) has published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21807) a proposed rule to require a warning on consumer aerosol products subject to the Consumer Product Safety Act that contain chlorofluorocarbon propellants. The Safety Commission is issuing in the FEDERAL REGISTER a Notice of Commission Action in Response to the Environmental Protection Agency's Proposed Ban with respect to Nonessential Uses of Fully Halogenated Chlorofluoroalkanes as Propellants in Consumer Aerosol Products.

DATE AND ADDRESS FOR SUBMISSION OF COMMENTS: Interested persons may, on or before July 12, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this notice of FDA's proposed action. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. The comment period will be open, for the limited purpose described below, for 30 days after the conclusion of the hearing to be held by EPA. Comments on the actions proposed by EPA and CPSC should be directed to the respective agency at the address indicated in the document proposing the action.

PROPOSED EFFECTIVE DATES: Food, drug, device or cosmetic products manufactured or packaged on or after December 15, 1978, and finished products initially introduced into interstate commerce on or after April 15, 1979 would have to comply with the regulation.

FOR FURTHER INFORMATION CONTACT:

Buzz L. Hoffmann, Deputy Director, Environmental Impact Staff (HFS-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4502.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is proposing to prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to the FFDCA. The products to which the regulation applies are human food (including food additives), human drugs (including biological products), animal food, animal drugs, cosmetics, and medical devices. The proposed prohibition would not apply to uses, specified in the rule, that the Commissioner has concluded are essential.

The Food and Drug Administration is proposing this prohibition to reduce the risk of stratospheric ozone depletion posed by the release of chlorofluorocarbons. A reduction of stratospheric ozone may increase the amount of ultraviolet radiation reaching the earth, and as a result increase the incidence of skin cancer, change climate, and produce other adverse effects. Chlorofluorocarbon release may also affect climate by increasing infrared absorption in the atmosphere.

The Commissioner of Food and Drugs took the initial steps toward phasing out the use of chlorofluorocarbons in products subject to the FFDCA in a proposal to require warning statements (Docket No. 76N-0459), and in a notice of intent to propose rules and request for information (Docket No. 76N-0460), which published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52071, 52070, respectively). The preamble to the proposal to require a warning statement set forth the Commissioner's reasons for believing that regulatory action is necessary to phase out use of chlorofluorocarbons. The Commissioner published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) a final rule requiring a warning statement on products subject to the FFDCA. In the preamble to the final rule, the Commissioner discussed the comments received on the proposed warning statement. The Commissioner relies on the administrative record relating to the required warning statement (Docket No. 76N-0459), which is publicly available, to support and demonstrate the need for this proposal to prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to the FFDCA. The Commissioner has discussed below the proposed regulation, the comments submitted on the notice of intent, and the coordination of FDA's regulatory action with the action of other Federal agencies.

PROPOSED REGULATION

The proposed regulation declares that any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated and/or misbranded with the exceptions noted below. In addition, any drug product for human or animal use in a self-pressurized container that contains a chlorofluorocarbon propellant is a new drug or a new animal drug. This proposed regulation applies to any fully halogenated chlorofluoroalkane (chlorofluorocarbon) used in a self-pressurized container as a propellant to expel a different liquid or solid material under pressure. The reason for covering only propellant uses and an explanation of the applicability of the definition are given in the preamble to the final rule establishing the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017).

Because only propellant uses are covered at this stage, the proposed phaseout does not apply to the use of chlorofluorocarbon as an aerating agent in foamed or sprayed food products, such as dessert toppings or cheese spreads. The use of chlorofluorocarbons as an aerating agent encompasses the stabilizer use of chlorofluorocarbons referred to in the final rule relating to the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018). In this proposal, the term "aerating agent" is used rather than the term "stabilizer" to describe the function chlorofluorocarbons perform in foamed or sprayed food products because the "aerating agent" term is more precise and is the term currently used in the food additive regulations. The use as an aerating agent is provided for under a food additive regulation that, at the present time, permits use of a chlorofluorocarbon both as a propellant and an aerating agent. The proposed revision of the regulation would ensure that the chlorofluorocarbon is used as an aerating agent, with any propellant side effect being no more than is minimally necessary to achieve the aerating function. The Food and Drug Administration intends to propose to prohibit nonpropellant uses of chlorofluorocarbons, other than essential uses, in conjunction with the planned EPA proposed phaseout of nonpropellant uses. The projected date for the FDA proposal is June 1978.

The Commissioner notes that some uses of chlorofluorocarbon propellants in foods may be "prior sanctioned" uses

that are not within the definition of a food additive in section 201(s) of the act (21 U.S.C. 321(s)), and, as a result, are not subject to the requirements in section 409 of the act governing food additives (21 U.S.C. 348). The Commissioner is proposing this ban on the propellant uses of chlorofluorocarbons in foods in reliance on section 402 of the act (21 U.S.C. 342), as well as on section 409; section 402 applies to all foods, including "prior sanctioned" uses. Thus, any food containing a nonessential chlorofluorocarbon propellant in violation of a final rule issued as a result of this proposal, would be considered an adulterated food under the act, notwithstanding the fact that the use may have been prior sanctioned with respect to the food additive requirements of the act.

The proposed regulation exempts certain products containing a cholorofluorocarbon in a self-pressurized container from the adulteration and misbranding provisions because the use of the chlorofluorocarbon in these products has been found to be essential. Any drug product whose use of a chlorofluorocarbon has been found essential is required, however, to have an approved new drug application (NDA). Five specific uses of chlorofluorocarbon as a propellant in self-pressurized containers are set forth in the proposed regulation as essential uses. The rationale for including these products is discussed in the preamble to the final rule establishing the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) and below in this document.

The proposed regulation also provides that any person may petition the agency to request that other products containing a chlorofluorocarbon propellant be added to the list of uses considered essential. To demonstrate that the use of the chlorofluorocarbon is essential, the petition must be supported by an adequate showing that (i) there are no technically feasible alternatives to the use of a chlorofluorocarbon in the product, (ii) the product provides a substantial health, environmental, or public benefit unobtainable without use of the chlorofluorocarbon, and (iii) the use does not involve a significant release of chlorofluorocarbon into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

Modification of the proposed list of essential uses may be made as a result of comments received on this proposal. Anyone who submits a comment requesting another use chlorofluorocarbons to be exempted from the phaseout regulation should include the information required to be submitted in support of a petition.

After publication of the final regulation, a product containing a chlorofluorocarbon can only be exempted from the phaseout regulation by submitting a petition requesting an amendment to the regulation. Further, if the product is a drug product, an NDA or a new animal drug application (NADA) would have to be submitted and approved.

Many of the drug products containing a cholorofluorocarbon whose use has not been found to be essential are now covered by an approved NDA or NADA. Holders of such approved applications will not be able to market their products after the effective date of the final regulations since such products will be adulterated and/or misbranded. Therefore, holders of these approved applications will either have to reformulate their products in self-pressurized containers, eliminating the chlorofluorocarbon, or discontinue them. Since it is proposed that no products containing a chlorofluorocarbon as a propellant in a self-pressurized container, except the exempted products, be manufactured after December 15, 1978, any holder of an approved NDA or NADA who is reformulating the product should submit a supplemental application by October 1, 1978, to permit prompt review, and approval before December 15, 1978. These supplements should be complete and contain the information required in § 314.8 (21 CFR 314.8) or § 514.8 (21 CFR 514.8). Since the December 15, 1978, date for discontinuing manufacturing and the April 15, 1979, date for initial introduction into interstate commerce apply to all products subject to FDA's control, it will be advantageous for each NDA holder or NADA holder who is reformulating his product to be certain that his supplemental application is complete. If an NDA holder or NADA holder does not plan to reformulate the drug product, he should submit a letter requesting that the NDA or NADA for the drug product containing a chlorofluorocarbon be withdrawn and stating that the right to a hearing on the withdrawal of the application is waived.

Most of the drug products containing a chlorofluorocarbon for a use that is considered essential are the subject of an approved NDA. However, some metered-dose adrenergic bronchodilator drug products for oral inhalation and some contraceptive vaginal foams are marketed without NDA's. Since any drug containing a chlorofluorocarbon as a propellant in a self-pressurized container is a new drug, it will be necessary for a manufacturer of an "essential" drug product not covered by an NDA to submit and obtain an approved application. It is proposed that such an application must be submitted no later than 180 days after the date of publication of the final regulation and must be approved by December 15, 1978, for the firm to continue manufacturing the product. It is therefore recommended that each firm required to submit an application under this requirement discuss the type of information needed to support the application with FDA before submitting the application.

Any sponsor of an investigational new drug (IND) or of a claimed exemption for a new animal drug (VIND) for a drug product containing a chlorofluorocarbon as a propellant would also be required by the proposed regulations to amend the IND or VIND notice to review the formulation. The sponsor could, however, petition the agency to have the use of the chlorofluorocarbon in the investigational drug be declared an essential use.

Although the use of chlorofluorocarbon in certain products is exempt from these proposed phaseout regulations, the Commissioner wishes to make it clear that as technology changes, this list may be revised. If another suitable propellant becomes available or alternate route of administration for any essential product is identified, the manufacturer will be expected to reformulate his product accordingly. If any manufacturer of one of the products on the list of essential uses submits data in support of a reformulated product that does not include a chlorofluorocarbon, the Commissioner will consider proposing an amendment to the regulation to delete that product from the exempt list.

COMMENTS ON THE NOTICE OF INTENT

In the notice of intent and request for information that published on November 26, 1976, the Commissioner announced his intention to phase out nonessential uses of chlorofluorocarbons in FDA-regulated products. The Commissioner has discussed below in numbered paragraphs the comments received on the notice of intent to the extent they relate to the action being proposed in this document, unless the matter has already been adequately discussed and disposed of in the preamble to the final rule establishing the warning statement.

Fifty-three comments were received in response to the notice of intent to propose a phaseout. These comments were received within the comment period or within 1 week of its close. Comments received within a week could be analyzed in the normal course, and these comments have been treated as if they had been timely filed. Late comments were screened, and they did not present any new matter significantly different from the issues raised in the timely comments. Those persons who wish to make further comments on this proposal should do so during the comment period.

In response to two requests for an extension of time to comment, the Commissioner granted an extension of time to comment on the notice of intent with respect to two reports cited in the requests as forthcoming and as the basis for seeking an extension. The reports referred to were a report by International Research and Technology Corporation and Policy Models, Inc., (IRT Study) done under contract with EPA on the economic impact of a phaseout of chlorofluorocarbon propellants, and a NASA update of projections of ozone depletion. Two additional submissions were made on the basis of the extension of time, and neither discussed the NASA update. The NASA update in a preliminary version became available recently and is discussed in the preamble to the final rule relating to the warning requirement. Some of the other information in these submissions related to issues discussed in the preamble to the final rule relating to the warning requirement.

The comment on the IRT Study are discussed below.

ESSENTIAL USES

1. One comment complained of the absence of adequate FDA criteria for determining which uses are essential and expressed doubt that the term was meant in its literal sense of "absolutely necessary; indispensable." Only life-sustaining products could meet such a test. Because of the uncertainty of the criteria, the comment, from a major supplier of fluorocarbons, submitted information about all uses of chlorofluorocarbons and the "product and process benefits" of the various aerosol uses of chlorofluorocarbons in FDA-regulated products. The benefits listed include nonflammability and, in the case of antiperspirants and deodorants, even distribution, personal hygiene, reduction of valve clogging, and "direction of application"; in the case of perfumes and colognes, avoidance of alteration of the fragrance; in the case of hair care products, "an evenly-applied light spray"; in the case of pancoatings, "even distribution of minimal product"; in the case of medicinals and pharmaceuticals, dosage control, prevention of product degradation, no back contamination, reduction of child-ingestion hazards, and application to sensitive areas without touching; and, in the case of veterinary pet products, better application to unrestrained animals.

The Commissioner has stated in the proposed rule the criteria for determining whether a product is essential. Essentiality means both that there are no technically feasible aerosol or nonaerosol alternatives to using a chlorofluorocarbon in a product and that the product provides a substantial public benefit, such as a therapeutic medical benefit. A product need not be indispensable to life but in the Commissioner's judgment, the benefit must be important and consist of more than added convenience or enhancement of appearance. Benefit is a broad concept that can encompass economic consequences, but an economic impact solely upon the manufacturer of the product would not ordinarily be sufficient to make a use essential, since most regulations involve an economic impact upon the manufacturer for a short term or even longer. A substantial economic impact on consumers or other users could conceivably be an element to make a use essential but only in conjunction with some other significant benefit provided by the product.

A product containing chlorofluorocarbon propellants will not be deemed essential solely because it has some advantages over other products. Most products containing chlorofluorocarbon propellant alternative form that achieves and continue to be marketed, in a nonpropellant alternative for that achieves substantially the same function, e.g., deodorants in solid form, hair sprays in pump dispensers, and liquid colognes. Thus, the use of self-pressurized containers for these products is not essential, notwithstanding benefits in terms of convenience or greater consumer satisfaction. If the alternative form presents other hazards, the Commissioner will take regulatory action as appropriate to deal with all unsafe products subject to the FFDCA.

The Commissioner therefore disagrees with the comment to the extent that it suggests that the product benefits listed are sufficient to make the general classes of products essential across-the-board. The Commissioner has discussed below, and in the final rule relating to the warning requirement, the comments submitted with respect to the essentiality of specific products.

2. Many comments related to essentiality determination for product uses not subject to this proposed regulation, including liquid food freezant uses, polystyrene food packaging uses, and ethylen oxide sterilization equipment.

This proposed rule applies only to propellant uses of chlorofluorocarbons in self-pressurized containers. The Commissioner will defer consideration of the submissions relating to uses not subject to this proposal until he undertakes consideration of the proposal to phase out all other uses of chlorofluorocarbons. All the nonpropellant uses of chlorofluorocarbon will be considered in the next phase, when EPA also examines these uses. The propellant use of chlorofluorocarbon is by far the principal use of chlorofluorocarbons in FDA-related products. A proposed rule to phase out nonessential, nonpropellant uses of chlorofluorocarbons is tentatively planned for issuance in June 1978. This schedule will permit a coordinated examination of the environmental and economic consequences of the phaseout of nonpropellant uses.

3. One comment adjusted to the statement made in the notice of intent that every prescription drug product would be assessed to determine if the use of a chlorofluorocarbon in the product was essential. The comment indicated that all prescription drugs should be exempt from the phaseout regulations because all prescription drugs confer health benefits and thus are essential.

The Commissioner is not persuaded by this comment which completely disregards the reason a drug is distributed in a self-pressurized container. Some products are in self-pressurized containers because it is the most effective delivery system possible, while other drugs are in self-pressurized containers merely for convenience. The fact that a prescription drug confers a health benefit is not the issue, if other means of product delivery exist and the self-pressurized container provides no special public benefit.

4. Many comments requested that one or more specific OTC or prescription products for topical administration be exempted from the phaseout regulations and/or exempted from the warning statement, e.g., topical analgesics, sunburn, and minor burn remedies. Comments from other manufacturers for some of the same types of products requested exemptions until suitable replacement propellants were found, or they requested a reasonable time for an orderly and economic transition. Types of products identified in these comments were topical analgesics, sunburn and minor burn remedies, topical antimicrobial agents, surgical scrubs, insect bite products, topical antifungal agents, topical antiflammatory agents, topical anesthetics, a surgical spray dressing, and a product for treatment of seborrheic dermatitis of the scalp.

The Commissioner has carefully considered the requests for an exemption of topical drug products in the preamble to the final rule requiring a warning and concludes that none of these topical products should be exempted from the warning or phaseout regulations. He does recognize, however, the need for a reasonable time for manufacturers to find suitable replacements if they plan to reformulate their products. The time in which chlorofluorocarbons are to be removed from these products is discussed elsewhere in this preamble.

5. One comment requested that a prescription vaginal foam product for the treatment of atrophic vaginitis be exempted. The Commissioner concludes that the effectiveness of the product is not dependent upon the foam delivery system. The basis for the exemption request was that there were no suitable alternatives to the chlorofluorocarbon propellants in the product. No data were presented to show why this product had to be administered as a foam and why other delivery systems would not be satisfactory.

6. One comment, from a manufacturer that used chlorofluorocarbons in the synthesis of two inhalation anesthetic drug products, requested that these products be exempted from the phaseout regulations.

At this time, the Commissioner is only proposing regulations that would prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to FDA control. The chlorofluorocarbons used by this manufacturer are used in the preparation of the product and not distributed in self-pressurized containers, and thus such a use is not covered by this proposal.

7. One comment requested that a pre-surgical skin cleaner containing chlorofluorocarbon 113 be exempt from the phaseout regulations. The comment indicated that the only alternative was diethyl ether which had the disadvantage of being highly flammable.

This drug product is supplied as a liquid, to be applied to the skin with the aid of cotton swabs, and not as an aerosol in a self-pressurized container. Therefore, it is not covered by this proposal or the warning statement requirement which covers only propellants in self-pressurized containers.

8. One comment, from a manufacturer of vegetable oil-based cookware spray using a chlorofluorocarbon propellant, stated that no suitable replacement for chlorofluorocarbons is available. The company noted that hydrocarbon propellants are flammable and that nitrous oxide and carbon dioxide combine with

the oil resulting in a shaving cream appearance when sprayed.

The Commissioner believes other delivery methods are feasible. For example, dab-on applicators exist or can be developed. He concludes, therefore, that the use of chlorofluorocarbons for this purpose is not essential.

OTHER HALOCARBONS

9–10. The Commissioner invited comments on the health and environmental risks from all halocarbons, in addition to chlorofluorocarbons, and particularly the hydrochlorofluorocarbons. A chemical supplier submitted information to show that hydrochlorofluorocarbons pose a significantly lower risk of ozone depletion than chlorofluorocarbons.

As described in the preamble to the final rule requiring a warning statement, there have been recent reports that certain hydrochlorofluorocarbons are weakly mutagenic and/or teratogenic and are not likely to be marketed before 1980 pending further toxicological study. Several papers were also submitted reporting data on the reaction rates of chlorofluorocarbons and hydrochlorofluorocarbons with the hydroxyl radical (Ref. 1). These papers show that the chlorofluorocarbons react least rapidly of all halocarbons tested with hydroxyl radical and, thus, would pose the greatest risk to stratospheric ozone. The hydrochlorofluorocarbons have faster reaction rates with hydroxyl radical, suggesting that they have shorter tropospheric lifetimes and pose lesser risks to stratospheric ozone. A recent publication by H. B. Singh (Ref. 2), however, suggests that the actual concentration of tropospheric hydroxyl radicals may be about five times lower than the concentration currently used to predict tropospheric lifetimes. If this were so, all tropospheric lifetime estimates woud be revised upward. This would be particularly significant in the case of hydrochlorofluorocarbons. The Commissioner invites further comment from the scientific community on the significance of this paper.

The Commissioner concludes that it is premature at this point to resolve whether the release to the atmosphere of hydrochlorofluorocarbons and halocarbons other than chlorofluorocarbons pose unacceptable risks. He recognizes that the available data suggests that the risk from hydrochlorofluorocarbons is considerably less than the risk from chlorofluorocarbons, but the data available are still limited. The Commissioner will consider carefully any further information submitted on this issue. The Food and Drug Administration will continue to cooperate with EPA, CPSC, and other Federal agencies on the further exploration of the issues about environmental and other risks from halocarbons.

11. One comment addressed the formation of decomposition products resulting from the breakdown of hydrochlorofluorocarbons in the troposphere. The expected decomposition products would include hydrogen chloride, hydrogen fluoride, and carbonyl halides. The comment concluded that the carbonyl halides formed, although toxic in concentrated form, would not pose any hazard to health in the concentrations which would result should global aerosol chlorofluorocarbon release be converted on an equal weight basis to hydrochlorofluorocarbons. Another comment, supporting the use of hydrochlorofluorocarbons, pointed out that the greenhouse effect of these compounds would be many times less than that which might occur from the release of chlorofluorocarbons because hydrochlorofluorocarbons have been shown to be much weaker absorbers in the 8 to 12 micrometer region. Further comment on these matters is invited.

OTHER COMMENTS

12. One comment recommended methylene chloride as a desirable part of alternate hydrocarbon propellant systems. The comment discussed the flammability-suppressant and solvency properties of methylene chloride as factors favoring its adoption as a component of alternate propellant systems. The comment stated that atmospheric half-life is measured in days rather than years and animal toxicity studies reported thus far in two species indicate that methylene chloride will ultimately be proven a "very safe and suitable component of most cosmetic aerosols."

The Commissioner is aware that methylene chloride is currently being used as a component in the propellant system of some products in self-pressurized containers. The long-term toxicological properties of methylene chloride are presently being investigated both in government-sponsored studies and those supported by private industry. The Commissioner notes that methylene chloride is closely related in chemical structure to chloroform which has recently been shown to be carcinogenic, and the use of which is restricted under 21 CFR 300.-513 and 700.18. The Food and Drug Administration has invited the submission of information in a notice published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21843) about the health risks to the immediate user of all halocarbons.

13. One comment viewed the Commissioner's action as based on opposition to aerosols. The comment characterized aerosols as beneficial and energy-saving.

The Commissioner is proposing the action not because of any generalized opposition to aerosols, but because of the health and environmental risks posed by products containing chlorofluorocarbon propellants, as already fully discussed. The comment did not provide any data or information to support the assertion that aerosols are energy-saving.

PROPOSED EFFECTIVE DATE

14. Some comments urged a delay in the effectiveness of a phaseout until alternative hydrochlorofluorocarbon propellants were tested for safety and became commercially available. A leading supplier of chlorofluorocarbons urged a delay on this basis until January 1980. A trade association of cosmetic manufacturers suggested December 1980 as the effective date to minimize the economic impact, particularly on aerosol manufacturers and the cosmetic industry. The comment argued that the uncertainty about the availability of a hydrochlorofluorocarbon alternative made it difficult for industry to plan. Manufacturers might incur the cost of switching to hydrocarbon propellants, and some companies might cease to make aerosols, only to find out later that hydrochlorofluorocarbons could safely be used and would be available as an alternative.

The Commissioner recognizes the difficulties manufacturers face because of the uncertainties about the availability of hydrochlorofluorocarbons. He also commends the supplier of the chemical for acting responsibly to ensure that the safety of the chemical has been substantiated before it is marketed. Delay until 1980, however, involves a considerable period of time, and there is no assurance that hydrochlorofluorocarbons would be found to be safe. If for some reason the tests were not completed by 1980 or were not conclusive, there would undoubtedly be requests for further delay. The risks from chlorofluorocarbon use would continue during this period.

Those who requested the delay have attempted to minimize the environmental and health risks posed by chlorofluorocarbons. The Commissioner believes those risks are serious and must be weighed heavily in any examination of the inflation impact. The Commissioner recognizes that a phaseout will have a substantial economic impact on some firms. But the Commissioner is not persuaded that he should delay the phaseout to wait for the safety of possible alternative propellants to be tested. If a self-pressurized container were essential, a delay might be justified to permit development of an alternative propellant or a resolution of uncertainties about its feasibility or safety. A self-pressurized container is not essential, however, in products subject to the FFDCA, except in a few limited products exempted from the phaseout. The Commissioner concludes, therefore, that a delay to test the safety of a possible propellant alternative is not warranted.

In proposing the effective date, the Commissioner has provided a reasonable period for companies to phase out uses of self-pressurized containers with chlorofluorocarbon propellants. The inflation impact of a phaseout has been comprehensively analyzed on the basis of a phaseout of manufacture of chlorofluorocarbons for propellant uses in October 1978, approximately 18 months from the issuance of this proposal. The proposed phaseout of use in manufacturing or packaging products subject to the FFDCA would be December 1978, and the cut-off for initial introduction into interstate commerce of finished products would be April 1979. The effective date of December 1978 will be ap-

proximately 1 year from the date the final regulation is issued. Six months were allowed after the cessation of manufacturing of the chemical by suppliers to complete processing and shipment of stocks on hand. The Commissioner believes this is an ample time period for manufacturers to switch to alternative means of product delivery. Furthermore, the Commissioner's intention to phase out these uses has been known since November 1976, and industry has had the opportunity to develop alternative plans for a considerable period. In the notice of intent, the Commissioner asked for information on the time needed to make substitutions, but apart from the comments already discussed, little information was submitted.

The comments on the proposed warning statement indicated that inventories of packaged products can be large. Accordingly, in fixing the effective dates, the Commissioner has been careful to allow adequate time between the cessation of manufacturing or packaging products and the time for initial introduction into interstate commerce.

The effective dates of December 1978 and April 1979 apply to all products subject to FDA control, including approved new drugs and new animal drugs in aerosol form that have not been found essential. Supplemental NDA's or NADA's for drugs that have been reformulated to remove the chlorofluorocarbon should be submitted on or before October 1, 1978. Every attempt will be made to review them as soon as possible. A well-prepared supplemental NDA or NADA will assist in this review.

Coordination With Other Federal Agencies

This proposal was developed after consultation with EPA and the Consumer Product Safety Commission, and essentially parallels and complements the phaseout of propellant uses proposed by EPA. Both the EPA and FDA phaseout proposals apply to all chlorofluorocarbons, i.e., all fully halogenated chlorofluoroalkanes. The proposals of both agencies apply only to propellant uses. A phaseout of nonpropellant uses of chlorofluorocarbons will be proposed later by both agencies. The effective dates for the proposed phaseout of propellant uses have been developed on a coordinated basis. The EPA proposed regulation would become effective on October 15, 1978, with respect to manufacture of the basic chemical. The FDA proposal is directed at finished foods, drugs, cosmetics, and devices containing chlorofluorocarbons and does not contain an earlier effective date for phasing out manufacture of the basic chemical. The Food and Drug Administration has proposed to make its regulation effective on December 15, 1978, for food, drug, cosmetic, and device products manufactured or packaged after that date. This date is comparable to the December 15, 1978, effective date EPA is proposing under TSCA for processing products containing chlorofluorocarbon propellants. Both agencies are proposing April 15, 1979, as the effective date for halting any further introduction into interstate commerce of finished products containing chlorofluorocarbon propellants.

The Food and Drug Administration proposed prohibition applies to uses of chlorofluorocarbon propellants in self-pressurized containers subject to the FFDCA. The Environmental Protection Agency action is being proposed under TSCA which excludes from its coverage any food, food additive, drug, cosmetic, or device when manufactured, processed, or distributed for use as these articles. The Environmental Protection Agency and FDA have coordinated their proposals to avoid unnecessary duplication, prevent gaps in coverage, and promote efficient enforcement of the pertinent laws. The proposed regulation by EPA applies to the manufacture of chlorofluorocarbon for use as an aerosol propellant other than essential uses in FDA-regulated products and essential uses specified in the EPA phaseout regulation. At present, according to EPA, all fully halogenated chlorofluoroalkane propellants are manufactured in an identical manner regardless of potential end use. At the manufacturing stage, the ultimate intended use is undetermined or not clearly established. Since FDA will have prohibited nonessential propellant uses in FDA-regulated products, it is reasonable to believe that chlorofluorocarbons would not be manufactured for these uses. The scope of the proposed EPA regulation will promote effective enforcement of the requirements of TSCA in these circumstances.

Congress clearly did not intend to create regulatory gaps by creating the exclusion for FDA-regulated products. The legislative history of the purpose of the exclusion stated in H. Rept. No. 94-131, 94 Cong., 2d Sess. (1976) indicates that the exclusion from TSCA is applicable only to the extent FDA can regulate the risk posed by the product. Under section 801(d) of the FFDCA (21U.S.C. 381(d)), FDA cannot prevent the export of some proucts, such as cosmetics, if the products are permitted to be used in the country of export, even though the products pose an unreasonable risk to residents of the United States when used in the foreign country. The Environmental Protection Agency may regulate under TSCA the manufacture for export of chemical substances that EPA determines present an unreasonable risk of injury to the health or environment of the United States. EPA is making such a determination in the case of chlorofluorocarbons pursuant to section 12(a)(2) of TSCA. The Environmental Protection Agency proposed regulation helps to avert gaps in the regulatory control over those exports that FDA cannot regulate.

EPA Hearing

In issuing a final rule, EPA will observe the procedure mandated under TSCA, which provides for a hearing and opportunity for cross-examination on material issues of disputed fact. These procedures are not required under the FFDCA for this proposed rule. The Commissioner concludes that holding a public hearing would generally be duplicative and unnecessary in view of the hearing to be held by EPA. The only issues that would not potentially be addressed in the EPA hearings would be essentiality determinations for foods, food additives, drugs, cosmetics, and devices containing chlorofluorocarbons. These issues can be adequately examined through notice-and-comment procedures. Accordingly, the Commissioner does not intend to provide a separate public hearing with respect to whether he should issue the rule proposed in this document.

The Food and Drug Administration does intend, however, to offer interested persons an opportunity for 30 days after completion of the EPA hearing and cross-examination procedure to comment on whether specific information brought out through the EPA procedures, and not previously available, warrants any change in the rule proposed here. The record for the proposed rule will be held open after the end of the comment period for this limited purpose. The Commissioner will accept only submissions identifying specific information with particularity and will not consider wholesale submissions of unanalyzed portions of the EPA hearing record, such as a submission of a full transcript of the hearings.

As indicated above, the Commissioner intends to issue the final rule with respect to a phaseout of uses in self-pressurized containers at the same time EPA issues its rule. However, this proceeding will be one of the initial uses by EPA of its new procedures. If the EPA hearing takes substantially longer than projected, the Commissioner will consider issuing a final rule governing a phaseout of chlorofluorocarbon use in self-pressurized containers in products subject to the FFDCA if he determines that such action before EPA promulgates its rule is necessary to protect the public health and environment. In such a situation, he intends to provide an opportunity, when he issues the rule, for persons to comment on specific information brought out through the EPA hearing that might warrant revocation or modification of the rule. If feasible and appropriate in the circumstances, the Commissioner will consider giving this opportunity to provide further comments before issuing the final rule.

Citizen Petition

The National Resources Defense Council (NRDC) petitioned the Commissioner on October 26, 1976 to phase out propellant uses of chlorofluorocarbons in foods, drugs, and cosmetics. The petition is on file with the Hearing Clerk (Docket No. 76P-0456) and was cited in the proposed rule relating to the warning requirement on self-pressurized containers with chlorofluorocarbons. The Commissioner proposes in this document to phase out nonessential propellant uses of chlo-

rofluorocarbons. He has also issued a final rule requiring a warning on these products. Thus, the action requested in the petition has been granted except with respect to the proposed effective date. The petition is denied to the exent it requested that the effective date for the phaseout be established as November 1, 1977. The Commissioner has discussed above the reasons for proposing the effective dates for the phaseout indicated in this document.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

A draft environmental impact statement on this proposed action, entitled "Fluorocarbons: Environmental and Health Implications" has been prepared. The statement is available for public inspection in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42, and the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. A limited number of copies will be available upon request, and requests for single copies may be forwarded to either office.

Interested persons may submit comments (preferably in quadruplicate) on the draft environmental impact statement to the Hearing Clerk at the above address on or before July 12, 1977.

All comments received on the draft environmental impact statement and the proposed rule will be available for public inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday at the office of the Hearing Clerk.

REFERENCES

1. Notice of Intent (Docket No. 76N-0460), Comment C0051 (Howard, Carleton J. and K. M. Evenson, "Rate constants for the reactions of OH with CH_4 and fluorine, chlorine, and bromine substituted methanes at 296 K," NOAA, Aeronomy Laboratory in Boulder, Colorado; Howard, Carleton J., and K. M. Evenson "Rate constants for the reactions of OH with ethane and some halogen substituted ethanes at 296K," NOAA, Aeronomy Laboratory in Boulder, Colorado; and Howard, Carleton J., "Rate constants for the gas-phase reactions of OH radicals with ethylene and halogenated ethylene compounds," NOAA, Aeronomy Laboratory in Boulder, Colorado).

2. Singh, H. B., "Atmospheric halocarbons: Evidence in favor of reduced average hydroxyl radical concentration in the troposphere," Geophysical Research Letters, 4:101-104 (1977).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 402, 409, 501, 502, 505, 507, 512, 601, 701(a), 52 Stat. 1042-1043 as amended, 1046-1047 as amended, 1049-1054 as amended, 1055, 57 Stat. 463 as amended, 72 Stat. 1785-1788 as amended, 82 Stat. 343-351 (21 U.S.C. 331, 342, 348, 351, 352, 355, 357, 360b, 361, 371(a))) and the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

SUBCHAPTER A—GENERAL

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. By adding new Subpart G consisting at this time of § 2.125 to read as follows:

Subpart G—Provisions Applicable to Specific Products Subject to the Federal Food, Drug, and Cosmetic Act

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

(a) As used in this section:

(1) "Chlorofluorocarbon" means any fully halogenated chlorofluoroalkane.

(2) "Propellant" means a liquified or compressed gas that is used in whole or in part to expel from a self-pressurized container liquid or solid material different from the propellant, but the term does not include the use of a chlorofluorocarbon as an aerating agent for foamed or sprayed food products.

(b) Chlorofluorocarbons are widely used in products subject to the Federal Food, Drug, and Cosmetic Act, with the principal use being as propellants in self-pressurized containers. Information recently developed indicates that chlorofluorocarbons may reduce the amount of ozone in the stratosphere, and thus increase the amount of ultraviolet radiation reaching the earth. An increase in ultraviolet radiation may increase the incidence of skin cancer, change the climate, and produce other effects of unknown magnitude on humans, animals, and plants. Chlorofluorocarbons may also affect the climate by increasing infrared absorption in the atmosphere.

(c) Except as provided in paragraph (e) of this section, any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated and/or misbranded in violation of the act, and any drug product in a self-pressurized container that contains a chlorofluorocarbon propellant is a new drug or a new animal drug.

(d) The use of a chlorofluorocarbon as a propellant in a self-pressurized container of a drug product will not result in the drug product being adulterated and/or misbranded provided a new drug application or new animal drug application for the drug product has been approved, a petition has been filed as provided by paragraph (f) of this section and paragraph (e) of this section has been amended to specify the use as essential.

(e) The adulteration and misbranding provisions of paragraph (c) of this section shall not apply to the following essential uses of chlorofluorocarbons:

(1) Metered-dose steroid human drugs for nasal inhalation,

(2) Metered-dose steroid human drugs for oral inhalation,

(3) Metered-dose adrenergic bronchodilator human drugs for oral inhalation,

(4) Contraceptive vaginal foams for human use,

(5) Cytology fixatives.

(f) Any person may file a petition in accordance with Part 10 of this chapter to amend paragraph (e) of this section to specify a use of chlorofluorocarbons in a product as not being subject to the adulteration and misbranding provisions in paragraph (c) of this section. The petition must be supported by an adequate showing that:

(1) There are no technically feasible alternatives to the use of a chlorofluorocarbon in the product,

(2) The product provides a substantial health benefit, environmental benefit, or other public benefit that would not be obtainable without the use of the chlorofluorocarbon, and

(3) The use does not involve a significant release of chlorofluorocarbons into the atmosphere or that the release is warranted in view of the consequences if the use were not permitted.

(g) Any holder of an approved new drug application or new animal drug application for a drug product containing a chlorofluorocarbon in a self-pressurized container, except those drug products listed in paragraph (e) of this section shall submit to the Food and Drug Administration on or before October 1, 1978 either a supplemental application complying with the requirements of § 314.8 or § 514.8 or a letter requesting that a new drug application or a new animal drug application for the drug product containing chlorofluorocarbon be withdrawn and that the right to a hearing on the withdrawal of the application is waived.

(h) The manufacturer of any drug product listed in paragraph (e) of this section that is not covered by an approved new drug application or new animal drug application shall submit a new drug application in accord with § 314.1 or § 514.1 of this chapter on or before June 15, 1978. It is recommended that each firm required to submit an application under this section discuss the type of information needed in the application with the Food and Drug Administration before submitting the application.

(i) Any sponsor of a "Notice of Claimed Investigational New Drug" (IND notice) or "Notice of Claimed Exemption for a New Animal Drug" (VIND notice) for a drug product containing a chlorofluorocarbon shall amend the IND or VIND notice on or before December 15, 1978 to revise the formulation removing the chlorofluorocarbon or submit the information required under paragraph (f) of this section to amend paragraph (e) of this section to show that the use of chlorofluorocarbons is essential.

(j) The Commissioner will initiate action to withdraw approval of an application or terminate an IND or VIND notice in accordance with the applicable provisions of section 505 of the act and Parts 312 and 314 of this chapter or section 512 of the act and Parts 511 and 514 of

this chapter upon failure of a holder of an approved new drug application or approved new animal drug application or sponsor of an IND or VIND notice to comply with the applicable provisions of this section.

(k) Food, drug, device, or cosmetic products manufactured or packaged on or after December 15, 1978 and finished products initially introduced into interstate commerce on or after April 15, 1979 shall comply with this regulation.

SUBCHAPTER B—FOODS FOR HUMAN CONSUMPTION

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

2. By amending § 173.345 by revising paragraph (b) and (c)(1)(i) to read as follows:

§ 173.345 Chloropentafluoroethane.

* * * * *

(b) The additive is used or intended for use alone or with one or more of the following substances: Carbon dioxide, nitrous oxide, propane, and octafluorocyclobutane complying with § 173.360, as an aerating agent for foamed or sprayed food products, with any propellant effect being incidental and no more than is minimally necessary to achieve the aerating function, except that use is not permitted for those standardized foods that do not provide for such use.

(c) * * *

(1) * * *

(i) The name of the additive, chloropentafluoroethane.

* * * * *

PART 189—SUBSTANCES PROHIBITED FROM DIRECT ADDITION OR USE AS HUMAN FOOD

3. By adding a new § 189.191 to read as follows:

§ 189.191 Chlorofluorocarbon propellants.

This use of chlorofluorocarbons in human food as propellants in self-pressurized containers is prohibited as provided by § 2.125 of this chapter.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 300—GENERAL

4. By adding new Subpart C consisting at this time of § 300.100 to read as follows:

Subpart C—Substances Generally Prohibited From Drugs

§ 300.100 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons in human drugs as propellants in self-pressurized containers is generally prohibited except as provided by § 2.125 of this chapter.

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 500—GENERAL

Subpart B—Specific Administrative Rulings and Decisions

5. By adding new § 500.49 to read as follows:

§ 500.49 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons as propellants in self-pressurized containers is prohibited from use in all animal drugs, animal food, and related products as provided by § 2.125 of this chapter.

SUBCHAPTER G—COSMETICS

PART 700—GENERAL

Subpart B—Requirements for Specific Cosmetic Products

6. By adding new § 700.23 to read as follows:

§ 700.23 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons in cosmetics as propellants in self-pressurized containers is prohibited as provided in § 2.125 of this chapter.

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

7. By adding new § 801.417 to read as follows:

§ 801.417 Chlorofluorocarbon propellants.

The use of chlorofluorocarbon in devices as propellants in self-pressurized containers is generally prohibited except as provided in § 2.125 of this chapter.

Interested persons may, on or before July 12, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document contains a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an inflation impact statement has been prepared. A copy of the inflation impact statement is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 10, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-13773 Filed 5-11-77;10:00 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 712, 762]

[FRL 724-8; OTS-060002]

TOXIC SUBSTANCES CONTROL

Fully Halogenated Chlorofluoroalkanes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and informal hearing.

SUMMARY: This rule will eliminate almost all of the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes used as aerosol propellants which are subject to the Toxic Substances Control Act. It is intended to reduce the emissions of such fully halogenated chlorofluoroalkanes to the atmosphere, thereby reducing the health and environmental risks caused by depletion of the ozone layer. It also requires reporting on continued manufacture, processing, and use of fully halogenated chlorofluoroalkanes.

Elsewhere in this FEDERAL REGISTER issue, the Food and Drug Administration (FDA) proposes a rule which will ban the use of fully halogenated chlorofluoroalkanes in most food, drug, and cosmetic products.

DATES: Comments on the proposed rule must be received before July 15, 1977. An informal hearing on the proposed rule is scheduled to begin August 1, 1977, at 9 a.m.

All requests for participation at the informal hearing must be received before July 9, 1977. Information on the informal hearing procedures is set forth in the proposed "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act" (40 CFR Part 750), published at 42 FR 20640 (April 21, 1977).

ADDRESSES: Hearing will be held at: Room 3305, Environmental Protection Agency, 401 M St. SW., Washington, D.C. Send comments to: Room 725 WSME, Environmental Protection Agency, 401 M St. SW., Washington, .C. 20460.

FOR FURTHER INFORMATION CONTACT:

Perry W. Brunner, Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-426-9000).

SUPPLEMENTARY INFORMATION: Joni T. Repasch is the Record and Hearing Clerk for this rulemaking. The official record of rulemaking is located in Room 725 WSME, EPA Headquarters, 401 M Street SW., Washington, D.C. 20460, and is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday excluding holidays. Additional documentation is included in the three major support documents: The Eco-

nomic Impact of Potential Regulation of Fluorocarbon Aerosols, Essential Use Determinations, and Chlorofluorocarbon Problem Assessment. These and other documents are available for viewing and copying in Room 725 WSME.

I. BACKGROUND

A. THE NATURE OF THE PROBLEM

The purpose of this regulation is to protect man and the environment from damage caused by man-made perturbations in the natural atmosphere, particularly destruction of ozon in the stratosphere. The primary consequence of such perturbations is an increase in the amount of ultraviolet radiation reaching the earth.

Ultraviolet radiation is light with wavelengths shorter than the visible light that we see with our eyes. It is this portion of the spectrum that is associated with suntanning, sunburning, skin cancer, and adverse effects on a wide variety of living organisms.

Ultraviolet radiation is thought to cause or to be a contributory factor to two different types of skin cancer in people. One, nonmelanoma skin cancer, is relatively common, occuring at the rate of about 150 cases per 100,000 population each year in the United States. However, it is very rarely fatal. The other, melanoma skin cancer, is much rarer, occurring at the rate of about four cases per 100,000 population each year in the United States. Melanoma is fatal to about 30 percent of the people who contract it. The incidence of both types of skin cancer is rising rapidly. The association of ultraviolet radiation with nonmelanoma skin cancer is firmly established as indicated in the support document Chlorofluorocarbon Problem Assessment and the National Academy of Sciences report, Halocarbons, Environmental Effects of Chlorofluoromethane Release. The association between ultraviolet radiation and melanoma skin cancer is not as well established as the association with nonmelanoma skin cancer but it is still strong enough to warrant serious concern.

Most of the ultraviolet radiation produced by the sun is absorbed in the atmosphere before reaching the earth's surface. The screening takes place in the stratosphere—the portion of the atmosphere that extends from about five to thirty miles above the earth's surface. The ultraviolet radiation is absorbed by oxygen in two separate reactions. First, an oxygen molecule (O_2) absorbs ultraviolet light and is split into its component oxygen atoms (O). These oxygen atoms then combine with oxygen molecules to form ozone (O_3). Second, the ozone molecules themselves absorb ultraviolet radiation and are broken down again to oxygen molecules and free oxygen atoms.

This cycle of reactions results in a net creation of ozone. However, the total amount of ozone in the stratosphere does not show a long-term increasing trend because other naturally occurring chemical reactions destroy ozone and keep the total amount in balance. The most important of these involves a reaction between nitrogen oxides (NO_x), ozone, and molecular oxygen.

The amount of ozone present in the stratosphere varies naturally within somewhat undefined, but wide limits. Seasonal fluctuations of two to ten percent are well within the normal range.

In recent years, concern has developed that human activities could alter the chemical composition of the stratosphere in a way that would encourage additional ozone-destroying reactions, leading to a net decrease in the amount of ozone present and thus an increase in the amount of damaging ultraviolet radiation reaching the earth's surface. It has been suggested, for example, that additional nitrogen oxides might be introduced into the stratosphere either directly as a combustion product from the exhaust of supersonic transport aircraft (SST) or indirectly as a result of the increasing use of nitrogen fertilizers. This additional amount of nitrogen oxides would then be available for the ozone-destroying reaction referred to above. It is generally agreed that the number of SST flights now occurring or reasonably projected to occur is too small to be of major concern. To date, the theory regarding nitrogen fertilizers remains an untested hypothesis.

A more substantial problem for the present involves the introduction of chlorine into the stratosphere from chlorine-containing chemical substances introduced into the atmosphere by man. In the stratosphere, chlorine atoms will enter into a reaction sequence resulting in the destruction of ozone molecules.

Theoretically it might be possible for compounds containing other elements of the same chemical family as chlorine—specifically, fluorine, bromine, and iodine—produce similar ozone destroying effects in the stratosphere. The available data indicate that fluorine atoms introduced into the stratosphere do not have a significant effect on ozone, while virtually no data exist on the atmospheric chemistry of iodine. There is some reason to believe that bromine might be even more destructive than chlorine to stratosphere ozone, but there is considerable uncertainty at this time whether bromine-containing compounds are stable enough in the lower atmosphere to ever reach the stratosphere.

Among the man-made compounds containing chlorine, a distinction can be drawn between those that contain hydrogen atoms or double bonds, and those that do not. The available data indicate that the former type of compounds may largely be removed from the atmosphere through natural breakdown processes before ever reaching the stratosphere. The latter group of compounds, which can reach the stratosphere, can also be divided into two groups.

The first group consists of compounds made up of carbon and chlorine only. Of these compounds, only carbon tetrachloride is of concern. The existing atmospheric burden of carbon tetrachloride indicates that it is currently a large source of stratospheric chlorine. However, this burden is due primarily to large releases in the past, since the toxicological hazards of this compound have now severely limited its present emissive uses.

The second group, comprised of molecules consisting of some combination of carbon, fluorine, and chlorine, but having no hydrogen atoms and no double bonds, appears to pose the most significant threat to stratospheric ozone associated with man-made chemical substances. This group of compounds is denoted as the fully halogenated chlorofluoroalkanes. The available data indicate that these compounds are not readily susceptible to removal processes in the lower atmosphere and most, if not all, of these compounds released at the earth's surface will eventually release chlorine into the atmosphere where the chlorine can destroy ozone.

Among the fully halogenated chlorofluoroalkanes, the two compounds currently being released to the atmosphere in the largest amounts are the chlorofluoroalkanes F–11 (trichlorofluoromethane) and F–12 (dichlorodifluoromethane). The contribution of chlorine by fully halogenated chlorofluoroalkanes other than F–11 and F–12 is currently small by comparison.

The fully halogenated chlorofluoroalkanes released at the earth's surface as a result of their various uses are transported upward by atmospheric motions without significant decomposition until they reach stratospheric levels where the energy of ultraviolet radiation is high enough to chemically decompose them. When this occurs, the chlorine atoms from the molecules are released into the stratosphere, where they destroy ozone molecules until competing reactions convert the chlorine to a substance which can be transported out of the stratosphere. No decrease in stratospheric ozone from this source has yet been observed. However, the calculated effect from the amount of these compounds so far released would not be distinguishable from natural variations in ozone levels.

In all respects in which it has been possible to check the theory described above against real-world observations, the theory has been confirmed. F–11 and F–12 are found in the lower atmosphere and in the stratosphere at levels consistent with the theory. Their ozone destroying potential under stratospheric conditions has been demonstrated in laboratory experiments.

Accordingly, scientific controversy has increasingly centered not on whether continued use of these compounds will result in a depletion of the ozone layer, but on how much of a depletion would result. Eight months ago the National Academy of Sciences estimated that continued release of F–11 and F–12 at 1973 rates would eventually result in a depletion of the ozone layer of between two and twenty percent, with their best

estimate being that about a seven percent depletion would result. Further studies since then have continued to yield estimates in the seven percent range. Though a number of studies are now in progress to explore this matter further, EPA is not aware of developments that would give cause to believe that a significantly different risk estimate will emerge from them.

These questions of atmospheric chemistry are discussed more fully in the support document, Chlorofluorocarbon Problem Assessment.

B. USES AND ALTERNATIVES

At present, fully halogenated chlorofluoroalkanes are used in aerosol products, in refrigerators and air conditioners, as foam blowing agents, and as solvents. The major use in the United States, approximately fifty percent, is as aerosol propellants.

EPA has divided its regulatory effort into two phases in view of the different types of considerations in addressing the various uses. The first phase concerns only aerosol propellants uses. The second phase will commence later this year and will address all other uses (including uses as an active ingredient in aerosol products.

Aerosol products release the propellant during normal use. In contrast, except for unintentional leakage, a refrigerator will keep the fully halogenated chlorofluoroalkane sealed within the unit during use. While disposal controls for refrigerators may be possible, this approach is not feasible for aerosols. In addition, substitute propellants or alternatives exist for most aerosol uses, whereas less is known about acceptable alternatives for the other uses. Finally, refrigerant and other nonpropellant uses are more integral to the functioning of society and the economy than aerosol uses, and hence are more difficult to evaluate in considering an appropriate regulatory course.

Because of the above considerations, more time is needed to assess the technical and economic feasibility of substitute products and systems for nonpropellant uses and to investigate the feasibility of developing disposal mechanisms. Consequently a determination of unreasonable risk for nonaerosol propellant uses has been postponed for further evaluation in the second phase.

With respect to aerosol propellant uses, technically feasible and economically acceptable alternatives exist for most uses of fully halogenated chlorofluoroalkane propellants. They fall into two categories: alternative propellants and alternative delivery systems.

Hydrocarbon gas propellants are already in wide use for many classes of products. Until recently, they were not widely used in personal care products because of concern about flammability. Now, the possibility of hydrocarbon propellants in combination with a flame retardant appears to result in acceptable flammability levels. Compressed gases such as carbon dioxide are also being used. Both alternatives may result in reducing retail prices by as much as fifteen percent.

Alternative delivery systems include mechanical pump spray (mist) devices and liquid, powder, and wax preparations. Deodorants, cleaning agents, and shoe polishes, for example, are packaged in several different forms. Indeed, aerosol formulations are a relatively recent innovation. In addition, industry will undoubtedly continue to innovate to produce additional alternatives.

II. FINDING OF UNREASONABLE RISK

A. The most widely accepted models clearly indicate that continued release of these compounds at current levels for an indefinite period will have adverse environmental consequences, potentially affecting the entire global population now and in future generations. Increased levels of ultraviolet radiation are generally believed to lead to an increased incidence of skin cancer in view of the evidence that (1) exposure to ultraviolet radiation causes or is a significant contributor to both melanoma and nonmelanoma skin cancer, and (2) the frequency of these cancers appears to bear a direct relation to the intensity of exposure. Although the effects of the predicted increase of ultraviolet radiation on terrestrial and aquatic life cannot be quantified, the great bulk of the evidence suggests that there would be such effects and that such effects would be detrimental. Also, the development of adverse climatic effects is possible as discussed in the support documents and the report of the National Academy of Sciences.

B. Quantitative estimates of skin cancer rates are somewhat speculative. However, one estimate, using what appears to be a relatively conservative assumption that the percentage increase of nonmelanoma skin cancer is proportional to the percentage decrease in stratospheric ozone by a ratio of two to one, is that 15,000 cases of nonmelanoma skin cancer during the next century would be prevented in the United States alone by banning U.S. aerosol propellant uses of these compounds in 1978, as opposed to allowing such uses to continue indefinitely. As discussed in the support document, the ratio may be much higher, namely, from 3 to 8.8. While the impact of regulatory action on the incidence of Melanoma skin cancer is far less certain, it is reasonable to expect the avoidance of some increase by reducing further ozone depletion.

C. Restricting the use of fully halogenated chlorofluoroalkanes as aerosol propellants will result in an average economic impact to industry in the range from $169 million to $267 million annually for the four-year period following proposal of both the EPA and FDA regulations. Since there are a number of less expensive substitutes readily available for many of the uses that will be prohibited, the switch to these substitutes will actually result in consumer savings which are expected to range from $58 million to $240 million annually. The range of values in both the industry cost and consumer savings estimates indicate the possible pricing adjustments by industry to reduce the impact of regulation.

D. In view of the foregoing, the case for regulation is clear. At the price of a substantial one-time, readily absorbed economic cost which does not deprive society of essential products, a large number of threatened skin cancers and potentially serious, albeit unknown, effects on agricultural resources, climate, and the biosphere that would otherwise be suffered by future generations, would be prevented.

E. The principal argument that has been set forth for not regulating now is that the extent of the risk is so uncertain that action should be deferred until more scientific data are in hand. Even assuming that future studies will contribute a degree of additional precision to current estimates, a delay is considered unacceptable for the following reasons:

1. The National Academy of Sciences found, based on its assessment of the problem in 1976, that "selective regulation of fully halogenated chlorofluoroalkane uses and releases is almost certain to be necessary at some time and to some degree of completeness". The proposed regulation is "selective" since it addresses only about one-quarter of the total world-wide use, and only those for which continued reliance on the fully halogenated chlorofluoroalkanes is nonessential. Even if ozone depletion were to turn out to be at the low end of the range estimated by the Academy, or even somewhat lower, regulation of this limited character would be justified.

2. There is no substantive evidence which indicates that the Academy estimates will change significantly with further study. More recent studies have tended to confirm the central figure of seven percent ozone depletion. If that estimate in fact turns out to be correct, relatively small but nevertheless definite costs would be incurred by a delay in regulation. Although the risk estimates cited above rest on theoretical mathematical models and should not be taken as more than a rough indication of the possible size of the problem, they do underline that under accepted theories of carcinogenesis, some increase in cancer can be expected to result from any increase in ultraviolet radiation, and that given the high current incidence of nonmelanoma skin cancer and the large size of the exposed population, the increase in the number of cases can be expected to be numerically large from even a small increase in ultraviolet radiation.

3. It is very possible that more comprehensive regulation of fully halogenated chlorofluoroalkane releases will prove necessary, particularly if estimates of ozone depletion from current releases are revised upwards, if other man-made sources of ozone destruction are detected, or if additional damage resulting from perturbations of the natural atmosphere are demonstrated. In such a case, it will have been important for the United States to have addressed the least essential uses of these compounds already.

both to lay a foundation for further regulatory steps within the United States and as a basis for encouraging other countries to take parallel regulatory steps.

F. Therefore, the Administrator has concluded that the continued depletion of stratospheric ozone as the result of discharges from nonessential aerosol products containing fully halogenated chlorofluoroalkane propellants presents an unreasonable risk of injury to health and the environment, and that proposal of this regulation is necessary, Mindful, however, of the economic impact of such action, an 18-month phase out schedule is considered appropriate since such a schedule will insure that such products are removed from the economy in a manner which allows for an orderly adjustment to the introduction of substitute products.

The Administrator has also determined that this proposed rule should apply to exports under the authority of section 12(a)(2) of TSCA. Since the changes in ozone levels and the resultant adverse effects are not restricted to the country from which fully halogenated chlorofluoroalkanes are emitted, their export presents an unreasonable risk of injury to the health and the environment of the United States. Further, since environmental discharges in foreign countries can harm the global environment, the United States convened an international meeting of the principal governments involved in the manufacture and processing of fully halogenated chlorofluoroalkanes on April 26–28, 1977, and will continue its efforts to encourage world-wide reductions in the use of fully halogenated chlorofluoroalkanes.

III. Legal Authority

A. EPA authority under the Toxic Substances Control Act

This proposed rule is authorized by Sections 3(2), 6(a)(2)(A)(i), 8(a), and 12(a)(2) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, Oct. 11, 1976; 90 Stat. 2003; 15 U.S.C. 2601 et seq.). Under Section 6(a)(2)(A)(i), the Administrator may regulate the manufacture, processing, and distribution in commerce of "chemical substances," as the latter term is defined in Section 3(2). Excluded from the term "chemical substance" are "any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide," Section 3(2)(B)(ii), and "any food, food additive, drug, cosmetic, or devise (as such terms are defined in Section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device" Section 3(2)(B)(vi).

The information available to EPA indicates that there are six firms in the United States which manufacture fully halogenated chlorofluoroalkanes; that none of those firms manufacture fully halogenated chlorofluoroalkanes solely for use in or as a food, food additive, drug, cosmetic, or device; and that none of those firms use a process for the manufacture of fully halogenated chlorofluoroalkane propellants which differs according to the potential end use of the product. Thus, at the time of manufacture, it is impossible to determine whether a fully halogenated chlorofluoroalkane is "* * * manufactured * * * for use as a food, food additive, drug, cosmetic, or device" within the meaning of Section 3(2)(B)(vi).

TSCA is interpreted as authorizing the regulation of the manufacture of a substance even though the possibility exists that it may eventually become a food, food additive, drug, cosmetic, device, or component thereof, if there also exists a reasonable possibility that it is being manufactured for other purposes as well. Accordingly, under the circumstances described above, EPA is authorized to regulate the manufacture of all fully halogenated chlorofluoroalkanes for propellant uses. Section 3(2)(B)(vi) does however limit EPA's authority to regulate processing and distribution of fully halogenated chlorofluoroalkanes since in these stages it would normally be possible to determine that a fully halogenated chlorofluoroalkane is being "* * * processed or distributed in commerce for use as a food, food additive, drug, cosmetic, or device."

Section 3(2) also affects the extent to which fully halogenated chlorofluoroalkanes used in pesticides registered under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) may be regulated under TSCA. The proposed rule does not differentiate between the manufacture of fully halogenated chlorofluoroalkanes for possible use in pesticides and manufacture for other purposes since, at the time of manufacture, a fully halogenated chlorofluoroalkane is not a pesticide. A fully halogenated chlorofluoroalkane does not become a pesticide within the meaning of FIFRA until its value for pesticide purposes is established and it becomes a component of a pesticide product. (See discussion of proposed TSCA definition of chemical substance at 42 FR 13132, March 9, 1977).

It is not clear whether Section 3(2)(B)(ii) of TSCA permits EPA to regulate the processing of fully halogenated chlorofluoroalkanes which may take place as part of the manufacture of pesticide products. EPA invites comments on this issue, and specifically, on whether regulating such processing of chlorofluorocarbons is legally or functionally equivalent to regulating the manufacture of pesticide products registered under FIFRA.

EPA may ban distribution of bulk fully halogenated chlorofluoroalkanes for use in aerosol pesticides since at time of distribution the chlorofluoroalkane is not a pesticide under FIFRA. EPA may not ban the distribution of the finished pesticide article, however, since by then the fully halogenated chlorofluoroalkanes have become an actual component of the pesticide.

EPA proposes to issue reporting requirements under section 8(a) to facilitate enforcement of this regulation.

B. Other EPA legal authorities

Before pursuing regulatory action under TSCA Section 6(a), the Administrator, under Sections 6(c) and 9(b), must decide whether the risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by other Federal laws administered by EPA. If the Administrator concludes that the risk could be eliminated or reduced by another law administered by EPA, then he may regulate under TSCA only if he also finds, in his discretion, that it is in the public interest to use TSCA.

There are four sections of the Clean Air Act which could conceivably be used to limit the emissions from aerosol propellant uses of fully halogenated chlorofluoralkanes. Sections 108 and 109 of the Act call for the setting of National Ambient Air Quality Standards for those pollutants which in the judgment of the Administrator have an adverse effect on public health ad welfare and come from numerous or diverse stationary or mobile sources. In view of the limited number of the facilities which produce the compounds of concern, the mechanism of the Nationl Ambient Air Quality Standard which requires the formulation, approval, and implementation of state plans to attain the standard would be administratively complex and more burdensome on all parties in comparison to the product controls available under TSCA.

Sections 111 and 112 of the Act empower the Administrator to regulate emisssions from a building, structure, facility, or installation which emits an air pollutant. These sections do not appear to be adaptable to the control of products containing fully halogenated chlorofluoroalkanes as propellants.

FIFRA is the only other statute administered by EPA which provides authority for addressing the full halogenated chlorofluoroalkane problem. While FIFRA could be used to reduce or eliminate the risk posed by pesticide products using fully halogenated chlorofluoroalkane propellants, the Administrator has determined that it is in the public interest to use TSCA to the extent possible within the jurisdictional limits set by Section 3(2)(b)(ii) of TSCA.

In order to ban the use of such pesticide products under FIFRA, it would be necesary to cancel the registrations of approximately 2,000 pesticides. Unless pesticide registrants were to agree to voluntarily cancel their registrations, EPA would be compelled to hold cancellation hearings for all such products. Cancellation hearings could be lengthy and costly, and they are particularly inappropriate in this case since EPA is already required to hold a public hearing under Section 6(c) of TSCA. The TSCA hearing will be comprehensive in nature whereas FIFRA would necessitate a number of separate administrative proceedings for uses which are responsible for less than two percent of all

fully halogenated chlorofluoroalkane emissions. The Administrator has thus determined that FIFRA should not be used in light of the inefficiency and cost of using two EPA statutes simultaneously to achieve the same result.

Pesticide registrants may, of course, request essential use exemptions from this proposed rule as some registrants have already done.

C. COORDINATION WITH OTHER STATUTES

EPA shares jurisdiction over fully halogenated chlorofluoroalkanes with other Federal agencies. As discussed previously, Section 3(2)(B)(vi) of TSCA creates an exemption for articles regulated by FDA under the Federal Food, Drug, and Cosmetic Act. No comparable exemption exists for consumer products; hence, EPA's jurisdiction overlaps the authority of the Consumer Product Safety Commission (CPSC) to regulate consumer products containing chemical propellants.

EPA, FDA, and CPSC have coordinated their actions, keeping in mind the requirements of Section 9 of TSCA, to insure comprehensive regulatory coverage while minimizing overlapping regulation and to promote effective enforcement. An interagency workgroup, consisting of representatives of EPA, FDA, and CPSC, and observers from the Department of Commerce, provides a mechanism for continuous consultation among the agencies.

CPSC, in November 1976, made a preliminary finding that aerosol products using fully halogenated chlorofluroalkanes present an unreasonable risk of injury to consumers as the result of the destruction of ozone in the stratosphere and that no feasible consumer product safety standard would adequately protect the public. The Commission directed its staff to prepare a draft proposal under Section 8 of the Consumer Product Safety Act to declare such aerosol products banned hazardous products. CPSC subsequently has agreed to terminate its proceedings to the extent that timely EPA action makes CPSC regulation unnecessary, thereby avoiding subjecting industry to three separate actions banning aerosol propellants. In addition, on April 29, 1977, CPSC proposed a regulation which would require labeling of fully halogenated chlorofluroalkanes aerosol products as an interim measure until a ban can be effected.

FDA is also proposing a rule today to ban FDA regulated products containing fully halogenated chlorofluoroalkane aerosol propellants. A phase out of non-propellant uses regulated by FDA will be considered later in conjunction with the second phase of EPA's regulatory approach.

The effective dates for the EPA and FDA regulations have been coordinated. The FDA proposal is directed at finished foods, drugs, cosmetics, and devices containing fully halogenated chlorofluoralkanes and therefore does not contain an effective date for phasing out manufacture of the basic chemical whereas EPA's regulation prohibits manufacture of the basic chemical for aerosol propellant uses as of October 15, 1978. The FDA regulation is effective December 15, 1979, as the cutoff date beyond which products manufactured or packaged after that date. As of December 15, 1978 the EPA regulation prohibits the distribution of bulk fully halogenated chlorofluoroalkanes for processing into aerosol products and the processing of fully halogenated chlorofluoralkanes with the exceptions noted previously.

Both agencies have proposed April 15, 1978, as the cutoff date beyond which manufacturers and processors of the finished articles may no longer introduce them into commerce. FDA and EPA intend that the effective dates be compatible to the fullest extent possible. While the terminology used by each Agency varies somewhat, the differences reflect the wording of the authorizing statutes.

D. PREEMPTION OF STATE LAWS

This proposed regulation may affect the authority of a State to establish regulations concerning fully halogenated chlorofluoroalkanes. Section 26 provides that when EPA restricts the manufacture of or otherwise regulates a chemical under Section 6, a State may issue only requirements which are identical, mandated by other Federal laws, or which prohibit the use of the chemical. Upon request by a State, the Administrator may grant an exemption permitting State regulation if such requirement (1) would not cause a person or activity to be in violation of a requirement under the TSCA regulation, and (2) would provide a greater degree of protection and not unduly burden interstate commerce.

The Agency invites views from interested parties on the relationship between this proposed rule and State laws.

IV. DISCUSSION OF THE PROPOSED RULE

A. SCOPE

This regulation applies only to the "fully halogenated chlorofluoroalkane" propellants. The reasons for this coverage are summarized above and elaborated in the support document, Chlorofluorocarbon Problem Assessment.

There are only four fully halogenated chlorofluoroalkanes currently being used as aerosol propellants, namely, F-11, F-12, F-114, and F-115. Most of the other fully halogenated chlorofluoroalkanes appear to be unsuitable for propellant use because of inappropriate chemical-physical properties or known toxicological hazards.

Regardless of whether or not a fully halogenated chlorofluoroalkane is being used or could be used, the restrictions are applied to all members of this class to eliminate the existing problem and to preclude any possibility of the same problem reemerging with other similar compounds.

As noted above, only aerosol propellant uses are covered by this rule. Excluded from the scope are those fully halogenated chlorofluoroalkanes which are used in aerosols either as: a) the active ingredient, or b) both the active ingredient and the propellant. An example of the former is the use of fully halogenated chlorofluoroalkanes as solvents in aerosol electronic degreasers. Examples of the latter are electronic chillers, boat signal horns, and drain openers.

B. DEFINITIONS

Definitions of many of the terms used in this regulation also appear in Section 3 of TSCA, and at 42 FR 13130 (March 9, 1977) (proposed 40 CFR Part 700.) To the extent that the definitions proposed herein differ, they are controlling for purposes of this Part.

The terms "manufacture," "process," and "distribute in commerce" are given the same meaning as set forth in TSCA and proposed 40 CFR Part 701, except that the definitions include manufacture, processing, and distribution for export from the United States. Export was included pursuant to the finding made above that exports present an unreasonable risk to the environment of the United States.

C. PROPOSED BANS AND EXEMPTIONS

Section 762.11(a) prohibits any person from manufacturing fully halogenated chlorofluoroalkanes for any aerosol propellant use after October 15, 1978. Exemptions are made for those uses found to be essential by EPA (§ 762.21) and FDA (21 CFR 2.125).

Section 762.11(b) exempts until December 15, 1978, any person who imports fully halogenated chlorofluoroalkanes into the United States. This exemption for two months is necessary to avoid inequitable disparities in the treatment of foreign and domestically produced chemical substances and articles. The possible disparity is raised by the TSCA definition of "manufacture" which includes "to import into the customs territory of the United States * * *" Without this exemption, import of fully halogenated chlorofluoroalkanes would be banned on October 15, 1978, even though U.S. producers could continue to process fully halogenated chlorofluoroalkanes until December 15, 1978. By making the latter date applicable to both foreign and domestic businesses, both groups will be simultaneously prohibited from producing or importing finished aerosol products after December 15, 1978. Exempting importers until such times as EPA bans distribution in commerce is not desirable since it would permit importers to manufacture and process fully halogenated chlorofluoroalkanes after U.S. businesses are precluded from doing the same.

Section 762.12 prohibits any person from processing fully halogenated chlorofluoroalkanes for any aerosol propellant use which is not exempted after December 15, 1978. Processing is permitted for the exempted, essential uses listed in § 762.21, for use as a pesticide registered under FIFRA, and for use in food, food additives, drugs, cosmetics, and devices. Processors with products in the third

category should refer to FDA's proposed regulation.

Section 762.13(a) prohibits any manufacturer or bulk distributor (defined in § 762.1(b)) from distributing the bulk fully halogenated chlorofluoroalkane for processing into an aerosol propellant article after December 15, 1978, except for use in an FDA regulated product or as permitted by § 762.21. Fully halogenated chlorofluoroalkanes intended for use in pesticides are not exempted from this prohibition, as explained in the legal authority section.

Section 762.13(b) prohibits any processor from distributing a finished aerosol product after April 15, 1979. Pesticides and those articles regulated by FDA are exempted by virtue of section 3(2) of TSCA. Essential uses (§ 762.21) are also exempted.

By making § 762.13(b) applicable only to processors (who are the manufacturers of the finished articles), EPA is permitting wholesalers and retailers who have purchased articles containing aerosol propellants from processors to continue to distribute and sell their existing stocks. Articles already sold and introduced into commerce by the processor on or before April 15, 1979, may continue in commerce.

All prohibitions and exemptions under §§ 762.11–762.13 apply to exports from the United States. The manufacture of nonexempt fully halogenated chlorofluoroalkanes is prohibited for both direct export as a raw chemical and for later export as a component of a domestically manufactured article.

The foregoing approach is considered the least burdensome and the most appropriate means of regulating fully halogenated chlorofluoroalkanes. Labeling, reporting, and notice requirements cannot remedy the basic problem, that of emissions into the atmosphere. Similarly, controlled disposal is not feasible.

A prohibition of the manufacture, processing, and distribution in commerce of nonessential fully halogenated chlorofluoroalkane propellants is the only practicable regulatory alternative. While the Agency expects that its ban on manufacture will be complied with, prohibition of processing and distribution is also necessary to insure that persons do not divert fully halogenated chlorofluoroalkanes manufactured for other uses to make products which are prohibited.

D. ESSENTIAL USES

During development of this rule, various persons requested exemptions for certain products using fully halogenated chlorofluoroalkane aerosol propellants. The criteria EPA used and the information EPA considered in evaluating whether to grant these requests, as well as the decisions EPA reached, are described in the support document *Essential Use Determinations*.

Essential uses are listed in § 762.21. The desirability of continued use of these products will be reevaluated in the second phase of EPA's regulatory approach. The use of F–11 or F–12 as propellant in the following products was considered nonessential: battery terminal protection spray, spray paints, solid lubricant sprays, mold release agents for nonplastic materials, most pesticide sprays, diamond grit spray, paper frictionizing indicator spray and electronic cleaners.

EPA will consider additional requests for essential use exemptions. The Agency will look with disfavor upon any such requests received after July 15, 1977, unless good cause for delay in making the request is found to exist.

E. REPORTING REQUIREMENTS

A reporting requirement, proposed under Section 8(a) of TSCA, directs manufacturers and processors of fully halogenated chlorofluoroalkanes to submit annual reports to EPA regarding uses for which fully halogenated chlorofluoroalkanes were manufactured and processed and the quantities associated with each use.

In requiring all manufacturers and processors to submit annual reports, EPA assumes that there are no manufacturers or processors who manufacture or process fully halogenated chlorofluoroalkanes solely for aerosal propellant uses which are not covered by the proposed rule i.e., totally exempted by virtue of Section 3(2)(B)(vi) of TSCA. If EPA learns that there are such manufacturers or processors, the reporting requirement will be amended to exclude such manufacturers or processors.

F. ECONOMIC IMPACTS

The combined economic impact of the EPA and FDA regulations have been estimated. A support document for this regulation *The Economic Impact of Potential Regulation of Fluorocarbon Aerosols* comprises the Economic Impact Statement required by Circular A–107 of the Office of Management and Budget.

Economic impact is measured against a baseline forecast for the aerosol industry and propellant manufacturers in the absence of regulations. Impacts were estimated in terms of changes in value added for the different sectors of the industry and in terms of effects on employment, consumers, and small businesses.

The economic impacts on the aerosol industry of the proposed 18-month compliance schedule is estimated to range from $169 million to $267 million annually for the four-year period following proposal of this regulation. The range of impacts is dependent on the possible pricing adjustments of the aerosol industry to reduce the impact of the regulation. The corresponding savings to consumers will range from $58 million to $240 million annually reflecting the lower costs of the likely alternatives to fully halogenated chlorofluoroalkane aerosol products. This savings is estimated at an average reduction of 8 to 19 cents per unit for the replacement products.

An examination of how the economic impacts would vary if the phase out schedule where changed was also conducted. A six-month phase out schedule would result in an estimated 46 percent increase in economic impact over the proposed 18-month schedule. Extending the schedule from 18 to 30 months would have far less impact than the six to 18 month extension.

By banning manufacture, processing, and distribution on successive dates, EPA has attempted to allow the orderly disposition of stocks in existence on the date of the manufacturing ban.

Dated: May 10, 1977.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend 40 CFR by adding the following Part 712:

PART 712—CHLOROFLUOROCARBONS—REPORTING REQUIREMENTS

Sec.
712.1 Scope.
712.2 Definitions.
712.3 Reporting Requirements.
712.4 Confidentiality.

AUTHORITY: Sec. 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607).

§ 712.1 Scope.

This part requires manufacturers and processors of fully halogenated chlorofluoroalkanes to make annual reports to the Environmental Protection Agency.

§ 712.2 Definitions.

For the purpose of this part:

(a) "Aerosol propellant" shall have the meaning set forth in § 762.2b of this chapter;

(b) "Manufacture" shall have the meaning set forth in § 762.2(g) of this chapter;

(c) "Process" shall have the meaning set forth in § 762.2(h) of this chapter.

§ 712.3 Reporting requirements.

(a)(1) During March of each year beginning in 1980, each manufacturer of fully halogenated chlorofluoroalkanes and each processor of fully halogenated chlorofluoroalkanes for aerosol propellant uses shall submit an annual report to the Environmental Protection Agency. Such annual report shall cover the previous calendar year and shall state: (i) the uses for which such fully halogenated chlorofluoroalkanes were manufactured and/or processed, (ii) the quantities associated with each use and (iii) the name and business address of the person from whom such chlorofluoroalkanes were purchased and the name and business address of the person to whom such chlorofluoroalkanes were sold, respectively. The uses required to be stated in such report shall include the essential aerosol propellant uses as listed in § 762.21 of this chapter and in 21 CFR 2.125, all other aerosol propellant uses, and nonaerosol propellant uses including but not limited to such uses as refrigerants, foams and solvents.

(2) The report shall include the following statement, signed by a responsible agent of the manufacturer or processor submitting such report:

I certify that, to the best of my knowledge and belief, the contents of this Report are accurate and complete.

(b) Each annual report shall be submitted by registered mail to the Director of the Enforcement Division of the EPA Regional Office within whose region the person submitting such a report has his principal place of business.

§ 712.4 Confidentiality.

(a) Persons submitting information under § 712.3 may assert a claim of business confidentiality by marking such information as confidential when submitted. In formation not so marked may be publicly disclosed by EPA. The procedures set forth in §§ 2.201–2.213 of this chapter will be followed in administering this section.

It is proposed to establish a new 40 CFR 762 to read as follows:

PART 762—CHLOROFLUOROCARBONS

Sec.
762.1 Scope.
762.2 Definitions.
762.11 Manufacture: Prohibitions and Exemptions.
762.12 Processing: Prohibitions and Exemptions.
762.13 Distribution in Commerce: Prohibitions and Exemptions.
762.21 Essential Use Exemptions.

AUTHORITY: Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607); Sec. 12(a)(2), 90 Stat. 2033 (15 U.S.C. 2611).

§ 762.1 Scope.

This part prohibits the manufacture, processing, and distribution of fully halogenated chlorofluorolkanes used as aerosol propellants which are subject to the Toxic Substances Control Act, and lists various exemptions to the prohibitions.

§ 762.2 Definitions.

For the purposes of this Part:

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "aerosol propellant" means a liquified or compressed gas in a container where the purpose of the liquified or compressed gas is to expel from the container liquid or solid material different from the aerosol propellant.

(c) The term "bulk distributor" means any processor who purchases fully halogenated chlorofluoroalkanes from a manufacturer of such compounds for the purpose of resale prior to their being processed into an article.

(d) The term "chemical substance",

(1) Except as provided in subparagraph (2), means any organic or inorganic substance of a particular molecular identity, including—

(i) Any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) Any element or uncombined radical.

(2) Such term does not include—

(i) Any mixture,

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) Tobacco or any tobacco product,

(iv) Any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(e) The term "commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

(f) The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture (1) includes distribution in commerce for export from the United States, and (2) means to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(g) The term "manufacture" means to import into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture, and includes manufacture for export from the United States.

(h) The term "process" (1) includes process for export from the United States and (2) means the preparation of a chemical substance or mixture, after its manufacture, or distribution in commerce—

(i) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(ii) As part of an article containing the chemical substance or mixture.

(i) The term "processor" means any person who processes a chemical substance or mixture.

(j) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(k) The term "United States", when used in the geographic sense, means all of the States.

§ 762.11 Manufacture: Prohibitions and Exemptions.

(a) After October 15, 1978, no person may manufacture any fully halogenated chlorofluoroalkane for any aerosol propellant use except as follows:

(1) For those essential uses listed in § 762.21; or

(2) For those essential uses for food, food additives, drugs, cosmetics and devices listed in 21 CFR 2.125.

(b) Paragraph (a) of this Section shall not apply to any person who imports fully halogennated chlorofluoroalkanes into the United States prior to December 16, 1978.

§ 762.12 Processing: Prohibitions and Exemptions.

After December 15, 1978, no person may process any fully halogenated chlorofluoroalkane for any aerosol propellant use except as follows:

(a) For use in an article which is a food, food additive, drug, cosmetic, or device [1];

(b) For use as a pesticide registered under Section 3 of FIFRA; or

(c) For those essential uses listed in § 762.21.

§ 762.13 Distribution in Commerce: Prohibitions and Exemptions.

(a) After December 15, 1978, no manufacturer or bulk distributor may distribute in commerce any fully halogenated chlorofluoroalkane for processing any aerosol propellant article except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device [1]; or

(2) For those essential uses listed in § 762.21.

(b) After April 15, 1979, no processor may distribute in commerce any article containing a fully halogenated chlorofluoroalkane except for the following articles:

(1) An article which is a food, food additive, drug, cosmetic, or device,[1] or;

(2) A pesticide product registered under Section 3 of FIFRA; or

(3) An article listed in § 762.21.

§ 762.21 Essential Use Exemptions.

The following aerosol propellant uses of fully halogenated chlorofluoroalkanes are essential uses:

[1] The Food and Drug Administration has promulgated separate regulations on use of fully halogenated chlorofluoroalkanes in these articles.

(a) Mercaptan stench warning devices
(b) Release agent for plastic molds
(c) Flying insect pesticides for use in nonresidential food handling establishments and poultry coops; and for space-spraying of aircraft.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607); Sec. 12(a)(2), 90 Stat. 2033 (15 U.S.C. 2611).)

[FR Doc.77-13840 Filed 5-11-77;10:00 am]

CONSUMER PRODUCT SAFETY COMMISSION

NON-ESSENTIAL USES OF FULLY HALOGENATED CHLOROFLUOROALKANES AS PROPELLANTS IN CONSUMER AEROSOL PRODUCTS

Commission Action In Response to the Environmental Protection Agency's Proposed Ban

In this document the Consumer Product Safety Commission (CPSC) announces its action in response to the Environmental Protection Agency's (EPA) "Proposed Regulation of Fully Halogenated Chlorofluoroalkanes" appearing elsewhere in this issue of the FEDERAL REGISTER. That proposed regulation covers chlorofluorocarbons in aerosol products under the Commission's jurisdiction which were preliminarily found by the Commission to present an unreasonable risk of injury to consumers from the destruction of the ozone layer for which no feasible consumer product safety standard is adequate to protect the public. The EPA action renders banning action by the Commission unnecessary at this time; however, the Commission will continue to closely monitor the EPA's regulatory actions and if it becomes appropriate the Commission may issue its own banning regulation.

BACKGROUND

On November 22, 1976, the CPSC granted a petition from the Natural Resources Defense Council to begin regulatory proceedings leading to a ban of certain fluorocarbons in aerosols. The Commission decided that, on the basis of information available, certain aerosol consumer products with chlorofluorocarbon propellants may present an unreasonable risk of injury to consumers from the destruction of the ozone layer and that no feasible consumer product safety standard could adequately protect the public.

The Commission instructed its staff to prepare a notice proposing to ban aerosol consumer products containing the compounds dichlorodifluoromethane, trichlorofluoromethane and other fluorocarbon compounds with similar physical and chemical properties as propellants. The ban would address the apparent unreasonable risk of injury associated with these products resulting from the destruction of ozone in the stratosphere.

In that decision, the Commission recognized that the EPA, under the Toxic Substances Control Act, planned to propose regulatory action with respect to the non-essential uses of certain chlorofluorocarbon propellants. Therefore, it was the Commission's intent that, if EPA proposed a rule within a reasonable period of time and proceeded with regulatory action which would render Commission action in the matter to be unnecessary, the Commission would consider terminating its proceeding.

The Commission's staff was directed to cooperate closely with the EPA and the Food and Drug Administration (FDA), which had announced their intention to phase out the non-essential uses of fluorocarbons in products under their jurisdictions. Since that time the staff has been working closely with the Interagency Chlorofluorocarbon Work Group (a committee including EPA, FDA and CPSC) to develop the proposed EPA prohibition on the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes for non-essential aerosol propellant uses, which appears elsewhere within this issue of the FEDERAL REGISTER. The Commission has reviewed EPA's proposed ban and has determined that further banning action by the Commission is unnecessary at this time.

It should be noted that, until such time as a ban becomes effective, the Commission proposed a regulation (42 FR 21807, April 29, 1977) under section 27(e) of the Consumer Product Safety Act requiring manufacturers of such products to (1) notify the Commission of the consumer products containing these propellants, (2) notify consumers at the point of purchase, by labeling, of the chlorofluorocarbon propellant contained in the product, and (3) include a warning statement on chlorofluorocarbon containing aerosol consumer products.

Dated: April 22, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-12165 Filed 5-11-77;10:00 am]

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BOOK 2 OF 2 BOOKS

FRIDAY, MAY 13, 1977

PART VI

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama	AL77-1063, AL77-1064, AL77-1066, AL77-1067
Indiana	IN77-2070, IN77-2084, IN77-2085
Ohio	OH77-2072

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL77-1007	Jan. 28, 1977.
AL77-1025	Mar. 4, 1977.
AL77-1027	Mar. 18, 1977.
Georgia: GA77-1009	Jan. 18, 1977.
Hawaii: HI77-5030	Mar. 4, 1977.
Indiana:	
IN77-2006	Feb. 4, 1977.
IN77-2008; IN77-2009; IN 77-2012; IN77-2016; IN 77-2017	Feb. 11, 1977.
Kentucky:	
KY76-1091	Sept. 3, 1976.
KY76-1132	Nov. 12, 1976.
KY77-1010	Feb. 11, 1977.
KY77-1035	Apr. 8, 1977.
Nevada: NV77-5146	Apr. 29, 1977.
New Hampshire: NH77-2003	Jan. 28, 1977.
Pennsylvania: PA76-3169	May 21, 1976.
Texas:	
TX76-4193	Dec. 28, 1976.
TX77-4054	Mar. 4, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL77-1023 (FL77-1065)	Feb. 25, 1977.
Idaho:	
ID77-5023 (ID77-5045)	Do.
Indiana:	
IN76-2147 (IN77-2082); IN 76-2148 (IN77-2083)	Oct. 29, 1976.
Iowa:	
IA76-4146 (IA77-4100)	Sept. 10, 1976.
IA77-4064 (IA77-4099)	Mar. 18, 1977.
Kentucky:	
KY76-1110 (KY77-1059)	Sept. 24, 1976.
KY76-1129 (KY77-1058)	Nov. 26, 1976.
Michigan:	
MI77-2019 (MI77-2055)	Feb. 18, 1977.
MI77-2036 (MI77-2052)	Mar. 4, 1977.
New York:	
NY76-3240 (NY77-3011)	Aug. 20, 1976.
NY76-3278 (NY77-3013)	Nov. 19, 1976.
NY76-3280 (NY77-3012)	Nov. 12, 1976.
Ohio:	
OH76-2053 (OH77-2078)	Apr. 16, 1976.
OH76-2054 (OH77-2074)	Apr. 23, 1976.
OH76-2055 (OH77-2077)	Apr. 30, 1976.
OH76-2060 (OH77-2075)	May 7, 1976
OH76-2062 (OH77-2079)	May 21, 1976.
OH76-2071 (OH77-2069); OH76-2073 (OH77-2080).	June 4, 1976.
OH76-2074 (OH77-2080); OH76-2075 (OH77-2078).	June 11, 1976.
OH76-2076 (OH77-2077)	June 18, 1976.
OH76-2110 (OH77-2079)	Sept. 17, 1976.
OH76-2117 (OH77-2073)	Oct. 1, 1976.
OH77-2005 (OH77-2081)	Jan. 21, 1977.
OH77-2037 (OH77-2080)	Mar. 11, 1977.
OH77-2056 (OH77-2076)	Apr. 15, 1977.
Pennsylvania:	
PA76-3177 (PA77-3058)	June 11, 1976.
PA76-3179 (PA77-3050); PA76-3183 (PA77-3056); PA76-3205 (PA77-3057).	June 18, 1976.
PA76-3211 (PA77-3055)	July 30, 1976.
PA76-3250; (PA77-3054); PA76-3251 (PA77-3053).	Sept. 24, 1976.
Texas:	
TX76-4140 (TX77-4101)	Aug. 6, 1976.
TX76-4195 (TX77-4102)	Dec. 28, 1976.

Signed at Washington, D.C., this 6th day of May 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL77-1063 DATE: Date of Publication
DESCRIPTION OF WORK: Sewer and Water Line Construction

*Counties: Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, and Tallapoosa.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	4.75				
Carpenters	5.75				
Laborers:					
Laborers	2.50				
Air tool operator	3.40				
Pipelayers	2.75				
Plumbers & pipefitters	5.00				
Truck driver	2.58				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.63				
Bulldozer	4.50				
Trenching machines	4.66				
Front end loader	4.37				

NEW DECISION

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL77-1064 DATE: Date of Publication
DESCRIPTION OF WORK: Heavy Construction

Counties: Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, Tallapoosa.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Carpenters	$ 3.75				
Piledrivermen	4.00				
Cement masons	3.60				
Electricians	9.30	.40	1%		½ of 1%
Ironworkers:					
Structural, Ornamental and Reinforcing	8.25	.40	.47		.07
Laborers:					
Unskilled laborers	3.11				
Asphalt rakers	3.11				
Painters	3.90				
Truck drivers	2.55				
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	3.60				
Asphalt roller	3.60				
Asphalt spreader	3.60				
Backhoes	4.15				
Bulldozers	6.28				
Cranes, derricks, draglines	4.15				
Front end loader	3.30				
Motor patrol	5.79				
Oiler-greaser	6.91	.30	.20		.10
Pumps	7.57	.30	.20		.10
Scrapers	7.91	.30	.20		.10

NEW DECISION

STATE: Alabama
DECISION NO.: AL77-1066
DESCRIPTION OF WORK: Sewer and Water Line Construction
COUNTIES: *See below
DATE: Date of Publication

Counties:

Blount	Cullman	Lamar	Marion
Cherokee	DeKalb	Lauderdale	Marshall
Clay	Fayette	Lawrence	Morgan
Cleburne	Franklin	Limestone	Randolph
Colbert	Jackson	Madison	Winston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement masons	5.80				
Ironworkers	8.80				
Laborers	2.30				
Pipelayers	3.50				
Truck Drivers	3.65				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Drilling machine	6.00				
Mechanic	5.83				
Loaders	4.91				
Air compressor	6.00				
Bulldozer	5.25				
Trenching machine	5.00				

NEW DECISION

STATE: Alabama
DECISION NO.: AL77-1067
DESCRIPTION OF WORK: Heavy Construction
COUNTIES: *See below
DATE: Date of Publication

*Counties: Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette, Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, and Winston.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$ 9.50	.75	1.00		.02
Carpenters	8.01	.30	.25		
Electricians	8.75	.40	1¼+.20		1%
Laborers	4.52	.20	.30		
Painters	9.53				
Plumbers and pipefitters	9.45	.45	.45		.10
Sheet metal workers	9.50	.55	.60		.05
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Air compressor	5.30	.35	.30		
Backhoe	6.40				
Bulldozers	8.55	.35	.30		
Cranes, derrick draglines	7.66				
Drilling machine operator	8.55	.35	.30		
Front end loader	5.50				
Gradall	6.36				
Graders	8.55	.35	.30		
Hoists	8.78	.30	.30		
Mechanics	8.55	.35	.30		
Motor patrol	5.50				
Oilers-greasers	5.88				
Pumps	5.30	.35	.30		
Rollers	8.78	.30	.30		
Scrapers	8.78	.30	.30		
Shovels	8.55	.35	.30		
Tractors	5.26				

NEW DECISION

STATE: INDIANA COUNTY: GRANT
DECISION NO.: IN77-2070 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$5.94				
CARPENTERS	4.98				
CEMENT MASONS	4.84				
DRYWALL FINISHERS	5.40				
DRYWALL HANGERS	5.24				
ELECTRICIANS	6.04				
HEATING MECHANICS	5.75				
LABORERS:					
Laborers	3.87				
Landscapers	3.82				
PAINTERS	4.85				
PLUMBERS	4.84				
ROOFERS	4.66				
SHEET METAL WORKERS	4.24				
SOFT FLOOR LAYERS	4.75				
TILE SETTERS	5.00				
TRUCK DRIVERS	3.88				
POWER EQUIPMENT OPERATORS:					
Backhoe operator	7.56				
Bulldozer operator	7.71				

NEW DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NO.: IN77-2084 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Brown Co.	$11.43	.50	.35		.05
Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	11.06	.45	.65		
Switzerland Co.	11.61	.60	.85		.02
BOILERMAKERS:					
Brown, Crawford, Jackson, Jennings, Lawrence, & Orange Cos.	11.70	.80	1.00		.03
Jefferson, Scott, Switzerland, & Washington Cos.	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Stonemasons:					
Brown, Jackson, & Jennings Cos.	9.90	.40	.30		.02
Crawford Co.	8.00				
Jefferson, & Switzerland Cos.	8.75				
Lawrence, Orange, & Washington Cos.	10.09				
Scott Co.	9.83	.40	.40		
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Brown (Hamblin, Washington, & Van Buren Twps.), Jackson, Jefferson, Jennings, & Scott Cos.:					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; & burners	9.94	.55	.65		.03
Brown (Remainder of Co.):					
Carpenters; Soft floor layers	9.10	.60	.35		.01
Millwrights; Piledrivermen	9.35	.60	.35		.01
Crawford Co.:					
Carpenters	9.92	.45	.80		
Millwrights	10.34	.45	.70		
Piledrivermen; Welders; & burners	10.17	.45	.80		

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Lawrence & Orange Cos.:					
Carpenters; Soft floor layers	$10.04	.50	.40		
Millwrights; Piledrivermen	10.44	.50	.40		
Switzerland Co.:					
Carpenters; Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Welders; & Burners	9.99	.55	.65		.03
Washington Co.:					
Carpenters; Piledrivermen; & Soft floor layers	9.65	.30	.30		
Millwrights	10.40	.30	.60		.02
CEMENT MASONS:					
Crawford Co.	9.80	.65	.55		
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
ELECTRICIANS:					
Brown Co.	10.40	.40	1%+.50		.01
Crawford, Lawrence, & Orange Cos	11.65	.40	1%		3%
Jackson, Jefferson, Scott, & Washington Cos.	11.60	.50	1%+.40		3%
Jennings Co.	11.00	4%	5%		3%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.30	.70	1%+.40		.5%
Over 18 mi. radius up to & incl 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.60	.70	1%+.40		.5%
Over 21 mi. radius up to & incl 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.85	.70	1%+.40		.5%

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Brown Co.:					
Elevator constructors	$10.68	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.:					
Elevator constructors	11.00	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Switzerland Co.:					
Elevator constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Brown, Jackson (No. of #50), Jennings (Except from North Vernon, s/w to the corner of Jennings Co.), & Lawrence (No. of #54)	11.59				
Crawford, Jackson (So. of #50), Jefferson, Jennings (From North Vernon, s/w to the corner of Jennings Co.), Lawrence (South of #54 & #50), Orange, Scott, & Washington Cos.	8.90	.35	.45		
IRONWORKERS:					
Brown, Jackson (N. ½ of Co.), Jennings (N. ½ of Co.), & Lawrence (Except So. 2/3 of Co.)	10.65	.75	1.10		.05
Crawford, Jackson (So. ½ of Co.), Jefferson, Jennings (So. ½ of Co.), Lawrence (So. 2/3 of Co.), Orange, Scott, & Washington Cos.	10.50	.75	.95		.05
Switzerland Co.:					
Ornamental; Structural	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Brown, & Jackson Cos.	$10.54	.61	.35		.04
Crawford, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.29		.20		.01
Switzerland Co.	11.67		.25		.025
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Brown, Jackson, & Jennings Cos.	9.90	.40	.30		.02
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Brown, Jackson, & Jennings Cos.:					
Marble setters' helpers; & Tile setters' helpers	7.60				
Terrazzo workers' helpers	8.95				
PAINTERS:					
Brown Co.:					
Brush; Drywall; Vinyl; Paperhangers; Rollers	8.40			.30	
Structural steel	9.15			.30	
Sandblasting; Spray; Epoxy brush	9.40			.30	
Spray epoxy	10.40			.30	
Crawford, Jefferson, Scott, & Washington Cos.:					
Within 35 mi. radius of Jefferson Co., Ky. Court House:					
New Construction:					
Basic	7.82	.25	.20		.03
Special	8.17	.25	.20		.03
Spray	8.39	.25	.20		.03
Old Construction:					
Basic	7.48	.25	.20		.03
Special	7.83	.25	.20		.03
Spray	7.93	.25	.20		.03
Over 35 mi. radius of Jefferson Co., Ky. Court House:					
New Construction:					
Basic	8.17	.25	.20		.03
Special	8.52	.25	.20		.03
Spray	8.62	.25	.20		.03
Old Construction:					
Basic	7.83	.25	.20		.03
Special	8.18	.25	.20		.03
Spray	8.38	.25	.20		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT D):					
Jackson, & Jennings Cos.:					
Brush; Rollers; Drywall taping & hanging	$9.45		.50		
Spray; Sandblast; Stage	10.45		.50		
Lawrence, & Orange Cos.:					
Brush repaint	7.10				
Sandblasting; Spray	9.00				
Vinyl hanging	8.10				
Structural steel; Brush, new construction; Roller applicator; Drywall	8.00				
Switzerland Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; & Steamcleaning	9.30				
Spray; Epoxy	9.80				
PLASTERERS:					
Brown Co.	9.10				
Crawford Co.	10.58				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
PLUMBERS; Steamfitters:					
Brown, Jackson, Lawrence, Orange, & Washington Cos.	10.95	.50	.75		.15
Crawford, Jefferson, Scott, & Switzerland Cos.	11.65	.50	.90	c	.02
Jennings Co.	11.20	.50	.30		.05
ROOFERS:					
Brown, Jackson, Jennings, & Lawrence Cos.:					
Composition & waterproof	10.43	.35	.40		
Slate, tile, asbestos & precast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT D):					
Crawford, & Orange Cos.:					
Composition; Waterproofers	$9.23	.50	.40		
Gypsum plank; Slate; Tile; & Concrete slab	9.48	.50	.40		
Helpers	6.31	.50	.40		
Jefferson, Scott, & Washington Cos.:					
Roofers	7.40	.50	.20		
Slate; Tile; & Precast concrete slabs	7.80	.50	.20		
Helpers	4.80	.50	.20		
Switzerland Co.	11.47		.85		.01
SHEET METAL WORKERS:					
Brown, Jackson, Jennings, Lawrence, Orange, & Washington Cos.	11.25	.60	.60		.08
Crawford, Jefferson, Scott, & Switzerland Cos.	11.86	.60+d	.60		.09
SPRINKLER FITTERS	11.65	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 1 paid holiday: Christmas Eve Day
d. 3% of gross earnings to SASMI

LABORERS:					
GROUP I	7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

LABORERS (BUILDING CONSTRUCTION):	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.65
GROUP II	8.45	8.25	8.05	7.85
GROUP III	8.55	8.35	8.15	7.95
GROUP IV	9.25	9.05	8.85	8.65
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

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LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle Laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

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POWER EQUIPMENT OPERATORS

Brown County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power 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, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

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POWER EQUIPMENT OPERATORS

Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, cranesman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

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TRUCK DRIVERS:

Crawford County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
GROUP 1	$7.345	.325	12.00a		
GROUP 2	7.455	.325	12.00a		
GROUP 3	7.565	.325	12.00a		
GROUP 4	7.635	.325	12.00a		
GROUP 5	7.675	.325	12.00a		
GROUP 6	7.405	.325	12.00a		
GROUP 7	7.515	.325	12.00a		
GROUP 8	7.175	.325	12.00a		
GROUP 9	7.285	.325	12.00a		

CLASSIFICATIONS

GROUP 1
Single axle straigh trucks, batch truck, wet or dry, over 3(3yd) batches

GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3 axle unit) Low-boys single axle (3-axle unit) Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(3yd) batches, farm tractors pulling trailers

GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid botton dump & hug botton dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers

GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5-axle unit)

GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid botton dump & hug botton dump, Toutnatrailers, Tournarockers or similar equipment over 12. cu. yds. Truck Mechanic Drivers on mixer trucks all types

GROUP 6
Drivers on bituminous distributors two-man

GROUP 7
Drivers on bituminous distributors one-man

GROUP 8
Drivers of pickup trucks when hauling equip. supplies & materials to & from & on the job site.

GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

FOOTNOTES:
a. Per Week Per Employee

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TRUCK DRIVERS

Jefferson & Washington Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WINCH TRUCKS; A-frames when used to transport materials; Euclids & other heavy earth moving equipment; Lowboys	$7.15	$13.50a	$14.00a	b	
TRUCK MECHANICS; Concrete mixer trucks (all types, hauling only on the job site)	7.05	13.50a	14.00a	b	
TRUCKS OVER 3 TONS; Semi-trailer; Tandem axle or pole trailers & dumps; Farm tractor when used to pull building material or equipment	6.98	13.50a	14.00a	b	
TRUCKS 3 TONS & UNDER; Truck mechanics helper	6.87	13.50a	14.00a	b	
TRUCK HELPER & WAREHOUSEMEN	6.75	13.50a	14.00a	b	

FOOTNOTES:
a. per week per man on payroll more than 20 consecutive days
b. 20 hours' paid vacation for employees working 1 year with a minimum of 650 hours & 40 hours' paid vacation for employee working 1 year with a minimum of 1200 hours.

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TRUCK DRIVERS

Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

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, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. Per Week per employee
b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NO.: IN77-2085 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.	$11.46	.75	.85		.02
Henry & Rush Cos.	11.43	.50	.35		.05
Randolph & Wayne Cos.	11.57	.50	.75		.01
BOILERMAKERS	11.70	.80	1.00		.03
BRICKLAYERS; Stonemasons:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.85	.60			
Henry & Randolph Cos.	9.85	.50	.45		.01
Ohio Co.	8.75				
Ripley Co.	9.00		.30		
CARPENTERS; Millwrights; Piledrivermen; Soft floor layers:					
Fayette, Henry, Randolph, Rush (Carthage Twp.), Union, & Wayne Cos.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Franklin, Ohio, Ripley Cos.:					
Carpenters; Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Welders; Burners	9.99	.55	.65		.03
Rush Co. (Except Carthage Twp.):					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; Burners	9.94	.55	.65		.03
CEMENT MASONS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.30		1.30		
Henry Co.	8.23	.40	.35		
Ohio & Ripley Cos.	7.50				
Randolph Co.	9.75	.60			
ELECTRICIANS:					
Fayette, Franklin, Henry, Randolph, Union, & Wayne Cos.	10.55	.40	1%+.30		.2%
Ohio Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.30	.70	1%+.40		.5%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT D):					
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	$11.60	.70	1%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court in Cincinnati, Ohio	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.85	.70	1%+.40		.5%
Ripley & Rush Cos.	11.00	4%	5%		½%
ELEVATOR CONSTRUCTORS:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.:					
Elevator constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Henry & Rush Cos.:					
Elevator constructors	10.68	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Randolph Co.:					
Elevator constructors	9.66	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Fayette, Henry, Randolph, Rush, Union (N/W ½ of Co.), & Wayne Cos.	11.59				
Franklin, Ohio, Ripley, & Union (S/E ½ of Co.) Cos.	10.10		.35		.005
IRONWORKERS:					
Fayette(Part of Co.), Henry, & Rush Cos.	10.65	.75	1.10		.05
Fayette (Part of Co.), Randolph (So. part incl. Union City, but exclu. Winchester), Union, & Wayne Cos.:					
Within 15 mi. radius of Dayton, Ohio	10.51	.75	1.05		.04
Beyond 15 mi. radius of Dayton, Ohio	10.66	.75	1.05		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (CONT D):					
Fayette (Part of Co.), Franklin, Ohio, & Ripley Cos.:					
Ornamental; Structural	$11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02
Randolph Co. (Rem. of Co.)	10.75	.75	.95		.01
LATHERS:					
Franklin, Ohio, Ripley, & Union Cos.	11.67		.25		.025
Henry & Randolph Cos.	8.55		.35		.01
Rush Co.	10.54	.61	.35		.04
MARBLE SETTERS; Tile setters:					
Fayette, Rush, & Wayne Cos.					
Tile setters	8.85	.60			
Henry, & Randolph Cos.:					
Marble setters	9.85	.50	.45		.01
Tile setters	9.60	.50	.45		.01
PAINTERS:					
Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	7.85				
Sandblasting; Spray	8.85				
Structural steel; Scaffold over 30 ft.	8.10				
Epoxy	9.85				
Stage & Spray helper	8.35				
Ohio & Ripley Cos.:					
Brush; Roller; Wallwashing; Dry-wall taping & finishing; Wall-paper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; & Steamcleaning	9.30				
Spray; Epoxy	9.80				
PLASTERERS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.45	.80	.50		.01
Henry Co.	8.23	.40	.35		.01
Ohio & Ripley Cos.	7.50				
Randolph Co.	8.40	.65			.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	$10.80	.50	.55	c	.15
Ohio & Ripley Cos.	11.47	.75	1.05		.05
ROOFERS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.:					
Composition & Waterproof	10.43	.35	.40		
Slate, tile, asbestos & pre-cast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		
Henry & Randolph Cos.:					
Slate, tile, & asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp & waterproof	8.70	.40	.20		
Ohio & Ripley Cos.:	11.47		.85		.01
SHEET METAL WORKERS:					
Fayette, Franklin, Henry, Ripley, Rush, & Union Cos.	11.25	.60	.60		.08
Ohio Co.	11.205	.88	.81		.04
Randolph & Wayne Cos.	10.95	.55+d	.84		.15
SPRINKLER FITTERS	11.65	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 2 paid holidays: C & D
d. $.38 per hour to SASMI

DECISION NO. IN77-2085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fayette, Henry, Randolph, Rush, Union, & Wayne Counties					
GROUP I	$7.05	.60	.45		.09
GROUP II	7.25	.60	.45		.09
GROUP III	7.35	.60	.45		.09
GROUP IV	8.05	.60	.45		.09
Remaining Counties					
GROUP I	7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & shoetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, line or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

DECISION NO. IN77-2085

POWER EQUIPMENT OPERATORS

Fayette, Henry, Randolph, Rush, Union, & Wayne Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power 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, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Boss type, Sub-base Finish, Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

DECISION NO. IN77-2085

POWER EQUIPMENT OPERATORS

Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment,well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

DECISION NO. IN77-2085

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

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, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:

a. Per Week per employee

b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

NEW DECISION

STATE: OHIO
COUNTIES: DARKE & SHELBY
DECISION NO. OH77-2072
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.75				
BRICKLAYERS	6.00				
CARPENTERS	4.74				
CEMENT MASONS	4.91				
DRYWALL FINISHERS	4.73				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.00				
LABORERS	3.50				
PAINTERS	5.00				
PLUMBERS	5.40				
ROOFERS	4.83				
SHEET METAL WORKERS	5.50				
SOFT FLOOR LAYERS	5.00				
TILE SETTERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.70				
Bulldozer	5.55				
Front end loader	4.73				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1007 - Mod. # 3 (42 FR-5619 - January 28, 1977) Jefferson & Shelby Counties, Alabama					
Change:					
Sprinkler fitters	10.35	.65	.95		.08
Power Equipment Operators:					
GROUP A	8.64	.40	.30		.10
GROUP B	8.31	.40	.30		.10
GROUP C	7.44	.40	.30		.10
GROUP D	9.34	.40	.30		.10
GROUP E	8.83	.40	.30		.10
GROUP F	7.57	.40	.30		.10
Decision # AL77-1025 - Mod. # 2 (42 FR-15277 - March 4, 1977) Lawrence, Limestone and Morgan Counties, Alabama					
Change:					
Carpenters:					
Carpenters, & Soft floor layers	7.25	.35	.20		.03
Millwrights	7.89	.35	.20		.03
Piledrivermen	7.66	.35	.20		.03
Plumbers, pipefitters, steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 & Rt. 20 to Wheeler Lake including Moulton & Wren, excluding Bankhead National Park), Limestone Co. & Morgan Co.	9.95	.50	.50		.10
Lawrence Co., (remaining portion)	10.40	.40	.50		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1027 - Mod. # 2 (42 FR-15260 - March 18, 1977) Colbert and Lauderdale Counties, Alabama					
Change:					
Cement Masons:					
Cement masons	8.06				
Power tool operators	8.31				
Plasterers	8.31				
Plumbers & steamiftters	10.40	.40	.50		.08
DECISION #GA77-1009 - Mod. #3 (42 FR-5623 - January 28, 1977) Chatham County, Georgia					
Change:					
Sprinkler Fitters	10.35	.65	.95		.08
DECISION #HI77-5030 - Mod. #4 (42 FR 12579 - March 4, 1977) Statewide Hawaii					
Change:					
Plasterers' Hod Carriers:					
Hod carriers	$8.01	.64	$1.06	.38	.13
Mortar mixers	8.21	.64	1.06	.38	.13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN77-2006 - Mod. #3 (42 FR 7046 - February 4, 1977) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana					
Change:					
Asbestos workers:					
Dearborn Co.	$11.61	.60	.85		.02
Vanderburgh Co.	11.50	.45	.40		.03
Boilermakers:					
Dearborn Co.	9.40	.75	1.00	1.40	.02
Bricklayers:					
Bartholomew, & Monroe Cos.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.90	.40	.30		.02
Delaware Co.:					
Bricklayers; Marble setters; & Stonemasons	9.85	.50	.45		.01
Tile setters	9.60	.50	.45		.01
Grant Co.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.45	.70	.40		
Vanderburgh Co.:					
Bricklayers; Stonemasons	10.38	.85	.50		
Marble setters; Terrazzo workers; & Tile setters	10.30		.50		
Carpenters:					
Bartholomew Co. (Rem. of Co.):					
Carpenters; & Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen	9.94	.55	.65		.03
Dearborn Co.:					
Carpenters; & Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen	9.99	.55	.65		.03
Delaware Co.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Millwrights	9.90	.55	.35		.08

DECISION NO. IN77-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Grant Co.:					
Carpenters	$9.48	.80	.60		.05
Vanderburgh Co.:					
Carpenters; Soft floor layers	9.65	.40	.35		
Piledrivermen	9.90	.40	.35		
Millwrights	10.34	.45	.70		
Cement masons:					
Dearborn Co.	7.50				
Delaware & Grant Cos.	9.75	.60			
Vanderburgh Co.	9.80	.65	.55		
Vigo Co.	10.20	.60	.25		
Ironworkers:					
Bartholomew, Delaware (So. 2/3 of Co.), Grant (S/W portion) & Monroe Cos.	10.65	.75	1.10		.05
Benton & Tippecanoe Cos.	9.99	.75	1.05		.02
Lathers:					
Dearborn Co.	11.67		.25		.025
Painters:					
Bartholomew Co.:					
Brush; Drywall taping & finishing; & Rollers	9.45		.50		
Sandblasting; Spray; Swing stage	10.45		.50		
Structural steel	9.45		.50		
Dearborn Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; Steamcleaning	9.30				
Spray	9.80				
Delaware Co.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray	9.30		.60		
Steeplejack; Water towers	9.55		.60		

DECISION NO. IN77-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Vanderburgh Co.:					
Brush; Roller	$8.95	.65	.30		
Sandblasting	9.70	.65	.30		
Spray	9.95	.65	.30		
Pipefitters; Steamfitters:					
Dearborn Co.	11.35	.875	1.15		.08
Plasterers:					
Dearborn Co.	7.50				
Vigo Co.	9.75	.50	.50		
Plumbers:					
Dearborn Co.	11.47	.75	1.05		.05
Plumbers; Steamfitters:					
Benton, Tippecanoe, & Vigo Cos.	11.25	.40	.80		.10
Delaware Co.	10.80	.50	.55	g	.15
Vanderburgh Co.	12.28	.50	.80		.06
Roofers:					
Delaware Co.:					
Slate, tile & Asbestos; Composition, damp & waterproofers	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Omit:					
Laborers' schedule					
Add:					
Laborers' schedule					

DECISION NO. IN77-2006 (CONT'D)

LABORERS (BUILDING CONSTRUCTION):

	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

DECISION NO. IN77-2008 - Mod. #2
(42 FR 8908 - February 11, 1977)
Decatur County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters; Soft floor layers	$9.74	.55	.65		.03
Piledrivermen	9.99	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Sprinkler fitters	11.65	.65	.95		.08
Laborers:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	7.70	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2009 - Mod. #1
(42 FR 8910 - February 11, 1977)
Clark, Floyd, & Harrison Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$9.40	.75	1.00	1.40	.02
Bricklayers	9.83	.40	.40		
Laborers:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	8.15	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2012 - Mod. #1
(42 FR 8913 - February 11, 1977)
Jackson County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	$7.92	.40	.30		.02

DECISION NO. IN77-2016 - Mod. #1
(42 FR 8915 - February 11, 1977)
Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, & Shelby Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Hamilton & Madison Cos.	$9.85	.50	.45		.01
Carpenters:					
Johnson (city of Edinburgh), & Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; Burners	9.94	.55	.65		.03
Madison Co.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Painters:					
Madison Co.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray; Pressure cleaning equipment	9.30		.60		
Wallcovering (using own tools)	9.05		.60		
Steeplejack & water towers	9.55		.60		
Plumbers; Steamfitters:					
Madison Co.	10.80	.50	.55	c	.15
Roofers:					
Hamilton & Madison Cos.:					
Slate, Tile & Asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp & waterproof	8.70	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Tile setters:					
Madison Co.	9.60	.50	.45		.01

DECISION NO. IN77-2016 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Hamilton, Hancock, & Madison Cos.:					
Group I	$7.05	.60	.45		.09
Group II	7.25	.60	.45		.09
Group III	7.35	.60	.45		.09
Group IV	8.05	.60	.45		.09
Boone Co.:					
Group I	7.25	.60	.45		.09
Group II	7.45	.60	.45		.09
Group III	7.55	.60	.45		.09
Group IV	8.25	.60	.45		.09
Shelby Co.:					
Group I	7.50	.60	.45		.09
Group II	7.70	.60	.45		.09
Group III	7.80	.60	.45		.09
Group IV	8.50	.60	.45		.09
Hendricks, Johnson, & Morgan Cos.:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	7.70	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2017 - Mod. #2
(42 FR 8920 - February 11, 1977)
Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana

Change:					
Bricklayers:					
Blackford, & Jay Cos.	9.85	.50	.45		.01
Wabash Co.	9.45	.70	.40		
Carpenters:					
Adams, Huntington, Wabash, & Wells Cos.:					
Carpenters; Soft floor layers	9.48	.80	.60		.05

DECISION NO. IN77-2017 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Blackford, & Jay Cos.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Cement masons:					
Blackford, Huntington, Jay, Wabash, & Wells Cos.	9.75	.60			
Painters:					
Blackford, Jay, & Wells (To the south city limits of Bluffton) Cos.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray; Pressure cleaning equipment	9.30		.60		
Wallcovering (using own tools)	9.05		.60		
Steeplejack & water towers	9.55		.60		
Plumbers; Steamfitters:					
Jay Co.	10.80	.50	.55	f	.15
Roofers:					
Blackford & Jay Cos.:					
Slate, tile & asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp, & waterproof	8.70	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Tile setters:					
Blackford & Jay Cos.	9.60	.50	.45		.01
Laborers:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.:					
Group I	7.25	.60	.45		.09
Group II	7.45	.60	.45		.09
Group III	7.55	.60	.45		.09
Group IV	8.25	.60	.45		.09

DECISION NO. IN77-2017 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Blackford & Jay Cos.:					
Group I	$7.05	.60	.45		.09
Group II	7.25	.60	.45		.09
Group III	7.35	.60	.45		.09
Group IV	8.05	.60	.45		.09
DECISION #KY76-1091 - Mod. #4 (41 FR-37470 - September 3, 1976) Christian County (Ft. Campbell only), Kentucky					
Change:					
Ironworkers	9.90	.45	.65		.02
Lathers	8.15		.20	.40	.01
Sheet metal workers	9.30	.44	.31		.04
DECISION #KY76-1132 - Mod. #5 (41 FR-52260 - November 12, 1976) Franklin County, Kentucky					
Change:					
Sprinkler Fitters	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY77-1010 - Mod. #3 (42 FR-8940 - February 11, 1977) Fayette County, Kentucky					
Change:					
Sprinkler fitters	11.65	.65	.95		.08
DECISION #KY77-1035 - Mod. #1 (42 FR-18812 - April 8, 1977) Warren County, Kentucky					
Change:					
Lathers	8.15		.20	.40	.01
Sprinkler Fitters	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV77-5146 - Mod. #1 (42 FR 22082 - April 29, 1977) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change:					
Carpenters:					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10-mile radius of Las Vegas, Nevada; area within a 5-mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$10.36	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	10.51	.65	.90	1.00	.10
Piledrivermen	10.56	.65	.90	1.00	.10
Millwrights	10.96	.65	.90	1.00	.10

DECISION #NV77-5146 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Carpenters (Cont'd):					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	$10.86	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	11.01	.65	.90	1.00	.10
Piledrivermen	11.06	.65	.90	1.00	.10
Millwrights	11.46	.65	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	11.11	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	11.26	.65	.90	1.00	.10
Piledrivermen	11.31	.65	.90	1.00	.10
Millwrights	11.71	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	12.36	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	12.51	.65	.90	1.00	.10
Piledrivermen	12.56	.65	.90	1.00	.10
Millwrights	12.96	.65	.90	1.00	.10

DECISION NO. NH77-2003- Mod #2 (42 FR 5625- January 28, 1977): Rockingham County, New Hampshire:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers	$8.12	.57	.64		.03
Laborers:					
Remainder of County (including Salem):					
Building, heavy, and highway:					
Laborers	6.76	.60	.70		.10
Pneumatic tool ops, drillers, pavement breakers	7.26	.60	.70		.10
Blasters and powdermen	7.26	.60	.70		.10
Plasterers' tenders	6.91	.60	.70		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3169 - Mod. # 3 (41 FR 21133 - May 21, 1976) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
Change:					
POWER EQUIPMENT OPERATORS:					
HEAVY CONSTRUCTION					
GROUP I	$12.60	5.5%	9.5%	c	1.2%
GROUP II	12.34	5.5%	9.5%	c	1.2%
GROUP III	11.47	5.5%	9.5%	c	1.2%
GROUP IV	11.26	5.5%	9.5%	c	1.2%
GROUP V	10.95	5.5%	9.5%	c	1.2%
GROUP VI	10.78	5.5%	9.5%	c	1.2%
GROUP VII	10.27	5.5%	9.5%	c	1.2%
GROUP VIII	9.53	5.5%	9.5%	c	1.2%
HIGHWAY CONSTRUCTION:					
POWER EQUIPMENT OPERATORS:					
GROUP I	12.35	5.5%	9.5%	a	1.2%
GROUP II	12.12	5.5%	9.5%	a	1.2%
GROUP III	11.51	5.5%	9.5%	a	1.2%
GROUP IV	10.99	5.5%	9.5%	a	1.2%
GROUP V	10.62	5.5%	9.5%	a	1.2%
GROUP VI	10.27	5.5%	9.5%	a	1.2%
GROUP VII	9.53	5.5%	9.5¢	a	1.2%
TRUCK DRIVERS:					
HEAVY & HIGHWAY CONSTRUCTION:					
CLASS I	8.17	.7175	.70	a&b	
CLASS II	8.27	.7175	.70	a&b	
CLASS III	8.47	.7175	.70	a&b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4193 - Mod. #6 (41 FR 56594 - December 28, 1976) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Ironworkers	$ 7.74	.55	1.00		.04
DECISION #TX77-4054 - Mod. #4 (42 FR 12671 - March 4, 1977) Brazos County, Texas					
Change:					
Bricklayers	10.53	.63	.60		.06

STATE: Florida
COUNTIES: See below*
DECISION NUMBER: FL77-1065
DATE: Date of Publication
Supersedes Decision No. FL77-1023 dated February 25, 1977 in 42 FR 11191.
DESCRIPTION OF WORK: Building Construction, (does not includ single family homes and garden type apartments up to and including 4 stories); and Heavy and Highway Construction.

*COUNTIES: Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site), Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.53	.50	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	7.56	.40	.25		
Blocklayers	7.56	.40	.25		
Manhole bricklayers	7.56	.40	.25		
Plasterers	7.56	.40	.25		
Terrazzo workers	7.56	.40	.25		
Tile setters	7.56	.40	.25		
Cement masons	7.41	.40	.25		
Masonry cutting or grinding machine operator	7.71	.40	.25		
Carpenters, gypsum dry hangers	7.41	.50	.40		.05
Millwrights	9.80	.45	.45		.06
Piledriverman	7.71	.50	.40		.05
Saw operator (radial)	7.71	.50	.40		.05
Soft floor layers	7.41	.50	.40		.05
Electricians:					
Base Zone (within 40 miles of the Union Office, 215 Ridgewood Ave., Daytona Beach):					
Electricians	8.74	.45	1%+.48		1%
Cable splicers	8.99	.45	1%+.48		1%
Zone 1 (beyond 40 miles from the Union Office):					
Electricians	9.19	.45	1%+.48		1%
Cable splicers	9.44	.45	1%+.48		1%
Ironworkers:					
Structural, finishers, burners, rodmen, welders, riggers and machinery movers	9.33	.65	.80	.65	.05
Sheeters	9.58	.65	.60	.65	.05
Laborers:					
Laborers	5.70	.45	.30		
Hod carriers; kettlemen (excl. roofing & water proofing); mortar mixers; pipelayers; plasterers' tenders; well point dewatering; air tool operator; powderman; paving curb & gutter, & sidewalk form setters; concrete workers	5.85	.45	.30		
Nozzleman	6.52	.45	.30		

FL77-1065 - (cont'd)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen:					
Linemen	$9.32	.45	1%		½ of 1%
Cable splicers	9.47	.45	1%		½ of 1%
Class A operators	9.32	.45	1%		½ of 1%
Class B operators	6.52	.45	1%		½ of 1%
Groundman over 1 year	4.82	.45	1%		½ of 1%
Groundman under 1 year	4.00	.45	1%		½ of 1%
Painters:					
Brush; roller	7.95		.30		.05
Spray	8.65		.30		.05
Mitten	8.65		.30		.05
Tar, bituminous, & similar materials, asphalt (excl. asphalt base aluminum & varnish)	8.65		.30		.05
Paperhanging	8.65		.30		.05
Sandblasting	8.65		.30		.05
Plumbers, pipefitters, & steamfitters	9.40	.49	.51	.60	.05
Roofers:					
Roofers	7.40	.35	.25		.15
Helpers	5.30	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Sheet metal workers	9.72	.60	.33		
Sprinkler fitters	10.16	.60	.90		.10
Welders - rate for craft.					

FL77-1065 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.40	.50	.35		.05
GROUP II	8.80	.50	.35		.05
GROUP III	8.30	.50	.35		.05
GROUP IV	7.90	.50	.35		.05
GROUP V	7.20	.50	.35		.05

GROUP I: Cranes, hydraulic or derrick on structural or reinforcing iron, cranes or derrick, clam shell, dragline, piledriver operator (including auger & boring machine op. for drilling in piling), backhoe (including hydraulic), hydraulic crane, gradall, shovel, motor patrol, mechanic heavy equipment, side boom cat & multi-drum hoist,

GROUP II: Bulldozer & trenching machine, bridge crane, highlift, straddle buggy, hoist, earth hauling scraper (regardless how powered), pump crete & front end loader

GROUP III: Winch truck, concrete/asphalt paver, fork lift engineer, boring machine, well drilling machine & mobile cleaning plant

GROUP IV: Tractor, well point pump & installation man, lubrication engineer equipment greaser, air compressor, & firemen

GROUP V: Motor boat, oiler, mechanic helper, pumpman (other than well point), roller (steel & rubber tires) self-powered, conveyor, welding machine (three or more combustion engines & Pulver mixer)

SUPERSEDEAS DECISION

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID77-5045 DATE: Date of Publication
Supersedes Decision No. ID77-5023 dated February 25, 1977, in 42 FR 11195.
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	$11.75	.44	$1.02		
Remaining Counties and Idaho County (south half)	10.56	.52	1.17		
BOILERMAKERS	11.575	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.85	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	9.75	.50	.50		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	10.50				
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	9.90	.35	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce, Shoshone Counties:	11.01	.65	.70		.04
CARPENTERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the northern boundary of Township #29 North), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Carpenters	9.74	.60	.55		.055
Piledrivermen; Sawfilers; Stationary power woodworking tool operator; Floor layer; Floor finisher; Floor sander	9.89	.60	.55		.055
CARPENTERS (Cont'd):					
Benewah, Bonner, etc. (Cont'd):					
Shingler (wood and composition)	$9.94	.60	.55		.055
Carpenters (burned, charred, creosoted or similarly treated material); Boom man	9.99	.60	.55		.055
Millwrights and Machine erector	10.24	.60	.55		.055
Piledriver (creosoted material)	10.14	.60	.55		.055
Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):					
Carpenters; Floor layers; Shinglers; Drywall Applicator and Installer	9.18	.52	.50	.50	.10
Saw Filer; Piledrivermen; Bridgeman and Wharf Builders	9.35	.52	.50	.50	.10
Millwrights; Machine erectors; Piledriverman's boom man	9.47	.52	.50	.50	.10
CEMENT MASONS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Cement masons	9.64	.50	.75		.04
Gunnite; Power machine; Power tools; Power Troweling machine; Troweling magnesite or other material with oxichloride base	9.79	.50	.75		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd):					
Remaining Counties and Idaho County (south of 46th Parallel):					
Cement masons	$8.67	.74	.45	.50	.10
Power trowel; Power grinder; Gunnite and composition floor layer	8.87	.74	.45	.50	.10
ELECTRICIANS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	10.75	.70	3% + .50		1%
Cable splicers	10%overJR	.70	3% + .50		1%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	12.13	.57	1% + .40		.02
Cable splicers	12.53	.57	1% + .40		.02
Remaining Counties:					
Electricians; Technicians	10.60	.45	1% + .50		1%
Cable splicers	11.66	.45	1% + .50		1%
ELEVATOR CONSTRUCTORS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Elevator constructors	11.95	.545	.35	3% + a	.02
Elevator constructors' helpers	70%JR	.545	.35	3% + a	.02
Elevator constructors' helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (Cont'd):					
Remaining Counties, except Adams, Lemhi, Valley, Washington Counties:					
Elevator constructors	$10.03	.545	.35	3% + a	.02
Elevator constructors' helpers	7.02	.545	.35	3% + a	.02
Elevator constructors' helpers (Pr.b.)	5.015				
GLAZIERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties	9.30	.35	.30		
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties	8.03	.40	.25	b + .28	
Bonner, Boundary, Kootenai, Shoshone Counties	9.73	.35	.10	.43	
Remaining Counties	7.12	.21		b	
IRONWORKERS:					
Ornamental; Reinforcing; Structural:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	11.00	.73	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Those portions of Adams, Idaho, Valley, Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line	$10.90	.58	$1.00	.25	.05
Remaining Counties and those portions of Adams, Idaho, Valley, Washington Counties located south of the Weiser-Gibbonsville Line	9.89	.55	1.00		.02
LATHERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.35	.50			
MARBLE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	8.95	.50	.50		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.75				
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	11.01	.65	.70		.04
PAINTERS:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home AFB), Gem, Gooding (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties:					
Painters and Tapers	8.75	.45	.30		.07
Elmore (Mt. Home AFB):					
Painters and Tapers	9.75	.45	.30		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties:					
Brush; Roller, Perfataper	$8.71	.35	.10		.005
Structural steel; Swing stage; Spray	9.16	.35	.10		.005
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Brush	9.77	.40	.70		.02
Spray; Steel; Steam cleaning; Rollers (over 9" or 10" handle); Finish drywall taper	10.02	.40	.70		.02
Swing Stage; Over 30 ft. high	10.12	.40	.70		.02
Bitumastic; Sand blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	10.17	.40	.70		.22
PLASTERERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.53	.50			
Remaining Counties	9.07	.50	.45	.35	
PLASTERERS' TENDERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	8.60	.65	.70		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (Cont'd):					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Plumbers	$10.42	.59	.70		.10
Helpers	7.29	.59	.70		.10
ROOFERS:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	8.60	.60	.30	.50	
Roofers working with coal tar and pitch products	10.60	.60	.30	.50	
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties	9.15		.40		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.04	.50	.50		.01
Clearwater, Idaho County (north of the 46th Parallel), Latah, Lewis, Nez Perce Counties:					
Roofers; Kettlemen; Waterproofer	10.05				
SHEET METAL WORKERS:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton Counties	9.18	.37	3% + .20	.75	.08
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	12.10	.57	1.225		.10
Remaining Counties	10.21	.57	.50		.14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties	$7.00	.25	.10		.10
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	9.05	.40	.60		
Remaining Counties	7.50				
SPRINKLER FITTERS	11.38	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	8.95	.50	.50		
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	11.01	.65	.70		.04
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.					

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 2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
(AREA 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Cable splicers; Leadman pole sprayer	$12.78	.45	1%	.10	1/2%
Lineman; Pole sprayer; Heavy line equipment man; Certified lineman welder	11.54	.45	1%	.10	1/2%
Tree trimmer	10.42	.45	1%	.10	1/2%
Line equipment man	9.95	.45	1%	.10	1/2%
Head groundman (chipper); Head groundman; Powderman; Jackhammer man	8.69	.45	1%	.10	1/2%
Groundman; Tree trimmer helper	8.18	.45	1%	.10	1/2%
(AREA 2):					
Remaining Counties:					
All power construction over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1,000 KVA or greater capacity, all communications, underground work, 34.5 KV, streets and highway lighting and motor traffic controls:					
Groundman	6.98	.35	1%		3/4%
Equipment operators	8.44	.35	1%		3/4%
Cable splicers	10%over J	.35	1%		3/4%
Lineman	9.27	.35	1%		3/4%
All power construction of 34.5 KV and under when performed for an operating utility. Street lighting when performed for an operating utility or municipality:					
Groundman	6.71	.35	1%		3/4%
Equipment operator	7.87	.35	1%		3/4%
Lineman	8.74	.35	1%		3/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
(AREA 1)					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	$ 8.10	.65	.70		.02
Group 2	8.25	.65	.70		.02
Group 3	8.35	.65	.70		.02
Group 4	8.40	.65	.70		.02
Group 5	8.45	.65	.70		.02
Group 6	8.50	.65	.70		.02
Group 7	8.55	.65	.70		.02
Group 8	8.70	.65	.70		.02
Group 9-A	8.15	.65	.70		.02
Group 9-B	8.20	.65	.70		.02
Group 9-C	8.60	.65	.70		.02
Group 9-D	8.65	.65	.70		.02
(AREA 2)					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Group 1	7.21	.65	.87	.20	.10
Group 2	7.31	.65	.87	.20	.10
Group 3	7.41	.65	.87	.20	.10
Group 4	7.51	.65	.87	.20	.10
Group 5	7.56	.65	.87	.20	.10
Group 6	7.81	.65	.87	.20	.10
Group 7	8.06	.65	.87	.20	.10
Underground Work:					
Group 8	7.36	.65	.87	.20	.10
Group 9	7.51	.65	.87	.20	.10
Group 10	7.81	.65	.87	.20	.10

LABORERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jack on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine - 6" 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 Laborers; Grout Machine Header Tender; Nipper; Riprap Man; Scaleman; Stake Jumper; Structural Mover (to include separating foundation, preparation, cribbing, shoring, jacking and unloading of structure); Tailhoseman (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 Pot Fireman, non-mechanical; Form Cleaning Machine Feeder, Stacker; Form Setter, paving; Driller Helper (when required to move and position machine); Nozzleman, water and air or steam; Pipe Layer, corrugated metal culvert; Pipewrapper; Pot Tender; Powderman Helper; Power Tool Operator: gas, electric, pneumatic; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power spiker or 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 Operator; Multi-section Pipe Layer; Nozzleman (to include squeeze and flo-crete nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Barco, Essex and similar tamper and pavement breakers); Trencher, Shawnee; Water Pipe Liner; Wagon Drills

Group 4: Chain Saw (faller); Laser Beam Operator; Pipe Layer (to include optional: Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, and Lagger but not including laying corrugated metal culvert pipe)

Group 5: Concrete Stack (to include Laborers when working on free standing concrete stacks for smoke or fume control above 40 ft. high); Mortar Mixer

Group 6: Caisson Worker, free air; High Scaler

LABORERS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

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); Gunnite (to include operation of machine and nozzle); Rod Carrier; Monitor Operator, Air Track or similar mounting; Nozzleman (to include Jet Blasting Nozzleman over 1,200 pounds, Jet Blast Machine, power propelled, Sand Blast Nozzle); Vibrator Operator, 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 Nozzleman for Concrete and Laser Beam Operator on tunnels
- Class D: Raise and Shaft Miner; Laser Beam Operator on raises and shafts

LABORERS
(Area 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; 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-markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - Salvage; Landscaper; Tool Room Man; Janitor

LABORERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 2: Chuck Tender; Driller Helper; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and Water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Helper; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter - airport paving; Gunman (gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway- curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Group 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with manufacturers' rating 3" or over

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Muckers; Bullgang

Group 9: Form Setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spiling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Basic Hourly Rates Zone 3*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.70	$ 9.20	$ 9.65	.80	.90		.03
Group 2	9.00	9.50	9.95	.80	.90		.03
Group 3	9.55	10.05	10.50	.80	.90		.03
Group 4	9.70	10.20	10.65	.80	.90		.03
Group 5	9.85	10.35	10.80	.80	.90		.03
Group 6	10.10	10.60	11.05	.80	.90		.03
Group 7	10.35	10.85	11.30	.80	.90		.03

*ZONE 1: Area within a fifteen (15) mile radius from the center of the following Cities: Lewiston, Idaho and Spokane, Washington.
*ZONE 2: Area within a fifteen (15) mile to forty-five (45) mile radius from the center of the above-named Cities.
*ZONE 3: Area over forty-five (45) mile radius from the center of the above-named Cities.
With the exception that the area within a fifteen (15) mile radius of the center of the City of Coeur d' Alene, Idaho shall be considered within Zone 1.

POWER EQUIPMENT OPERATORS: (AREA 2): Remaining Counties and Idaho County (south of the 46th Parallel):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.56	.70	.75		.10
Group 2	8.72	.70	.75		.10
Group 3	9.09	.70	.75		.10
Group 4	9.40	.70	.75		.10
Group 5	9.57	.70	.75		.10
Group 6	9.75	.70	.75		.10
Group 7	10.11	.70	.75		.10
Group 8	10.34	.70	.75		.10
Group 9	10.57	.70	.75		.10
Group 10	10.81	.70	.75		.10

POWER EQUIPMENT OPERATORS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (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, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Post 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 R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; 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 Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dunor, Adams, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yds., R/T); Locomotive Engineer; Mixermobile; Mucking Machines; Power or Curb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (Crawler including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 4: Asphalt Plant Operator; Crusher; Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scraper, 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 wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip form Paver; Cranes all (under 65 tons); Derricks and Stifflegs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over) (Robbin's Reverse Circulation and similar); Loader Operator (Front End and Overhead 4 yds. to 8 yds.); Piledriving 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, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with two scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all - 65 tons and over; Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front-end over 8 yds. to 12 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and 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

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (Cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw - multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader Machine Operator; Fireman - all; Heavy Duty Mechanic Helper or Welder Helper; Hoist - single drum; Hydraulic Monitor Operator - skid mounted; Oiler (single piece of equipment); Pugmixer - box or screed Operator; Spray Curing Machine; Tractor - rubber-tired farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master - Joy) (Tractor mounted); Drills: Churn - Core - Calyx or Diamond; Front End and Overhead Loaders and similar machines - (up to and including 4 yds.) - (rubber-tired); Grout Pump; Hydra-hammer; Locomotive Engineer; Longitudinal Float Machine; Mixer-mobile; Spreader Machine; Tractor - rubber-tired - using Backhoe, Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar, Asphalt Spreaders

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator - mechanic (diesel - electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines - under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (Finishing High type Pavement); Skidder - rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only); Service Oiler

Group 6: Asphalt Pavers - self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes up to and including 50 ton; 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 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tower Crane Operator; Tractor - Crawler type - including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls - Euclid and similar - to and including 40 yds.

Group 7: Cableway Operator; Continuous Excavator (Barber Greene ML-50); Cranes - over 50 ton; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader - CMI or Equivalent; Front End and Overhead Loaders and similar machines (over 7 yds.); Power shovels and Draglines (over 3½ yds.); Quad type tractors with all attachments; Tournapulls Euclid and similar - over 40 yds. to and including 50 yds.; Multiple Scraper Units

Group 8: Tournapulls - Euclid and similar - over 50 yds. to and including 75 yds.

Group 9: Tournapulls - Euclid and similar - over 75 yds. to and including 100 yds.

Group 10: Tournapulls - Euclid and similar - over 100 yds.

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
(AREA 1)					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	$9.28	$1.07	.70		
Group 2	9.32	1.07	.70		
Group 3	9.38	1.07	.70		
Group 4	9.47	1.07	.70		
Group 5	9.68	1.07	.70		
Group 6	9.72	1.07	.70		
Group 7	9.78	1.07	.70		
Group 8	9.82	1.07	.70		
Group 9	9.93	1.07	.70		
Group 10	9.97	1.07	.70		
Group 11	10.28	1.07	.70		
Group 12	10.42	1.07	.70		
Group 13	10.58	1.07	.70		
Group 14	10.72	1.07	.70		
(AREA 2)					
Remaining Counties and Idaho County (south of the 46th Parallel)					
Group 1	8.41	.65	.65	.25	.10
Group 2	8.47	.65	.65	.25	.10
Group 3	8.53	.65	.65	.25	.10
Group 4	8.59	.65	.65	.25	.10
Group 5	8.64	.65	.65	.25	.10
Group 6	8.90	.65	.65	.25	.10
Group 7	8.96	.65	.65	.25	.10
Group 8	9.02	.65	.65	.25	.10
Group 9	9.13	.65	.65	.25	.10
Group 10	9.19	.65	.65	.25	.10
Group 11	9.25	.65	.65	.25	.10
Group 12	9.31	.65	.65	.25	.10
Group 13:					
Class A	8.79	.65	.65	.25	.10
Class B	8.90	.65	.65	.25	.10
Class C	9.13	.65	.65	.25	.10
Class D	9.31	.65	.65	.25	.10
Class E	9.42	.65	.65	.25	.10
Class F	9.54	.65	.65	.25	.10
Class G	9.82	.65	.65	.25	.10
Class H	10.05	.65	.65	.25	.10
Class I	10.28	.65	.65	.25	.10
Group 14	9.70	.65	.65	.25	.10

TRUCK DRIVERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Helper and Swamper; Leverperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

Group 9 : Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

TRUCK DRIVERS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 11: Tournarocker, D.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 (15 yds. to 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yds.)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and 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 materials; Water Tank Truck (1,600 gallons and under); Fork Lift (3,000 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; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 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. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

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

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumptors; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (Truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Turnarocker and similar equipment

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.
Class I: Over 100 yds.

Group 14: Truck Mechanic

SUPERSEDEAS DECISION

STATE: Indiana
COUNTIES: *See Below
DECISION NUMBER: IN77-2082
DATE: Date of Publication
Supersedes Decision No. IN76-2147, dated October 29, 1976 in 41 FR 47747
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

*Lake, LaPorte, Porter, & St. Joseph	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lake & Porter Counties	$10.96	.66	.72		.12
LaPorte & St. Joseph Counties	12.83	.50	.21		
BOILERMAKERS	11.70	.80	1.00		.03
BRICKLAYERS:					
Lake & Porter Counties:					
Bricklayers: Marble setters & Stone Masons	11.30	.60	.55		.02
Tile setters	11.20	.45	.55		.02
LaPorte County:					
Bricklayers: Marble setters & Stone masons	11.30	.60	.55		.02
St. Joseph County:					
Bricklayers; Stonemasons	10.24	.70	.65		.05
Marble setters	9.30	.40	.35	a	.01
CARPENTERS:					
Lake, LaPorte, & Porter Counties					
Carpenters	11.33	.50	.57		.05
Millwrights	11.38	.50	.57		.05
St. Joseph County:					
Building construction:					
Carpenters; Millwrights; Pile-drivermen; Soft floor layers	9.58	.45	.50		.05
Heavy & Highway construction:					
Carpenters	9.98	.60	.60		.05
CEMENT MASONS:					
Building construction:					
Lake County (Hammond Area)	10.79	.85	.55		.03
Lake County (Remainder of Co.); Porter County (Western ½ of Co.)	9.47	.60	.65		.01
LaPorte County; Porter County (Eastern ½ of Co.)	10.08	.80	1.00		.03
Heavy and Highway construction:					
Porter County (Eastern ½ of Co.)	9.42	.60	.90		.03
Porter County (Western ½ of Co.)	9.47	.60	.65		.01
St. Joseph County	9.66	.60	.80		.04
Highway, Bridge, & Airport Construction:					
Lake County (Hammond Area)	10.10	.60	.55		.01
Lake County (Remainder of Co.)	10.00	.60	.65		.01
LaPorte County	9.42	.60	.90		.03

DECISION NO IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Lake County	$11.40	5%	6.3%		.7%
LaPorte & Porter Counties	11.40	3⅜%	5⅝%		.2%
St. Joseph County	10.65	4.8%	5%		.2%
ELEVATOR CONSTRUCTORS:					
Lake & Porter Counties:					
Elevator constructors	11.91	.345	.35	4%+b+c	.02
Helpers	8.34	.345	.35	4%+b+c	.02
Helpers (Prob.)	5.955				
LaPorte & St. Joseph Counties:					
Elevator constructors	10.29	.345	.35	4%+b+c	.02
Helpers	7.20	.345	.35	4%+b+c	.02
Helpers (Prob.)	5.145				
IRONWORKERS:					
Lake, LaPorte (Michigan City), & Porter Counties	11.58	.65	1.18		.06
LaPorte (Remainder of Co.), & St. Joseph Counties	10.40	.65	.80		.01
LATHERS:					
Lake & Porter Counties	10.44		.40		
LaPorte & St. Joseph Counties	9.07	.38	.35		.01
LEADBURNERS	9.25	.35		d	.01
PAINTERS:					
Lake County (Hammond Area):					
Commercial:					
Brush	7.90	.42	.35		.02
Sandblasting; Spray	8.65	.42	.35		.02
Paperhanging; Vinyl	8.15	.42	.35		.02
Industrial:					
Brush & Roller	8.65	.42	.35		.02
Sandblasting; Sign painters; Spray	9.40	.42	.35		.02
Lake County (Gary Area) & Porter County (North of Highway #6):					
Commercial:					
Brush	9.10	.47	.40		.05
Sandblasting; Spray; Steam-Cleaning; machine spray striping	9.85	.47	.40		.05
Paperhanger	9.35	.47	.40		.05

DECISION NO. IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Industrial:					
Brush	$10.20	.47	.40		.05
Sandblasting; Spray; Steam-cleaning; Machine spray stripping	10.95	.47	.40		.05
LaPorte County (Southern portion of County); St. Joseph County:					
Brush; Drywall Tapers & Finish; Paperhanging; Spray & Vinyl	8.29		.20		
LaPorte County (No. portion of Co.):					
Brush; Tapers	9.00				
Paperhangers	9.00				
PLASTERERS					
Lake County (Hammond Area)	9.44	.60	.55		.01
Lake County (Gary Area); Porter County (Valparaiso)	9.33	.60	.65		.01
LaPorte, Porter (Eastern ½ west to, but not including Chesterton) Counties	10.00	.80	1.00		.03
PLUMBERS:					
Lake County (Hammond Area)	11.17	.90	.75		.02
Lake County (Gary Area), LaPorte County (except LaPorte City, Michigan City, Trail Creek, & Long Beach); & Porter County	11.20	.65	1.20		.02
LaPorte County (Michigan City, Trail Creek, & Long Beach)	11.77	.50	.55		.02
PLUMBERS; Steamfitters:					
LaPorte County (LaPorte City); St. Joseph County	10.60	.48	.80		.10

DECISION NO. IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Lake & Porter Counties:					
Composition, Damp & waterproof workers; Slate, Tile & Asbestos	$11.86	.55	.35		
LaPorte & St. Joseph Counties:					
Composition, Damp & waterproof	9.50	.40	.30		.03
Slate, Tile & Asbestos	9.65	.40	.30		.03
SHEET METAL WORKERS:					
Lake, LaPorte, & Porter Counties	10.67	.48	.67		.10
St. Joseph County	10.53	.65	.615		.035
SPRINKLER FITTERS:					
Lake County (30-mile radius from Chicago, Illinois City Hall)	11.10	.75	.90		.15
Lake County (Remainder of Co.), LaPorte, Porter, & St. Joseph Counties	11.65	.65	.95		.08
TRUCK DRIVERS:					
Lake & Porter Counties:					
2 to 3 axles	8.15	24.00e	22.00 e	.40	
4 axles	8.35	24.00e	22.00 e	.40	
5 axles	8.55	24.00e	22.00 e	.40	
6 axles	8.75	24.00e	22.00 e	.40	
St. Joseph County (Building Construction):					
Pick-up	6.94	13.50e	19.50 e	f	
Single axle	7.15	13.50e	19.50 e	f	
Tandem or fuel	7.26	13.50e	19.50 e	f	
Tri axle	7.31	13.50e	19.50 e	f	
Semi trailer	7.36	13.50e	19.50 e	f	
LaPorte Co. (Bldg., Construction)					
4 wheel; sheet metal	6.80	21.50e	22.00 e	g	
6 wheel; semis	6.90	21.50e	22.00 e	g	
Transit mix	7.20	21.50e	22.00 e	g	
Euclids	7.30	21.50e	22.00 e	g	
Winch	7.05	21.50e	22.00 e	g	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F providing the employee works either the 5 days preceding or the 5 days following the holiday.
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
per man per week
1 week's paid vacation for 3 years' service, 2 weeks for 10 years' service, & 3 weeks for 15 years' service.
1 year's service - 1 week's vacation; 3 years' service - 2 weeks' vacation; 10 years' service - 3 weeks' vacation; 20 years' service - 4 weeks' vacation

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LABORERS (Sewer, Tunnel, & water Construction) St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.52	.60	.45		.09
GROUP 2	7.67	.60	.45		.09
GROUP 3	7.72	.60	.45		.09
GROUP 4	7.82	.60	.45		.09
GROUP 5	7.92	.60	.45		.09
GROUP 6:					
A.	7.72	.60	.45		.09
B.	7.87	.60	.45		.09
C.	8.32	.60	.45		.09
D.	7.82	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete paddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheatman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

LABORERS (BUILDING CONSTRUCTION):	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

AREAS

AREA I: All territories west of Cline Avenue Lake Michigan Shorelines to Illinois State Line & Newton & Jasper Counties; All territories east of Cline Avenue, Lake County; All territory north of U. S. Highway No. 20, Porter County, including all Lake Michigan Shore Front east of Cline Avenue in Lake County

AREA IA: Porter County South of U. S. Highway No. 20, Starke, LaPorte Counties

AREA IB: Elkhart, Kosciusko, LaGrange, Marshall & St. Joseph Counties

AREA IIA: Fayette, Henry, Rush, Wayne, Union, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison & Randolph Counties

AREA IIB: Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, Whitley, Benton, Boone, Carroll, Cass, Clinton, Montgomery, Pulaski, Tippecanoe, White, Fulton, Howard, Miami, & Tipton Counties

AREA IIIA: Marion & Shelby Counties

AREA IIIB: Clay, Fountain, Greene, Hendricks, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, Warren, Bartholomew, Brown, Dearborn, Decatur, Franklin, Jackson, Johnson, Jennings, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Ripley, Clark, Crawford, Floyd, Harrison, Jefferson, Perry, Scott, Switzerland, & Washington Counties

AREA IIIC: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas 1, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material/(excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

GROUP V:
A. Boiler setter laborers (Fire brick tear out with air tools)
B. Boiler setter laborers (Fire brick)
C. Boiler setter laborers (Mortar mixers)
D. Expeditor, bottom man & bell man

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Lake County	Remaining Counties				
			Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$7.85	$7.15	.60	.45		.09
GROUP 2	8.00	7.30	.60	.45		.09
GROUP 3	8.05	7.35	.60	.45		.09
GROUP 4	8.15	7.45	.60	.45		.09
GROUP 5	8.70	8.00	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

Lake, LaPorte, & Porter Counties

POWER EQUIPMENT OPERATORS Building, Sewer & Tunnel Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; fork-lift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; locomotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor patrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5) winches ½ electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

POWER EQUIPMENT OPERATORS

St. Joseph County

Building, Sewer & Tunnel Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV : Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

Lake, LaPorte, & Porter Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.35	.65	.85		.05
CLASS II	9.90	.65	.85		.05
CLASS III	9.45	.65	.85		.05
CLASS IV	8.35	.65	.85		.05
CLASS V	7.40	.65	.85		.05
St. Joseph County					
CLASS I	10.25	.65	.85		.05
CLASS II	9.80	.65	.85		.05
CLASS III	9.35	.65	.85		.05
CLASS IV	8.25	.65	.85		.05
CLASS V	7.30	.65	.85		.05

CLASSIFICATIONS

CLASS I: Auto patrol; Automatic dry batch plant; Automated sub-grader; Automated slip form paver; Automated finish machine; Backhoe - tractor mounted, ½ yd or over; Ballast regulator (R.R.); Concrete mixer, 27 cu. ft. or over; Concrete pump; Core drilling machine; Crane or derrick with any attachments, incl. Clamshell, Dragline, Shovel, Backhoe, etc.; Dredge engineer; Dredge op.; Euclid loader; Gradall; Lead greaser; Highlift shovel 3 yds. & over; Hoist - 2 & 3 drum; Locomotive op.; Lead mechanic; Mucking machine; Panelboard concrete plant (Central mix type); Paver - Hetherington; Pile drive, Skid or crawler; Road paving mixer; Ross carrier; Throttle valve & compressor or clever Brooks type combination; Throttle valve and Fireman combination on horizontal or upright boiler; Tournapull or similar type equipment; Tractor - boom; Trench machine; Tug boat op.; Winch truck with "A" Frame; Scoops, Tournapulls or similar type machines used in tandem

CLASS II: Backhoe - tractor mounted, with less than ½ yd.; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Bulldozer; Concrete mixer, less than 27 cu. ft.; Elevating grader; Excavating loader, portable; Greaser; Highlift shovel under 3 yds.; Jersey spreader or base paver; Mechanic; Pull grader, power control; Roller, asphalt, waterbound macadam, bituminous macadam, brick surface; Sheepfoot roller (self-propelled) with blade; Surface heater & planer; Tamper-multiple vibrating, asphalt waterbound macadam, bituminous macadam, brick surface; Tractor - push; Tractor with scoop; Widener, Apsco or similar type

CLASS III: Assistant plant engineer; Back filler; Bituminous distributor; Broom & belt machine; Bull float; Concrete finishing machine; Concrete spreader, power driven; Digger, post-hole, power driven; Finishing machine & bull float; Form grader; Form tamper, motor driven; Hoist - 1 drum; Multiple tamping machine; Paving breaker; Roller, earth & subbase material; Roller sheepfoot (self-propelled); Sub-grader; Tamper-multiple vibrating-earth & subbase material; Tractaire; Tractaire with drill; Tractor with all attachments, except backhoe & including highlift, endloaders of 1 cu. yd. capacity & less

CLASS IV: Air compressor; Conveyors, all; Fireman on boiler; Generator; Assistant mechanic; Power curing spraying machine; Pull broom, power propelled; Seaman tiller; Spike machine (R.R.); Striping machine, paint, motor driven; Throttle valve; Welding machine; Wellpoint systems

CLASS V: Assistant greaser; Deck hand; Hetherington driver; Mechanical heater (1 to 5); Outboard or inboard motor boat; Oiler; Power saw, concrete, power driven; Truck crane oiler-driver; Water pump; Helper on C.M.I. & similar type equipment grasscutters

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION)

LaPorte County	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$7.98	$21.50a	$22.00a		
CLASS 2	8.13	21.50a	22.00a		
CLASS 3	8.18	21.50a	22.00a		
CLASS 4	8.23	21.50a	22.00a		
CLASS 5	8.28	21.50a	22.00a		
CLASS 6	8.33	21.50a	22.00a		
CLASS 7	8.38	21.50a	22.00a		
CLASS 8	8.43	21.50a	22.00a		
CLASS 9	8.48	21.50a	22.00a		

CLASSIFICATIONS

CLASS 1
Drivers of pick-up trucks, helpers, greasers, tire men, tending batch boards & warehousemen

CLASS 2
Drivers on single axle straight trucks, batch truck wet or dry 3(3½) batches or less

CLASS 3
Drivers on single axle water trucks bituminous distributors (2-man) single axle fuel trucks

CLASS 4
Drivers on single axle "Dog Legs", tandem trucks, winch trucks or "A-Frame when used for transportation batch trucks (wet or dry) over 3(3½) batches

CLASS 5
Drivers on liquid asphalt tankers, tandem axle fuel trucks, bituminous distributors, (1 man) tandem axle water trucks

CLASS 6
Drivers on tandem trucks over 15 tons payload, single axle semi-trucks, farm tractors, hauling material, drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers or similar equip. (12 cu. yds. & under), mixer trucks (all types), pulling tilt-top trailer (single axle), low-boys (single axle), truck mounted pavement breakers

CLASS 7
Drivers on tandem "Dog Legs" trucks, truck mechanics, builders, semi-water trucks, sprinkler trucks, heavy equip., type water wagon

CLASS 8
Drivers on tri-axle trucks, tandem axle semi-trucks, drivers on equip., when not self loaded or pusher loaded, such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers, or similar equipment (over 12 cu. yds., drivers on truck pulling tilt-top trailer (tandem-axle) low-boys, tandem axle

CLASS 9
Drivers on tandem, tandem semi-trucks, drivers on heavy equip., type water wagon over 5,000 gallons, drivers on trucks pulling tilt-top trailer (tri-axle) low-boys, tandem-tandem axle

FOOTNOTE:
a. Per week Per Employee.

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TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets

GROUP B-Acey Wagons to and including 3 Buckets

GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle

GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandem Axle-Tri-Axle Batch

GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under

GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle

GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)

GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Winch Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (3½) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks

GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors (two man)

GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (3½) Batches or less-Grease & Maintenance Trucks servicing Single Axle Trucks

GROUP K-Helpers, Greasers, Tire Men, Batch Board Tenders

GROUP L-Pick-Up Trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

SUPERSEDEAS DECISION

STATE: Indiana COUNTIES: *See Below
DECISION NUMBER: IN77-2083 DATE: Date of Publication
Supersedes Decision No. IN76-2148 dated October 29, 1976 in 41 FR 47755
DESCRIPTION OF WORK: Heavy and Highway Construction

*Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Jasper, Newton, and Starke Counties	11.33	.50	.57		.05
Elkhart County	9.98	.60	.60		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Counties	10.45	.60	.50		.08
Remainder of State of Indiana	9.98	.55	.45		.05
CEMENT MASONS:					
Adams, Allen, Dekalb, Huntington, Noble, Steuben, and Whitley Counties	9.05	.75			.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Benton, Carroll (Northeast section of Co., south & west to, but not incl. Flora in the eastern section, & south to, but not incl. Rockfield, & west to, but not incl. Yeoman), Cass, Clinton, Fountain, Fulton, Howard, Jasper (excluding northeastern portion of Co., but including Wheatfield), Miami, Montgomery, Newton, Pulaski (excluding northern 2/3 of Co.), Tippecanoe, Warren, & White Cos.	$ 8.60	.45	.65		
Jasper (northeastern portion of Co. west to, but not incl. Wheatfield), Pulaski (northern 2/3 of Co.), & Starke Cos.	9.42	.60	.90		.03
Marshall Co.	9.66	.60	.80		.04
Blackford, Delaware, Grant, Jay, Randolph, Wabash, & Wells Cos.	9.75	.60			
Elkhart, Kosciusko, & LaGrange Cos.	10.03		.30		.02
Hamilton (northern ½ of Co.), Hancock (eastern ½ of Co.), Henry, Madison, & Tipton Cos.	8.23	.40	.35		
Decatur, Fayette, Franklin, Rush, Union, & Wayne Cos.	8.30		1.30		
Boone, Hamilton (southern ½ of Co., north to the new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (southern & western part, north to but not incl. Wilkinson & east to, but not incl. Fortville), Hendricks, Johnson, Marion & Morgan (northern ½ of Co.) Cos.	9.41	.65	.25		.04
Crawford, Dubois, Perry, Posey, Spencer, Vanderburgh, & Warrick Cos.	9.80	.65	.35		
Greene Co.	8.35	.40	.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Daviess, Gibson, Knox, Martin & Pike Cos.	$ 8.90	.60	.50		
Clark, Floyd, & Harrison Cos.	9.28	.60	.30		
Dearborn, Ohio, Ripley, & Switzerland Cos.	7.50				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Clay, Owen (extreme western part of Co.), Parke, Putnam, Vermillion, & Vigo Cos.	10.20	.60	.25		
Sullivan Co.	9.75	.40	.70		.01
IRONWORKERS:					
Adams, Allen, Blackford, Dekalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos.	10.75	.75	.95		.01
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	10.40	.65	.80		.01
Jasper (Northern ½ of Co.), & Newton Cos.	11.58	.65	1.18		.06
Clark, Crawford, Floyd, Harrison Jackson (southern ½ of Co.), Jefferson, Jennings (southern ½ of Co.), Lawrence (southern 2/3 of Co.), Martin (eastern ½ of Co.), Orange, Scott, & Washington Coe.	10.50	.75	.95		.05
Marion Co.	10.50	.75	1.10		.05
Dubois, Gisbon, Martin (western ½ of Co.), Perry, Pike, Posey, Spencer, Vanderburgh & Warrick Cos.	8.15	.25	.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Bartholomew, Boone, (southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (western ½ of Co.), Delaware (southern 2/3 of Co.) Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (northern ½ of Co.), Jennings (northern ½ of Co.), Johnson, Lawrence (northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	$10.65	.75	1.10		.05
Benton, Boone, (northwestern ½ of Co.), Carroll, Cass, Clinton (western 2/3 of Co.), Fountain Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos.	9.99	.75	1.05		.02
Fayette, Jay, Randolph, Union, & Wayne Cos.	10.51	.75	1.05		.04
Clay, Daviess, Greene, Knox, Lawrence (northwestern 1/6 of Co.), Parke, Putnam (western ½ of Co. incl. Greencastle), Sullivan, Vermillion, & Vigo Cos.	10.15	.75	1.70		.10
Dearborn, Decatur (eastern ½ of Co.), Franklin, Ohio, Ripley & Switzerland Cos.	11.08	.75	.85		.03
PAINTERS:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	8.25	.37	.35		.10
Sandblasters; Spray	9.25	.37	.35		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Bartholomew, Decatur, Jackson & Jennings Cos.:					
Brush; Roller; & Steel	$ 9.45		.50		
Spray	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Putnam (excluding Greencastle), Tippecanoe, & Warren Cos.:					
Brush; Roller	8.45				
Structural Steel	8.70				
Sandblasting	9.50				
Spray	11.72				
Blackford, Carroll, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, Wells (to the south city limits of Bluffton), & White Cos.:					
Brush	8.55		.60		
Spray	9.30		.60		
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (north ½ of Co.) & Shelby Cos.:					
Brush	9.31	.39	.20		
Spray	10.31	.39	.20		
Brown, Greene, Monroe, Morgan (excluding north ½ of Co.) & Owen Cos.:					
Brush	8.40			.30	
Structural Steel	9.15			.30	
Spray	9.40			.30	
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Brush	7.82	.25	.20		.03
Spray	8.39	.25	.20		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Daviess, Gibson, & Knox Cos.:					
Brush	$7.65				
Spray	8.65				
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; roller; wallwashing; Drywall taping & finish; paperhanging & vinyl; seamless floors & finishing floors; sanding	9.30				
Sandblasting & Steam clean	10.05				
Spray; Epoxy	9.80				
Tanks, elevators, bridges, Steeples over 40 ft.	10.40				
Dubois, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos.:					
Brush	10.10	.65	.30		
Spray	11.10	.65	.30		
Elkhart, Kosciusko, Marshall, Pulaski & Starke Cos.:					
Brush; Drywall taping & finish Paperhangers; Spray & Vinyl	8.29		.20		
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	7.85				
Sandblasting; Spray	8.85				
Structural Steel; Scaffold over 30 ft.	8.10				
Epoxy	9.85				
Jasper, & Newton Cos.:					
Brush	8.65	.42	.35		.02
Spray	9.40	.42	.35		.02
Lawrence, Martin, & Orange Cos.:					
Brush; & Structural Steel	8.00				
Parke, & Vermillion Cos.:					
Brush	9.15			.25	
Spray	10.65			.25	
Sullivan, & Vigo Cos.					
Brush	8.50			.25	
Spray	9.50			.25	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Sullivan, & Vigo Cos.: (Cont'd)					
Structural steel up to 30'	$ 8.75			.25	
Structural steel 30' to 100'	9.50			.25	
Structural steel over 100'	10.50			.25	

PAID HOLIDAYS:
A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 6 paid holidays: A through F.

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.15	.60	.45		.09
GROUP 2	7.50	.60	.45		.09
GROUP 3	7.35	.60	.45		.09
GROUP 4	7.45	.60	.45		.09
GROUP 5	8.00	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

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POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.30	.40	.40		.08
GROUP II	9.20	.40	.40		.08
GROUP III	8.77	.40	.40		.08
GROUP IV	7.96	.40	.40		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	9.60	.70	.80		.08
GROUP II	8.50	.70	.80		.08
GROUP III	8.07	.70	.80		.08
GROUP IV	7.26	.70	.80		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.40	.35	.35		.08
GROUP II	9.30	.35	.35		.08
GROUP III	8.87	.35	.35		.08
GROUP IV	8.06	.35	.35		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

POWER EQUIPMENT OPERATORS 2 of 3

Group 1: Air Compressors in Manifold with throttle valve; Asphalt Plant Engineer; Auto Grade or similar type machine; Auto Patrol; Backhoe on Farm type Tractor, 45 H.P. and over; Ballast Regulator (R. R.); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bull Dozer; Caisson Drilling Machine; Cherry Picker - 15 ton or over; Chip Spreader; Concrete Mixer 21 cu. ft. or over; Core Drilling Machine; Crane or Derrick with any attachment including clamshell, dragline, shovel, backhoe, etc.; Dredge Engineer; Dredge Operator; Drilling Machine on which the drill is an integral part; Earth Mover - rubber tired (paddle wheel, 619, 631, TS-24 or similar type); Earth Mover, rubber tired - tandem (50 cents per hour additional for each bowl); Elevating Grader; Fork Lift (10 ton or over); P.C.C. Formless Paver; Gradall; Gravel Processing Plant (Portable); Operator of Guard Rail Post Driver; Highlift Shovel - 1-1/2 cu. yd. or over; Hoist (2 drums and over); Helicopter - Crew; Hydraulic Boom Truck; Keystone (Skimmer Scoop); Loader - self-propelled (Belt-chain Wheel); Locomotive Operator; Mucking Machine; Panel Board Concrete Plant (Central Mix type); Paver-Hetherington; Pile Driver - Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant (portable); Roller - Asphalt, Waterbound Macadam; Bituminous Macadam, Brick Surface; Roller with Dozer Blade; Root Rake, Tractor Mounted; Self-propelled Widener; Stump Remover, Tractor Mounted; Surface Heater and Planer; Tandem Push Tractor (50 cents per hour additional); Tractor - Boom, Winch or Hoe Head; Tractor - Push; Tractor Mounted Spreader; Tree Mover; Trench Machine (over 24"); Tug Boat Operator; Well Drilling Machine; Winch Truck with A-Frame

Group 2: Air Compressor with throttle valve or Clever Brooks type combination; Backfiller; Back Hoe on Farm type Tractor, under 45 H.P.; Bull Float; Cherry Picker under 15 ton; Chip Spreader (self-propelled); Concrete Pump; Concrete Mesh Depressor - independently operated; Concrete Spreader - power driven; End Loader under 1-1/2 cu. yd.; Excavating Loader - portable; Finishing Machine and Bull Float; Gunite Machine; Head Greaser; Mechanic; Mesh or Steel Placer; Multiple Tamping Machine (R.R.); P.C.C. Concrete Belt Placer; Pull Grader - power control; Refrigerating Machine - freezing operation; Ross Carrier; Sheepfoot Roller (self-propelled); Tamper - Multiple Vibrating - Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface; Trench Machine 24" and under; Tube Float; Welder

POWER EQUIPMENT OPERATORS (Cont'd) 3 of 3

Group 3: Assistant Plant Engineer; Base Paver (Jersey or similar type machine); Concrete Finishing Machine; Concrete Mixer - less than 21 cu. ft.; Curb Machine; Farm Tractor - including farm tractor with all attathments except backhoe and including high lift end loaders of 1 cu. yd. capacity or less; Fireman (on boiler); Hoist (one drum); Operator, 5 pieces of minor equipment; Paving Breaker; Power Broom, self-propelled; Roller (Earth and Sub-base material); Slurry Seal Machine; Spike Machine (R.R.); Tamper - Multiple Vibrating - Earth and Sub-base material); Throttle Valve; Throttle Valve and Fireman combination on horizontal or upright boiler; Tractaire with Drill; Tractor - 50 H.P. or over; Well Point System; Widener (Apsco or similar type)

Group 4: Air Compressor; Assistant to Engineer - Oiler; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Chair Cart (self-propelled); Coleman Type Screen; Conveyor (portable); Deck Hand; Digger Post Hole (power-driven); Fork Lift - under 10 ton; Form Grader; Form Tamper (motor driven); Generator; Greaser Helper; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanics Helper; Mechanical Heater; Operator 1 thru 4 pcs. of minor equipment; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw - Concrete (power driven); Pug Mill; Pull Broom (power type); Seaman Tiller; Straw Blower or Brush Mulcher; Striping Machine, Paint (motor driven); Sub-grader; Tractaire; Tractor (below 50 H.P.); Truck Crane Oiler - Driver; Spreader; Water Pump; Welding Machine - 2 of 300 amps or over

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TRUCK DRIVERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets

GROUP B-Acey Wagons to and including 3 Buckets

GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle

GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandem Axle-Tri-Axle Batch

GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under

GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle

GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)

GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Mech Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (3yd) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks

GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors, (two man)

GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (3yd) Batches or less-Grease & Maintenance Trucks servicing Single Axle Trucks

GROUP K-Helpers, Greasers, Tire Men, Batch Board Tenders

GROUP L-Pick-Up Trucks

FOOTNOTE: a. PER WEEK PER EMPLOYEE

LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION 1 of 2

	ZONE 2	ZONE 2A	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP 1	$7.52	$7.15	$7.20	$6.95	$7.35
GROUP 2	7.67	7.30	7.35	7.10	7.50
GROUP 3	7.72	7.35	7.40	7.15	7.55
GROUP 4	7.82	7.45	7.50	7.25	7.65
GROUP 5	7.92	7.55	7.60	7.35	7.75
GROUP 6:					
A.	7.72	7.35	7.40	7.15	7.55
B.	7.87	7.50	7.55	7.30	7.70
C.	8.32	7.95	8.00	7.75	8.15
D.	7.82	7.45	7.50	7.25	7.65

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appt. Tr.
$.60	.45		.09

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)

ZONE 2: Elkhart & St. Joseph Counties

ZONE 2A: Kosciusko, LaGrange, & Marshall Counties.

ZONE 3: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Madison, Miami, Montgomery, Noble, Pulaski, Randolph, Rush, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties

ZONE 4: Marion & Shelby Counties

ZONE 5: Bartholomew, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, DuBois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.95	.40	.40		.05
GROUP II	8.95	.40	.40		.05
GROUP III	8.45	.40	.40		.05
GROUP IV	7.75	.40	.40		.05

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties

1 of 2

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.55	.40	.50		.08
GROUP II	10.45	.40	.50		.08
GROUP III	10.25	.40	.50		.08
GROUP IV	8.00	.40	.50		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork lifts, Tournadozer, Mixer over 1½S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapull, Tractor operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressors, Hetherington Paver Operator, Farm Tractor with half Yard bucket and/or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Blrkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Piller, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machine, Pipe Cleaning Machines, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractor Without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Boot Bake, Tug Boat Operator, Refrigerating Machine Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, all one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loaders, Hydra Crane Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled, Winch or Hydraulic Boom Truck

POWER EQUIPMENT OPERATORS 2 of 2

GROUP IV Mixers 14S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tuggers, Truck Crane Drivers, House Elevators when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Firemen, Wagon Drill, Flexylane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Digger, Self-propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Truck Jack, Mud Jack, Operator to do Winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies motor driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine, Concrete & Blacktop Curb Machine, Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

Jasper, Newton, Pulaski, & Starke Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; forklift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; loconotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck counted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor patrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches 4 electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Counties

POWER EQUIPMENT OPERATORS:
TUNNEL AND SEWER CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.35	.40	.40		.05
GROUP II	9.45	.40	.40		.05
GROUP III	8.30	.40	.40		.05
GROUP IV	7.50	.40	.40		.05

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Elkhart, Fulton, Kosciusko, LaGrange, Marshall, & Noble Counties

POWER EQUIPMENT OPERATORS
Tunnel & Sewer Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV: Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

Statewide, except Crawford, DuBois, Fountain, Gibson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Spencer, Vanderburgh, Vermillion, Warren, Clinton (Frankfort), & Warrick Counties

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LINE CONSTRUCTION Clinton (Frankfort only) & Miami (Peru & Grissom AFB)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINEMEN; Heavy equipment operators "A"	$ 10.03	.45	1%		½ of 1%
CABLE SPLICERS	10.89	.45	1%		½ of 1%
HEAVY EQUIPMENT OPERATORS "B"	8.07	.45	1%		½ of 1%
POWDERMAN; Equipment mechanic	7.89	.45	1%		½ of 1%
SENIOR GROUNDMAN - truck driver with winch	6.61	.45	1%		½ of 1%
GROUNDMAN - truck driver with winch	6.32	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 5 YEARS	6.30	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 12 MONTHS	6.11	.45	1%		½ of 1%
GROUNDMAN - truck driver without winch	5.65	.45	1%		½ of 1%
GROUNDMAN 0 to 12 MONTHS	5.23	.45	1%		½ of 1%

LINE CONSTRUCTION

Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Line truck operators; Hole digger; Stool handling cable splicer	$11.65	.40	1%		
GROUNDMAN	10.29	.40	1%		
TRUCK DRIVER	10.60	.40	1%		
Fountain, Vermillion, & Warren Counties					
LINEMEN; Groundman equipment operator	10.67	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER W/WINCH	8.75	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER WO/WINCH	8.19	.40	1%+.30		½%
GROUNDMAN	7.78	.40	1%+.30		½%

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Clinton (City of Clinton and abutting municipalities)

DECISION NO.: IA77-4099

DATE: Date of Publication

Supersedes Decision No. IA77-4064, dated March 18, 1977, in 42 FR 15266.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.85		.65		
CARPENTERS:					
Carpenters	8.90	.45	.60		
Piledrivermen	9.30	.45	.60		
Millwrights	11.00	7%	7%		.20
CEMENT MASONS	9.35		.65		
ELECTRICIANS:					
Electricians	10.95	.45	5.5%		.03
Cable splicers	11.20	.45	5.5%		.03
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	11.22	.50	.375		.07
LABORERS:					
GROUP 1 - Common laborers	8.03	.30	.25		
GROUP 2 - Operator on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man and men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials	8.28	.30	.25		
GROUP 3 - Cutting torch burner; caisson & cofferdam workers	8.33	.30	.25		
MARBLE SETTERS	9.70	.35	.50		
PAINTERS:					
Brush	8.97	.45	.65		.12
Spray; Structural steel	9.22	.45	.65		.12
PLASTERERS	9.85		.65		
PLUMBERS & STEAMFITTERS	10.31	.60	.60		.10
ROOFERS	11.20		.40		
SHEET METAL WORKERS	10.10	.45	.40		.10
SOFT FLOOR LAYERS	8.90	.45	.60		
SPRINKLER FITTERS	11.48	.65	.95		.08
TERRAZZO WORKERS	9.70	.35	.50		
TILE SETTERS	9.70	.35	.50		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IA77-4099

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Crewman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualifie Welder, Tow or Push Boat, Concrete Paver, Seaman Trew-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, D4-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread) Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

DECISION NO. IA77-4099

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Construction, alteration or repair of bridges, locks, dams levees, docks & on drainage & soil conservation work there on, which relates to the Mississippi River	$10.53	.45	.70		.04
Other heavy & highway construction:					
Carpenters & piledrivermen	8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
GROUP 1	7.30	.30	.20		
GROUP 2	7.05	.30	.20		
GROUP 3	6.80	.30	.20		
GROUP 4	6.65	.30	.20		
GROUP 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe Layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills powered by air; All work performed by Laborers working from a boa'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Bomtenders; Asphalt Curb Machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timberman; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers, electric drills, hammers, and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborer; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4099

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 7.98	.65	.50		.08
GROUP 2	7.34	.65	.50		.06
GROUP 3	6.94	.65	.50		.08
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paving or Spreader Operator; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paving; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreador (concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanical Helper or Group Greaser Helper; Farm-Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pump on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-Dry

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Des Moines (City of Burlington and abutting municipalities and Burlington Ordnance Plant)

DECISION NO.: IA77-4100

DATE: Date of Decision

Supersedes Decision No. IA76-4146, dated September 10, 1976, in 41 FR 38713.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.52		.20		
CARPENTERS:					
Carpenters	9.25	.45	.75		.04
Millwrights & piledrivermen	9.93	.45	.75		.04
CEMENT MASONS	10.25				
ELECTRICIANS	10.90	.38	1%		1%
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	10.25	.50	.30		
LABORERS:					
GROUP 1 - Common laborers; Signal man; Wrecking deck hand	7.87	.30			
GROUP 2 - Plaster tender; Mortar mixer; Mason tender; Stone & marble setter tender; Drill operator; Jackhammer man; Air tamper; Air spade (electric or pneumatic); Spraying equipment & all mechanically operated tools; Excavation work over 6 ft. deep below ground level or basement level	8.03	.30			
GROUP 3 - Tile layers (sewers)	8.13	.30			
GROUP 4 - Gunniting & sandblasting	8.24	.30			
GROUP 5 - Tunnel & sewer mucker & miner over 6 ft. deep; Caisson worker & drill operator in tunnel & caisson; Powdermen	8.34	.30			
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	a	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	6.06	.45	5%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.24	.45	5%	a	1/2%

DECISION NO. IA77-4100

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	5%	a	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.73	.45	5%	a	1/2%
PAINTERS:					
GROUP 1 - Brush	8.05		.15		
GROUP 2 - Rollers	8.15		.15		
GROUP 3 - Sign	8.55		.15		
GROUP 4 - Structural steel over 25 ft. from the ground or floor; bridges, water towers & stage work	8.75		.15		
GROUP 5 - Spray gun & sandblasting	9.05		.15		
PLASTERERS	9.88				
PLUMBERS & STEAMFITTERS	10.25	.40	.90		.05
ROOFERS	8.28			.25	
SHEET METAL WORKERS	9.85	.45	.40		.10
SOFT FLOOR LAYERS	9.25	.45	.75		.04
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS:					
GROUP 1 - Warehouseman; Helpers; Teamsters; Mechanic helpers; Greasers; Single axle flat beds & dump trucks; Pulling air compressors & welding machines; Batch trucks 2-34E batches or less; Chip spreader	8.02	13.50p/u			
GROUP 2 - Cheater axle; Tandems; 6 wheel trucks; Semi-trailers; Carryall; Winch; Mixers; Batch over 2-34E	8.23	13.50p/u			
GROUP 3 - Track trucks; Euclid type truck; Oil distributors; Front & rear; All types of dumpsters; Pavement breakers	8.33	13.50p/u			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Seven Paid Holidays A thru G

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA77-4100

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Hipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing 1 paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull and similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blaztholer Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screen Operator, Apsco Spreader or similar machine Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating Motor), Dope Chop Machine, Distributor (Back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hancor, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

DECISION NO. IA77-4100

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air tracs, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Streeser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundman; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common labor; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4100

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 7.98	.65	.50		.08
Group 2	7.34	.65	.50		.08
Group 3	6.94	.65	.50		.08
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-Dry

STATE: Kentucky COUNTIES: *See below
DECISION NUMBER: KY77-1058 DATE: Date of Publication
Supersedes Decision No.: KY76-1129 dated November 26, 1976 in 41-FR-52257
DESCRIPTION OF WORK: Building Construction (does not include single homes and garden type apartments up to and including 4 stories.)

*Counties: Hardin Jefferson, and Meade

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.66	.50	1.00		.02
Boilermakers	10.80	.75	1.00		
Bricklayers:					
Bricklayers & concrete block layers	9.83	.40	.40		
Caulkers	9.83	.40	.40		
Cleaners	9.83	.40	.40		
Pointers	9.83	.40	.40		
Stone masons	9.83	.40	.40		
Carpenters:					
Carpenters	9.65	.30	.30		
Carpenters when work in excess of 30' to 100' above ground or a solid floor on scaffold skip hoist, tower or slip form	9.90	.30	.30		
Carpenters, when working in excess of 100' above ground or a solid floor on scaffold skip hoist, tower or slip form	10.15	.30	.30		
Carpenters, when working on suspended or swinging scaffold	9.90	.30	.30		
Cement masons	9.28	.60	.30		
Electricians, linemen and hole digger	11.60	.50	1%+.40		% of 1%
Elevator constructors	11.00	.545	.35	4%+a&b	.02
Elevator constructors' helpers	7.70	.545	.35	4%+a&b	.02
Elevator constructors' helpers (prob.)	5.50				
Glaziers	8.90	.35	.45		
Ironworkers:					
Conveyormen, machinery movers	10.50	.75	.85		.05
Structural, ornamental & reinforcing	10.50	.75	.85		.05
Riggers, fence erectors, sheeters	10.50	.75	.85		.05
Lathers	10.29		.20		.01
Leadburners	8.25	.30		c	.01
Marble, tile & terrazzo workers	9.20	.40	.40		
Marble, tile & terrazzo workers' helpers	8.60				
Millwrights	10.40	.30	.60		.02

77-KY-1058 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone 1 - 35 mile radius from Jefferson Co.Courthouse, Louisville, Ky.					
New Construction:					
Basic	8.62	.35	.20		.03
Special	8.97	.35	.20		.03
Spray	9.07	.35	.20		.03
Old Construction:					
Basic	8.08	.35	.20		.03
Special	8.43	.35	.20		.03
Spray	8.53	.35	.201		.03
Zone 2 - Over 35 mile radius from Jefferson Co., Courthouse, Lousiville, Ky.					
New Construction:					
Basic	8.97	.35	.20		.03
Special	9.32	.35	.20		.03
Spray	9.42	.35	.20		.03
Old Construction:					
Basic	8.43	.35	.20		.03
Special	8.78	.35	.20		.03
Spray	8.88	.35	.20		.03
Work on bridges (over navigable water) $2.00 per hour premium all zones					
Piledrivermen	9.65	.30	.30		
Plasterers	9.85				
Plumbers:					
Zone 1 Jefferson County	11.15	.60	.90	.77	.10
Zone 2 Outside Jefferson & Warren Counties and within 35-mile radius of Jefferson & Warren Counties Courthouses and entire Ft. Knox Reservation	11.60	.60	.90	.77	.10
Zone 3 Beyond 35-mile radius of Jefferson & Warren Counties Courthouses	11.85	.60	.90	.77	.10

77KY-1058 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Roofers	7.55	.60	.25		
Slate, tile & precast concrete slab	7.95	.60	.25		
Helpers	3.80	.60	.25		
Sheet metal workers:					
Zone 1					
Jefferson County & Ft. Knox Reservation in Hardin and Meade Counties	11.08	1.077	.80		.14
Zone 2					
Hardin & Meade Counties excluding Ft. Knox Reservation	12.23	1.077	.80		.14
Soft floor layers	9.65	.30	.30		
Sprinkler fitters	11.65	.65	.95		.08
Steamfitters:					
Zone 1					
Jefferson	10.84	.50	.80	1.00	.08
Zone 2					
OUtside Jefferson County to 35-mile radius of Jefferson & Warren Counties Courthouses and all of Ft. Knox	11.29	.50	.80	1.00	.08
Zone 3					
Beyond 35-mile radius of Jefferson & Warren Counties Courthouses	11.54	.50	.80	1.00	.08

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F, plus Washington's Birthday, Christmas Eve and Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holidays and the regular scheduled work days immediately preceding and following the holidays.

PAID HOLIDAYS:
A-New Year's, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

77KY-1058 - (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	6.90	.35	.35		
GROUP II	7.10	.35	.35		
GROUP III	7.25	.35	.35		
GROUP IV	7.40	.35	.35		
GROUP V	8.10	.35	.35		

GROUP I:
Laborers, general, mobile, sweeper

GROUP II:
Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker.

GROUP III:
Air track driller, mason tender, side rail setter (metal), stackman

GROUP IV:
Powder introflax burning road, gunnite nozzle man operator, sewer, tunnel laborers (free air), sand hog or mucker (free air).

GROUP V:
Boleman driller, piers, augured caissons, sand miner (tunnel free air), caisson workers.

77KY-1058 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.80	.35	.35		.05
CLASS B	7.51	.35	.35		.05
CLASS C	6.89	.35	.35		.05

CLASS A:
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, boetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, hopt tow or push boat, concrete paver, Gradeall, hoist, hyster, pumpcrete, Koss carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydr crane, backfiller, gurries, sub-grader

CLASS B:
All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:
Bituminous distributor, cement gun, conveyor, mud jackn joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper

77KY-1058 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.61	a	a	b	
GROUP II	7.51	a	a	b	
GROUP III	7.44	a	a	b	
GROUP IV	7.33	a	a	b	
GROUP V	7.21	a	a	b	

GROUP I:
Winch trucks, A-Frame when used to transport building materials, Euclids and other heavy earth moving equipment, lowboys, fork lift trucks, when used inside warehouse of storage area

GROUP II:
Truck mechanics, concrete mixer trucks (all types, hauling only on the job site)

GROUP III:
Trucks over 3 tons, semi-trailer tandem axle or pole trailers and dumps, farm tractor when used to pull building material or equipment

GROUP IV:
Trucks 3 tons and under, mechanic helper

GROUP V:
Truck helper, warehousemen

FOOTNOTE:

a. Employer contributes $21.00 per week to Health and Welfare and $20.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period

b. Employee who have been regularly employed on a project by an employer for one year and who worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employee who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours)

STATE: Kentucky COUNTY: Boyd
DECISION NUMBER: KY77-1059 DATE: Date of Publication
Supersedes Decision No.: KY76-1110 dated September 24, 1976 in 41 FR-42113
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.05	.50	.70		.03
Boilermakers	10.25	.60	.80		.02
Bricklayers:					
Bricklayers	10.63				
Stone masons	10.63				
Carpenters:					
Carpenters	9.72	.40	.50		.03
Millwrights	10.79	.40	.37		.03
Piledrivermen	10.01	.40	.50		.03
Cement masons	10.11				
Electricians:					
Electricians	10.37	.50	1%+.47	1.02	.04
Cable splicers	10.89	.50	1%+.47	1.02	.04
Line Construction:					
Cable splicers	11.53	.45	1%+.42	1.02	½ of 1%
Groundmen	8.38	.45	1%+.42	1.02	½ of 1%
Linemen	10.48	.45	1%+.42	1.02	½ of 1%
Operators: All mechanical equipment	10.48	.45	1%+.42	1.02	½ of 1%
Elevator Constructors	9.38	.445	.29	3%+a+b	.02
Elevator Constructors' helpers	70%JR	.445	.29	3%+a+b	.02
Elevator Constructors' helpers (prob.)	50%JR				
Glaziers	9.30		.20	.20	
Ironworkers:					
Structural, Ornamental, Reinforcing	10.26	.65	.70		.01
Lathers	7.865		.10		
Leadburners	8.25	.30		d	.01
Painters:					
Commercial:					
Brush	7.53		.25		
Roller	7.69		.25		
Spray	8.05		.25		
Industrial:					
Brush	8.68		.25		
Roller & Spray	9.26		.25		
Plasterers	10.11				.01
Plumbers & Steamfitters:					
Within a 5 mile radius of 17th Street and Winchester Avenue, Ashland	9.72	.50	.85	c+1.00	.10
Over 5 mile and within a 15 mile radius of 17th Street and Winchester Avenue, Ashland	9.92	.50	.85	c+1.00	.10

KY77-1059 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters Cont'd:					
Over 15 and within 30 mile radius of 17th and Winchester Avenue, Ashland	10.12	.50	.85	c+1.00	.10
Over 30 miles radius of 17th Street and Winchester Avenue, Ashland	10.22	.50	.85	c+1.00	.10
Roofers	9.75		.40		
Sheet metal workers	10.58	.45+e	.40		.05+.02
Soft floor layers	9.72	.40	.50		.03
Sprinkler fitters	11.65	.65	.95		.08
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:

a. Six paid Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who worked in business less than 5 years.

c. Two Paid Holidays: C and F.

d. Nine Paid Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calender days prior to the holiday and the regular scheduled work days immediately preceding and following the holidays.

e. Employer contributes 3% of gross income to Stabilization Agreement of Sheet Metal Industry fund.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

KY77-1059 - (Cont'd)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	7.18	.35	.35		
Group 2	7.33	.35	.35		
Group 3	7.35	.35	.35		
Group 4	7.38	.35	.35		
Group 5	7.47	.35	.35		
Group 6	7.68	.35	.35		
Group 7	7.88	.35	.35		
Group 8	8.38	.35	.35		

LABORERS

Group 1: Laborers, carpenters' helpers, concrete men, wreckers, wall men, handlers of empty oxygen and acetylene bottles

Group 2: Hod carriers, mortar men, cement finishers' helpers, lathers and plasterers' tenders.

Group 3: Wrapping, heating and applying hot and cold tar on all pipes, applying tape on pipes and operating of tester

Group 4: Deck hand and scow men

Group 5: Jackhammer and electrical, gas or air power driven tools, burning torch, wagon drill operators and tile layers, handling or all creosote material, signal men, tool room men, asphalt raker and sandblasters

Group 6: Rock and powdermen

Group 7: Sand hog or mucker, tunnel miners

Group 8: Caisson workers

77KY-1059 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.80	.35	.35		.05
CLASS B	7.51	.35	.35		.05
CLASS C	6.89	.35	.35		.05

CLASS A:
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller, (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, hop tow or push boat, concrete paver, Gradeall, hoist, hyster, pumporete, Ross carrier, side boom, tail boo, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, Ke Cal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader

CLASS B:
All air compressor (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over) bull float, finish machine, outboard motor boat flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless or ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:
Bituminous distributor, cement gun, conveyor, mud jack joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment deckhand oiler, hydraulic post driver, and drill helper

KY77-1059 - (Cont'd)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	7.91	a	b	.80	
Group 2	8.01	a	b	.80	
Group 3	8.16	a	b	.80	
Group 4	8.21	a	b	.80	
Group 5	8.26	a	b	.80	
Group 6	8.31	a	b	.80	
Group 7	8.56	a	b	.80	

TRUCK DRIVERS

Group 1: Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flatbody material trucks (straight jobs), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cu. yds.)

Group 2: Tank trucks (straight)

Group 3: Dump trucks (5 cu. yds. or over), semi-dump trucks, semitrailers whether flat, rack or pole and hauling or pushed by trucks or tractors, agitator or mixer trucks (up to 5 cu. yds.), farm type tractors, tank truc (semi)

Group 4: Lowboys,trailers, winch trucks, fork trucks, distributors trucks (front and back end), truck cranes, monorail

Group 5: Euclids, dempsters, turnarockers, ross carriers, athey wagons or similar equipment, A-Frame, hydro-lifts, dual purpose trucks and mechanics

Group 6: Agitators or mixer trucks (5 cu. yds. and over)

Group 7: Material checkers and receivers mechanics helpers

FOOTNOTES:
a. $58.50 per month for employees employed over 30 days or more.
b. $34.67 per month for employees employed over 30 days or more.

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Marquette
DECISION NO.: MI77-2052 DATE: Date of Publication
Supersedes Decision NO. MI77-2036, dated March 4, 1977 in 42 FR 12615
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.06	.60	.50		.05
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS & STONEMASONS	8.03	.65	.50		.01
CARPENTERS & SOFT FLOOR LAYERS	9.34	.60	.50		.01
CEMENT MASONS	7.53	.65	.50		.01
ELECTRICIANS	7.10	.45	1%		.5%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a+b	.02
Helpers	7.03	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	9.15	.50	1.00	1.40	.04
LABORERS:					
Laborers	7.30	.55	.35		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Mortor driven buggy operator, sand-blasters, Tamping machines, vibrator operators	7.40	.55	.35		.04
LATHERS	8.85	.54	.10	.50	.01
MILLWRIGHTS	9.44	.60	.50		.01
PAINTERS:					
Brush & Glaziers	8.00				
PLASTERERS	7.98	.65	.50		.01
SHEET METAL WORKERS	8.88	.50	.55		
SPRINKLER FITTERS	11.65	.65	.95		.08
TILE-MARBLE & TERRAZZO WORKERS	7.78	.65	.50		.01
TILESETTERS' HELPERS	7.18	.45	.35		.01
TRUCK DRIVERS:					
Regular	7.72	22.00c	16.00c		
Heavy Duty, double axle and semi	7.85	22.00c	16.00c		
Euclid type equipment	8.08	22.00c	16.00c		

DECISION NO. MI77-2052

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic	8.72	.80	1.00	10%	.02
Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumpcrete, Belt Crete, Squeeze crete, Sweeping Machine, trencher, Winches, Well points and Greeze Systems	7.99	.80	1.00	10%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-MeMorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation payd credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

STATE: Michigan

COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee

DECISION NUMBER: MI77-2055

DATE: Date of Publication

Supersedes Decision Number MI77-2019, dated February 18, 1977 in 42 FR 10238

DESCRIPTION OF WORK: Residential Construction consisting of Single Family Homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$11.39	1.24	1.19		
Remainder of Counties	8.92	.72	1.28		.02
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.	11.15	.50	1.00		
Saginaw County	10.52	.60	.50		
St. Clair County	11.11	.90	.57		
CARPENTERS:					
Saginaw County	7.27	.60	.50		.01
St. Clair County	10.48	.75	9%	11%	.04
Remainder of Counties	9.84	.60	.50		.01
CEMENT MASONS:					
Genesee & Shiawassee Counties	9.90	.48	.45		.02
Lapeer County	9.80	.50	1.00		
Saginaw County	9.82	.60	.50		
St. Clair County	10.39	.90	.57		
ELECTRICIANS:					
Genesee, Lapeer & Shiawassee Cos.	6.63	.40	1%+.75		.02
Saginaw County	11.70		1%+.70		3%
St. Clair County	11.34	1.75	1%+1.00		.06
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	11.75	.545	.35	4%	.02
Helpers	70%JR	.545	.35	4%	.02
Helpers	50%JR				
Remainder of Counties					
Constructors	10.42	.495	.32	4%	.02
Helpers	70%JR	.495	.32	4%	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiwassee Cos.	9.09	.55	.70		.02
Saginaw County	8.45		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	10.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	14%	15%	.07

DECISION NO. MI77-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mortar Mixers (Hand)	8.04	.55	.35		.04
Plaster Mixers & Tenders	8.24	.55	.35		.04
Genesee, Lapeer & Shiawassee Cos					
Laborers	8.39	.55	.55		.04
Air, Gas & Electric Tool Oprs.	8.49	.55	.55		.04
Mortar Mixers	8.49	.55	.55		.04
Crock or Pipelayers	8.69	.55	.55		.04
St. Clair County					
Laborers; Mason Tenders	9.00	.55	.35		.04
Mortar Mixers	9.12	.55	.35		.04
Air, Gas & Electric Tool Oprs.	9.25	.55	.35		.04
Crock or Pipelayers	9.35	.55	.35		.04
LATHERS	8.85	.64	.10	.50	.01
MARBLE, TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawasee Cos	9.79	.50	1.00		
Saginaw County	9.95				
St. Clair County:					
Marble Masons	11.58	.50	.80		
Terrazzo Workers	10.80	.50	.80		
Tile setters	11.17	.50	.80		
PAINTERS:					
Genesee & Eastern ½ of Shiawassee Counties: West of Hwy. #53 in Lapeer	9.40	.50	.60		
Saginaw County	9.95		.35		.02
St. Clair Co; & East of Hwy. #53 in Lapeer County	10.71	.50	.50		.01
Western ½ of Shiawassee County	10.35	.42	.40		.005
PLASTERERS:					
Genesee, Shiawassee	9.83	.50	.25		.03
Lapeer County	10.05	.50	1.00		
St. Clair County	10.64	.90	.57		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Cos.	10.74	.80	1.00		
Saginaw County	9.83	.66	.85		.01
St. Clair County	10.12	1.48	1.20	.125	.05

DECISION NO. MI77-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular Engineer	10.52	.80	.85	10%	.05
Regular Crane Operator	10.82	.80	.85	10%	.05
Remainder of Counties					
Regular Equipment Operator; Scraper; Dozer; Grader, Front End Loader	11.40	.80	1.00	10%	.05
Bob Cat & Similar Type Equip.	10.85	.80	1.00	10%	.05
Air Compressors; Generators	9.45	.80	1.00	10%	.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	10.85	.60	.40		
Saginaw County	10.50	.75	.50		
St. Clair County	7.20				
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	9.69	.79	1.20	1.00	
Saginaw County	10.66	.65	1.00		.03
St. Clair County	10.135	1.60	10%	11%	.11
SOFT FLOOR LAYERS:					
St. Clair County	9.45	.75	7%	8%	.03
Remainder of County	8.88	.60	.50		.01
SPRINKLER FITTERS	11.67	.60	.90		.08
TRUCK DRIVERS:					
Genesee, Lapeer & Shiawassee Cos.	8.08	a17.00	a22.00		
Saginaw County					
Truck drivers	7.57	a24.00	a22.00	.26	
8 Cubic Yards & over	7.67	a24.00	a22.00	.26	
Euclid Type Equipment	7.87	a24.00	a22.00	.26	
St. Clair County					
Truck Drivers	9.19	a20.00	a25.00		
Semi Trucks	9.34	a20.00	a25.00		

FOOTNOTE:
a. Per Week, per Employee

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: BROOME
DECISION NO.: NY77-3011 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3240 dated August 20, 1976 in 41 FR 35439
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.30	.81	.35		.04
BOILERMAKER	11.50	.75	10%		.02
BRICKLAYERS:					
Bricklayers, cement masons plasterers and stone mason	9.36	.45	.35		
CARPENTERS, (BUILDING):					
Carpenters and soft floor layers	8.96	.35	.50		
Millwrights and piledrivermen	9.21	.35	.50		
CARPENTERS & PILEDRIVERMEN, (HEAVY & HIGHWAY)	9.47	.35	.50	g	.045
CEMENT MASONS, (HEAVY AND HIGHWAY)	9.19	.56	.45		
ELECTRICIANS	9.85	.70	12+.37	.43	.05
ELEVATOR CONSTRUCTORS	9.425	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.60	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	4.71				
GLAZIERS	7.18	.35	.30		.01
IRONWORKERS, STRUCTURAL, ORNAMENTAL AND REINFORCING	9.75	.56	.72		
LABORERS, (BUILDING):					
Laborers & wreckers	7.83	.60	.60		
Sewer pipelayers, tunnel laborers, rockmen & drillers, powdermen, pneumatic tool, electric tool, jackhammers and similar mechanical tools with 3/4" bits and over	8.11	.60	.60		
Hod carriers, mortar mixers (hand or machine), asphalt rakers, asphalt levelers, vibrator operator	8.00	.60	.60		
Mason tenders, scaffolf builders bootmen working in concrete	7.94	.60	.60		
LATHERS	9.03	.325	.25		.05
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.10	.65	12+.60	d	1%
Cable splicer	12.21	.65	12+.60	d	1%
Groundman digging machine operator	9.99	.65	12+.60	d	1%
Groundman mobile equipment operator	8.88	.65	12+.60	d	1%

DECISION NO. NY77-3011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Groundman truck driver	8.325	.65	12+.60	d	1%
Groundman dynamite mkn & mechanic	8.88	.65	12+.60	d	1%
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS	9.36	.45	.35		
PAINTERS:					
Painters	7.70	.35	.30		.03
Rollers over 10", sandblasting, swing scaffold, steam cleaning spray helper	8.20	.35	.30		.03
Structural steel, building, steeple jack and spray	8.70	.35	.30		.03
PLUMBERS:					
Plumbers	9.68	.72	.55		.21
Steamfitters	9.68	.72	.55		.21
ROOFERS	8.30	.64	1.20		
SHEET METAL WORKERS	9.60	3%+.60	.70		.02
SPRINKLER FITTER	11.86	.65	.95		.08
TRUCK DRIVERS, (BUILDING):					
Transit-mix, dump trucks and road oilers	5.10			e+f	
Euclids and fuel trucks	5.24			e+f	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NY77-3011

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G-Labor Day & Memorial Day

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, X-Mas Eve, and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

e. One week vacation after 7 months steady work, and 2 weeks vacation after 3 years steady work, 3 weeks after 10 years of steady work.

f. Holidays: A through F; providing employee works 3 days in the calendar week in which the holiday occurs and the scheduled work day before and after the holiday.

g. Holidays: Labor Day and Independence Day.

DECISION NO. NY77-3011

2-LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly rate	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
CLASS A	$8.04	.70	.70	a	
CLASS B	8.24	.70	.70	a	
CLASS C	8.44	.70	.70	a	
CLASS D	8.64	.70	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type) acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

DECISION NO. NYTT-3011

11-PE0-1

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.75	.50	.90	a	.10
CLASS II	9.50	.50	.90	a	.10
CLASS III	9.25	.50	.90	a	.10
CLASS IV	9.00	.50	.90	a	.10
CLASS V	8.70	.50	.90	a	.10
CLASS VI	7.33	.50	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; (provided an employee works the day before and the day after the holiday).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

Class I - Cranes with boom and jib, 175 feet and over.

Class II - Cranes with boom and jib, 130 feet and over.

Class III - Cranes with boom and jib 100 feet and over.

Class IV - Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle mobile type), cherry picker (hydralic crane) over 5 ton, compressor, pump, generator or welding machines (when used in a battery or not more than four (4), crane derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibra or sonic hammer controls (when not mounted by rig operator), tower crane.

Class V - "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scraper, cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole digger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibro tamp, well drill, well point system.

Class VI - Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine

DECISION NO. NYTT-3011

23-PE0-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T
GROUP I	$9.59	.55	1.00	a	.10
GROUP II	9.27	.55	1.00	a	.10
GROUP III	8.59	.55	1.00	a	.10
GROUP IV	7.80	.55	1.00	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (5" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over) head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kelman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

DECISION NO. WYTT-3011

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. WYTT-3011

1-TD-2-3-B

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
CLASS 1	$8.14	.60	.65	a	
CLASS 2	8.19	.60	.65	a	
CLASS 3	8.24	.60	.65	a	
CLASS 4	8.39	.60	.65	a	
CLASS 5	8.54	.60	.65	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy materi trucks (straight jobs), single axel dump trucks, dumpsters, material check and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: DUTCHESS
DECISION NO.: NY77-3012
DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3280 dated November 12, 1976 in 41 FR 50174
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and Highway construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.18	5%	10%	20%	
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS AND TILE SETTERS	9.30	1.85	2.00	g	.05
CARPENTERS, BUILDING:					
Wappingers Falls, New Hackensack Pawling and Beacon, carpenters, piledrivermen and soft floor layers	10.02	.85	.65	.80+k+1	.10
Remainder of County:					
Carpenters and soft floor layers	10.02	7½%	7½%	.80	.10
CARPENTERS, HEAVY AND HIGHWAY:					
Wappingers Falls, New Hackensack, Pawling, and Beacon:					
Carpenters	10.02	.85	.65	.80+k+1	.10
Remainder of County:					
Carpenters	10.02	7½%	7½%	.80	.10
CEMENT MASONS, BRICKLAYERS, STONE MASONS (HEAVY & HIGHWAY)	9.80	1.85	2.00	h	.05
ELECTRICIANS:					
Twps. of Pawling, Beacon, Fishkill, E. Fishkill	10.60	.79	1%+.75	.60	½%
Remainder of County	10.00	.75	1%+.85	5%+a+k	½%
Entire County: except Beacon and Fishkill:					
Repair, renovation, alteration and new installations of Electricial systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	
ELEVATOR CONSTRUCTORS	10.59	.495	.32	c+d	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.41	.495	.32	c+d	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.295				
GLAZIERS	10.70	.66	1.66	.47	.01
IRONWORKERS, STRUCTURAL, ORNA. & REINFORCING	9.75	1.45	2.02	1.50	
LATHERS	8.20	10%	.95		.01
LEAD BURNERS	10.75	.40	.25	e	.01
LINE CONSTRUCTIONS:					
Lineman	11.10	.50	1%+.50	f	3/8%
Cable splicer	12.21	.50	1%+.50	f	3/8%
Groundman digging machine operator	9.99	.50	1%+.50	f	3/8%
Groundman mobile equipment operator	8.88	.50	1%+.50	f	3/8%
Groundman truck driver	8.325	.50	1%+.50	f	3/8%
Groundman dynamite man & Mechanic	8.88	.50	1%+.50	f	3/8%
MARBLE SETTERS HELPERS	10.45			b	
PAINTERS:					
Brush	9.08	.52	.20	i	
Bridges, towers, fire escapes, smoke stacks, flag poles, swing state, window jacks, boat swain chair, safety belts, and spray structural steel	10.08	.52	.20	i	
PILEDRIVERMEN:					
Dock & wharf builders	10.92	1.25	1.73	.65	.02
PLUMBERS AND STEAMFITTERS	10.00	1.50	.60	1.30	.05
ROOFERS, ASPHALT SHINGLE	7.65	1.00	1.65	m	.35
ROOFERS, SLATE & TILE, ASBESTOS, SLAB, ASPHALT BUILTUP	10.15	1.00	1.65	m	.35
ROOFERS, PITCH, PITCH BUILTUP	10.65	1.00	1.65	m	.35
SHEET METAL WORKERS	10.24	10%	.17%	10%	.02
SPRINKLER FITTERS	11.86	.65	.95		.08
TERRAZZO WORKERS' HELPERS	10.50				
TILE SETTERS' HELPERS	10.15				
WELDERS - receive prescribed for craft performing operation to which welding is incidental					

DECISION NO. NY77-3012

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; (provided employee is on the payroll two weeks prior to the holiday).

b. Holidays: A through F, Washington's Birthday, Lincoln's Birthday, Good Friday and Columbus Day provided the employee is employed 3 days before the holiday or any of the 3 days following the holiday.

c. Holidays: A through F.

d. Employer contributes 2% of the basic hourly rate for 6 month to 5 years of service or 4% of the basic hourly rate for 5 years or more of service as vacation pay credit.

e. Holidays: A through F; Washington's Birthday, Good Friday and Xmas Eve providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

f. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

g. Holidays: A through F; and two hours off on Election Day for the purpose of voting.

h. Holidays: A through F; Wahsington's Birthday; Good Friday; Columbus Day; Veteran's Day and Nov. Election Day.

i. Holiday: C providing the employee works within the period of (June 20 to July 4th).

k. Employees receive two hours off on Election Day for purpose of voting.

l. Holidays: A through F providing the employee works 7 days before and after the holiday.

m. Employee receives two hours off on Election Day for the purpose of Voting, provided the employee has received 4 hours pay that day.

N.Y. 14-LAB-1-T

DECISION NO. NY77-3012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: BUILDING					
General laborers	$7.68	.86	1.50	a +.40	
Hod carriers (plasters' helpers), scaffold builders (padlock & self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine & hand), concrete mixers (by machine under 21-E), vibrators, form setters, pipe layers, asphalt rakers, handling reinforcement rods, working labor foremen, drillers & jackhammer op., signalmen, gunniting, motor buggs, water pump 2" or under, Barco machines, wreckers, paving breakers, power saw operator, other machine operators	7.93	.86	1.50	a +.40	
Blasters, laser beam op.	8.08	.86	1.50	a +.40	

FOOTNOTE:

a. Two hours off with pay on Election Day.

SEWER, ROAD, STREET AND HIGHWAY CONSTRUCTION

15-LAB-2-J-J

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Laborers:					
General laborers	$7.85	.86	1.55	a	
Concrete men, joint setter, signal man, mason tender, pipe layer, riprap and dry stone layers, asphalt workers, screed bar operator, steel tod carrier, jackhammerman, wagon driller, air-trac operator, nippers, powderman, high scalers, power buggy operator, vibratory operator, other compactor, wrecking laborers, gunite and sandblasting, coal passer	8.10	.86	1.55	a	
Concrete finisher on Highways, blaster, form setter, laser beam operator	8.45	.86	1.55	a	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

a. Holiday's: A through F and Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Veteran's Day and November Election Day provided the employee works (7) calendar days before or after the holiday.

N.Y.-7-PEO-1-J 1 of 2

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION: Poughkeepsie and South thereof

GROUP I: Backhoe Oliver 88, Pordoon, dynahoe, dual purpose & similar machine, Barber Green loader-Euclid loader or similar type, cherry picker (cableway), compressor (Steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsometer, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-$\frac{1}{2}$ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-$\frac{1}{2}$ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21S & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone cursher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21S, mulching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plaster roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cutting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI:

A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. Second engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 manitowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION: Poughkeepsie and South thereof

GROUP VI (CONT'D):
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII: Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overhead crane, power house plant, telephler, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, nine hoist), hoist engineer material

POWER EQUIPMENT OPERATORS, BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$12.855	6%+1.00	10%+b	a	1%
GROUP II	11.94	6%+1.00	10%+b	a	1%
GROUP III	11.795	6%+1.00	10%+b	a	1%
GROUP IV	11.665	6%+1.00	10%+b	a	1%
GROUP V	10.5125	6%+1.00	10%+b	a	1%
GROUP VI					
A	14.51	6%+1.00	10%+b	a	1%
B	13.3675	6%+1.00	10%+b	a	1%
C	9.5675	6%+1.00	10%+b	a	1%
D	12.3675	6%+1.00	10%+b	a	1%
E	11.0875	6%+1.00	10%+b	a	1%
F	11.94	6%+1.00	10%+b	a	1%
G	17.0625	6%+1.00	10%+b	a	1%
H	10.5125	6%+1.00	10%+b	a	1%
I	16.7975	6%+1.00	10%+b	a	1%
J	15.0825	6%+1.00	10%+b	a	1%
K	16.0825	6%+1.00	10%+b	a	1%
L	13.355	6%+1.00	10%+b	a	1%
M	13.855	6%+1.00	10%+b	a	1%
GROUP VII	13.0625	6%+1.00	10%+b	a	1%

FOOTNOTES:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day, X-mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS: Remainder of County

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, tesporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMI Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$9.99	.85	.60	a	.10
GROUP 2	10.06	.85	.60	a	.10
GROUP 3	10.17	.85	.60	a	.10
GROUP 4	10.36	.85	.60	a	.10
GROUP 5	10.69	.85	.60	a	.10
GROUP 6	10.84	.85	.60	a	.10
GROUP 7	11.02	.85	.60	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS: Poughkeepsie and South thereof:

GROUP I: Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, compressor (steel erection), concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, Crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), jay drill or similar tractor drill: machine, loader-1½ yds. and under, lighting unit (portable & generator), locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher quarry master, stone crusher, welding machine (steel erection-excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader heater-all types, pump 4 inches and over, pump station (water & sewer), pump-gypsum, etc., pump-plaster, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steam jenny, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, tuck jet burner or similar equipment, vibrator (1 to 5), fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck), stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4". roller motorized (walk behind) welder's helper

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP VI: Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII: Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: over 4 cu. yd. capacity $1.00 per hour additional

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. 1
GROUP I	$11.25	6¼+1.00	9¾+.25	a	
GROUP II	10.45	6¼+1.00	9¾+.25	a	
GROUP III	10.325	6¼+1.00	9¾+.25	a	
GROUP IV	10.20	6¼+1.00	9¾+.25	a	
GROUP V	9.20	6¼+1.00	9¾+.25	a	
GROUP VI	11.45	6¼+1.00	9¾+.25	a	
GROUP VII	10.825	6¼+1.00	9¾+.25	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.

DECISION NO. NTT-3012

27-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pensions	Vacation	Apr
REMAINDER OF COUNTY:					
GROUP I	$10.15	.90	.60	a	.15
GROUP II	9.82	.90	.60	a	.15
GROUP III	9.10	.90	.60	a	.15
GROUP IV	8.27	.90	.60	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working d before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backho (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or c crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and ove head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader an mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-auto mated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capaci concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.) hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

DECISION NO. NTT-3012

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (165 and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concret or pavement grinder), power broom (towed), power heaterman, revinius widenr shell winder, steam cleaner, tractor.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: NASSAU & SUFFOLK
DECISION NO.: NY77-3013 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3278 dated November 19, 1976 in 41 FR 51348
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.45	1.43	.94	1.25	
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS:					
Suffolk County:					
Center Moriches on the south shore and following Chichester Avenue, north of Walding River and areas east thereof including the Off shore islands:					
Bricklayers, cement masons, and plasterers	9.40	.40	3.00	.30	
Remainder of County:					
Bricklayers (Rehabilitation work on residential structures over 4 stories to include demolition, repair and alteration on existing structures which are intended for predominantly residential use)	8.62	1.13	1.33		
Bricklayers	10.69	1.13	3.38	.30	.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	9.60	1.55		1.35	.01
BRICKLAYERS:					
Nassau County:					
Bricklayers (Rehabilitation work on residential structures over 4 stories to include demolition, repair and alteration on existing structures which are intended for predominantly residential use)	8.62	1.13	1.33		
Bricklayers	10.69	1.13	3.38	.30	.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	9.60	1.55		.35	.01
CARPENTERS: Nassau County					
Except thatpart south of the Southern State Parkway, West of Seaford Creek -- also Smithtown Islip line on the east. Long Island Sound on the north, and Middle Island Railroad track on the south:					

DECISION NO. NY77-3013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: Nassau County (Cont'd)					
Carpenters, Piledrivers, Millwrights, Soft Floor Layer	9.78	1.30	1.29	.85	.06
Remainder of County:					
Carpenters, Soft Floor Layers, Millwrights, Dock Builders, Piledrivermen (Rehabilitation work on residential structures over 4 stories to include demolition, repair, and alteration on existing structures which are intended for predominantly residential use)	9.16	1.25	.49		.02
Carpenter, Soft Floor Layers, Millwrights, Dockbuilders, Piledrivermen	10.92	1.25	1.73	.65	.04
CARPENTERS: Suffolk County					
Fishers Island; Building carpenters & soft floor layers	9.75	.70	.45		
Remainder of County: Building carpenters, soft floor layers, piledrivermen, timbermen, wharf & dock builders	10.42	1.08	1.46	.90	.06
CARPENTERS, HEAVY & HIGHWAY:					
Carpenters, dock and wharf carpenters, piledrivermen	10.42	1.08	1.46	.90	.06
ELECTRICIANS & LINEMEN	12.85	77/8%+.40	13½%	5%	5/8%
ELEVATOR CONSTRUCTORS	10.12	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS HELPERS	7.59	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	5.06				
ELEVATOR CONSTRUCTORS REPAIR	8.50	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS REPAID HELPERS	6.38	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS MODERNIZATION	9.35	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS MODERNIZATION HELPERS	7.01	.075	.32+a	b+c	.02
GLAZIERS	10.70	.66	1.66	.47	.01

DECISION NO. NY77-3013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS, STRUCTURAL	11.75	1.30	3.00	1.60+i	.07
IRONWORKERS, ORNAMENTAL FINISHERS	10.33	1.06	2.44	.78	.04
IRONWORKERS, REINFORCING	10.10	.785	1.765	.75+h	.01
LABORERS, (BUILDING):					
Laborers, mason tenders, and mortar mixers	7.25	10%	13%	.75+e	
LATHERS, METAL	10.41	.945	1.985	.75+h	.03
LATHERS NAIL-ON SUFFOLK COUNTY:	11.35	.94	.20		
LEAD BURNERS	10.75	.40	.25	d	.01
MARBLE CARVERS	10.15	1.13	1.19	g	
MARBLE CUTTERS & SETTERS	10.00	1.13	1.19	g	
MARBLE SAWERS, RUBBERS AND POLISHERS	9.77	1.13	1.19	g	
MARBLE HELPERS, CRANE OPERATORS & DERRICKMEN	8.28	1.13	1.19	g	
MILLWRIGHTS	10.92	1.25	1.73	.65	.04
PAINTERS, SUFFOLK COUNTY:					
Brush	7.65	2.25	.60	.50	.10
Structural steel & spray	10.59	2.25	.60	.50	.10
PAINTERS, NASSAU COUNTY:					
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:					
Painter	9.20	8½%	5%+j	3%	
Spray & scaffold	11.17	8½%	5%+j	3%	
Fire escape	10.51	8½%	5%+j	3%	
West of Port Washington Blvd. and north of Powerhouse Road on the shore and west of Long Beach Road and South of Sunrise Highway on the South Shore:					
Structural steel	7.50	8%	11%		
Structural steel, spray	8.50	8%	11%		
Remainder of County:					
Painters	8.66	.97	1.50	.50	.03

DECISION NO. NY77-3013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS, NASSAU COUNTY:	10.75	.80	1.05	1.05	.20
PLUMBERS, SUFFOLK COUNTY:	10.40	1.37	1.45	1.30	.21
ROOFERS:					
Composition, damp and waterproofing	9.45	1.01	2.28	1.50	.01
Slate and tile	10.82	.55	1.20	1.75	
SHEET METAL WORKERS:					
Fishers Island, Suffolk County	10.95	.50	.66		.07
Remainder of Suffolk County and all of Nassau County	11.095	3%+.90	4%+1.20	3%+.75	1%+.03
STEAMFITTERS AND SPRINKLER FITTER	10.52	2.65	3.12	.86	.07
STONE DERRICKMEN AND RIGGERS	11.42	.98	1.01		
STONEMASONS	10.25	.50	1.00		
TERRAZZO WORKERS	10.38	1.21	1.50		
TILE SETTERS	8.75	.80	2.10		
TILE SETTERS' FINISHERS	7.90	.50	1.27		
TRUCK DRIVERS, (BUILDING):					
Ready-mix concrete, sand gravel & asphalt, bulk cement	8.87	.9675	1.8525	e+f	
Euclid and tournapulls operators	8.725	.9675	1.8525	e+f	
TUCK POINTERS:					
Tuckpointers & waterproofers	8.72	.70	1.44	.50	.015
Steam cleaners	8.97	.70	1.44	.50	.015
Sandblasters	9.72	.70	1.44	.50	.015
TRUCK DRIVERS, (HEAVY):					
Euclid and turnapull operators	8.825	.9675	1.8525	e+f	
TRUCK DRIVERS, (HIGH RISE)	8.94	.9675	1.8525	e+f	

DECISION NO. NY77-3013

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 $7.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday; Columbus Day; Armistice Day & Election Day.

c. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F; Washington's Birthday, Xmas Eve and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veteran's Day, (providing employee works two days in the calendar week in which the holiday falls and each remaining workday during such calendar week).

f. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of three weeks per year.

g. Holidays: ½ days pay for Labor Day.

h. Work on Christmas Eve and New Year's Eve will terminate at noon, but employees will receive a full day's pay.

i. New Years Eve and X-Mas Eve: If an employee works a full-half day on the working day immediately preceeding New Years day and X-Mas day, they shall receive a full days' pay.

j. Employer contributes $5.00 per day to an Annuity Fund.

10-LAB-2-3

DECISION NO. NY77-3013

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. T.
LABORERS:					
Concrete and curb form setters, Asphalt rakers	$ 7.85	10%	13%	.75+a	
Asphalt workers and roller boys, Asphalt top shovelers and smoothers, Asphalt tampers	7.65	10%	13%	.75+a	
Jackhammers, and drill men, Hoppermen, Carpenters' tenders, Pipe jointers and setters, Concrete laborers (structures), Stone spreading laborers, Trackmen, Grading and excavating laborers, Yard laborers, Puddlers on concrete pavement, Laborers (other than above) on concrete pavement, Landscape laborers, Asphalt plant (batcher and hopper men)	7.25	10%	13%	.75+a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the schedule day after the holiday.

DECISION NO. NY77-3013

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$ 11.73	8%	1.65	a	.15
Backhoe, dragline, gradall, piledriver, shovel	12.005	8%	1.65	a	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	11.905	8%	1.65	a	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	10.555	8%	1.65	a	.15
Boiler, bulldozer, compressor (on crane) compressor (pilework), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action disphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	11.555	8%	1.65	a	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	11.755	8%	1.65	a	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	11.305	8%	1.65	a	.15
Crane and boom truck (setting structural or stone)	12.13	8%	1.65	a	.15
Bulldozer (used for excavation), fireman, loading machine, powerboom, scoop (carry-all scrapper), vac-all	11.18	8%	1.65	a	.15
CMI or maxin spreader, concrete spreader, derrick, sideboom tractor	12.105	8%	1.65	a	.15
Compressor (structural steel)	11.705	8%	1.65	a	.15
Concrete saw or cutter, mixer (with skip) mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpiller or wheel	10.805	8%	1.65	a	.15

DECISION NO. NY77-3013

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Crane with clam shell bucket	12.005	8%	1.65	a	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	12.255	8%	1.65	a	.15
Boom lengths of 150' (including jib) but less than 250'	12.505	8%	1.65	a	.15
Boom lengths of 250' (including jib) but less than 350'	12.755	8%	1.65	a	.15
Boom lengths of 350'	13.255	8%	1.65	a	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	11.50	8%	1.65	a	.15
Dredge	11.88	8%	1.65	a	.15
Elevator, forklift, hoist (1 drum)	11.93	8%	1.65	a	.15
Forklift (walk-behind, power operated)	11.72	8%	1.65	a	.15
Grader	11.33	8%	1.65	a	.15
Hoist (2 and drum)	12.07	8%	1.65	a	.15
Hoist (multiple platform)	14.60	8%	1.65	a	.15
Mechanical compactors (hand operated), trench machine (hand)	10.18	8%	1.65	a	.15
Hoist tandem platform	12.98	8%	1.65	a	.15
Hydra-hammer, ridge cutter	10.72	8%	1.65	a	.15
Lead engineer	13.205	8%	1.65	a	.15
Loading machine (with capacity of 10 yds or over	11.43	8%	1.65	a	.15
Oiler, stump chipper	10.205	8%	1.65	a	.15
Power buggies	10.43	8%	1.65	a	.15
Roller, trench machine	11.805	8%	1.65	a	.15
Scoop, carry-all, scraper in tandem	12.18	8%	1.65	a	.15
Sideboom tractor (used in tank work)	12.265	8%	1.65	a	.15
Striping machine	11.23	8%	1.65	a	.15
Tank work	12.03	8%	1.65	a	.15
Tower crane (engineer)	12.50	8%	1.65	a	.15
Tower crane (oiler)	10.055	8%	1.65	a	.15
Welding machine, structural steel	11.78	8%	1.65	a	.15

PAID HOLIDAY:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.

b. Basic hourly rate includes $1.00 Vacation fund.

DECISION NO. NY77-3013

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	$ 11.73	8%	1.65	a	.15	
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	12.10	8%	1.65	a	.15	
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	11.955	8%	1.65	a	.15	
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	9.48	8%	1.65	a	.15	
Boiler	11.23	8%	1.65	a	.15	
Boring machine (post holes)	11.67	8%	1.65	a	.15	
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet) pump (submersible), pump (well point), roller (5 ton and over), scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding and burning	10.92	8%	1.65	a	.15	
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	11.455	8%	1.65	a	.15	
Compressor (2 or more in battery)	11.15	8%	1.65	a	.15	
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	11.615	8%	1.65	a	.15	
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	10.545	8%	1.65	a	.15	
Loading machine, with bucket capacity of 10 yards or over	11.17	8%	1.65	a	.15	

DECISION NO. NY77-3013

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	O
POWER EQUIPMENT OPERATORS (Cont'd.):						
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip) mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	9.83	8%	1.65	a	.15	
Dredge	11.565	8%	1.65	a	.15	
Generator	10.84	8%	1.65	a	.15	
Generator (small)	9.515	8%	1.65	a	.15	
Grader	11.135	8%	1.65	a	.15	
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	11.945	8%	1.65	a	.15	
Lead engineer	113.83	8%	1.65	a	.15	
Mechanic	9.63	8%	1.65	a	.15	
Mechanic helper	9.19	8%	1.65	a	.15	
Mechanical compactors (machine drawn), roller (over 5 tons)	11.27	8%	1.65	a	.15	
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	9.50	8%	1.65	a	.15	
Portable heaters	11.695	8%	1.65	a	.15	
Powerbroom	9.975	8%	1.65	a	.15	
Pump (concrete)	11.19	8%	1.65	a	.15	
Scoop (carry-all, scraper in tandem), tower crane (engineer)	12.855	8%	1.65	a	.15	
Tractor (caterpilla or wheel)	9.305	8%	1.65	a	.15	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day. Provided employee is employed the day before and after the holiday

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NO.: OH77-2069
DATE: Date of Publication
Supersedes Decision No. OH76-2071, dated June 4, 1976 in 41 FR 22752.
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

*Allen, Auglaize, Mercer, & Van Wert

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.45	.50	.75		
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble masons; Stonemasons; Terrazzo workers; & Tile setters	11.08		.20		
CARPENTERS; Soft floor layers	9.77	.50	.70		.02
CEMENT MASONS	10.20	.50			.05
ELECTRICIANS	10.94	.32	1%+.37		.04
ELEVATOR CONSTRUCTORS:					
Elevator constructors	9.66	.495	.32	4%a+b	.02
Helpers	70%JR	.495	.32	4%a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	8.00		.45		
IRONWORKERS	10.66	.75	1.05		.04
LABORERS:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	7.85	.55	.40		.05
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tamper; Torch man; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powder man; Gunite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters & Wagon drill/operator	8.35	.55	.40		.05

DECISION NO. OH77-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	$10.75	.40		c	.01
LINEMEN; Equipment operators	11.18	.45	1%		
MILLWRIGHTS	10.82	.50	.70		.02
PAINTERS:					
Brush; Roller; Dry wall taping	7.65	.50	.50		.01
Wall covering; Swing stage; Cherry pickers- brush & roller	7.90	.50	.50		.01
Spray; Sandblasting; Steam cleaning; Mitts; Work on petroleum storage tanks (over 30' high) brush, rollers or spray	8.05	.50	.50		.01
Structural steel (open skeleton), brush & roller	7.95	.50	.50		.01
PILEDRIVERMEN	10.37	.50	.70		.02
PLASTERERS	9.94	.50	.30		.02
PLUMBERS; Steamfitters	11.35	.40	.65		.05
ROOFERS	10.545	.60	.65		.02
SHEET METAL WORKERS	10.95	.55	.84		.15
SPRINKLER FITTERS	12.30	.65	.95		.08
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2069

POWER EQUIPMENT OPERATORS	ZONE I Basic Hourly Rates	ZONE II Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	$11.11	.46	1.00		.11
GROUP B	11.23	10.95	.46	1.00		.11
GROUP C	10.88	10.59	.46	1.00		.11
GROUP D	10.07	9.81	.46	1.00		.11
GROUP E	9.74	9.48	.46	1.00		.11
GROUP F	8.28	8.03	.46	1.00		.11

ZONE I: Allen & Van Wert Cos.
ZONE II: Auglaize & Mercer Cos.

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction od site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grador, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

DECISION NO. OH77-2069

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbr. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: OHIO COUNTY: COLUMBIANA
DECISION NO.: OH77-2075 DATE: Date of Publication
Supersedes Decision No. OH76-2060, dated May 7, 1976 in 41 FR 19001
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Twps. of E. Liverpool, Franklin, Madison, St. Clair, Wayne & Yellow Creek	9.80	.50	.50		
Twps. of Butler, Hanover, Knox, & West	10.40	.70	.45		.01
Remainder of Co.	11.34	.60	.60		.02
CARPENTERS	9.45	.87	.65		.02
CEMENT MASONS	10.57	.50	.50		.05
ELECTRICIANS:					
Twps. of Butler, Fairfield, Perry, Salem, & Unity	12.55	.56	5%		.3%
Twp. of Knox	11.20	.40	1%+.25		.3%
Remainder of Co.:					
Electricians	10.26	8%	4.5%	8%+a	1%
Cable splicers	10.66	8%	4.5%	8%+a	1%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	10.99	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.37	.40	.20		
IRONWORKERS	11.76	.40	1.15		.07
LABORERS:					
General laborers; Carpenters' tenders	7.60	.55	.40		.05
Brick & Cement mason tenders; Plasterers' tenders; Mortarmen	7.765	.55	.40		.05
Pipelayers; Air tool & power tool operators; Jackhammer operators	7.80	.55	.40		.05
LINE CONSTRUCTION:					
Knox Twp.:					
Linemen; Cable splicers	11.20	.40	1%+.25		.25%
Truck drivers	7.95	.40	1%+.25		.25%
Line equipment operators	10.60	.40	1%+.25		.25%
Groundman over 1 year	7.50	.40	1%+.25		.25%
Groundman under 1 year	7.05	.40	1%+.25		.25%

DECISION NO. OH77-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd):					
Butler, Fairfield, Perry, Salem, & Unity Twps.:					
Cable splicers; Linemen; & Pole digging equipment	$12.37	.45	1%		½%
Groundman:					
1st 6 mos.	6.185	.45	1%		½%
2nd 6 mos.	7.42	.45	1%		½%
2nd year	8.66	.45	1%		½%
3rd year	9.28	.45	1%		½%
Over 3 years	9.90	.45	1%		½%
Remainder of Co.:					
Linemen; Heavy equipment ops.	10.26	8%	4½%	8%	½%
Groundmen; Truck drivers	9.36	8%	4½%	8%	½%
Cable splicers	10.66	8%	4½%	8%	½%
MILLWRIGHTS	9.43	.40	.50		.01
PAINTERS:					
Brush; Rollers; Waterproofers	10.665	.60	.40		
Spray	11.165	.60	.40		
Drywall taping	10.815	.60	.40		
Open structural steel	10.88	.60	.40		
PLASTERERS:					
Twps. of Knox, Butler, West, & Hanover	10.40	.70	.45		.01
Remainder of Co.	10.88	.50	.50		.03
PLUMBERS; Steamfitters	12.31	.75	.50		.03
ROOFERS	10.74	.57	.40		.02
SHEET METAL WORKERS	11.84	.75	.79		.04
SPRINKLER FITTERS	12.30	.65	.95		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

DECISION NO. OH77-2075

FOOTNOTES:
a. Nine paid holidays: A through F, Day after Thanksgiving, Day before Christmas, & Good Friday
b. Six paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Garry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

DECISION NO. OH77-2075

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Saugen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. ot similar type; Tugger Hoist
CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster
CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)
CLASS V - Oiler
CLASS VI - Riga-pile driving or caisson type

SUPERSEDEAS DECISION

STATE: OHIO COUNTY: TUSCARAWAS
DECISION NO.: OH77-2074 DATE: Date of Publication
Supersedes Decision No. OH76-2054, dated April 23, 1976 in 41 FR 17285
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.335	.50	.80		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS; Stonemasons	10.40	.70	.45		.01
CARPENTERS	9.89	.40	.30		.02
CEMENT MASONS; Plasterers	10.40	.70	.45		.01
ELECTRICIANS:					
Northern part of Co.	11.20	.40	1%+.25		.3%
Southern part of Co.	10.30	.28	1%+.60		.03
ELEVATOR CONSTRUCTORS:					
Elevator constructors	11.16	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.49	.70	.77		.03
IRONWORKERS	10.62	.60	.60		.03
LABORERS:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tender; Guard rail erector	7.53	.55	.40		.05
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men; Blasters & Dynamite men	7.73	.55	.40		.05
Gunnite operators	8.13	.55	.40		.05
LINE CONSTRUCTION:					
Cable splicers; Linemen; & Equipment operators	10.83	.35	1%		½%
Groundmen:					
0-6 mos.	5.51	.35	1%		½%
After 6 mos.	5.87	.35	1%		½%
After 12 mos.	6.26	.35	1%		½%
After 18 mos.	6.62	.35	1%		½%
MARBLE SETTERS	9.10	.70	.45		
MILLWRIGHTS; Piledrivermen	10.35	.40	.30		.02
PAINTERS:					
Brush; Rollers	9.17	.55	.50		.02
Paperhangers	9.27	.55	.50		.02
Spray	9.67	.55	.50		.02
Drywall	9.57	.55	.50		.02

DECISION NO. OH77-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS	$11.32	.35	.35		.08
ROOFERS	10.74	.57	.40		.02
SHEET METAL WORKERS	10.46	.45	.60		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS	9.05	.70	.45		
TERRAZZO GRINDERS	8.52	.70	.45		
TERRAZZO WORKERS' HELPERS	8.20	.70	.45		
TILE SETTERS	8.94	.70	.45		
TILE SETTERS' HELPERS	8.09	.70	.45		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

DECISION NO. CH77-2074

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge, (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat.

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and ober discharge), trenchers 24" and under.

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator.

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machine, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finifhsing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power).

GROUP F - Oiler, helper, signalman, inboard, & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

STATE: OHIO COUNTIES: FULTON & LUCAS
DECISION NO.: OH77-2073 DATE: Date of Publication
Supersedes Decision No. OH76-2117 dated October 1, 1976 in 41 FR 43631.
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.83	.50	1.00		.04
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; & Stonemasons	11.655	.73	.80		.01
CARPENTERS; Millwrights; & Piledrivermen	11.97	.73	.50		.05
CEMENT MASONS	12.64	.50			.02
ELECTRICIANS	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.15	.545	.35	4%a+b	.02
Helpers	70%JR	.545	.35	4%a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.525	.50	.85		.01
IRONWORKERS	11.75	.73	1.06		.05
LATHERS	11.90	.65	.10		.01
LINE CONSTRUCTION:					
Linemen	12.76	.45	1%	c	.25%
Cable splicers	13.01	.45	1%	c	.25%
PAINTERS:					
Brush; Drywall tapers; Paperhangers	10.49	.65	.70		
Bridge; Railings; Powerhouse; Refinery tanks	11.04	.65	.70		
Sandblasting; Spray; Pressure cleaning	11.04	.65	.70		
PLASTERERS	12.20	.65			.01
PLUMBERS; Steamfitters; Pipefitters	12.03	.80	.85		.09
ROOFERS	11.51	.73	.85		.02
SHEET METAL WORKERS	11.825	.65	1.00		.045
SOFT FLOOR LAYERS	10.30	.73	.50		.04
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS; Tile setters	11.02	.65	.50	.25	
TERRAZZO WORKERS' HELPERS; Tile setters' helpers	10.00	.65	.50	.50	

DECISION NO. OH77-2073

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
c. Nine paid holidays: A through F, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fulton County:					
Unskilled laborers	$8.52	.55	.40		
Mason tenders; Gunite pot men	8.64	.55	.40		
All power driven tools & buggies; Burners; Torchmen; Nozzlemen for concrete pump	8.665	.55	.40		
Plasterers' tenders	8.695	.55	.40		
Nozzle operators for gunite work	9.17	.55	.40		
Bellmen; Bottom men; Brick expeditor	8.755	.55	.40		
Lucas County:					
Unskilled laborers	10.61	.55	.40		.01
Mason tenders	10.74	.55	.40		.01
Gunnite pot men; Mortar mixers	10.81	.55	.40		.01
Concrete pump nozzle men; All power driven tools; Power buggies	10.765	.55	.40		.01
Pipe layers; Bellmen; Bottom men for fire brick work only	10.865	.55	.40		.01
Nozzle operators for gunnite work	11.52	.55	.40		.01

DECISION NO. CH77-2073

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom truck (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps,cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder),mixers paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat.

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under.

GROUP D - Compressors on building construction, conveyors (building material) generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator.

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines bullfloats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled subgrader, tire repairmen, tractors pulling sheeps foot roller or grader,vibrator compactors (with integral power)

GROUP F - Oiler, helper, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: MAHONING & TRUMBULL
DECISION NUMBER: OH77-2076 DATE: Date of Publication
Supersedes Decision No. OH77-2056, dated April 15, 1977, in 42 FR 20081.
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS:					
Mahoning Co. (Smith Twp.)	10.40	.70	.45		.01
Mahoning Co. (Rem. of Co.)	11.54	.60	.60		.02
Trumbull Co.	11.84	.40	.50		.02
CARPENTERS:					
Commercial Building	9.45	.87	.65		.02
Residential	9.27	1.07	.80		.02
CEMENT MASONS:					
Mahoning & Trumbull (Twps. of Hubbard & Liberty) Cos.	10.57	.50	.50		.05
Trumbull (Rem. of Co.) Co.	10.30	.40			.01
ELECTRICIANS:					
Mahoning (Milton Twp.) & Trumbull (Excluding Hubbard & Liberty Twps.) Cos.	11.76	.60	5%		.7%
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson, Poland, Springfield, & Youngstown Twps.) & Trumbull (Hubbard & Liberty Twps.) Cos.	12.55	.56	5%		.3%
Mahoning (Smith Twp.) Co.:					
Commercial Building	11.20	.40	1%+.25		.3%
Residential (4 units only)	7.25	.30	1%+.10		.3%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	10.99	.545	.35	4%+a+b	.02
Helpers	7.69	.545	.35	4%+a+b	.02
Helpers (Prob.)	5.495				
GLAZIERS	10.37	.40	.20		
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	11.76	.40	1.15		.07
Sheeters	12.26	.40	1.15		.07
Bucker-up	11.885	.40	1.15		.07

DECISION NO. OH77-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building & Construction	$8.95	.55	.40		.05
Jackhammer op. (all machine driven tools, electric, gas or air & gas buggies)	9.08	.55	.40		.05
Mortar mixers (hand or machine)	9.07	.55	.40		.05
Trenching & shaft excavations (7' or more)	9.13	.55	.40		.05
Jackhammer op. in trench & shaft excavation (7' or more)	9.07	.55	.40		.05
Power & dynamite & sewer pipelayers	9.27	.55	.40		.05
Scrap iron burning	9.05	.55	.40		.05
Gunnite scaffold man (over 25')	9.35	.55	.40		.05
Gunnite nozzlemen; Gunnite gunman	9.53	.55	.40		.05
Plasterers hod carriers	9.15	.55	.40		.05
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Linemen; Cable splicer; Operator - pole digging equipment	12.37	.45	1%		½%
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Mahoning Co.	12.305				
MARBLE SETTERS' HELPERS ; Terrazzo workers' helpers; & Tile setters' helpers:					
Mahoning (Excluding Smith Twp.)	11.455				
MILLWRIGHTS; Piledrivermen	10.60	1.07	.80		.02

DECISION NO. OH77-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Dipping; Hydro jet cleaning; Paperhangers; Roller; Steamcleaning; Wall washing; & Waterproofing	$10.665	.60	.40		
Spray; Epoxy-mastic (Brush & Roller)	11.165	.60	.40		
Dry wall taping	10.815	.60	.40		
Open structural steel	10.88	.60	.40		
PLASTERERS:					
Mahoning Co.	10.88	.50			.03
Trumbull Co.	9.65	.50			.03
PLUMBERS; Steamfitters:					
Mahoning & Trumbull (Hubbard & Liberty Twps.) Cos.	12.31	.75	.50		.03
Trumbull Co.	10.75	.57	.65		.01
ROOFERS	11.21	.60	.70		.01
SHEET METAL WORKERS	11.84	.75	.79		.04
SOFT FLOOR LAYERS:					
Commercial Building	9.27	1.07	.80		.02
Residential	8.77	1.07	.80		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS' HELPERS; Tile setters' helpers:					
Mahoning Co. (Smith Twp.)	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 2% for employee in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday; Good Friday; & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2076

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sasgen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mech.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster
CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Dump; Flat bottom; Stake body; Batch; Water wagons; & Pickups	$9.435	.40	$22.00a		
Semis; Tandems; Mixers; Semi-water wagons; Fuel trucks; & Distributor trucks	9.655	.40	22.00a		
Euclid wagon; DW 10 caterpillars or equipment; Carry-all	9.905	.40	22.00a		
Tractor trailer (low boy)	10.005	.40	22.00a		

FOOTNOTE:
a. per week per employee

STATE: OHIO COUNTIES: HANCOCK & WOOD
DECISION NUMBER: OH77-2077 DATE: Date of Publication
Supersedes Decision Nos. OH76-2055, dated April 30, 1976 in 41 FR 18261 and OH76-2076, dated June 18, 1976 in 41 FR 24851
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

DECISION NO. OH77-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.83	.50	1.00		.04
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Hancock & Wood (Twps. of Perry & Bloom) Cos.	10.70	.50	.35		.01
BRICKLAYERS; Blocklayers; Marble masons; & Stonemasons:					
Wood Co. (Twps. of Perrysburgh, Ross & Lake)	11.655	.73	.80		.01
Wood Co. (Remainder of Co.)	11.86	.65	.45		.01
CARPENTERS:					
City of Fostoria in Hancock & Wood Cos.	10.36	.50	.80	a	.04
Remainder of Hancock & Wood Cos.	11.97	.73	.50		.05
CEMENT MASONS:					
Hancock & Wood (Except Perry & Bloom Twps.) Cos.	12.64	.50			.02
Wood Co. (Twps. of Perry & Bloom	10.70	.50	.35		.01
ELECTRICIANS	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.15	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Hancock Co.	7.50		.40		
Wood Co.	10.525	.50	.85		.01
IRONWORKERS	11.75	.73	1.06		.05
LATHERS	11.90	.65	.10		.01
LEADBURNERS	10.75	.40		d	.01
LINE CONSTRUCTION:					
Linemen	12.76	.45	1%	e	½%
Cable splicer	13.01	.45	1%	e	½%
MILLWRIGHTS; PILEDRIVERMEN	11.97	.73	.50		.05
PAINTERS:					
Hancock Co.:					
Brush; Roller; Washing & Cleaning Drywall	8.30	.40	.50		
Work between 40' & 60' above ground level	8.55	.40	.50		
60' above ground or floor level	9.40	.40	.50		
Wood Co.:					
Brush; Paperhangers; Drywall tapers & finishers	$10.49	.65	.70		
Structural steel (brush)	10.04	.65	.70		
Sandblasting; Spray	11.04	.65	.70		
PLASTERERS	12.20	.65			.01
PLUMBERS; Steamfitters; Pipefitters	12.03	.80	.85		.09
ROOFERS	11.51	.73	.85		.02
SHEET METAL WORKERS	11.825	.65	1.00		.045
SOFT FLOOR LAYERS:					
Hancock & Wood (Except Fostoria) Cos.	10.30	.73	.50		.04
Wood Co. (Fostoria)	10.36	.50	.80	a	.04
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS; Tile setters:					
Wood Co. (Except twps. of Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids)	11.02	.65	.50	.25	
TERRAZZO WORKERS' HELPERS; Marble setters' helpers; & Tile setters' helpers	10.00	.65	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 9 paid holidays: A through F, New Year's Eve, Day after Thanksgiving, & Christmas Eve

DECISION NO. OH77-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Hancock County):					
GROUP A					
Building & construction laborers, signalman, flagman, tool cribman, carpenter tenders, finisher tenders, concrete handler, utility construction laborer, guardrail erectors	$ 7.38	.55	.40		.02
GROUP B					
Bottom men, scaffold builders, tunnel laborers, pipelayers, air & power driven tools, burner on demolition work, swinging scaffold, mucker, caisson work, cofferdam worker, powder men and dynamite blasters, creosote workers, mortar mixers tenders, plaster tender, hod carrier, laser beam set up men	7.58	.55	.40		.02
GROUP C					
Gunnite Operators	7.98	.55	.40		.02
LABORERS (Wood County):					
Unskilled laborers	10.61	.55	.40		.01
Mason tenders	10.74	.55	.40		.01
Mortar mixers; Gunnite pot men	10.81	.55	.40		.01
All power driven tools & buggies	10.76½	.55	.40		.01
Pipelayers	10.86½	.55	.40		.01

DECISION NO. OH77-2077

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2078 DATE: Date of Publication
Supersedes Decision Nos. OH76-2053, dated April 16, 1976 in 41 FR 16303 and OH76-2075, dated June 11, 1976 in 41 FR 23913
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

DECISION NO. OH77-2078

*Erie, Huron, Ottawa, Richland, & Sandusky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Erie (Western ½), Ottawa, & Sandusky Cos.	$11.83	.50	1.00		.04
Erie (Eastern ½), & Huron Cos.	13.93				
Richland Co.	11.335	.50	.80		.02
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; Plasterers; Terrazzo workers; & Tile setters:					
Erie, Huron, Ottawa, & Sandusky Cos.	10.70	.50	.35		.01
BRICKLAYERS; Blocklayers; Marble masons; Stonemasons; Terrazzo workers; & Tile setters:					
Richland Co.	10.19	.50	.85		.02
CARPENTERS; Soft floor layers	10.36	.50	.80	a	.04
CEMENT MASONS:					
Erie, Huron, Ottawa, & Sandusky Cos.	10.70	.50	.35		.01
Richland Co.	10.05				
ELECTRICIANS:					
Erie, & Huron (Northern ½) Cos.	11.85	.53	1%		.1%
Huron (Southern ½), & Richland Cos.	10.90	.48	1%+.30		.1%
Ottawa & Sandusky Cos.	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Erie & Huron Cos.:					
Elevator constructors	11.955	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Ottawa & Sandusky Cos.:					
Elevator constructors	12.15	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Richland Co.:					
Elevator constructors	11.16	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Erie & Huron Cos.	$11.98	.55	.65		.01
Ottawa & Sandusky Cos.	10.525	.50	.85		.01
IRONWORKERS:					
Erie & Huron Cos.	11.72	.60	.95		.03
Ottawa & Sandusky Cos.	11.75	.73	1.06		.05
Richland Co.	10.62	.60	.60		.03
LATHERS:					
Erie & Huron Cos.	11.60				.01
Ottawa & Sandusky Cos.	11.90	.65	.10		.01
LEADBURNERS	10.75	.40		d	.01
MILLWRIGHTS; Piledriverment:					
Erie (E. of B & O Railroad tracks), Huron, & Richland Cos.	11.45	.67	1.15		.03
Erie (W. of B & O Railroad tracks), Ottawa, & Sandusky Cos	11.97	.73	.50		.05
PAINTERS:					
Erie, Huron, & Sandusky Cos.:					
Brush; Rollers; Washing & Cleaning dry wall	8.20	.50	.50		
Work between 40' & 60' above ground level	8.45	.50	.50		
60' above ground or floor level	9.30	.50	.50		
Ottawa Co.:					
Brush; Paperhangers; Drywall tapers & finishers	10.49	.65	.70		
Open structural steel-brush	10.04	.65	.70		
Sandblasting; Spray; & Pressure cleaning	11.04	.65	.70		
Richland Co.:					
Brush; Roller; Washer; & Cleaner	8.05		.50		
Drywall; Paperhangers; Wall coverer; Pot tender	8.50		.50		
Structural steel; Tanks & towers; hazardous materials incl. epoxy	8.55		.50		

DECISION NO. OH77-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Richland Co.	$9.75				
PLUMBERS; Steamfitters:					
Erie, Huron, & Richland Cos.	11.63	.50	.80		.05
Ottawa & Sandusky Cos.	12.03	.80	.85		.09
ROOFERS:					
Erie, Huron, Ottawa, & Sandusky Cos.	13.18	.25	.50		
Richland Co.	10.74	.57	.40		.02
SHEET METAL WORKERS:					
Erie, Huron, & Sandusky Cos.	11.13		.80		.02
Ottawa Co.	11.825	.65	1.00		.045
Richland Co.	10.46	.45	.60		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS' HELPERS: Marble setters' helpers; & Tile setters' helpers:					
Ottawa & Sandusky Cos.	10.00	.65	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Erie, Huron, Ottawa, & Sandusky Cos.):					
Building & construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	$9.11	.55	.40		.05
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	9.31	.55	.40		.05
Gunnite operator	9.71	.55	.40		.05
LABORERS (Richland Co.):					
General laborer; Carpenter tender; Concrete handler	7.96	.55	.40		.02
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar mixer; & Formsetter	8.16	.55	.40		.02
Gunmite operator	8.56	.55	.40		.02
LINE CONSTRUCTION:					
Erie & Huron (Northern ⅔) Cos.:					
Linemen; Technicians; Equipment operators	11.85	.53	1%		.1%
Huron (Southern ⅓), & Richland Cos.:					
Equipment operators; Lineman	10.30	.33	1%+.25		.25%
Line truck driver	6.70	.33	1%+.25		.25%
Groundman	6.18	.33	1%+.25		.25%
Ottawa & Sandusky Cos.:					
Technicians	12.33	.45	1%	a	.25%
Linemen	12.76	.45	1%	a	.25%
Cable splicers	13.01	.45	1%	a	.25%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
FOOTNOTE:					
a. 9 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve					
POWER EQUIPMENT OPERATORS:					
Erie & Huron Counties:					
GROUP A	$11.67	.46	1.00		.11
GROUP B	11.52	.46	1.00		.11
GROUP C	11.17	.46	1.00		.11
GROUP D	10.39	.46	1.00		.11
GROUP E	10.07	.46	1.00		.11
GROUP F	8.64	.46	1.00		.11
Ottawa, Richland, & Sandusky-Cos.:					
GROUP A	11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

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POWER EQUIPMENT OPERATORS (CONT'D):

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, posh cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over ½" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submersible pumps under 4" discharge

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2079 DATE: Date of Publication
Supersedes Decision Nos. OH76-2062, dated May 21, 1976 in 41 FR 21120 & OH76-2110, dated September 17, 1976 in 41 FR 40402
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*BUTLER, CLERMONT, & HAMILTON

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Butler (Middletown & Vic.)	$11.57	.50	.75		.01
Butler (Rem. of Co.), Clermont, & Hamilton Cos.	11.46	.75	.85		.02
BOILERMAKERS	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Stonemasons:					
Butler Co.	10.435	.45	.35	.45	.01
Clermont & Hamilton Cos.	11.245	.55	.35		.02
CARPENTERS:					
Carpenters	10.55	.60	.65		.075
Millwrights	10.69	.50	.85		.10
Piledrivermen	10.55	.60	.65		.075
CEMENT MASONS	10.88	.55	.70		.15
ELECTRICIANS:					
Butler Co.:					
Electricians	11.40	.40	1%+.65		1%
Cable splicers	11.90	.40	1%+.65		1%
Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	11.30	.70	1%+.40		.5%
18 to 21 mi. radius from Hamilton Co. Court House	11.60	.70	1%+.40		.5%
21 to 25 mi. radius from Hamilton Co. Court House	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House	11.85	.70	1%+.40		.5%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Butler (Hamilton & Vic.), Clermont, & Hamilton Cos.	10.10		.35		.005
Butler (Rem. of Co.)	9.88		.50		.01
IRONWORKERS:					
Butler (S. ½ of Co.), Clermont, & Hamilton Cos.:					
Ornamental & Structural	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (CONT'D):					
Butler Co. (Rem. of Co.):					
Ornamental; Reinforcing; & Structural	$10.66	.75	1.05		.04
LATHERS:					
Butler Co.	11.04		.20		.01
Clermont & Hamilton Cos.	11.67		.25		.025
LINE CONSTRUCTION:					
Butler Co:					
Inside city limits of Middletown & Hamilton:					
Equipment ops.; Linemen	11.40	.40	1%+.65		1%
Outside & west of Interstate Hwy #75:					
Equipment ops.; Linemen	11.75	.40	1%+.65		1%
Outside & east of Interstate Hwy #75:					
Equipment ops.; Linemen	11.95	.40	1%+.65		1%
Clermont & Hamilton Cos.:					
Linemen	11.30	.70	1%+.40		.5%
MARBLE SETTERS:					
Clermont & Hamilton Cos.	10.585	.55	.35		
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Butler Co.	9.88	.45	.35		
MARBLE SETTERS' HELPERS	9.635				
PAINTERS:					
Butler Co.:					
Commercial:					
Brush	9.58				
Spray	10.08				
Industrial:					
Brush	9.73				
Spray	10.23				
Clermont & Hamilton Cos.:					
Commercial:					
Brush	10.65		.25		
Spray	11.05		.25		
Industrial:					
Brush	10.80		.25		
Spray	11.20		.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS; Steamfitters:					
Clermont & Hamilton Cos.	$11.35	.875	1.15		.08
PLASTERERS	11.445		.50		.02
PLUMBERS; Steamfitters:					
Butler Co.:					
North ½ of Co.	11.45	.60	1.00		.05
South ½ of Co.	11.37	.65	1.10		.02
PLUMBERS; Gas fitters:					
Clermont & Hamilton Cos.	11.47	.75	1.05		.05
ROOFERS	11.47		.85		.01
SHEET METAL WORKERS:					
Butler Co.	10.95	.55	.84		.15
Clermont & Hamilton Cos.	11.205	.88	.81		.04
SOFT FLOOR LAYERS	8.70	.60	.65		.05
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS	10.535	.55	.35		
TERRAZZO WORKERS' HELPERS & & GRINDERS	9.585				
TILE SETTERS	10.535	.55	.35		
TILE SETTERS' HELPERS	9.535				

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 2% for less than 5 years.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction):					
Butler Co.:					
Common laborers	$8.79	.55	.40		.05
Asphalt rakers; Tamper; Smoother hand air pump; Hand air tamper chisel; Vibrator power tamper op.	8.89	.55	.40		.05
Gunnite operators; Sandblaster; Concrete pumps & hose men	9.14	.55	.40		.05
Mason tenders; Mortar mixers; & Scaffold builders	9.12	.55	.40		.05
Clermont & Hamilton Cos.:					
GROUP 1	9.30	.55	.40		.05
GROUP 2	9.40	.55	.40		.05
GROUP 3	9.45	.55	.40		.05
GROUP 4	9.50	.55	.40		.05
GROUP 5	9.65	.55	.40		.05
GROUP 6	9.80	.55	.40		.05
GROUP 7	10.05	.55	.40		.05

Group 1: Common Laborers, Cement Masons Helpers, Hand Operated Mechanical Mule, Mechanical Sweeper, Signal Man.

Group 2: Bottom Man, Pipelayer

Group 3: Burning Torch Operator, Jackhammer, Mechanical and Air Tamper Operator, Mechanical Concrete Buggies, power operated mechanical mule, Concrete Pump hose Man, Vibrator Man

Group 4: Plasterer's Tender, Mason Tender, Stone Mason Tender, Bottom Jackhammer Man

Group 5: Plaster Mixer Pump Operator

Group 6: Tunnel Laborer

Group 7: Gunnite Nozzle Operator

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Demolition Construction):					
Clermont & Hamilton Cos.:					
Wrecking laborers	$8.77	.55	.40		.05
Jackhammer man; Burner; & welder man	8.92	.55	.40		.05
POWER EQUIPMENT OPERATORS:					
GROUP A	11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

Group A: A-frame, air compresson on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom turcks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum) mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat

Group B: Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines power grader,power scoops, power scrapers, push cat

Group C: Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under

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POWER EQUIPMENT OPERATORS: (Cont'd)

Group D: Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator

Group E: Backfillers and tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concerte spreading machine, curbers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 1/2" discharge, hydro seeders, self propelled power spreader, self-propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

Group F: Oiler, helper, signalman, inboard and outboard motor boat launch, light plant operator, power driven heaters (oil fire), powered boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge

STATE: OHIO — COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2080 — DATE: Date of Publication
Supersedes Decision Nos. OH76-2073, dated June 4, 1976 in 41 FR 22754; OH76-2074, dated June 11, 1976 in 41 FR 23911; & OH77-2037, dated March 11, 1977 in 42 FR 18793
DESCRIPTION OF WORK: Building & Residential Construction

*ASHTABULA, CUYAHOGA, LAKE, LORAIN, PORTAGE, STARK, & SUMMIT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake, & Lorain Cos.	$13.93				
Ashtabula (Rem. of Co.)	10.74	.45	.70		.02
Remaining Cos.	11.335	.50	.80		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.:					
Commercial Construction	10.97	.57	.50		.02
Residential Construction	9.27	.50	.40		.02
Stark Co.	10.40	.70	.45		.01
CARPENTERS; Millwrights; Piledrivermen; Soft floor layers:					
Ashtabula, Cuyahoga, & Lake Cos.					
Carpenters; Soft floor layers	11.60	.67	1.00		.03
Millwrights; Piledrivermen	11.45	.67	1.15		.03
Portage & Summit Cos.:					
Carpenters	11.00	.40	.50		.02
Millwrights; Piledrivermen	11.45	.67	1.15		.03
Soft floor layers	10.40	.40	.70		
Stark Co.:					
Carpenters	9.89	.40	.30		.02
Millwrights; Piledrivermen	10.35	.40	.30		.02
Soft floor layers	9.73	.40	.30		.02
Lorain Co.:					
Carpenters; Soft floor layers	10.36	.50	.80	a	.04
Millwrights; Piledrivermen	11.45	.67	1.15		.03
CEMENT MASONS:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	12.88				
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	10.24	.45	.50		
Residential Construction	9.27	.45	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	$12.15	.50	1%+.43		.02
Lake Co.:					
Commercial Construction	11.88	.70	1%+.50		.3%
Residential Construction	5.90	.50	1%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	11.68	.60	1%+.80		.1%
Residential Construction	6.48	.60	1%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.33	.47	1%+.50		.2%
Residential Construction	7.25	.47	1%+.50		.2%
Portage (Rem. of Co.) & Stark Co.:					
Commercial Construction	11.20	.40	1%+.25		.3%
Residential Construction	7.25	.30	1%+.10		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	11.76	.60	5%		.7%
Ashtabula Co. (Rem. of Co.)	11.70	.65	1%+.75		.2%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.:					
Elevator constructors	9.95	.495	.32	4%+b+c	.02
Helpers	70%JR	.495	.32	4%+b+c	.02
Helpers (Prob.)	50%JR				
Cuyahoga, Lake, & Lorain Cos.:					
Elevator constructors	11.955	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator constructors	11.305	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Ashtabula, Cuyahoga, Lake, Lorain, & Portage Cos.	11.98	.55	.65		.01
Stark & Summit Cos.	9.49	.70	.77		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	$11.72	.60	.95		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	11.76	.40	1.15		.07
Bucker-up	11.885	.40	1.15		.07
Sheeter	12.26	.40	1.15		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	10.62	.60	.60		.03
Bucker-up	10.745	.60	.60		.03
Sheeter-side	10.87	.60	.60		.03
Sheeter-roof	11.12	.60	.60		.03
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.03		1.00		.01
Lorain (Rem. of Co.)	11.60				.01
Portage & Summit (So. part of Co.) Cos.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		d	.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Linemen; Pole digging equipment op.	12.37	.45	1%		½%
Groundmen:					
Over 3 yrs.	9.90	.45	1%		½%
3rd yr.	9.28	.45	1%		½%
2nd yr.	8.66	.45	1%		½%
2nd 6 mos.	7.42	.45	1%		½%
1st 6 mos.	6.185	.45	1%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line truck driver; Linemen	$11.70	.65	1%+.75		½%
Groundmen:					
Over 12 mos.	8.75	.65	1%+.75		½%
6 - 12 mos.	7.60	.65	1%+.75		½%
0 - 6 mos.	6.45	.65	1%+.75		½%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable splicers; Equipment ops.; Linemen; & Welders	12.73	.35	1%		½%
Lake Co.:					
Equipment operators; Linemen	11.63	.70	1%+.50		½%
Lorain (Rem. of Co.) Co.:					
Cable splicers; Equipment ops.; & Linemen	11.68	.60	1%+.80		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	11.23	.57	1%+.65		½%
Cable splicers	12.03	.57	1%+.65		½%
Groundmen; Truck drivers	5.62	.57	1%+.65		½%
Equipment operators	8.42	.57	1%+.65		½%
Portage (Rem. of Co.) Co.:					
Cable splicer; Linemen; Pole digging equipment	12.37	.45	1%		½%
Stark Co.:					
Cable splicers; Linemen	11.20	.40	1%+.25		.25%
Truck drivers	7.95	.40	1%+.25		.25%
Groundmen:					
Over 1 yr's experience	7.50	.40	1%+.25		.25%
Under 1 yr's experience	7.05	.40	1%+.25		.25%
Line equipment ops.	10.60	.40	1%+.25		.25%
MARBLE SETTERS:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	9.10	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS:					
Ashtabula, Cuyahoga, & Lake Cos.	$11.06		.50		
Portage & Summit Cos.	9.61	.52	.25		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	11.66	.63	.74		.05
Swing stage; Window jack	11.96	.63	.74		.05
Tapers	12.36	.63	.74		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	8.70				
Spray	9.30				
Roller; Taping	8.95				
Residential Construction:					
Brush	8.35				
Spray	8.85				
Taping	8.75				
Portage (Rem. of Co.), & Summit (Rem. of Co.) Cos.:					
Brush; Rollers; Paperhangers	9.40	.62	.60		
Drywall finisher & taper; Spray	9.90	.62	.60		
Structural steel	9.65	.62	.60		
Stark Co.:					
Brush; Roller	9.17	.55	.50		.02
Paperhangers	9.27	.55	.50		.02
Drywall	9.57	.55	.50		.02
Spray	9.67	.55	.50		.02
Drywall with machines	9.92	.55	.50		.02
PIPEFITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.42	1.05	.80		.05
PLASTERERS:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	13.18				.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage, & Summit Cos.	10.11	.45	.50		.01
Stark Co.	10.40	.70	.45		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Ashtabula, Cuyahoga, Lake, & Summit (No. of Rte. #303) Cos.	$12.28	.75	1.00		.02
Lorain Co.	11.63	.50	.80		.05
Portage & Summit (So. of Rte. #303) Cos.	10.61	.79	.90		.04
Stark Co.	11.57	.45	.55	e	.05
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	13.18	.25	.50		
Portage, Stark, & Summit Cos.:					
Roofers	10.74	.57	.40		.02
Helpers:					
1st yr.	60%JR	.57	.40		.02
2nd yr.	70%JR	.57	.40		.02
3rd yr.	80%JR	.57	.40		.02
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	11.38	.60	1.10		.02
Lorain Co.	11.83	.60	.60		.04
Portage, Stark, & Summit Cos.	10.46	.45	.60		.02
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.42	1.05	.80		.05
Lake, Portage, Stark, & Summit Cos.	12.30	.65	.95		.08
STEAMFITTERS:					
Lorain Co.	11.63	.50	.80		.05
TERRAZZO WORKERS:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.:					
Terrazzo workers	9.05	.70	.45		
Terrazzo grinders	8.52	.70	.45		
TERRAZZO WORKERS' HELPERS:					
Cuyahoga & Lake Cos.	11.62		.50		
Portage & Summit Cos.	9.61	.52	.25		
Stark Co.	8.09	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Ashtabula Co.	$10.66	.60	.50		
Cuyahoga Co.	10.495	1.36			
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	8.94	.70	.45		
TILE SETTERS' HELPERS:					
Cuyahoga & Lake Cos.	11.59		.50		
Portage & Summit Cos.	9.61	.52	.25		
Stark Co.	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS (Ashtabula County): Sheeting & shoring men; Asphalt rakers & tampers; Dumpmen (Batch truck); Signalmen; Concrete workers; Building wreckers; Tool checkers; Carpenters' tenders; Construction laborers; All work not mentioned in classifications below to be paid at the rate of construction laborers	8.85				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D): Spreader box men (asphalt); Stone masons' assistant; Plasterers or mortar mixers squeeze man	$9.00				
Air & machine driven tool op.; Sewer pipe layers; Bottom men (6' & over); Power driven wheelbarrows & sweepers; Brick batter & droppers	9.05				
Stackmen; Swinging scaffold men	9.15				
Tunnel laborers	9.25				
Gunnite ops.	9.35				
Power blasters	9.40				
LABORERS (Cuyahoga County): Construction	9.97	1.27	1.20		
Sewer & Utility; Power driven tools & vibrators	10.12	1.27	1.20		
Jackhammer; Acetylene burners; Muckers	10.17	1.27	1.20		
Swinging scaffolds	10.22	1.27	1.20		
Gunnite ops.; Blasters; Shooters; Caisson; Well cylinders; Mine workers w/o air; & Cofferdams	10.29	1.27	1.20		
Topman on free standing radial stack	10.47	1.27	1.20		
LABORERS (Lake County): Building & Construction	9.80	.55	.40		
Gunite op.; Blasters & shooters; Caissons; Wells; Cylinder cofferdams; Mine workers w/o air; Swing scaffolds; Acetylene burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire brick tenders	10.05	.55	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Lorain County):					
Building & construction; Signalmen; Flagmen; Tool crib; Carpenter tender; Finisher tender; Concrete handler; Guard rail erector	$9.13	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson worker; Cofferdam workers; Powder men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set up man	9.33	.55	.40		.05
Gunnite operator	9.73	.55	.40		.05
LABORERS (Portage & Summit Cos.):					
Residential Construction	7.70	.50	.30		.02
Common laborers; Welders' helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	9.25	.50	.30		.02
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or electric	9.40	.50	.30		.02
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	9.45	.50	.30		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Gunite nozzlemen; Tunnel miners; Water line caulkers; Dynamite men; Pump hose nozzlemen	$9.75	.50	.30		.02
LABORERS (Stark County):					
Building & construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	7.96	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	8.16	.55	.40		.05
Gunnite operator	8.56	.55	.40		.05
POWER EQUIPMENT OPERATORS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	11.67	.46	1.00		.11
GROUP B	11.52	.46	1.00		.11
GROUP C	11.17	.46	1.00		.11
GROUP D	10.39	.46	1.00		.11
GROUP E	10.07	.46	1.00		.11
GROUP F	8.64	.46	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

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GROUP A - A-Frames; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op. when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road wideningtrencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2081 DATE: Date of Publication
Supersedes Decision No.: OH77-2005 dated January 21, 1977, in 42 FR 4093
DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)

*CLARK, FRANKLIN, GREENE, LAWRENCE, LICKING, MADISON, MONTGOMERY, MUSKINGUM, PICKAWAY, PIKE, ROSS, & SCIOTO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Greene, & Montgomery Cos.	$11.57	.50	.75		.01
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos	11.92	.45	.85		.02
Lawrence, Pike, & Scioto Cos.	11.05	.50	.70		.03
BOILERMAKERS	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Clark Co.	10.60				
Franklin, Madison, & Pickaway Cos.:					
Bricklayers; Stonemasons	10.64	.80	.80		.02
Rubble work	9.64	.40	.70		.01
Marble setters; Terrazzo workers; & Tile setters	10.65				
Greene, & Montgomery Cos.:					
Bricklayers; Caulkers; Cleaners Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		
Lawrence Co.	9.00				
Licking & Muskingum Cos.	9.68	.45	.50		.02
Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	10.50				
Scioto Co.:					
Bricklayers; Caulkers; Cleaners Marble setters; Pointers; & Stonemasons	9.90				
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Clark, Franklin, Licking, Madison, Muskingum, & Pickaway:					
Carpenters; Soft floor layers	9.67	.40	.50		.02
Millwrights; Piledrivermen	10.27	.40	.50		.02
Greene, & Montgomery Cos.:					
Carpenters; & Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.44	.65	.72		
Soft floor layers	9.30	.65	.70		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Lawrence, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	$9.72	.40	.50		.03
Piledrivermen	10.01	.40	.50		.03
Millwrights	10.79	.40	.37		.03
CEMENT MASONS:					
Clark Co.	10.60				
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.90	.50	.20		.03
Greene, & Montgomery Cos.	9.78	.50	.60		.07
Lawrence Co.	9.00				
Pike & Scioto Cos.	10.92				
ELECTRICIANS:					
Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	10.44	.45	1%+.75		.04
Franklin, Madison (E. portion), Pickaway (N. & central portions)	10.98	.28	1%+.60		.03
Greene, & Montgomery Cos.:					
Electrical communications installers - Zone I (within 11 mile radius of 3rd & Main Street, Dayton)	11.08	.45	1%+1.00		.5%
Electrical communications installers - Zone II (beyond 11 mile radius of 3rd & Main Street, Dayton)	11.31	.45	1%+1.00		.5%
Lawrence Co.	10.37	.50	1%+.45	1.00	.04
Licking Co.	10.30	.28	1%+.60		.03
Muskingum Co.	10.00	.28	1%+.60		.03
Pickaway (S. part), Pike (N. part), & Ross Cos.	10.95	.29	1%		.02
Pike (S. part), & Scioto Cos.	10.50	.50	1%+.40	.52	.04
ELEVATOR CONSTRUCTORS:					
Clark, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.:					
Elevator constructors	11.16	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Greene, & Montgomery Cos.:					
Elevator constructors	10.635	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D):					
Lawrence, Pike, & Scioto Cos.:					
Elevator constructors	$10.945	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Clark, & Montgomer, Cos.	9.88		.50		.01
Franklin, Licking, Madison, Muskingum, Pickaway, Pike, & Ross Cos.	9.77	.57			.005
Lawrence, & Scioto Cos.	9.50		.20		
IRONWORKERS:					
Clark (W 3/4), Greene, & Montgomery Cos.:					
Within 15 mile radius of Local Union #290 office	10.51	.75	1.05		.04
Beyond 15 mile radius of Local Union #290 office	10.66	.75	1.05		.04
Clark (E. 1/4), Muskingum, Pike, & Ross Cos.	10.60	.75	1.35		.05
Franklin Co.	10.35	.75	1.35		.05
Lawrence, & Scioto Cos.	10.26	.65	.70		.01
Licking, Madison, & Pickaway Cos.	10.50	.75	1.35		.05
LATHERS:					
Clark, Franklin, Licking, Madison, Muskingum, & Pickaway Cos.	10.65		.10		.01
Greene, & Montgomery Cos.	11.04		.20		.01
Lawrence Co.	9.315		.10		
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Clark Co.:					
Cable splicers & Linemen	9.11	.35	1%		.25%
Equipment operators:					
0 to 1/2 yr.	5.49	.35	1%		.25%
1/2 yr. to 1 yr.	6.54	.35	1%		.25%
1 yr. or more	7.66	.35	1%		.25%
Groundmen or Truck drivers:					
0 to 1 yr.	4.47	.35	1%		.25%
1 yr. or more	5.27	.35	1%		.25%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Franklin Co.:					
Cable splicers & Linemen	$9.20	.35	1%		1/2%
Equipment operators:					
0 to 1/2 yr.	5.87	.35	1%		1/2%
1/2 to 1 yr.	7.00	.35	1%		1/2%
1 yr. or more	8.20	.35	1%		1/2%
Groundmen or Truck drivers:					
0 to 1 yr.	4.78	.35	1%		1/2%
1 yr. or more	5.64	.35	1%		1/2%
Greene, & Montgomery Cos.:					
Linemen within 11 mile radius of 3rd & Main Street, Dayton	11.08	.45	1%+1.00		1/2%
Linemen beyond 11 mile radius of 3rd & Main Street, Dayton	11.31	.45	1%+1.00		1/2%
Lawrence, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Union), & Scioto Cos.:					
Linemen; & Operators: All mechanized equipment	10.48	.45	1%+.40	1.00	1/2%
Cable splicers	11.53	.45	1%+.40	1.00	1/2%
Groundmen	8.38	.45	1%+.40	1.00	1/2%
Licking Co.:					
Cable splicers	11.66	.45	1%		1/2%
Equipment ops.; Linemen	10.98	.45	1%		1/2%
Groundman; Truck drivers:					
Over 1 yr.	8.72	.45	1%		1/2%
0 - 1 yr.	7.79	.45	1%		1/2%
Madison Co.(Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant); & Pickaway Co.(Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington):					
Cable splicers; Equipment ops.; Linemen	11.56	.35	1%		1/2%
Groundmen:					
0 to 6 mos.	5.51	.35	1%		1/2%
After 6 mos.	5.87	.35	1%		1/2%
After 12 mos.	6.26	.35	1%		1/2%
After 18 mos.	6.62	.35	1%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Muskingum Co.:					
Cable splicer; Equipment ops.; & Linemen	$10.53	.35	1%		1/2%
Groundmen					
0 to 6 mos.	5.51	.35	1%		1/2%
After 6 mos.	5.87	.35	1%		1/2%
After 12 mos.	6.26	.35	1%		1/2%
After 18 mos.	6.62	.35	1%		1/2%
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops. & Linemen	10.95	.28	1%		.02
Truck drivers	6.47	.28	1%		.02
Groundmen	6.17	.28	1%		.02
MARBLE SETTERS' HELPERS; Terrazzo Workers' Helpers; & Tile Setters' Helpers:					
Franklin, Madison, & Pickaway Cos.:					
Marble setters' helpers; Terrazzo workers' helpers; & Tile setters' helpers	8.50				
Terrazzo base grinders	8.85				
Terrazzo floor grinders	8.65				
Greene, & Montgomery Cos.:					
Marble setters' helpers; Terrazzo workers' helpers; & Tile setters' helpers	8.34				
Lawrence, & Scioto Cos.:					
Marble setters' helpers	9.635				
Terrazzo workers' helpers & grinders	9.585				
Terrazzo base grinders	10.005				
Tile setters' helpers	9.535				
PAINTERS:					
Clark Co.:					
Brush; Paperhangers (Tools furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural steel	8.35	.10	.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Franklin, Madison, & Pickaway Cos.:					
Brush; Paperhanger; Roller; & Wall washing	$9.45	.55	.55		
Spray	9.95	.55	.55		
Structural steel; & Swing stage	9.75	.55	.55		
Sandblasting; Steamcleaning; & Water tanks	10.15	.55	.55		
Drywall tapers & Finishers	9.85	.55	.55		
Greene & Montgomery Cos.:					
Brush; & Roller	11.05	.40	.40		.02
Scaffolds; Structural steel; & Swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & Finishing; & Taping	11.05	.40	.40		.02
Steeple jack work	11.80	.40	.40		.02
Lawrence Co.:					
Brush; Roller	7.65				
Drywall taping; & Structural steel	8.50				
Spray	9.00				
Paperhangers; & Wallwashing	8.15				
Licking & Muskingum Cos.:					
Brush; & Paperhangers	7.00				
Structural steel	7.65				
Spray	7.45				
Smoke stacks; Tanks; & Water towers	7.65				
Pike, & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	10.20		.40		
Rollers; Floor sanding; Power tools	10.45		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	11.20		.40		
Ross Co.:					
Brush; Roller; & Taping	8.25				
Structural steel	8.50				
Sandblast; & Spray	9.00				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Clark, Greene, & Montgomery Cos.	$11.25				
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.94	.50	.30		.02
Lawrence Co.	9.00				
Pike, & Scioto Cos.	10.92				
PLUMBERS; & Steamfitters:					
Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Madison (W. of Rte. #38 incl. city of London) Cos.	11.01	.58	.80		.04
Franklin, Licking, Madison (E. of Rte #38 not incl. city of London), Pickaway, & Ross Cos.	11.82	.55	.80		.05
Greene (exclu. Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Montgomery Cos.	11.81	.55	.80		.03
Lawrence, Pike, & Scioto Cos.	10.87	.55	.75		
Licking Co.		.55	.80		.05
Muskingum Co.	11.32	.35	.35		.08
ROOFERS:					
Clark, Greene, & Montgomery Cos.:					
Composition, damp, & waterproof workers	10.50	.80	.50		
Slate, Tile, & Asbestos	10.72	.80	.50		
Helpers:					
1st yr.	60%JR	.80	.50		
2nd yr.	70%JR	.80	.50		
3rd yr.	80%JR	.80	.50		
4th yr.	90%JR	.80	.50		
Franklin, Licking, Madison, Pickaway, & Ross Cos.	10.545	.60	.65		.02
Lawrence, Muskingum, Pike, & Scioto Cos.	10.45		.40		
SHEET METAL WORKERS:					
Clark, Greene, & Montgomery Cos.	10.95	.55+d	.84		.15
Franklin, Lawrence, Licking, Madison, Muskingum, Pickaway, Pike, Ross, & Scioto Cos.	10.82	.45+d	1.05		.10
SPRINKLER FITTERS	12.30	.65	.95		.08

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Clark Co.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	$7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powder man & blaster	8.10	.55	.40		.05
Franklin, Madison & Pickaway Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape; Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all windows; A man on bucket pouring concrete; Conveyor belt	8.09	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jack hammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy ops.; Power wheelbarrow ops.; Asphalt &					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.29	.55	.40		.05
Greene & Montgomery Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers by hand; Swinging scaffold over 15'	8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & Bottom men	8.64	.55	.40		.05
Caisson work; Scaffold with power tools	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powder man	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Lawrence, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.27	.55	.40		.05
Sheeting & Shoring men	7.37	.55	.40		.05
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.42	.55	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies	$7.52	.55	.40		.05
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	7.84	.55	.40		.05
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.19	.55	.40		.05
Common Laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	7.97	.55	.40		.05

DECISION NO. 6877-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Muskingum Co.:					
Planters (landscape); Tree trimmers; Plumbers' helpers; Carpenters' tenders; Building & construction laborers	$7.77	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters; Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; Stone mason tenders; Sheeting & shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	8.02	.55	.40		.05
Brick droppers; Lock tenders; Powdermen or blasters	8.02	.55	.40		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunite					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandb'asting of concrete; Vibrator man; Carpenters tenders	7.46	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	7.26	.55	.40		.05
TRUCK DRIVERS:					
Franklin & Pickaway Cos.:					
Dump & Straight	8.46	$17.00a			
Tandem & Semi-farm tractor	8.56	17.00a			
Lowboy	8.66	17.00a			
Footnote:					
a. Per week per employee					
Greene & Montgomery Cos.:					
General	6.03	$19.00a	$8.00a	b	
Footnotes:					
a. Per week per employee					
b. 1 yr. of employment - 1 wk's vac., 7 yrs. of employment - 2 wks' vac. providing the employee has been on payroll for 8 months during the previous 12 month period.					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
Lawrence(West of Coal Grove & W. of State, Rte. #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	$7.48	$16.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason tending work); Euclids	8.40	16.50a			
Footnote:					
a. Per week per employee					

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

CLASSIFICATION DEFINITIONS

GROUP A: A-frame; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback op.); Boom trucks; Gableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/booms; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Tower derricks; Trench machines (over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder op.

GROUP E: Back fillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form tranchers; High pressure pumps (over ½" discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven Heaters (oil fired); Power boilers (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

STATE: Pennsylvania COUNTIES: Lackawanna Susquehanna Wayne & Wyoming

DECISION NO.: PA77-3050 DATE: Date of Publication

Supersedes Decision No. PA76-3179 dated June 18 1976, in 41 FR 24955.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$9.95	.65	.60		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers & Stonemasons:					
Scranton in Lackawanna County;	10.90	.65	.70		.01
Carbondale in Lackawanna County	9.95		1.05		
Susquehanna & Wyoming Counties	10.85	.50	.50		
Carpenters:					
Lackawanna, Susquehanna and Wayne Counties	9.65	.43	.50		.05
Wyoming County					
East of Susquehanna River	9.65	.43	.50		.05
West of Susquehanna River	10.61	.40	.50		.03
Cement masons:					
Wyoming, Wayne, Susquehanna Counties, Scranton in Lackawanna County	9.15	.40	.40		
Carbondale in Lackawanna Co.	9.95		1.05		
Electricians:					
Lackawanna, Susquehanna and Wayne County	9.75	.50	1%+.50	.50	.10
Wyoming County					
East of Susquehanna River	9.75	.50	1%+.50	.50	.10
West of Susquehanna River	10.74	.50	1%+.75		.03
Elevator Constructors	10.595	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	7.42	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	5.30				
Glaziers	9.20	.40	.60		
Ironworkers:					
Lackawanna, Wayne, & Wyoming Counties					
Structural & Ornamental	11.25	e			.10
Reinforcing	11.15	e			.10
Susquehanna County	9.75	.56	.72		
LABORERS:					
Lackawanna, Wayne, Susquehanna & Northern part of Wyoming County:					
Unskilled and Window Cleaners	8.80	.48	.50		
Semi skilled Laborers: Jackhammer operators, (each man when two required for operation of jackhammer) Vibrator and Buster Men, Wagon Drill and all men handling dynamite. Gas buggies 2" pumps and concrete mixers (up to 2 bags) and all pneumatic tools	8.95	.48	.50		
Plaster tenders and Mason tenders and haidling of all material to be used Masons & Scaffold Builders	9.20	.48	.50		
Non-metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches, asphalt or other material	8.95	.48	.50		
Southern part of Wyoming County:					
Unskilled	8.77	.30	.70		
Semi skilled laborers, Pneumatic and other mechanical tool op.; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason, Non-metallic pipelyaer and making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches asphalt or other hot material, cement finishers and blasters helpers	8.97	.30	.70		
Plasterers tenders, blaster, wagon drill ops.	9.09	.30	.70		
Mason tenders & scaffold builders	9.17	.30	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	$10.04		.10		.01
Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Lineman, dynamite man	10.30	.35	3%		3/8%
Winch truck driver	7.28	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
Marble Setters	10.00		.50		
Millwrights:					
Lackawanna, Susquehanna & Wayne Counties	10.23	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.23	.43	.50		.05
West of Susquehanna River	10.61				
Painters:					
Brush & Roller	8.10		1.00		
Spray	9.60		1.00		
Steel	9.10		1.00		
Piledrivermen	10.42	1.88	1.30	d	.12
Plasterers	9.30	.40	.40		
Plumbers	10.74	.40	.75		.04
POWER EQUIPMENT OPERATORS					
GROUP 1	12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, dragline, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION CONT'D.:

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreaders, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Composition & Kettleman	$9.81	.42	.47		
Helpers	9.58	.42	.47		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS:					
Lackawanna, Wayne Susquehanna Counties	9.65	.43	.50		.05
Wyoming County	8.63	.35	.40		.03
SPRINKLER FITTERS	11.61	.60	.90		.08
PIPEFITTERS	10.75	.39	.75		.04
TRUCK DRIVERS:					
Class I	7.92				
Class II	7.99				
Class III	8.48				

TRUCK DRIVERS CLASSIFICATION DEFINITION

CLASS I: Helper, stake body truck (single axle), dumpster

CLASS II: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III: Euclid type, off-highway equipment - back or belly dump trucks and doublehitched equipment, straddle (Ross) carrier, low-bed trailers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service for vacation pay credit.

b. Paid Holidays: A through F.

c. Paid holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day.

e. Employer contributes 2.05 to a Combined Health & Welfare and Pension Fund.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA77-3053
COUNTIES: Elk, Forest, McKean & Warren
DATE: Date od Publication
Supersedes Decision No: PA76-3251 dated September 24, 1976, in 41 FR 42142.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$11.10	.60	.70		
ZONE 2	11.04	.35	.50		.02
ZONE 3	10.81	1.02	.55		.04

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Elk County
ZONE 2 - Forest County
ZONE 3 - McKean & Warren Counties

BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS, CEMENT MASONS & STONEMASONS					
ZONE 1	10.35	.50	.50		
ZONE 2	10.15	.45	.70		

AREAS COVERED BY BRICKLAYERS ZONES

ZONE 1 - Elk, McKean & Warren Counties
ZONE 2 - Forest County

CARPENTERS & SFOT FLOOR LAYERS					
ZONE 1	9.24	6%	8%	6%	.4%
ZONE 2	8.86	6%	6%	2%	½%

AREA COVERED BY CARPENTERS & SOFT FLOOR LAYERS ZONES

ZONE 1 - Elk, Forest, all of McKean County except Kane & Bradford
ZONE 2 - McKean County - Twps of Kane, Bradford & Warren County

ELECTRICIANS					
ZONE 1	11.35	.35	1%+.20	.60	.10
ZONE 2	10.75	.55	1%+.35		1%

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AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Elk, Forest & Warren Counties
ZONE 2 - McKean County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	$ 9.41	.30	.20		
ZONE 2	9.74	1.40	.55		.10
ZONE 3	9.74	.62	.77		.01

AREA COVERED BY GLAZIER ZONES

ZONE 1 - Forest & Warren Counties
ZONE 2 - McKean County
ZONE 3 - Elk County

IRONWORKERS					
ZONE 1	10.00	1.11	1.10		.10
ZONE 2	9.685	.70	1.155		.07

AREAS COVERED BY IRONWORKERS ZONES

ZONE 1 - Forest & Warren Counties
ZONE 2 - Elk & McKean Counties

LABORERS					
Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (Loading and Unloading), concret pitman, puddler, mason tender	7.80	8%	6.5%		3.5%
Mechanical tamper (power) powered wheelbarrows and buggies & worklifts, sweepers and similar, mortar mixer, ball bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting					

DECISION NO. PA77-3053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
torch, carryayable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plaster tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tools)	$ 8.05	8%	6.5%		3.5%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, walder, driller (cable tools)	8.60	8%	6.5%		3.5%
Wrecking Laborers	7.80	8%	6.5%		3.5%
Low Burner	8.05	8%	6.5%		3.5%
Jackhammer Operator	8.05	8%	6.5%		3.5%
High Burner	8.85	8%	6.5%		3.5%
High Burner Helper	8.55	8%	6.5%		3.5%
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
Linemen, dynamite man, heavy equipment operator	10.30	.35	3%		3/8 of 1%
Winch truck op.	7.28	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
MARBLE SETTERS					
Elk, McKean & Warren Cos.	10.10	.50	.50		
MILLWRIGHTS					
ZONE 1	9.19	6%	6%	22%	½%
ZONE 2	8.90	.35	.20		.02
ZONE 3	8.65	.25			.02

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AREAS COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Elk & Forest Counties
ZONE 2 - McKean County
ZONE 3 - Warren County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1					
Brush & Roller	$ 6.75		a		
Spray	7.25		a		
ZONE 2					
Commercial					
Brush & Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		
ZONE 3					
Brush	7.56	6%			
Spray	8.14	6%			
ZONE 4					
Brush & Roller	8.10				
Spray	9.25				

AREAS COVERED BY PAINTERS ZONES

ZONE 1 - Elk
ZONE 2 - Forest County; Township in Warren County; Spring Creek, Southwest Triump and Eldred, township in McKean County, Wetmore, Hamlin, Hamilton, Sergent, and Norwich
ZONE 3 - Remainder of Warren County
ZONE 4 - Remainder of McKean County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$10.60	5%	10%		.50%
PLASTERERS					
Elk, McKean & Warren Cos.	9.60	.50	.50		
PLUMBERS & STEAMFITTERS					
ZONE 1	10.40	.73	.87		.21
ZONE 2					
Contracts under $10,000	9.94	.60	.65		.08
Contracts over $10,000	10.45	.60	.65		.08
ZONE 3					
Contracts under $500.00	8.32	.33	.50		.04
Contracts over $500.00	11.39	.33	.50		.04
ZONE 4	9.72	.30	.50		.04

AREAS COVERED BY PLUMBERS & STEAMFITTERS ZONES

ZONE 1 - Elk County
ZONE 2 - Forest County & Tidioute Twp in Warren County
ZONE 3 - McKean County
ZONE 4 - Remainder of Warren County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & ihcluding 150 ft. +$.25) (truck-or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

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CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propossed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1	$10.53	.77	1.50		.06
ZONE 2	8.50	.50	.45	.154b	

AREAS COVERED BY ROOFERS ZONES

ZONE 1 - Elk & Forest Counties
ZONE 2 - McKean & Warren Cos.

SHEET METAL WORKERS	9.58	.75	.80		.055
SPRINKLER FITTERS	11.61	.60	.90		.08
SOFT FLOOR LAYERS					
ZONE 1	8.65	5%	8%	6%	.40 of 1%
ZONE 2	6.90	.35	.20		.02
ZONE 3	8.15	.25			.02

AREAS COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Elk, Forest Counties
ZONE 2 - McKean County
ZONE 3 - Warren County

TILE SETTERS & TERRAZZO WORKERS					
ZONE 1	10.10	.50	.50		
ZONE 2	9.65	.45	.45		

AREA COVERED BY TILE SETTERS & TERRAZZO WORKERS

ZONE 1 - Elk, McKean & Warren Counties
ZONE 2 - Forest County

WELDERS - rate of craft

FOOTNOTES:

a. Paid Holiday: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occurs.

b. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months 40 hours paid vacation.

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, Venango

DECISION NO.: PA77-3054

DATE: Date of Publication

Supersedes Decision No.: PA76-3250, dated September 24, 1976, in 41 FR 42131.

DESCRIPTION OF WORK: Building Construction(does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$11.10	.60	.70		
ZONE 2	10.28	.30	.30		.02

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson
ZONE 2 - Crawford and Venango

BOILERMAKERS					
ZONE 1	9.815	7.5%	7%		.01
ZONE 2	10.88	.50	.85		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Venango
ZONE 2 - Crawford

BRICKLAYERS & STONEMASONS					
ZONE 1	9.80	.60	.80		.03
ZONE 2	10.15	.45	.70		
ZONE 3	10.66	.30	.40		
ZONE 4	10.10	.50	.50		

AREA COVERED BY BRICKLAYERS & STONEMASONS ZONES

ZONE 1 - Cambria
Zone 2 - Clarion, Clearfield, Jefferson, Venango
ZONE 3 - Crawford
ZONE 4 - Cameron
ZONE 5 - Bedford

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & SOFT FLOOR LAYERS					
ZONE 1	$9.17	6%	8%	6%	.4%
ZONE 2	9.00	5½%	5%	2%	1/2%
ZONE 3	9.25	6%	6%	4½%	½%

AREA COVERED BY CARPENTER & SOFT FLOOR LAYERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Crawford Counties
ZONE 2 - Venango County

CEMENT MASONS					
ZONE 1	9.93	.60	1.59		
ZONE 2	9.25	12%	6%		
ZONE 3	9.78	.30	.40		
ZONE 4	9.65	.45	.45		

AREA COVERED BY CEMENT MASONS

ZONE 1 - Clearfield, Jefferson
ZONE 2 - Bedford, Cameron
ZONE 3 - Crawford
ZONE 4 - Clarion & Venango

ELECTRICIANS					
ZONE 1	11.35	.35	1%+.20	.60	.05
ZONE 2	10.75	.55	1%+.%		
ZONE 3	11.75	.40	1%		½ of 1%
ZONE 4	11.50	3%	3%		½%

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AREA COVERED ELECTRICIANS ZONES

ZONE 1 - Bedford, Cambria, Clearfield, Clarion & Jefferson
ZONE 2 - Cameron
ZONE 3 - Crawford
ZONE 4 - Venango

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	9.74	.62	.72	.58	.01
ZONE 2	9.41	.30	.20		

AREA COVERED BY GLAZIERS ZONES

ZONE - 1 Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson Counties
ZONE - 2 Crawford & Venango Counties

IRONWORKERS					
ZONE 1	10.29	.785	1.155		.03
ZONE 2	9.34	.50	.60		
ZONE 3	10.00	1.11	1.01		.10
ZONE 4	9.77	.40	.85		.07
ZONE 5	9.685	.70	1.155		.07

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Cambria & Clarion
ZONE 2 - Bedford County
ZONE 3 - Crawford County
ZONE 4 - Venango County
ZONE 5 - Cameron, Clearfield & Jefferson

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE 1					
CLASS I	$ 7.94	.71	.60		
CLASS II	8.065	.71	.60		
CLASS III	8.19	.71	.60		
CLASS IV	8.44	.71	.60		
CLASS V	8.64	.71	.60		
ZONE 2					
CLASS I	7.49	.71	.60		
CLASS II	7.565	.71	.60		
CLASS III	7.59	.71	.60		
CLASS IV	7.64	.71	.60		
CLASS V	7.74	.71	.60		
CLASS VI	7.99	.71	.60		
CLASS VII	8.04	.71	.60		
ZONE 3					
CLASS I	7.80	8%	6.5%		3.5%
CLASS II	8.05	8%	6.5%		3.5%
CLASS III	8.60	8%	6.5%		3.5%
ZONE 4					
CLASS I	8.03	.72	.60		
CLASS II	8.13	.72	.60		
CLASS III	8.48	.72	.60		
CLASS IV	8.58	.72	.60		
CLASS V	8.33	.72	.60		
CLASS VI	8.73	.72	.60		
CLASS VII	8.33	.72	.60		
CLASS VIII	8.58	.72	.60		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
ZONE 5					
CLASS I	$ 6.95	10%	8%		
CLASS II	7.45	10%	8%		
CLASS III	7.55	10%	8%		
CLASS IV	7.45	10%	8%		
CLASS V	7.00	10%	6%		
ZONE 6					
CLASS I	7.10	10%	8%		
CLASS II	7.60	10%	8%		
CLASS III	7.70	10%	8%		
CLASS IV	7.60	10%	8%		
CLASS V	7.15	10%	8%		

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Clarion & Jefferson Counties

CLASS I - Laborers, carryable pumps, west brick buggy or similar vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS II - West brick buggy or similar (self-propelled), pwer wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill mounted on truck, track or similar), blaster's helpers, all operators of compacting equipment, pipe layer, burner, jackhammerman, concrete buster

CLASS III - Hod carrier, scaffold builder, bell & bottom man on furnaces & stacks, mortar mixer, mortar mixing machine (regardless of power used, inc. starting & stopping), grout machine feeder & pump operator, wagon drill operator, concrete saw operator wagon

CLASS IV - Gunnite nozzleman

CLASS V - Blaster

ZONE 2 - Venango County

CLASS I - Building laborer, west brick buggy or similar, walk behind forklift or similar (non self-propelled), stripper and mover of forms, window cleaner, cement finisher, tool room man, footers

CLASS II - Powered wheelbarrows, buggies

CLASS III - Mason tender, pipe layer, bottom man (10' below grade)

CLASS IV - Mortar mixer, mason plaster, concrete, other, hod carrier - mason, plaster (any method), scaffold builder, concrete buster-jackhammer (air tool, electric, other) other mechanical or power tools concrete saw, carryable pumps and operating all operators of compacting equipment, grout machine

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 2 (Cont'd)

CLASS IV (Cont'd) - feeder and pump operator, all material conveyors (regardless of power used, including starting & stopping), bell and bottom man on furnaces & stacks

CLASS V - Burner (demolition) groundman, jack hammer man, drill man blaster helper, wagon drill helper

CLASS VI - High (climber)

CLASS VII - Blaster, wagon drill operator

ZONE 3 - Cameron County

CLASS I - Common Laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building material handlers (loading and Unloading) concrete pitman, puddler, mason tender

CLASS II - Mechanical tampers (power) powered wheelbarrows and buggies & worklifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted trucks, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterers tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker asphalt raker, lancer, berfix cutting fool, gunnite potman, blacksmith, tool dresser (cable tools)

CLASS III - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, welder, drill (cable tools)

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 4 - Crawford County

CLASS I - Common laborers

CLASS II - Mason tender, hod carriers, mortar mixers, scaffold builder

CLASS III - Pipelayers (concrete & clay)

CLASS IV - Blaster, mechanical tampers, powered wheel-barrow, wagon drill operators

CLASS V - material, buggy handler, blaster helper, all power tool operators, wagon drill helpers & drill runner

CLASS VI - Burners

When working in piers, trenches, open coffer dams & caissons at depths more than ten (10) feet below the lowest adjacent grade:

CLASS VII - Bottom man

CLASS VIII - All power operators, drill man

CLASS IX - Drill man

ZONE 5 - Bedford County

CLASS I - Unskilled laborers

CLASS II - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS III - Blasters

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 5 (Cont'd)

CLASS IV - Air track men, demolition of chimneys & erection of towers, antennas, cooling towers, (or power plants) or other similar work 10' in height, suspension or workmen in swinging-cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterer tenders

ZONE 6 - Cambria and Clearfield Counties

CLASS I - Unskilled laborers

CLASS II - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS III - Blasters

CLASS IV - Air track men, demolition of chimneys & erection of towers, antennas, cooling towers, (on power plants) or other similar work 10' in height, suspension or workmen in swinging-cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterer tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE:					
ZONE 1					
CLASS I	$ 6.05	.40	.50		
CLASS II	6.20	.40	.50		
CLASS III	6.55	.40	.50		
ZONE 2					
CLASS I	5.95	.40	.50		
CLASS II	6.10	.40	.50		
CLASS III	6.45	.40	.50		

DECISION NO. PA77-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE: (Cont'd)					
ZONE 3					
CLASS I	$ 6.80	8%	6.5%		3.5%

LANDSCAPE LABORERS DEFINITION AND AREA COVERED

ZONE 1 - Clarion, Crawford, Jefferson & Venango Counties

CLASS I - Landscape laborer

CLASS II - Skilled landscape laborers

CLASS III - Landscape tractor operator

ZONE 2 - Cambria, Clearfield and Bedford Counties

CLASS I - Landscape laborer

CLASS II - Skilled landscape laborers

CLASS III - Landscape tractor operator

ZONE 3 - Cameron County

CLASS I - Wrecking laborer

DECISION NO. PA77-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.97		.20		.01
ZONE 2	8.97		.35		.01
ZONE 3	8.53	.45	1.10		.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - Clearfield & Jefferson Counties
ZONE 2 - Bedford, Cameron & Cambria Counties
ZONE 3 - Clarion County

LEAD BURNERS	10.75	.40	.25	*	.01
LINE CONSTRUCTION					
ZONE 1					
CLASS I	12.04	.35	3%		3/8%
CLASS II	7.20	.35	3%		3/8%
CLASS III	8.41	.35	3%		3/8%
ZONE 2					
CLASS I	10.30	.35	3%		3/8%
CLASS II	7.28	.35	3%		3/8%
CLASS III	6.97	.35	3%		3/8%

LINE CONSTRUCTIONS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Bedford, Cambria, Clarion, Clearfield & Jefferson Counties

CLASS I - Lineman

CLASS II - Groundman

CLASS III - Winch truck operator

ZONE 2 - Cameron, Crawford & Venango Counties

CLASS I - Linemen dynamite man, heavy equipment operator

CLASS II - Winch truck operator

CLASS III - Groundman

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS					
ZONE 1	$ 9.80	.60	.80		.03
ZONE 2	9.78	.30	.40		
ZONE 3	9.65	.45	.45		
ZONE 4	9.53	.60	1.10		
ZONE 5	8.80	.60	.80		.03

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Cambria County

ZONE 2 - Crawford County

ZONE 3 - Venango County

ZONE 4 - Jefferson County

ZONE 5 - Bedford County

MARBLE SETTERS HELPERS:					
Counties covered Bedford, Cambria, Clarion and Jefferson	7.95		.10		
MILLWRIGHTS	9.19	6%	6%	22%	½%

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1					
Commercial					
Brush & Roller	$ 8.54	.65	.45		.12
Spray	9.04	.65	.45		.12
Industrial					
Brush	9.44	.65	.45		.12
Spray	9.94	.65	.45		.12
Roller	10.45	.65	.45		.12
ZONE 2					
Brush	6.75			b	
Spray	7.25			b	
ZONE 3					
Commercial					
Brush & Roller	8.40	.45	.60		
Spray	9.40	.45	.60		
Industrial					
Brush & Roller	8.90	.45	.60		
Spray	9.90	.45	.60		

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bedford, Cambria counties, Beaver, Ringgold, Porter Twps. in Jefferson County

ZONE 2 - Brockway Twp., in Jefferson County

ZONE 3 - Cameron, Clarion, Clearfield, Crawford, Venango Counties, remainding Twps in Jefferson County

PILEDRIVERMEN	10.60	5%	10%		5%
PLASTERERS					
ZONE 1	9.78	.30	.40		
ZONE 2	9.65	.45	.45		
ZONE 3	9.39	.39	.70		
ZONE 4	9.00		5%		.01

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AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Crawford County
ZONE 2 - Clarion, Venango Counties
ZONE 3 - Clearfield, Jefferson Counties
ZONE 4 - Bedford, Cambria Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS					
ZONE 1	$10.16	.30	.25		.04
ZONE 2	10.81	.41	.50		.04
ZONE 3					
Contracts Under $10,000	9.94	.60	.65		.09
Contracts Over $10,000	10.45	.60	.65		.08
ZONE 4	10.40	.73	.87		.21

AREA COVERED PLUMBERS AND STEAMFITTERS ZONES

ZONE 1 - Clarion County
ZONE 2 - Twps. in Crawford County, Beaver, Spring, Cussawago, Venango, Cambridge, Rockdale, Bloomfield and Sparta
ZONE 3 - Venango County & Remainder of Crawford County
ZONE 4 - Bedford, Cambria, Cameron, Clearfield, Jefferson

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer load

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), junbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, mucking machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

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CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for shaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1	$9.29	.45	.30		
ZONE 2	10.53	.77	1.50		.06

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Crawford, Venango Counties
ZONE 2 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson

SHEET METAL WORKERS					
ZONE 1	10.68	.82	1.23		.13
ZONE 2	9.76	1.17	1.03		.05
ZONE 3	9.76	.62	1.50		.06

AREA COVERED BY SHEET METAL ZONES

ZONE 1 - Cameron, Clearfield, Crawford & Venango
ZONE 2 - Bedford
ZONE 3 - Cambria, Clarion & Jefferson

TRUCK DRIVERS					
ZONE 1					
CLASS I	6.96	c	d		
CLASS II	7.04	c	d		
CLASS III	7.11	c	d		
CLASS IV	6.86	c	d		
ZONE 2					
CLASS I	7.58	6.5%	5.6%	e	
CLASS II	7.63	6.5%	5.6%	e	
CLASS III	7.65	6.5%	5.6%	e	
CLASS IV	7.74	6.5%	5.6%	e	
CLASS V	7.67	6.5%	5.6%	e	
CLASS VI	7.94	6.5%	5.6%	e	
CLASS VII	7.76	6.5%	5.6%	e	
CLASS VIII	7.92	6.5%	5.6%	e	
ZONE 3					
CLASS I	7.20	.20	.20		
CLASS II	7.30	.20	.20		
CLASS III	7.40	.20	.20		
CLASS IV	7.50	.20	.20		
CLASS V	7.35	.20	.20		
CLASS VI	7.45	.20	.20		
CLASS VII	7.40	.20	.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
ZONE 3					
CLASS VIII	$ 7.70	.20	.20		
CLASS IX	7.80	.20	.20		
CLASS X	7.45	.20	.20		
CLASS XI	7.70	.20	.20		

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED

ZONE 1 - Bedford, Cambria, Clearfield & Jefferson Counties

CLASS I - Service, dump, flat top, jeep, fuel & water

CLASS II - Transit mix, dump trailer, winch truck

CLASS III - Euclids & tractor trailer

CLASS IV - Helper

ZONE 2 - Clarion & Venango Counties

CLASS I - Warehouseman, Chauffeur, and Ambulance Driver, Service Truck (pick-up, Jeep, Busses, Station Wagon, Panel truck, Escort Vehicle, including Fuel and Water Trucks)

CLASS II - Dump and Flat Top (including Fuel and Water Trucks, Fork Lift in Warehouse or job site storage area and single Axle Trucks with power tail-gate); Distributor Truck over 33,000 lbs. gross weight (Oil, Tar Asphalt products Two man operation, Both men)

CLASS III - Transit Mix, Single Axle

CLASS IV - Transit Mix, Single Tandem Axle

CLASS V - Heavy Duty Tractor and Trailer with High Bed, 4 wheels

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE 2 (Cont'd)

CLASS VI - Heavy Duty Tractor and Trailer with Low Bed, 6 to 16 Wheels and Pole Trailer and Wide Load

CLASS VII - Distributor Truck up to 33,000 lbs. gross weight (Oil, Tar Asphalt products) One Man Operation; Truck with Dolly and Scissor Truck; Truck with Dump Trailer or Tandem, including Fuel and Water, Tandem Axle Truck with power Tailgate and Scissor Truck; Euclids or Equivalent, Tri-axle including Mixer, drivers towing equipment

CLASS VIII - Winch Truck and Form Truck

ZONE 3 - Cameron County

CLASS I - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS II - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS III - Tri-Axle Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS IV - Low Boy

CLASS V - Concrete Mixer Trucks

CLASS VI - Concrete Mixer Trucks (Tri-Axle)

CLASS VII - Semi-Trailer

CLASS VIII - Earth Moving Equipment up to 35 Ton (Belly Dump, Side Dump, End Dump, etc.)

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TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE 3 (Cont'd)

CLASS IX - Earth Moving Equipment over 35 Ton (Belly Dump, Side Dump, End Dump, etc.)

CLASS X - A-Frame and Winch Trucks (when used for hauling material on bed of truck)

CLASS XI - Distributor Truck (Oil, Tar, Asphalt, etc.)

ZONE 4
CLASS I - Truck Drivers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays A through F, plus Washington's Birthday and Good Friday, providing the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

b. Paid Holidays: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occur.

c. $59.90 per month

d. $14.00 per week

e. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Greene, Somerset & Potter
DECISION NO.: PA77-3055 DATE: Date of Publication
Supersedes Decision No.: PA76-3211 dated, July 30, 1976, in 41 FR 32091.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	$11.10	.60	.70		
ZONE II	10.81	1.02	.55		.04

AREA COVERED BY ASBESTOS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

BOILERMAKERS					
ZONE I	12.05	.75	1.00		.02
ZONE II	9.815	7.5%	7%		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

BRICKLAYERS & STONEMASONS					
ZONE I	10.15	.45	.71		
ZONE II	9.30	.45	.70		.03
ZONE III	10.35	.50	.50		

AREA COVERED BY BRICKLAYERS AND STONEMASONS

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE I	$ 9.24	6%	8%	6%	.4%
ZONE II	9.73	6%	8%	6%	.2%

AREA COVERED BY CARPENTERS ZONES

ZONE I - Somerset & Potter Counties

ZONE II - Greene County

CEMENT MASONS					
ZONE I	9.93	.60	1.59		
ZONE II	9.25	12%	6%		
ZONE III	10.10	.50	.50		

AREA COVERED BY CEMENT MASONS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

ELECTRICIANS					
ZONE I	11.35	.35	1%+.20	.60	.05
ZONE II	9.23	.28	1%+.20	.50	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

GLAZIERS					
ZONE I	9.74	.62	.72	.58	.01
ZONE II	9.74	1.40	.55		.10
ZONE III	8.09	.25	.30		.01

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AREA COVERED BY GLAZIERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Northern part of Potter County

ZONE III - Southern part of Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
ZONE I	$ 8.95	.60	.50	5%	.03
ZONE II	9.685	.70	1.155		.07
ZONE III	9.34	.50	.60		

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Greene County

ZONE II - Potter County

ZONE III - Somerset County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE I					
CLASS 1	$7.94	.71	.60		
CLASS 2	8.065	.71	.60		
CLASS 3	8.19	.71	.60		
CLASS 4	8.44	.71	.60		
CLASS 5	8.64	.71	.60		
ZONE II					
CLASS 1	7.80	8%	6.5%		3.5%
CLASS 2	8.05	8%	6.5%		3.5%
CLASS 3	8.60	8%	6.5%		3.5%
ZONE III					
CLASS 1	7.10	10%	8%		
CLASS 2	7.60	10%	8%		
CLASS 3	7.70	10%	8%		
CLASS 4	7.60	10%	8%		
CLASS 5	7.15	10%	8%		

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE I - Greene County

CLASS 1 - Laborers, carryable pumps, west brick buggy or similar, vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill runner, drill runner's helper, (incl. drill mounted on truck, track or similar), blaster's helpers, all operators of compacting equipment, pipe layer, burner, jackhammerman, concrete buster

CLASS 3 - Hod carrier, scaffold builder, bell & bottom man on furnances & stacks, mortar mixer, mortar mixing machine (regardless of power used, incl. starting & stopping), grout machine feeder & pump operator, concrete saw operator, wagon drill operator

CLASS 4 - Gunnite nozzleman

CLASS 5 - Blaster & wagon drill operator

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LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE II - Potter County

CLASS 1 - Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (loading and unloading), concrete pitman, puddler, mason tender

CLASS 2 - Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryayable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plaster tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman blacksmith, tool dresser (cable tools)

CLASS 3 - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, welder, driller (cable tools)

ZONE III - Somerset County

CLASS 1 - Unskilled laborers

CLASS 2 - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS 3 - Blasters

CLASS 4 - Air track men, demolition of chimneys and erection of towers, antennas, cooling towers (on power plants) or other similar work in excess of 10' in height, suspension of workmen in swinging - cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterers tenders

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	$10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE I					
Linemen, dynamite man, heavy equipment operator	10.30	.35	3%		3/8%
Winch truck operator	7.28	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
ZONE II					
Linemen	12.04	.35	3%		3/8%
Groundman	7.20	.35	3%		3/8%
Winch truck operator	8.41	.35	3%		3/8%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

MILLWRIGHTS	9.19	6%	6%	.22%	1/2%
PAINTERS					
ZONE I					
Commercial					
Brush	7.90	.55	.35		.05
Spray	9.025	.55	.35		.05
Industrial					
Brush	8.40	.55	.35		.05
Spray	9.525	.55	.35		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
ZONE II					
Commercial					
Brush & Roller	$8.59	.75	.45		.02
Spray	9.09	.75	.45		.02
Industrial					
Brush	9.44	.75	.45		.02
Spray	9.94	.75	.45		.02
ZONE III					
Commercial					
Brush and Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush, Roller and Spray	10.10	.55	.80		

AREA COVERED BY PAINTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

PILEDRIVERMEN	10.60	5%	10%		.50 of 1%
PLASTERERS					
ZONE I	9.39	.37	.70		
ZONE II	9.00		5%		.01
ZONE III	10.10	.50	.50		

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AREA COVERED BY PLASTERERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS					
ZONE I	$10.40	.73	.87		.21
ZONE II	10.37	.70	1.10		.07
ZONE III	9.76	.64	.20		.05

AREA COVERED BY PLUMBERS & STEAMFITTERS ZONES

ZONE I - Somerset County & the extreme eastern portion of Greene County

ZONE II - Remainder of Greene County

ZONE III - Potter County

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
CLASS 1	$10.775	.65	.80		.09
CLASS 1-A	10.025	.65	.80		.09
CLASS 1-B	11.275	.65	.80		.09
CLASS 1-C	11.525	.65	.80		.09
CLASS 2	10.625	.65	.80		.09
CLASS 3	9.80	.65	.80		.09
CLASS 3-A	10.30	.65	.80		.09
CLASS 4	9.80	.65	.80		.09
CLASS 5	9.05	.65	.80		.09
CLASS 6	8.80	.65	.80		.09
CLASS 6-A	8.90	.65	.80		.09
CLASS 6-B	9.05	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE I - Green County

CLASS 1 - Austin-Western or similar type up to 25 ton, austin-western or or similar type 25 ton or over, auto grader (CMI or similar), backhoe, batch plant when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill, central mix plant, cranes (excluding overhead) truck or crawler type) cranes - tower (mobile) cranes tower (climbing type), derrick-traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes, Hi Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with Chicago boom attached hoist (50 ft. or over) (stacks stoves or furnaces), hoist (slipform jobs) hop-to or similar type with 180° swing, hop-to or s similar type with 360° swing kocal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with selfloading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - guard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

CLASS 1-A - Austin-Western or similar type up to 25 tons with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up to & including 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-rod (2 cages over 10 floors)

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75

CLASS 2 - Auger - truck or tractor mounted, back filling machine, boat - material or personnel carrying (powered) boat of job work (inboard or outboard), bull-dozer, cable layer, compactor with blade, concrete belt placer, crane - over-head, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), Hi-Lift less than 4 yds, hoist - one drum (4 floors or over), hoist - hod (building 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jobs ie. cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) paver operator asphalt (spreader), pumpcrete or similar type (not self-propelled) pumpkrete machine operator (stationary), tire repairman (when assigned to job), welder repairman) asphalt plant operator, athey loader

DECISION NO. PA77-3055

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

CLASS 3 - Oilers, compactor (ridden or self-propelled), crane (carry) curb builder (self-propelled) drills-wells and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finishing (CMI or similar type), tugget, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regulator, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorail) regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), spray cure machine power driven steam jenny (or similar type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven

CLASS 3-A - Convevors 4 units or more

CLASS 4 - Ballast Regulator, Boring Machine, Broom, power (except pust type), Compressor - Single (over 65 CFM), conveyor over 1 amd up to 3 units (regardless of power used), Form line machine, Generator (over 5 KW), Hoists (Monorail) (regardless of power used), Hoist Roof (regardless of power used), Huck machine or similar type, Mixer Concrete (regardless of power used), Mixer Mortar - over 10 cu ft (regardless of power used), pump (over 1½" discharge regardless of power used), Spray Cure Machine (power Driven), steam jenny (or similar type), syphon (steam or air), Welding machine single (300 amp or over) other than electrically driven, plant, private or industrial air or steam valve

CLASS 5 - Compressor - 65 cu. ft. or under (regardless of power used), conveyor one (1) unit (regardless of power used), heaters - up to and including 6, jack motor hydraulic (single type) power driven, ladavator, mixer mortar (10 cu. ft. or under), mulching machine, pin puller (powered), pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment), tie tamper (multiple heads), tractor farm (when used for landscaping), water blaster

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanical helper

CLASS 6-A - Crane truck oiler and fireman

CLASS 6-B - Oiler truck crane 50 ton or over, mechanic helper

DECISION NO. PA77-3055	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE II - Somerset & Potter Counties

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, mucking machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3). (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

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CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horisional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for smaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE I	$10.53	.77	1.50		.06
ZONE II	8.50	.50	.45	.15+e	

AREA COVERED BY ROOFERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

SHEET METAL WORKERS					
ZONE I	9.58	.75	.90		.03
ZONE II	10.08	.82	1.23		.13

AREA COVER BY SHEET METAL WORKERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

SOFT FLOOR LAYERS					
ZONE I	9.24	6%	6%	6%	.5%
ZONE II	9.24	5%	8%	6%	.4 of 1%

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE I - Greene County

ZONE II - Somerset & Potter Counties

SPRINKLER FITTERS	11.61	.60	.90		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS					
ZONE I	$ 9.24	.60	1.10		.065
ZONE II	9.73	.68	.68		.19
ZONE III	9.76	.64	.45	.20	.05

AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TERRAZZO WORKERS					
ZONE I	10.15	.45	.71		
ZONE II	9.77	.45	.75		
ZONE III	10.10	.50	.50		

AREA COVERED BY TERRAZZO WORKER ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TILE SETTERS					
ZONE I	9.50	.60	1.40		
ZONE II	10.10	.50	.50		

AREA COVERED BY TILE SETTERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
ZONE I					
CLASS 1	$ 6.96	a	b		
CLASS 2	7.04	a	b		
CLASS 3	7.11	a	b		
CLASS 4	6.86	a	b		
ZONE II					
CLASS 1	7.58	6.5%	5.6%	c	
CLASS 2	7.63	6.5%	5.6%	c	
CLASS 3	7.65	6.5%	5.6%	c	
CLASS 4	7.74	6.5%	5.6%	c	
CLASS 5	7.67	6.5%	5.6%	c	
CLASS 6	7.94	6.5%	5.6%	c	
CLASS 7	7.76	6.5%	5.6%	c	
CLASS 8	7.92	6.5%	5.6%	c	
ZONE III					
CLASS 1	7.20	.20	.20		
CLASS 2	7.30	.20	.20		
CLASS 3	7.40	.20	.20		
CLASS 4	7.50	.20	.20		
CLASS 5	7.35	.20	.20		
CLASS 6	7.45	.20	.20		
CLASS 7	7.40	.20	.20		
CLASS 8	7.70	.20	.20		
CLASS 9	7.80	.20	.20		
CLASS 10	7.45	.20	.20		

DECISION NO. PA77-3055

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED

ZONE I - Somerset County

CLASS 1 - Service, dump, flat top, jeep, fuel & water

CLASS 2 - Transit mix, dump trailer, winch truck

CLASS 3 - Euclids & tractor trailer

CLASS 4 - Helper

ZONE II - Greene County

CLASS 1 - Warehouseman, chauffeur, and ambulance driver, service truck (pick-up, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tail-gate); distributor truck over 33,000 lbs. -ross weight (oil, tar asphalt products two man operation, both men)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, single axle

CLASS 5 - Heavy duty tractor and trailer with high bed, 4 wheels

CLASS 6 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 7 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor trucks; euclids or equivalent, tri-axle including mixer, drivers towing equipment

CLASS 8 - Winch truck and form truck

DECISION NO. PA77-3055

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE III - Potter County

CLASS 1 - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-axle trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer trucks

CLASS 6 - Concrete mixer trucks (Tri-Axle)

CLASS 7 - Semi-trailer

CLASS 8 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.)

CLASS 9 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 10 - A-frame and winch trucks (when used for hauling material on bed of truck)

CLASS 11 - Distributor truck (oil, tar, asphalt, etc.)

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. PA77-3055

FOOTNOTES:

a. $59.00 per month

b. $14.00 per week

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

d. Paid Holidays: New Year's Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

e. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months service 40 hours paid vacation

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lehigh
DECISION NO.: PA77-3056 DATE: Date of Publication
Supersedes Decision No. PA76-3183 dated June 18, 1976, in 41 FR 24862.
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	10.11	.52	.70		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers	9.75	.60	1.05		.01
Carpenters	10.20	.44	.72		
Cement Masons	9.65	.60	.50		
Electricians	10.90	.35	1%+.80		.02
Elevator Constructors	11.06	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers	7.75	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers (prob.)	5.535				
Glaziers	8.89	.40	.30		.01
Ironworkers, Structural	11.45	.84	1.21		
Ironworkers, Reinforcing	11.45	.84	1.21		
Ironworkers, Ornamental	11.45	.84	1.21		
Laborers, Building:					
Unskilled laborers	6.97	.35	.45		
Operator of jackhammer paving breaking & other pneumatic & mechanical tools, wagon drills & men handling dynamite, handling & using, cutting & burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same & cofferdams (below 10 feet)	6.85	.35	.45		
Plasterers & mason tenders, scaffold builders & handling of all materials to be used by plasterers & masons, brick & blocks loaded on pallets, cement finishers tenders, gunniting and molder-D & sand blasters helpers	7.27	.35	.45		
Barko tamper operator	7.47	.35	.45		
Lathers	9.71	.40	.25		.01

DECISION NO. PA77-3056

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Linemen & cable splicers	10.83	.40	1%		3/4 of1%
Groundmen	6.46	.40	1%		3/4 of 1%
Winch truck operator	7.55	.40	1%		3/4 of 1%
Marble setters	8.50	.60	1.05		
Marble setters helpers	6.97	.60	.75		
Millwrights	10.60	.44	.72		
Painters:					
Brush	8.05	.83	.60		
Structural steel	9.05	.83	.60		
Spray	9.05	.83	.60		
Plasterers	9.65	.40	.50		.01
Plumbers	10.02	.57	.92		.08
Roofers:					
Albany, Maxatany and Windsor Composition, damp, waterproofing, slate & tile	10.60	.45	.25	d	
Remainder of County:					
Composition & slate	10.93	.15	.50		
Composition & slate helpers	7.21	.15	.50		
Sheet Metal Workers	9.71	1.17	1.03		.05
Sprinkler Fitters	11.61	.60	.90		.08
Piledrivermen	10.42	1.88	1.30	e	.12
Steamfitters	10.02	.57	.92		.08
Stone Masons	9.75	.60	1.05		
Terrazzo workers	8.75	.60	1.05		
Tile setters	8.50	.60	1.05		
Truck drivers	7.95	f	g	h	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. PA77-3056

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% 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. Six paid holidays: A through F.

c. Eight paid holidays; A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday, & is available for work the days preceding & following the holiday.

d. Paid Holidays: Election Day and Labor Day.

e. Paid Holidays: Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day, Thanksgiving Day and Christmas Day.

f. Employer contributes $67.31 per month to a Health & Welfare Fund.

g. Employer contributes $47.68 per month to a pension fund.

h. When an employee has been employed for one year but less than five years he shall receive one weeks vacation.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Sullivan
DECISION NO.: PA77-3057 DATE: Date of Publication
Supersedes Decision No. PA76-3205 dated June 18, 1976 in 41 FR 24872.
DESCRIPTION OF WORK: Building construction (does not include single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.95	.65	.60		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers	9.35	.40	.50		
Carpenters:					
Benton Air Force Base	10.61	.40	.50		.03
Remainder of County	10.14	.40	.50		.03
Cement masons	9.45				
Electricians:					
Eastern part of County	10.74	.50	1%+.75		.03
Western part of County	9.23	.40	1%+.35	.60	.02
Ironworkers:					
Structural	11.25	a			.10
Reinforcing	11.15	a			.10
Laborers:					
Unskilled & window washers	8.77	.30	.70		
Mason tenders incl. scaffold builders	9.17	.30	.70		
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blaster helpers, power buggies, walk along hoist	8.97	.30	.70		
Plasterers tenders, blasters & wagon drill operators	9.09	.30	.70		
Line construction:					
Linemen & cable splicer	10.30	.35	3%		3/8 of 1%
Groundman-truck driver	7.28	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
Millwrights	11.29	.40	.50		.03

DECISION NO. PA77-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Plasterers	9.60				
Plumbers	9.76	.64	.45	.20	.05
Glaziers	9.20	.40	.60		
Roofers	9.20	.75	.70		
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	8.63	.35	.40		.03
Piledrivermen	10.42	1.88	1.30	b	.12
Sprinkler fitters	11.61	.60	.90		.08
Steamfitters	9.76	.64	.45	.20	.05
Stone masons	9.35	.40	.50		
Terrazzo workers	8.70	.40	.50		
Welders - Rate of craft					

FOOTNOTES:

a. Employer contributes $2.05 per hour to a combined health and welfare and pension fund.

b. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5%	9.5%	a	1.2%
GROUP 7	12.54	5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Erie
DECISION NO.: PA77-3058 DATE: Date of Publication
Supersedes Decision No. PA76-3177, dated June 11, 1976, in 41 FR 23916.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	11.40	.40	1.00		.03
BRICKLAYERS	11.11	.30	.40		
CARPENTERS	10.10	.45	.30		.02
CEMENT MASONS	9.92	.45	.75		.015
ELECTRICIANS	10.90	4½%	3%+1%		1/2 of 1%
ELEVATOR CONSTRUCTORS	9.95	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.41	.30	.20		
IRONWORKERS:					
Structural	10.00	1.11	1.01		.10
Ornamental	10.00	1.11	1.01		.10
Reinforcing	10.00	1.11	1.01		.10
LATHERS	10.88	.30	.10		.02
LABORERS:					
Building & common, carpenter tender, heaters & salamanders, power sweepers, power vacuum sweepers, pumps including 1-1/2", signal man concrete bucket, wrecking & demolition, window washing	8.10	.60	.50		.01
Bricklayer & mason tenders, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander	8.20	.60	.50		.01
Burners, concrete saw operator, hod carriers, mortar mixers, plaster tenders, powered wheelbarrows & buggies	8.30	.60	.50		.01
Dual vibrator roller (walk behind type) Berfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrator - air or otherwise	8.35	.60	.50		.01

DECISION NO. PA77-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (Cont'd)					
Mixing mortar for more than 3 masons by hand	8.40	.60	.50		.01
Blasters, drill operators, gunite nozzle man & machine man	8.50	.60	.50		.01
Plaster mixing machine & pump	8.55	.60	.50		.01
LINE CONSTRUCTION:					
Linemen, Heavy equipment Operator	10.30	.35	3%		3/8 of 1%
Winch - Truck driver	7.28	.35	3%		3/8 of 1%
Groundmen	6.97	.35	3%		3/8 of 1%
MARBLE SETTERS	9.90	.30	.40		
MILLWRIGHTS	10.25	.45	.30		.02
PAINTERS:					
Brush	8.51	.45	.40		.03
Structural steel	9.15	.45	.40		.03
Spray	8.94	.45	.40		.03
PILEDRIVERMEN	9.75	.30	.30		.02
PLASTERERS	9.76	.45	.75		.015
PLUMBERS	10.31	.41	.50		.04
ROOFERS:					
Composition	9.29	.45	.30		
SHEET METAL WORKERS	9.58	.75	.90		.075
SOFT FLOOR LAYERS	10.10	.45	.30		.02
SPRINKLER FITTERS	11.61	.60	.90		.08
STEAMFITTERS	10.31	.41	.50		.04
STONEMASONS	11.11	.30	.40		
TERRAZZO WORKERS	9.90	.30	.40		
TILE SETTERS	9.90	.30	.40		
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. PA77-3058

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class 1	$10.92	.65	.80		.10
Class 1-A	11.21	.65	.80		.10
Class 1-B	11.48	.65	.80		.10
Class 1-C	11.76	.65	.80		.10
Class 2	10.45	.65	.80		.10
Class 3	10.29	.65	.80		.10
Class 4	9.47	.65	.80		.10
Class 5	8.90	.65	.80		.10
Class 6	8.63	.65	.80		.10
Class 6-A	8.90	.65	.80		.10
Class 6-B	9.35	.65	.80		.10

POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch Plant - Automatic, Boom - side, Cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting operating, Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Leverman, Mix Mobile or similar type, Mixer - concrete paving, Mixer - paving (self-propelled), Multiple Bowl Machines or Multi-engine, Pile Driver - Franki or similar type, Pile Driver (when assistance is required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or out-board), Bulldozer, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core, Drill - Well and Core (truck mounted), Engineer - maintenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic backhoe attached), Cranes, Tower, Metro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pumpcrete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), Spray Cure Machine (power driven), Spreader, Steam Jenny (or similar type), Syphon (steam or air) Tractors (all types with hydraulic backhoe attached)

Class 1-A: Austin Western or similar type with jib + 25c, Austin Western or similar type 25 tons or over with jib + 25c, Cranes (excluding over head cranes), Crane -placed on building structure, Hoist single cage with Chicago Boom attached + 25c, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

POWER EQUIPMENT OPERATORS (Cont'd)

Class 2: Backfilling Machine, Boat - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and gunite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - lull or similar type generators - two, Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive, Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section IC), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), Post Driver - guard rail (truck mounted), Pumpcrete - or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder, Welding Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for snaking and hauling), Truck - winch, Tugger

Class 4: Compressor (single (over 65 cu. ft. regardless of power used, Hoist - monorail (regardless of power used), Pump (over 1½ inch discharge regardless of power used), Oiler - truck crane (50 tons or over and Fireman)

Class 5: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladavator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1½ inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane.

Class 6: Brake man, Deck hand, Helicopter signalman, Oiler, Mechanic helper

Class 6-A: Oiler, Truck crane

Class 6-B: Oiler, Truck crane (50 tons or over)

Paid Holidays: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six Paid Holidays: A through F.

STATE: Texas COUNTY: Bexar
DECISION NO.: TX77-4101 DATE: Date of Publication
Supersedes Decision No. TX76-4140, dated August 6, 1976, in 41 FR 33184.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.88	.42	.60		.08
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS-STONEMASONS	9.27	.45	.30	.25	.05
CARPENTERS:					
Carpenters	7.77	.38	.40	.40	.02
Millwrights	8.07	.38	.40	.40	.02
CEMENT MASONS	6.68				
ELECTRICIANS:					
Electricians	10.24	.30	3%		1%
Cable splicers	10.49	.30	3%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	7.99	.445	.29	3%+a+b	.02
Helpers	70%JR	.445	.29	3%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	6.80				
IRONWORKERS	7.85	.55	1.00	.50	.07
LABORERS:					
Common laborers; Pipelayers, concrete & clay (non-metallic)	5.09	.28	.30		.02
Air tool operators (jackhammer, vibrator)	5.18	.28	.30		.02
Bell hole man; Mason tenders	5.20	.28	.30		.02
Mortar mixers; Plasterers' tenders	5.46	.28	.30		.02
LATHERS	9.26				.01
LINE CONSTRUCTION:					
Lineman	8.255	.28	1%		1/2%
Groundman	5.58	.28	1%		1/2%
Groundman, 1st, year	4.12	.28	1%		1/2%
MARBLE SETTERS	6.99	.35	.30	.25	
MARBLE SETTERS' HELPERS	4.87				
PAINTERS:					
Brush; Paperhanger; Taper & floater	7.925		.20		.05
Spray; Structural steel	8.175		.20		.05
Spray on structural steel; Sandblasting	8.425		.20		.05

DECISION NO. TX77-4101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 9.25				.01
PLUMBERS-PIPEFITTERS	10.10	.40	.55		.10
ROOFERS:					
Roofers	5.50				
Kettlemen	4.83				
Waterproofers	5.14				
SHEET METAL WORKERS	9.08	3%+.30	.50		.07
SOFT FLOOR LAYERS	4.55				
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	6.99	.35	.30	.25	
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	6.99	.35	.30	.25	
TILE SETTERS' HELPERS	4.87				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.32	.35	.75		
GROUP 2	7.44	.35	.75		
GROUP 3	6.27	.35	.75		
GROUP 4	6.03	.35	.75		

CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; All rollers (5 tons or over); Backfiller; Backhoe; Blade graders (self-propelled); Bull clam; Bulldozers; Cableway; Clamshell operator; Crane (power operated, all types); Derricks (power operated, all types); Draglines; DW-10 caterpillar and similar tractors; Elevating graders (self-propelled); Euclid; Fork lift used on construction; Gasoline or diesel-driven welding machines (7 to 12); Gradall; Heavy duty mechanic; High lifts; Hoist (two drums or more); Locomotives; Mixer (14 cu. ft. or over); Mixmobile; Paving mixers (all sizes); Piledrivers; Pumpcrete machine operator; Rock crusher operator on job; Scoopmobile; Scrapers; Shovel (power operated); Turnapulls; Trenching machines (all sizes); Winch truck; All other equipment of similar nature, coming within the heavy equipment class, when power operated

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); Blade graders (towed); Building elevator used on construction; Flex planes; Form graders; Hoist (single drum); Mixer (less than 14 cu. ft.); Pneumatic roller; Pulsometers; Pump (2½ or larger shall require a light equipment operator); Three to six welding machines or any three pieces or equipment of equal or similar nature, coming within the light equipment class when power operated; Roller (under 5 tons); Truck crane drivers

GROUP 3 - Fireman

GROUP 4 - Oiler

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX77-4102 DATE: Date of Publication
Supersedes Decision No. TX76-4195, dated December 28, 1976, in 41 FR 56598
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
Galveston County	10.13	.38	.50		.05
Harris County	10.53	.63	.60		.06
CARPENTERS:					
Carpenters	10.00	.75	.70		.05
Millwrights	10.36	.75	.70		.05
Piledrivermen	10.00	.75	.70		.05
CEMENT MASONS:					
Galveston County	9.86	.52	.55		
Harris County	9.12	.49	.55		.05
ELECTRICIANS:					
Galveston County	11.34	.40	1%+.40		.05
Harris County	11.05	.55	5%		.04
ELEVATOR CONSTRUCTORS:					
Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.07	.60	.425		.01
IRONWORKERS	10.28	.55	1.00		.10
LABORERS:					
GROUP 1 - Common	6.93	.28	.40		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.105	.28	.40		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	7.205	.28	.40		.02
GROUP 4 - Well driller	7.48	.28	.40		.02
GROUP 5 - Well driller tender	7.055	.28	.40		.02
GROUP 6 - Blaster, powderman	7.355	.28	.40		.02
LATHERS (Harris County only)	9.92	.50	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.62	.40	1%		1/2%
Groundman (1st 6 mos.)	4.07	.40	1%		1/2%
Groundmen (2nd 6 mos.)	4.88	.40	1%		1/2%
Groundmen	6.74	.40	1%		1/2%

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Galveston County	$ 9.26				
Harris County	9.51				
MARBLE MASONS' FINISHERS	7.15				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	10.46				
GROUP 2 - All pneumatic and electric tools and steam cleaning	10.815				
GROUP 3 - All tape and float on drywall	10.585				
GROUP 4 - All paper and vinyl hanging	10.71				
GROUP 5 - All spray painting, sandblasting & waterblasting	10.855				
GROUP 6 - Steeple jack work, hot materials	11.12				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.295	.365	.35	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	9.67	.365	.35	.40	.04
GROUP 3 - Tape, float & drywall	9.42	.365	.35	.40	.04
GROUP 4 - Steeple jack work, hot materials	9.92	.365	.35	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.00	.55	.45	.665	.02
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.25	.55	.45	.665	.02
GROUP 3 - Painters on rework & repaint	8.245	.55	.45	.665	.02
PIPEFITTERS:					
That part of Galveston County east of the Trinity River:					
Commercial work up to $50,000	10.55	.445	.50		.03
Commercial work $50,000 & over	11.005	.445	.50		.03

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONT'D):					
Harris County and that part of Galveston County west of the Trinity River	$10.85	.45	.65		.045
PLASTERERS	9.70	.77	.30		.02
PLUMBERS:					
Galveston County:					
Commercial work up to $50,000	10.55	.445	.50		.03
Commercial work $50,000 & over	11.005	.445	.50		.03
Harris county	10.72	.55	.70		.12
ROOFERS	8.89	.20	.25	.25	.03
SHEET METAL WORKERS:					
Galveston County	9.42	.60	.25	.50	.10
Harris County	10.18	.275	.595	.32	.06
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS:					
Galveston County	9.26				
Harris County	9.51				
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	7.15				
Terrazzo floor machinemen	7.30				
Terrazzo base machinemen	7.45				
TILE SETTERS:					
Galveston County	9.26				
Harris County	9.51				
TILE SETTERS' FINISHERS	7.15				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, tireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Euclids (not self-loading	$ 8.61				
GROUP 5 - Warehou emen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

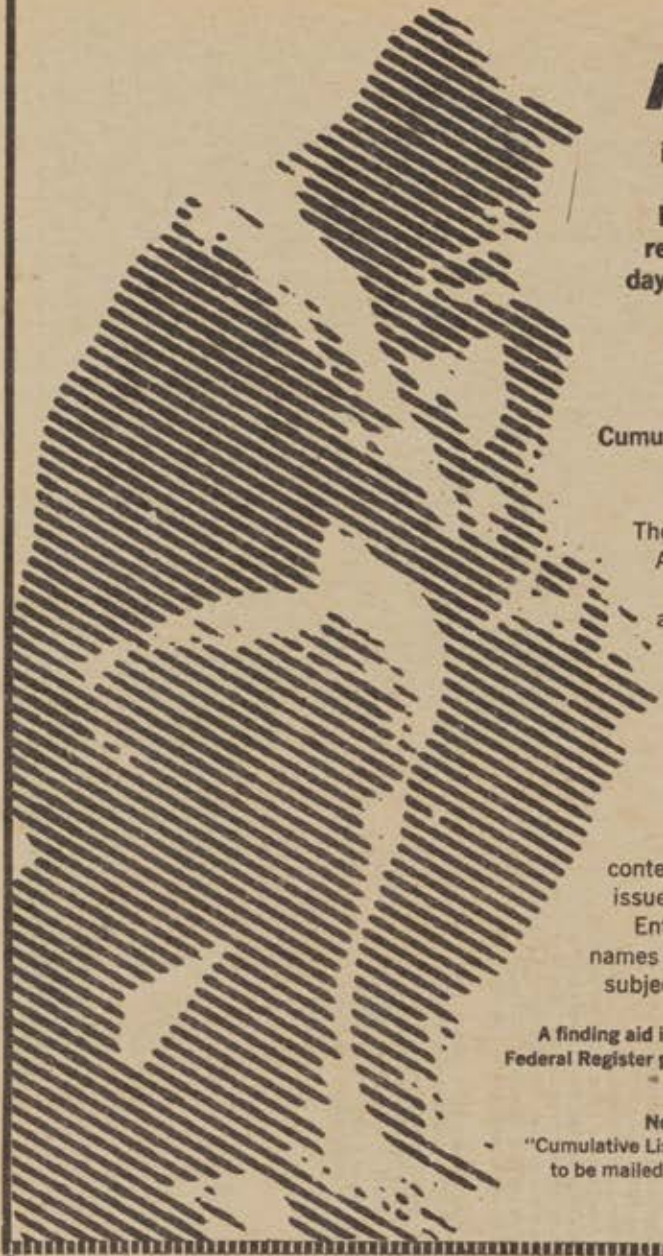
GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

[FR Doc.77-13425 Filed 5-12-77;8:45 am]



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