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Part I

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

PART 871—SUGARBEETS

Fair and Reasonable Prices for 1970 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, due notice of public hearings, and consideration of evidence presented at hearings held during December 1969, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Prices; Sugarbeets" remain in full force and effect as to the crops to which they were applicable.

Sec.

AUTHORITY: Sections 871.24 to 871.28 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 871.24 General requirements.

A producer of sugarbeets who is also a processor of sugarbeets (herein referred to as "processor") shall have paid, or contracted to pay for all sugarbeets of the 1970 crop grown by other producers and processed by him, in accordance with the following requirements.

§ 871.25 Purchase agreements.

(a) The price for all 1970 crop sugar beets delivered by a producer and processed by a processor, shall be not less than that required to be paid pursuant to the 1970 crop sugar beet purchase contract between the processor and the producer, subject to the provisions of paragraphs (b), (c), and (d) of this section.

(b) If the processor, in determining the net proceeds pursuant to the contract, makes a deduction from the gross sales price of sugar for factory-site bulk sugar storage facilities owned by the processor, or for factory-site bulk pulp storage facilities owned by the processor in those districts where producers share directly in the total net returns from the sales of sugar, pulp, and molasses, such deduction shall be limited to amortization of such facilities, including improvements, over a reasonable period, interest at prevailing rates on the unrecovered cost, taxes, insurance, maintenance, and operating costs properly applicable thereto. After the costs of the facilities, including improvements, have been fully recovered such deduction shall be limited to taxes, insurance, maintenance, and operating costs properly applicable thereto: *Provided*, That if there is an agreement between the processor and producers such deductions for factory-site storage facilities owned by the processor shall be as agreed upon if less than that provided above.

(c)(1) In factory districts using a scale-type sugarbeet purchase contract where the processor has constructed tanks for the storage of concentrated juice, has stored such juice for a period of not less than 30 days after the end of the slicing campaign, and has then processed such juice into granulated sugar, a charge representing the additional costs incurred as a result of factory clean-up and start-up in connection with the juice processing campaign may be deducted from the gross sales price of sugar: *Provided*, That such charge shall not exceed 2 cents per month (based on the length of time such juice is stored between the end of the slicing campaign and the start-up of the juice processing campaign, such period not to exceed 6 months) per hundred pounds of granulated sugar equivalent of the juice so stored.

(2) In those factory districts in Michigan and Ohio using a percentage-type sugarbeet purchase contract, wherein growers share with the processor in factory extraction efficiency, and where the processor has constructed and is operating tanks for the storage of concentrated juice, a deduction from the gross sales price of sugar and byproducts may be made for the amortization of such tanks as provided in the processor's 1970-crop sugarbeet purchase contract.

(d) In determining the net proceeds pursuant to the contract, the gross sales price per 100 pounds to be applicable to sugar sold to an affiliate company or other affiliate business entity, or to sugar used by the processor during the settlement period, shall be not less than the weighted average quoted basis price, less customary allowance, and plus appropriate prepays and package differentials which would have been applicable to such sugar had it been marketed to nonaffiliated purchasers.

§ 871.26 Reporting requirements.

The processor shall submit to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the close of the sales period specified in the sugarbeet purchase contract, an itemized statement for each settlement district, certified by an independent accountant, showing the computation of "net proceeds" or "net returns" as provided in such contract, such statement to be in substantially the form as that contained in Schedule A attached hereto and made a part hereof: *Provided*, That, if the processor markets sugar to an affiliate company or other affiliate business entity or if the processor uses any beet sugar, the weighted average gross sales price for each category, the marketing expenses applicable to each, and the net proceeds derived therefrom shall be reported in substantially the form shown on Schedule A–1 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A: *Provided further*, That if the processor in determining net proceeds makes a deduction for factory-site bulk sugar, bulk pulp or concentrated juice storage facilities owned by the processor, the total cost of such facilities, including improvements, the amount of the deduction and the expenses used in determining such deduction shall be reported in substantially the form shown on Schedule A–2 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A.

§ 871.27 Applicability.

The requirements of this part are applicable to all sugarbeets purchased from other producers and processed by a processor who produces sugarbeets (a processor-producer is defined in § 821.1 of this chapter).

§ 871.28 Subterfuge.

The processor shall not reduce returns to producers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the Act, by a producer who processes sugarbeets of the 1970 crop grown by other producers.

Requirements of the act. Section 301(c)(2) of the Act provides that the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets, or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1970-crop fair price determination. This determination provides that a processor shall be deemed to have complied with the fair price provisions of the act if he has paid, or contracted to pay, prices for all sugar beets processed that are not less than those determined pursuant to

the applicable 1970-crop purchase contract with producers. The provisions of the 1969 crop determination are continued unchanged, except that where the processor in determining net proceeds makes a deduction for factory-site bulk sugar storage facilities owned by the processor, such deductions shall be as agreed upon between the processor and producer in cases where there is an agreement, but shall not exceed amortization, interest, taxes, insurance, maintenance, and operating costs; or after the costs of the facilities, including improvements, have been recovered such deduction shall not exceed taxes, insurance, maintenance, and operating costs.

At the public hearing held in Fargo, N. Dak., a representative of the National Farmers Union testified that the prices farmers receive for their produce is not close to parity and recommended an increase in the payment for beets in order to compensate the farmer for his increased costs. He stated that the sugar beet producer must have an equitable price for his commodity if he is expected to pay a wage to farm workers that reflects a decent standard of living.

At the hearing held in Denver, Colo., a representative of the Idaho Beet Growers Association objected to the provision of the fair price determination permitting a processor to include among the items deductible in determining net proceeds a charge for using concentrated juice facilities as a storage facility in lieu of the storage of refined sugar. Another witness representing the Washington Sugar Beet Growers Association, in a brief submitted at the hearing, stated that growers must have an increase in the price received for beets because of the increase in labor, machinery, land, interest, and other inputs; and that growers can increase their efficiencies only so far.

Examination of the 1970 crop purchase contracts, which have been negotiated by producers and processors and submitted to the Department subsequent to the hearings, reveals numerous changes from 1969 contracts. All beet sugar companies operating in California changed the basis of computing net returns from a bag to a bulk basis and changed the payment scale to compensate for the 15-cent differential. This change does not affect grower payments. Four companies operating in States other than California changed the payment scale. One company changed the scales in the majority of its factory districts to reduce payments at sucrose levels below 16.75 percent and to increase payments at sucrose levels above 16.75 percent. Another company decreased the payment scales at sucrose levels below 17 percent and increased the scales at and above 17 percent in the majority of its factory districts; decreased payments at sucrose levels below 15.5 percent and increased payments at and above 15.5 percent in another factory district; and increased payments at all levels of sucrose in one other factory district. Another company increased payments at all sucrose and net return levels in one of its factory districts. One other company operating under a contract whereby producers receive a percentage share of the net returns from sugar and byproducts, decreased payments at all levels of net returns. Five companies changed the provision relating to the net return guarantee. Two of these contracts now provide that if the Department publishes the net "actual raw sugar cost" the minimum and maximum guarantee will be the same as in the 1969 contracts, but if such net "actual raw sugar cost" is not published then the average net return on which producer payments are based shall be not less than the average New York price of raw sugar as defined in the 1969 contract for the 12-month period ended September 30, 1971, plus the amount by which the actual net return realized from the 1969 crop exceeded the average New York price of raw sugar for the 12-month period ended September 30, 1970, adjusted for the difference between the bulk bin charges for the 12-month periods ended September 30, 1970 and 1971; or more than the amount by which the net return realized from the 1969 crop exceeded the average New York price of raw sugar for the 12-month period ended September 30, 1970, plus $0.27. One company limits the guaranteed net return to 7½ cents per hundredweight in excess of the net return realized. Another company, in several of its districts, reduced the guaranteed net return from $1.05 to $1 above the average New York price of raw sugar. The other company in one factory district provides that if the net return is less than $0.85 above the average New York raw sugar price, then there shall be added to the price per ton of sugarbeets 8 cents for the first 5 cents, 6 cents for the second 5 cents, 3 cents for the third 5 cents, and 3 cents for the fourth 5 cents, but not to exceed 20 cents per ton of beets; and in several other districts of this company if the net return is less than $1 above the average New York raw sugar price, minus storage charges, then there shall be added to the net return the first 5 cents and one-half of any portion of the second 5 cents by which the average net return fails to reach such $1 above the average raw sugar price less storage costs. One company, in all districts except California, increased the charge to growers for bulk sugar bin amortization from 3 cents to 10 cents per hundredweight. Other changes in the contracts include increases in the price of seed at several companies; change from combined individual-cossette test to individual test basis in one factory district of one company; payment of a premium for early delivery of beets at one eastern company; and various wording and date changes.

Consideration has been given to the testimony presented at the public hearings, to the provisions of the purchase contracts, to the comparative average costs of producers and processors obtained by field study for a recent crop and recast in terms of prospective price and production conditions for the 1970 crop, and to other pertinent factors. The analysis indicates that the provisions for payment in the 1970 crop purchase contracts are fair and reasonable at levels of sugar prices which may be expected during the marketing season.

The 1969 fair price determination permitted processors operating in factory settlement districts using a scale-type purchase contract to deduct from the gross sales price of sugar a charge representing the additional cost of factory start-up and clean-up in connection with a broken campaign. The determination made the charge conditional upon storage of concentrated juice for at least 30 days after the end of the slicing campaign and before the start-up of the juice campaign, and limited the charge to a maximum of 2 cents per month of the shut-down period per hundredweight of sugar equivalent for a period not to exceed 6 months. This provision is continued in this determination despite the fact that such 1970-crop purchase contracts are silent on this subject. The Department remains convinced that this provision encourages the use of thick juice storage tanks as a means of reducing refined sugar storage expense and is in the best interest of both producers and processors. Conversely, the Department believes that agreement between the parties on matters of mutual interest is most important and suggests that producers and processors in negotiating 1971-crop purchase contracts specifically agree on whether the processor should be compensated for the expense of an interrupted campaign at those factories where thick juice storage tanks can be used to reduce refined sugar marketing expense.

In analyzing the sugar beet purchase contracts the Department can consider only the provisions of the printed contracts together with amendments, riders, and side-agreements that are also formally submitted. The fair price determination does not apply to any contract provision of which the Department is not aware. It is again recommended that all agreements between the processor and the producer, especially those provisions affecting the payment for sugar beets, such as charges for bulk sugar storage and concentrated juice facilities, be included in the printed contract, or included among those documents submitted to the Department for consideration.

This determination also provides that where there are agreements between the processor and producers covering deductions for factory-site bulk sugar or pulp storage facilities owned by the processor such deductions shall be as agreed upon if less than those provided in this determination.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER and is applicable to 1970-crop sugar beets.

Signed at Washington, D.C., on November 13, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

SCHEDULE A—STATEMENT OF AVERAGE NET RETURN OR NET PROCEEDS FROM SALES OF SUGAR [1]

Company _____
Settlement area _____
Settlement period _____

	Per Hundredweight Sugar (dollars)
Gross sales price	
Less sales and marketing expenses (applicable to sugar only):	
Federal excise tax	
Freight on sugar to destination	
Cash discount	
Allowances	
Public storage (actually paid)	
Off-site storage owned by the processor (amount charged)	
On-site storage (computed charge) [2]	
Loading and handling	
Cost of packing in excess of basis pack	
Taxes	
Insurance	
Brokerage and commissions	
Advertising	
Sales department expenses:	
Salaries	
Travel	
Miscellaneous	
Other (specify)	
Total expense	
Net return or net proceeds	

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company).

[1] Where the purchase contract provides that the proceeds from the sales of molasses and beet pulp are to be included in calculating the net return or net proceeds, show separately the gross sales price and the marketing expenses applicable to each.

[2] Obtain from Schedule A-2.

SCHEDULE A-1—STATEMENT OF GROSS SALES PRICES APPLICABLE TO SUGAR SOLD TO AFFILIATED COMPANIES OR ENTITIES AND USED BY THE PROCESSOR, AS COMPARED TO SALES TO NON-AFFILIATED PURCHASERS

Item	Affiliated purchasers	Used by processor	Non-affiliated purchasers
Sugar sold or used-cwt.			
	Dollars per cwt.		
Quoted Basis Price			
Customary Allowances: (Itemize)			
Open Competitive			
Other:		XXXX	
		XXXX	
		XXXX	
Basis price—less allowances			
Prepay		XXXX	
Package differential		XXXX	
Gross sales price	$	$	$
Marketing expenses		(1)	
Net proceeds			

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company).

[1] If any marketing expenses are deducted from the gross sales price by the processor in computing net return for this particular sugar, such expenses shall be itemized separately.

SCHEDULE A-2—STATEMENT RELATING TO CHARGES FOR COMPANY-OWNED FACTORY-SITE BULK SUGAR, BULK PULP, AND CONCENTRATED JUICE STORAGE IN COMPUTING NET PROCEEDS, 1970-CROP (SUBMIT SEPARATE SCHEDULE FOR EACH FACILITY)

Company _____
Location of bulk sugar, pulp, or juice storage facility _____
Settlement areas included _____
Settlement period _____
Sugar sold during settlement period-Cwt _____

	(Total Dollars)
Original cost of facility (year first used ____)	
Improvements (item and date):	
Total cost of facility including improvements	
Total amount recovered prior to 1970-crop	
Total unrecovered cost of facility	
Operating costs or charges for 1970-crop:	
Interest on unrecovered cost	
Taxes	
Insurance	
Maintenance and operating (Itemize):	
Total operating costs for 1970-crop	
Amount applied against 1970-crop to amortize cost of facility	
Total amount charged for facility in computing net proceeds—1970-crop—(to be carried to Schedule A as amount of deduction)	
Unamortized cost of facility at end of 1970-crop	

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

[F.R. Doc. 70-15601; Filed, Nov. 19, 1970; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 4]

PART 124—PROCUREMENT AND TECHNICAL ASSISTANCE

Introduction and Procedures

Part 124 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by:

1. Revising § 124.8-1 to read as follows:

§ 124.8-1 Introduction.

(a) *General.* Section 8(a) of the Small Business Act authorizes SBA to enter into all types of contracts (including supply, services, construction, research and development) with other Government departments and agencies and subcontract the performance of such contracts.

(b) *Purpose.* It is the policy of SBA to use such authority to assist small concerns owned by disadvantaged persons to become self-sufficient, viable businesses capable of competing effectively in the marketplace.

(c) *Eligibility.* To be eligible for an 8(a) subcontract, a concern must be owned or destined to be owned by socially or economically disadvantaged persons. This category often includes, but is not restricted to, Black Americans, American Indians, Spanish Americans, Oriental Americans, Eskimos and Aleuts. If a concern is not presently controlled by such persons, the firm having such control must execute a divestiture agreement providing for divestiture of control by the divesting company over the concern within a reasonable period of time. The existence of control is a question of fact for administrative determination under the circumstances of each case. Divestiture of at least 51 percent of the stock will create a rebuttable presumption of divestiture of control.

(d) *Procurement selection criteria.* Procurements will be selected which are determined suitable for performance by an SBA subcontractor. However, procurements will not be considered where:

(1) Public solicitation has been issued;

(2) There is a reasonable possibility of an award being made to disadvantaged contractors under normal competitive procedures, or

(3) Where small business concerns are dependent in whole or in significant part on recurring Government contracts.

2. Revising § 124.8-2 to read as follows:

§ 124.8-2 Procedures.

(a) Concerns may submit applications for consideration under this program to SBA regional or district offices. Applications will include complete information regarding the concern's qualifications and capabilities to perform a contract.

(b) SBA will review procurement programs of other Government departments and agencies and identify proposed procurements suitable for performance by potential subcontractors.

(c) SBA will determine if a potential subcontractor is competent to perform a specific contract and will conduct appropriate negotiations with the other agency or department for the proposed procurement contract. Upon the request of the other agency or department, SBA will certify that the Administration is competent to perform the contract. Upon agreement as to terms, including price, SBA and the agency will enter into a prime contract using forms and provisions prescribed by statute and regulations applicable to the other Government agency. Thereafter, SBA will enter into appropriate subcontracts with the subcontractors for the performance of the prime contract.

(d) SBA may provide technical and management assistance to assist in the performance of the subcontracts.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

Dated: November 10, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-15625; Filed, Nov. 19, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Airworthiness Docket No. 70-WE-44-AD; Amdt. 39-1111]

PART 39—AIRWORTHINESS DIRECTIVES

Certain General Dynamics Airplanes

General Dynamics Models 240, T-29B, 340, 440, and C-131E and all such model airplanes converted to turbopropeller power in accordance with STC SA 1054WE known as Model 600; and STC's SA4-1100 and SA1096WE known as Model 580 and Model 640.

There have been two recent failures of the cockpit sliding window in the General Dynamics Models 440 and 580 airplanes resulting in rapid decompression of the fuselage. Since this condition is likely to exist or develop in other airplanes of the same type, an airworthiness directive is being issued to require inspection of these windows for damage on all General Dynamics Models 240, T-29B, 340, 440, 580, 640, 600, C-131E airplanes.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS. Applies to Model 240, T-29B, 340, 440, and C-131E and all such model airplanes converted to turbopropeller power in accordance with STC SA1054WE, known as Model 600; and STC's SA4-1100 and SA1096WE, known as Model 580 and Model 640, respectively, certificated in all categories.

Compliance required within the next 20 hours time in service after the effective date of this AD unless already accomplished within the last 80 hours time in service and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

To detect incipient failure of the left and right sliding windows, accomplish the following:

(a) Inspect windows for the following types of damage in accordance with noted paragraphs and figures contained in Convair Model 340 Maintenance Manual or equivalent instructions approved by the Chief, Aircraft Engineering Division, FAA Western Region:

(1) Vinyl rupture—Paragraph 3.5.4.2 and Figure 3.5.104.

(2) Vinyl shearing—Paragraphs 3.5.4.3 and 3.5.4.4.

(3) Delamination—Paragraph 3.5.4.6 and Figure 3.5.106.

(4) Cracks, rock chips, and deep scratches—Paragraph 3.5.4.8 C.2 and Figures 3.5.108, 3.5.109.

(b) If damage exceeds the limits prescribed in either paragraph 3.5.4.4 or any of the Figures 3.5.104, 3.5.106, 3.5.108, or 3.5.109, replace window per the Maintenance Manual prior to further pressurized flight.

(c) If an aircraft is to be operated with damage to the sliding windows exceeding the limits specified in (b), prior to flight, install a placard in plain view of the flight crew to indicate that the aircraft may not be operated in pressurized flight. The placard may be removed when the window replacement is accomplished.

NOTE: Manufacturer's Service Bulletins are under development covering the above. Additional AD rules, as appropriate, will be forthcoming.

This amendment becomes effective November 24, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, Calif., on November 12, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-15630; Filed, Nov. 19, 1970; 8:47 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 70-SO-88]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Ocala, Fla., transition area.

The Ocala transition area is described in § 71.181 (35 F.R. 2134). In the description, an extension is predicated on Ocala VORTAC 171° radial. The application of Terminal Instrument Procedures (TERPs) to the VOR Runway 36 Instrument Approach Procedure requires that descent below 1,500 feet be conducted within the 9-mile radius circle. The requirement for the extension predicated on Ocala VORTAC 171° radial is eliminated. It is necessary to alter the transition area to revoke this extension. Since this alteration is less restrictive in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Ocala, Fla., transition area is amended to read:

OCALA, FLA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Ocala Municipal (Jim Taylor Field) Airport (lat. 29°10'18" N., long. 82°13'26" W.).

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

Issued in East Point, Ga., on November 10, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-15631; Filed, Nov. 19, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-89]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the time of designation of the MCAS El Toro, Calif., control zone.

On or about November 25, 1970, the hours of operation of the El Toro MCAS will reduced and the air station will be closed, except for emergencies, between the hours of 2300 to 0600 local time. The normally performed traffic control and communications services will not be provided by the military control tower, GCA or the RATCC during the hours the air station is closed and control zone airspace for the protection of IFR operations will not be required.

During certain periods, there will be a need to adjust the part-time hours of operations and on occasions to operate the air station on a 24-hour daily basis. To provide the flexibility needed for such changes and eliminate the control zone airspace when not required, it is proposed to establish the effective dates and times of the control zone by a Notice to Airmen.

Since this action imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

In consideration of the foregoing in § 71.171 (35 F.R. 2054), the description of the El Toro, Calif., MCAS control zone is amended by adding "* * * This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual. * * *"

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

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

Issued in Los Angeles, Calif., on November 12, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-15632; Filed, Nov. 19, 1970; 8:47 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 10695; Amdt. 95-200]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 10, 1970 as follows:

1. By amending Subpart C as follows:

Section 95.1001 *Direct Routes—United States* is amended to delete:

From, To, and MEA

Gulfport, Miss., VOR; Horn INT, Miss.; *1,700. *1,400—MOCA.

Binghamton, N.Y., VOR; Williamsport, Pa., VOR; *4,300. *3,300—MOCA.

Kennedy, N.Y., VOR; INT, 292° M rad, Kennedy VOR and 069° M rad, Allentown VOR; *7,000. *2,300—MOCA.

INT, 148° M rad, Bridgeport VOR and 201° M rad, Eagle Mountain Lake VOR; INT, 201° M rad, Eagle Mountain Lake VOR and 238° M rad, Benbrook VOR; *2,600. *2,100—MOCA.

INT, 081° M rad, Greater Southwest VOR and 306° M rad, Gregg County, VOR; INT 231° M rad, Quitman VOR and 081° M rad, Gregg County VOR; *7,000. *1,900—MOCA.

INT, 231° M rad, Quitman VOR and 081° M rad, Gregg County VOR; Fitch INT, Tex.; *5,000. *1,900—MOCA.

Reno, Nev., VOR; INT, 180° M rad, Reno, Nev., VOR and 064° M rad, Modesto, Calif., VOR; *24,000. *13,000—MOCA. MAA—39,000.

INT, 180° M rad, Reno, Nev., VOR and 064° M rad, Modesto, Calif.; VOR; Modesto, Calif., VOR; *18,000. *6,200—MOCA. MAA—39,000.

Section 95.1001 *Direct Routes—United States* is amended by adding:

Mapleville INT, Md.; Braddock INT, Md.; 4,000.

Gulfport, Miss., VOR; *Rom INT, Miss.; **1,800. *2,500—MCA Rom INT, northeastbound. **1,500—MOCA.

From, To, and MEA

Turner INT, Pa.; Robbinsville, N.J., VOR; 1,600.

Bucktown INT, Pa.; Robbinsville, N.J. VOR; 2,200.

Yardley, Pa., VOR; INT, 157° M rad, Yardley VOR and 047° M rad, Millville VOR; 1,600.

McGuire, N.J., VOR; INT, 234° M rad McGuire VOR and 113° M rad, Modena VOR; 1,700.

INT, 234° M rad, McGuire VOR and 113° M rad, Modena VOR; Modena, Pa., VOR; 2,000.

Woodstown, N.J., VOR; Coyle, N.J., VOR; 2,000.

Millville, N.J., VOR; McGuire, N.J., VOR; 1,900.

Ennis INT, Tex.; College Station, Tex., VOR, COP 179 DAL/335 CLL; *5,000. *1,900—MOCA.

Humble, Tex., VOR; Victoria, Tex., VOR; *3,000. *1,800—MOCA.

Junction, Tex., VOR via JCT R-134; INT, 134° M rad, Junction VOR and 281° M rad, San Antonio VOR; *3,800. *3,700—MOCA.

INT, 134° M rad, Junction VOR and 281° M rad, San Antonio VOR; *Medina INT, Tex.; **3,700. *4,000—MRA. **3,200—MOCA.

Medina INT, Tex.; San Antonio, Tex., VOR; *3,700. *3,200—MOCA.

Reno, Nev., VORTAC; Westrose INT, Calif.; *24,000. *13,000—MOCA. MAA—39,000.

*Westrose INT, Calif.; Modesto, Calif., VOR; northeastbound **24,000; southwestbound **18,000. *24,000—MRA. **6,200—MOCA. MAA—39,000.

Guantanamo NAS, Cuba, LF/RBN; INT, 078° bearing from Guantanamo NAS LF/RBN and 243° bearing from Grand Turk LF/RBN; 2,400.

INT, 078° bearing from Guantanamo NAS LF/RBN and 243° bearing from Grand Turk LF/RBN; Grand Turk, Bahama, LF/RBN; *2,000. *1,300—MOCA.

Section 95.1001 *Direct Routes—United States* is amended to read in part:

Eglin, Fla., VOR; Corky INT, Fla.; *2,500. *1,600—MOCA.

Dog INT, Miss; Gulfport, Miss, VOR; *2,300. *1,400—MOCA.

New Orleans, La., VOR; Frank INT, La.; 1,500.

INT, 213° M rad, Freeport VOR and 089° M rad, Miami VOR; Isaac INT, Bahama; *8,000. *1,200—MOCA.

Freeport, Bahama, LF/RBN; Grand Bahama, Bahama, LF/RBN; 1,400.

Grand Bahama, Bahama, LF/RBN; *Marshall INT, Bahama; **6,000. *6,000—MRA. **1,400—MOCA.

Section 95.1001 *Direct Routes—United States.*

Bahama Routes

1 Lima is amended to delete:

South Caicos, Bahama, RBN; Grand Turk, Bahama, AAFB-RBN; *2,000. *1,200—MOCA.

1 Lima is amended by adding:

Eleuthera, Bahama, RBN; INT, GT 314T/ELJ 123T; *2,000. *1,300—MOCA.

INT, GT 314T/ELJ 123T; Abraham INT, Bahama; *2,000. *1,200—MOCA.

Abraham INT, Bahama; Grand Turk, Bahama, RBN; *2,000. *1,300—MOCA.

1 Lima is amended to read in part:

Grand Bahama, Bahama, AAFB-RBN; Eleuthera, Bahama, AAFB-RBN; *2,000. *1,400—MOCA.

2 Lima is amended to read in part:

Perrine, Fla., RBN; INT, 091° bearing from Perrine RBN and 111° bearing from Bimini RBN; 2,000.

From, To, and MEA

7 Lima is amended to read in part:

Thompson INT, Bahama; Grand Bahama, Bahama, AAFB-RBN; *2,000. *1,400—MOCA.

8 Lima is amended to read in part:

Fort Lauderdale, Fla., RBN; Pike INT, Bahama, *2,000. *1,400—MOCA.

Akron INT, Bahama; Grand Bahama, Bahama, AAFB-RBN; *1,500. *1,400—MOCA.

9 Lima is amended to delete:

Great Inagua, Bahama, RBN; South Caicos, Bahama, RBN; *2,000. *1,300—MOCA.

9 Lima is amended by adding:

Great Inagua, Bahama, RBN; Grand Turk, Bahama, RBN; *2,000. *1,300—MOCA.

11 Lima is amended to read in part:

Morley INT, Bahama; Gorda INT, Bahama; *2,000. *1,200—MOCA.

Gorda INT, Bahama; Abaco INT, Bahama; *2,000. *1,300—MOCA.

52V is amended to read in part:

Mango INT, Fla.; Nassau, Bahama, VOR; *5,000. *1,400—MOCA.

55V is amended to read in part:

Bimini, Bahama, VOR; *INT, 094° M rad, Biscayne Bay VOR and 111° M rad, Bimini VOR; **2,000. *4,000—MCA INT, northwestbound. **1,300—MOCA.

INT, 094° M rad, Biscayne Bay VOR and 111° M rad, Bimini VOR; Nassau, Bahama, VOR; *2,000. *1,400—MOCA.

56V is amended to read in part:

Pleasant INT, Bahama; *Abaco INT, Bahama; **10,000. *10,000—MRA. **1,300—MOCA.

58V is amended to read in part:

*Gorda INT, Bahama; Jordan INT, Bahama; **4,000. *8,000—MRA. **1,200—MOCA.

Jordan INT, Bahama; *Abaco INT, Bahama; **10,000. *10,000—MRA. **1,300—MOCA.

63V is amended to read in part:

Halibut INT, Bahama; Freeport, Bahama, VOR; *1,500. *1,400—MOCA.

64V is amended to read in part:

*Pike INT, Fla.; Akron INT, Bahama, **4,500. *4,500—MCA Pike INT, eastbound, **1,200—MOCA.

Akron INT, Bahama; Freeport, Bahama, VOR; *2,000. *1,400—MOCA.

65V is amended to read in part:

Wallace INT, Bahama; Major INT, Bahama; *3,000. *1,200—MOCA.

Major INT, Bahama; Freeport, Bahama, VOR; *2,000. *1,400—MOCA.

Freeport, Bahama, VOR; *Mullet INT, Fla.; **2,000. *6,500—MRA. **1,400—MOCA.

66V is amended to read in part:

INT, 213° M rad, Freeport, Bahama VOR and 089° M rad, Miami, Fla., VORTAC; Freeport, Bahama, VOR; *1,500. *1,400—MOCA.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

Brewer INT, Wis., via E alter.; Oakwood INT, Wis., via E alter.; 2,500.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Iron Mountain, Mich., VOR; Herman INT, Mich.; *3,600. *2,800—MOCA.

Herman INT, Mich.; Houghton, Mich., VOR; *3,600. *3,100—MOCA.

Section 95.6411 *VOR Federal airway 11* is amended to read in part:

Maui, Hawaii, VOR; *Snapper INT, Hawaii; 5,000 *7,000—MCA Snapper INT, Westbound.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

From, To, and MEA

Ironsides INT, Md.; Nottingham, Md., VOR; 1,900.
Pine Bluff, Ark., VOR; Walls INT, Miss.; *4,000. *1,600—MOCA.
Mineral Wells, Tex., VOR; Dallas, Tex., VOR; *3,000. *2,500—MOCA.

Section 95.6017 *VOR Federal airway 17* is amended to read in part:

San Antonio, Tex., VOR; *Winn INT, Tex.; **3,000. *3,200—MRA. **2,600—MOCA.
Winn INT, Tex.; *Buda INT, Tex.; **3,000. *3,500—MRA. **2,600—MOCA.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Crosby INT, Tex.; Trinity INT, Tex.; *1,600. *1,400—MOCA.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

Sacramento, Calif., VOR; Grimes INT, Calif.; *2,000. *1,400—MOCA.

Section 95.6066 *VOR Federal airway 66* is amended to read in part:

*Breckenridge INT, Tex.; Chapel INT, Tex.; **4,000. *5,000—MRA. **2,700—MOCA.

Section 95.6078 *VOR Federal airway 78* is amended to read in part:

Madison DME Fix, Minn.; Clara City INT, Minn.; *4,000. *2,600—MOCA.
Clara City INT, Minn.; Darwin, Minn., VOR; *3,000. *2,600—MOCA.

Section 95.6095 *VOR Federal airway 95* is amended to read in part:

Bethany INT, Tex.; Elm Grove, La., VOR; *1,800. *1,500—MOCA.

Section 95.6124 *VOR Federal airway 124* is amended to delete:

Paris, Tex., VOR; Greeson Lake, Tex., VOR; *2,500. *2,000—MOCA.
Greeson Lake, Tex., VOR; Hot Springs, Ark., VOR; 2,500.

Section 95.6124 *VOR Federal airway 124* is amended by adding:

Paris, Tex., VOR; Hot Springs, Ark., VOR; *4,000. *2,500—MOCA.

Section 95.6128 *VOR Federal airway 128* is amended to read in part:

Peotone, Ill., VOR, Kentland INT, Ind.; *2,600. *2,000—MOCA.
Kentland INT, Ind.; Fowler INT, Ind.; *2,600. *2,300—MOCA.
Fowler INT, Ind.; *Westpoint INT, Ind.; **4,000. *4,000—MRA. **2,300—MOCA.

Section 95.6191 *VOR Federal airway 191* is amended to delete:

Decatur, Ill., VOR via E alter.; Champaign, Ill., VOR via E alter.; *2,600. *2,100—MOCA.
Champaign, Ill., VOR via E. alter.; Roberts, Ill., VOR via E alter.; *2,600. *2,100—MOCA.

Section 95.6217 *VOR Federal airway 217* is amended to read in part:

Brewer INT, Wis.; Milwaukee, Wis., ILS Localizer; 2,500.

Section 95.6222 *VOR Federal airway 222* is amended to read in part:

Humble, Tex., VOR; Trinity INT, Tex.; *1,600. *1,400—MOCA.

Section 95.6233 *VOR Federal airway 233* is amended to read:

From, To, and MEA

Roberts, Ill., VOR; Knox, Ind., VOR; *2,500. *2,100—MOCA.
Knox, Ind., VOR; Goshen, Ind., VOR; *2,600. *2,000—MOCA.
Goshen, Ind., VOR; Litchfield, Mich., VOR; *2,800. *2,400—MOCA.
Litchfield, Mich., VOR; Lansing, Mich., VOR; *2,800. *2,300—MOCA.
Lansing, Mich., VOR; Mount Pleasant, Mich., VOR; *2,600. *2,300—MOCA.
Mount Pleasant, Mich., VOR; Traverse City, Mich., VOR; *2,800. *2,400—MOCA.

Section 95.6251 *VOR Federal airway 251* is amended by adding:

Decatur, Ill., VOR; Champaign, Ill., VOR; *2,600. *2,100—MOCA.

Section 95.6263 *VOR Federal airway 263* is amended to read in part:

Pierre, S. Dak., VOR; Aberdeen, S. Dak., VOR; *3,800. *3,100—MOCA.

Section 95.6316 *VOR Federal airway 316* is amended to delete:

United States-Canadian border; Houghton, Mich., VOR; *3,100. *2,500—MOCA.
Houghton, Mich., VOR; Marquette, Mich., VOR; *3,300. *2,800—MOCA.

Section 95.6316 *VOR Federal airway 316* is amended by adding:

Ironwood, Mich., VOR; Herman INT, Mich.; *3,500. *3,000—MOCA.
Herman INT, Mich.; Marquette, Mich., VOR; *3,600. *3,000—MOCA.

Section 95.6332 *VOR Federal airway 332* is deleted.

Section 95.6427 *VOR Federal airway 427* is added to read:

King Salmon, Alaska, VOR; Tom INT, Alaska; 3,000.
Tom INT, Alaska; Red INT, Alaska; *7,000. *5,300—MOCA.
Red INT, Alaska; Nondalton INT, Alaska; *14,000. *9,000—MOCA.
Nondalton INT, Alaska; Foreland INT, Alaska; *14,000. *12,200—MOCA.
*Foreland INT, Alaska; Anchorage, Alaska, VOR; **3,000. *11,000—MCA Foreland INT, southwestbound. **2,500—MOCA.

Section 95.6440 *VOR Federal airway 440* is amended to read in part:

Middleton Island, Alaska, VOR via S alter.; *Seward INT, Alaska, via S alter.; **9,000. *9,500—MRA. **8,200—MOCA.
Seward INT, Alaska, via S alter.; Broadview INT, Alaska, via S alter.; *9,500. *7,800—MOCA.
Broadview INT, Alaska, via S alter.; *Chickaloon INT, Alaska, via S alter.; **8,000. *5,300—MCA Chickaloon INT, southeastbound. **7,300—MOCA.

Section 95.6456 *VOR Federal airway 456* is amended to read in part:

King Salmon, Alaska, VOR; Big Mountain INT, Alaska; *5,000. *4,500—MOCA.
Big Mountain INT, Alaska; Copper INT, Alaska; *11,500. *6,000—MOCA.
*Copper INT, Alaska; Tux Bay INT, Alaska; **13,000. *12,000—MCA Copper INT, northeastbound. **1,200—MOCA.
*Tux Bay INT, Alaska; Kenai, Alaska, VOR; 5,000. *12,000—MCA Tux Bay INT, southwestbound.
Kenai, Alaska, VOR; Anchorage, Alaska, VOR; 2,000.

Section 95.6462 *VOR Federal airway 462* is added to read:

From, To, and MEA

Dillingham, Alaska, VOR; Kokwok INT, Alaska; *3,000. *2,500—MOCA.
Kohwok INT, Alaska; Stuyahok INT, Alaska *5,000. *3,800—MOCA.
Stuyahok INT, Alaska; Nondalton INT, Alaska; *#14,000. *8,800—MOCA. #MEA is established with a gap in navigation signal coverage.
Nondalton INT, Alaska; Foreland INT, Alaska; *14,000. 12,200—MOCA.
*Foreland INT, Alaska; Anchorage, Alaska, VOR; **3,000. *11,000—MCA Foreland INT, southwestbound. **2,500—MOCA.

Section 95.6508 *VOR Federal airway 508* is amended to read in part:

Middleton Island, Alaska, VOR; *Seward INT, Alaska; **9,000. *9,500—MRA. **8,200—MOCA.

Section 95.7003 *Jet Route No. 3* is amended to read in part:

From, To, MEA, and MAA

Lakeview, Oreg., VORTAC; John Day, Oreg., VORTAC; 18,000; and 45,000.
John Day, Oreg., VORTAC; Spokane, Wash., VORTAC; 18,000; 45,000.

Section 95.7109 *Jet Route No. 109* is amended to read in part:

Front Royal, Va., VOR; Buffalo, N.Y., VOR TAC; 18,000; 45,000.

Section 95.7115 *Jet Route No. 115* is amended to read in part:

King Salmon, Alaska, VORTAC; Kenai, Alaska, VOR; 18,000; 45,000.

Section 95.7127 *Jet Route No. 127* is added to read:

King Salmon, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 18,000; 45,000.

Section 95.7517 *Jet Route No. 517* is amended by adding:

Boise, Idaho, VORTAC; Spokane, Wash., VOR TAC; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

From, to—Changeover point: Distance; from

V–124 is amended by adding:
Paris, Tex., VOR; Hot Springs, Ark., VOR; 75; Paris.
V–287 is amended to delete:
North Bend, Oreg., VOR; Newberg, Oreg, VOR; 50; North Bend.
V–456 is amended to delete:
King Salmon, Alaska, VOR; Anchorage, Alaska, VOR; 120; King Salmon.
V–456 is amended by adding:
Kenai, Alaska, VOR; Anchorage, Alaska, VOR; 33; Anchorage.

Section 95.8005 *Jet routes changeover points:*

J–111 is amended to delete:
Nome, Alaska, VOR; McGrath, Alaska, VORTAC; 145; Nome.
J–124 is amended to delete:
Big Lake, Alaska, VOR; Northway, Alaska, VOR; 130; Big Lake.
J–127 is amended by adding:
King Salmon, Alaska, VORTAC; Anchorage Alaska, VORTAC; 126; Anchorage.

From, To, MEA, and MAA

J–517 is amended by adding:

Boise, Idaho, VORTAC; Spokane, Wash., VORTAC; 100; Boise.

(Secs. 307 and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on November 9, 1970.

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

[F.R. Doc. 70–15541; Filed, Nov. 19, 1970; 8:45 a.m.]

[Docket No. 10697; Amdt. 730]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription to an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by establishing, revising, or canceling the following L/MF SIAPs, effective December 17, 1970:

Anchorage, Alaska—Anchorage International Airport; LFR–A, Amdt. 12; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAPs, effective December 17, 1970:

Anchorage, Alaska—Anchorage International Airport; VOR Runway 6R, Admt. 5; Revised.
Daggett, Calif.—Barstow-Daggett Airport; VOR Runway 21, Amdt. 5; Revised.
Hartford, Conn.—Hartford-Brainard Airport; VOR–A, Amdt. 1; Revised.
Louisville, Ky.—Standiford Field; VOR Runway 29, Admt. 10; Revised.
Oak Bluffs, Mass.—Oak Bluffs Airport; VOR–A, Amdt. 1; Revised.
Sacramento, Calif.—Sacramento Executive Airport; VOR Runway 2, Amdt. 1; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; VOR Runway 16L/R, Amdt. 1; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; VOR Runway 34L/R, Amdt. 1; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; VOR Runway 9L, Amdt. 6; Revised.
Sacramento, Calif.—Sacramento Executive Airport; VOR/DME Runway 20, Amdt. 1; Revised.
Youngstown, Ohio—Youngstown Executive Airport; VOR/DME–A, Amdt. 1; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC–LDA SIAPs, effective December 17, 1970:

Morristown, N.J.—Morristown Municipal Airport; LOC Runway 23, Original; Established.
Reading, Pa.—General Carl A. Spaatz Field; LOC (BC) Runway 18, Original; Established.
Sacramento, Calif.—Sacramento Executive Airport; LOC (BC) Runway 20, Admt. 1; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; LOC/DME (BC) Runway 27R, Amdt. 2; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective November 12, 1970:

Marathon, Fla.—Marathon Flight Strip; NDB Runway 7, Original; Canceled.

4.a Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective December 17, 1970:

Anchorage, Alaska—Anchorage International Airport; NDB Runway 6R, Original; Established.
Anchorage, Alaska—Anchorage International Airport; NDB (ADF) Runway 6, Amdt. 20; Canceled.
Asheville, N.C.—Asheville Municipal Airport; NDB Runway 16, Amdt. 8; Revised.
Asheville, N.C.—Asheville Municipal Airport; NDB Runway 34, Amdt. 8; Revised.
Bar Harbor, Maine—Bar Harbor Airport; NDB–A, Amdt. 6; Revised.
Hartford, Conn.—Hartford-Brainard Airport; NDB–A, Amdt. 1; Revised.
Louisville, Ky.—Standiford Field; NDB Runway 29, Amdt. 7; Revised.
Monticello, N.Y.—Sullivan County International Airport; NDB Runway 33, Amdt. 2; Revised.
Morristown, N.J.—Morristown Municipal Airport; NDB Runway 23, Original; Established.
Oak Bluffs, Mass.—Oak Bluffs Airport; NDB–A, Amdt. 1; Revised.
Reading, Pa.—General Carl A. Spaatz Field; NDB Runway 36, Amdt. 12; Revised.
Rockland, Maine—Knox County Regional Airport; NDB Runway 3, Amdt. 5; Revised.
Sacramento, Calif.—Sacramento Executive Airport; NDB Runway 2, Amdt. 1; Revised.
San Francisco, Calif.—San Francisco International Airport; NDB Runway 28L, Original; Established.
Seattle, Wash.—Seattle-Tacoma International Airport; NDB Runway 16L, Amdt. 1; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; NDB Runway 34R, Amdt. 1; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; NDB Runway 9L, Amdt. 9; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective December 17, 1970:

Anchorage, Alaska—Anchorage International Airport; ILS Runway 6R, Original; Established.
Asheville, N.C.—Asheville Municipal Airport; ILS Runway 34, Amdt. 11; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; ILS Runway 21, Amdt. 13; Revised.
Louisville, Ky.—Standiford Field; ILS Runway 29, Amdt. 8; Revised.
Reading, Pa.—General Carl A. Spaatz Field; ILS Runway 36, Amdt. 16; Revised.
Rock Springs, Wyo.—Rock Springs-Sweetwater County Airport; ILS Runway 25, Amdt. 16; Revised.
Sacramento, Calif.—Sacramento Executive Airport; ILS Runway 2, Amdt. 14; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; ILS Runway 16L, Amdt. 1; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; ILS Runway 34R, Amdt. 1; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; ILS Runway 9L, Amdt. 12; Revised.

6. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective December 17, 1970:

Anchorage, Alaska—Anchorage International Airport; Radar–1, Amdt. 4; Revised.
Louisville, Ky.—Standiford Field; Radar–1, Amdt. 9; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; Radar–1, Amdt. 16; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; Radar–1, Amdt. 2; Revised.

7. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective December 17, 1970:

Newark, N.J.—Newark Airport; RNAV Runway 11, Original; Established.
Pittsburgh, Pa.—Allegheny County Airport; RNAV Runway 9, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1438, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 12, 1970.

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

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[F.R. Doc. 70–15540; Filed, Nov. 19, 1970; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Brevard	Cocoa Beach	E 12 009 0630 01 through E 12 009 0630 03	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32304.	Building Inspection Department, City of Cocoa Beach, Post Office Box 280, Cocoa Beach, Fla. 32931.	Nov. 20, 1970.
Do	Broward	Fort Lauderdale	E 12 011 1050 01 through E 12 011 1050 04	do	City of Fort Lauderdale Department of Engineering, 100 North Andrews Ave., Fort Lauderdale, Fla. 33302.	Do.
Do	Volusia	Ormond Beach	E 12 127 2375 01 through E 12 127 2375 04	do	Ormond Beach City Hall, 22 South Beach St., Ormond Beach, Fla. 32074.	Do.
Georgia	Fulton	Unincorporated areas.	E 13 121 0000 01 through E 13 121 0000 14	State Planning and Programming Bureau, 270 Washington St., SW., Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Fulton County Planning Department, Room 305, 165 Central Ave. SW., Atlanta, Ga. 30303.	Do.
Louisiana	Lafourche	Golden Meadow	I 22 057 0850 02	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor's Office, 313 North Bayou Dr., Golden Meadow, La. 70357.	Do.
Do	Terrebonne Parish.	Unincorporated areas.	I 22 109 0000 05 through I 22 109 0000 08	do	Office of the Secretary-Treasurer, Terrebonne Parish, Post Office Box 367, Houma, La. 70360.	Do.
New Jersey	Morris	Riverdale	E 34 027 2810 01	New Jersey Department of Environmental Protection, Division of Water Policy and Supply, Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Borough Clerk, Municipal Bldg., Borough of Riverdale, Riverdale, N.J. 07457.	Do.
Do	Union	Linden	E 34 039 1700 01 E 34 039 1700 02	do	Office of the City Clerk, City of Linden, City Hall, Linden, N.J. 07036.	Do.
Oklahoma	Tulsa	Tulsa	E 40 143 4780 01 through E 40 143 4780 06	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Office Bldg., Oklahoma City, Okla. 73105.	Office of the City Engineer, 200 Civic Center, Tulsa, Okla. 74103.	Do.
Rhode Island	Newport	Jamestown	E 44 005 0850 02	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, Westminister St., Providence, R.I. 02903.	Office of the Town Clerk, Town of Jamestown, Jamestown, R.I. 02835.	Do.
Texas	Galveston	League City	I 48 167 3920 03 I 48 167 3920 04	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 1110 San Jacinto St., Austin, Tex. 78701.	City Hall, City of League City, 516 Third St., League City, Tex. 77573.	Do.
Do	do	Texas City	I 48 167 0860 03 I 48 167 0860 04	do	Office of the Building Inspector, City Hall, 1801 Ninth Avenue North, Texas City, Tex. 77590.	Do.
Do	Harris	Shoreacres	I 48 201 6370 03 I 48 201 6370 04	do	Office of the Mayor, City Hall, 619 Shoreacres Blvd., La Porte, Tex. 77571.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: November 19, 1970.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[F.R. Doc. 70–15546; Filed, Nov. 19, 1970; 8:45 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Brevard	Cocoa Beach	T 12 009 0630 01 through T 12 009 0630 03	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32304.	Building Inspection Department, City of Cocoa Beach, Post Office Box 280, Cocoa Beach, Fla. 32931.	Nov. 20, 1970.
Do	Broward	Fort Lauderdale	T 12 011 1050 01 through T 12 011 1050 04	do	City of Fort Lauderdale Department of Engineering, 100 North Andrews Ave., Fort Lauderdale, Fla. 33302.	Do.
Do	Volusia	Ormond Beach	T 12 127 2375 01 through T 12 127 2375 04	do	Ormond Beach City Hall, 22 South Beach St., Ormond Beach, Fla. 32074.	Do.
Georgia	Fulton	Unincorporated areas.	T 13 121 0000 01 through T 13 121 0000 14	State Planning and Programming Bureau, 270 Washington St., SW., Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Fulton County Planning Department, Room 305, 165 Central Ave. SW., Atlanta, Ga. 30303.	Do.
Louisiana	Lafourche	Golden Meadow	H 22 057 0850 02	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor's Office, 313 North Bayou Dr., Golden Meadow, La. 70357.	Sept. 8, 1970.
Do	Terrebonne Parish.	Unincorporated areas.	H 22 109 0000 05 through H 22 109 0000 08	do	Office of the Secretary-Treasurer, Terrebonne Parish, Post Office Box 367, Houma, La. 70360.	July 17, 1970.
New Jersey	Morris	Riverdale	T 34 027 2810 01	New Jersey Department of Environmental Protection, Division of Water Policy and Supply, Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Borough Clerk, Municipal Bldg., Borough of Riverdale, Riverdale, N.J. 07457.	Nov. 20, 1970.
Do	Union	Linden	T 34 039 1700 01 T 34 039 1700 02	do	Office of the City Clerk, City of Linden, City Hall, Linden, N.J. 07036.	Do.
Oklahoma	Tulsa	Tulsa	T 40 143 4780 01 through T 40 143 4780 06	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Office Bldg., Oklahoma City, Okla. 73105.	Office of the City Engineer, 200 Civic Center, Tulsa, Okla. 74103.	Do.
Rhode Island	Newport	Jamestown	T 44 005 0850 02	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, Westminster St., Providence, R.I. 02903.	Office of the Town Clerk, Town of Jamestown, Jamestown, R.I. 02835.	Do.
Texas	Galveston	League City	H 48 167 3920 03 H 48 167 3920 04	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 1110 San Jacinto St., Austin, Tex. 78701.	City Hall, City of League City, 816 Third St., League City, Tex. 77573.	June 5, 1970.
Do	do	Texas City	H 48 167 6860 03 H 48 167 6860 04	do	Office of the Building Inspector, City Hall, 1801 Ninth Ave. North, Texas City, Tex. 77590.	Do.
Do	Harris	Shoreacres	H 48 201 6370 03 H 48 201 6370 04	do	Office of the Mayor, City Hall, 619 Shoreacres Blvd., La Porte, Tex. 77571.	Sept. 8, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective July 22, 1970, 35 F.R. 12360, Aug. 1, 1970)

Issued: November 19, 1970.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[F.R. Doc. 70-15547; Filed, Nov. 19, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 128a—FISH AND SEAFOOD PRODUCTS

Subpart A—Smoked and Smoke-Flavored Fish

Correction

In F.R. Doc. 70-15269 appearing at page 17401 in the issue of Friday, November 13, 1970, the reference in the last line of § 128a.1(e) reading "§ 128a.7 (b)" should read "§ 128a.7(d)".

SUBCHAPTER C—DRUGS

PART 148c—COLISTIN

Correction

In F.R. Doc. 70-15270 appearing at page 17402 in the issue of Friday, November 13, 1970, the following subparagraph (2) should be inserted in the proper sequence under § 148c.2(a):

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Requirements for Enrollment and Deadline for Filing Applications

NOVEMBER 14, 1970.

This notice is published in the exercise of rule-making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Pursuant to the authority vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9), and section 7 of the Act of July 31, 1970 (84 Stat. 1147), Part 41, Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations is amended by the revision of § 41.3. The revision of § 41.3 is made incident to the preparation of a roll of persons entitled to share in the funds appropriated to pay a judgment in favor of the Chemehuevi Tribe of Indians as authorized by the Act of September 25, 1970 (84 Stat. 868). Since this revision imposes a deadline for filing enrollment applications, notice of proposed rule making and delay in the effective date of the rule would be detrimental to those eligible for enrollment. These procedures are, therefore, dispensed with as impractical and contrary to the public interest, under the exception provided for in subsection (b)(3), and for good cause, under the exception provided for in subsection (d)(3), of 5 U.S.C. sec. 553 (Supp. V, 1965-69). Accordingly, the amendment will become effective upon publication in the FEDERAL REGISTER.

Section 41.3 is amended by adding a new paragraph designated (n) to establish requirements for enrollment and a deadline for filing applications. As amended, § 41.3 reads as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

(n) Chemehuevi Tribe of Indians: (1) All persons who meet the following requirements shall be entitled to be enrolled to share in the distribution of judgment funds awarded the Chemehuevi Tribe of Indians in Indian Claims Commission Dockets Numbered 351 and 351-A:

(i) Who were born on or prior to and living on September 25, 1970;

(ii) Who are lineal descendants of members of the Chemehuevi Tribe as it existed in 1860; and

(iii) Whose name or the name of a lineal ancestor appears as a Chemehuevi Indian on any available census roll or other record or evidence acceptable to the Secretary.

(2) Any person who has applied for and has been determined as eligible to share in the awards granted by the Indian Claims Commission in dockets numbered 88, 330 and 330-A, to the Southern Paiute Indian Nation or in dockets numbered 31, 37, 80, 80-D, 176, 215, 333, and 347, to "Certain Indians of California" shall not be entitled to share in the awards granted under this Act.

(3) Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, 124 West Thomas Road, Phoenix, Ariz. 85011, and must be postmarked no later than June 25, 1971.

LOUIS R. BRUCE,
Commissioner.

[F.R. Doc. 70-15620; Filed, Nov. 19, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7074]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Extension of Time for Making Certain Elections

In order to revise the rules with respect to extensions of time for making certain elections, § 1.9100-1 of the Income Tax Regulations (26 CFR Part 1) under the Internal Revenue Code of 1954 is amended to read as follows:

§ 1.9100-1 Extension of time for making certain elections.

(a) *In general.* The Commissioner in his discretion may, upon good cause shown, grant a reasonable extension of the time fixed by the regulations in this chapter for the making of an election or application for relief in respect of tax under subtitle A of the Code provided—

(1) The time for making such election or application is not expressly prescribed by law;

(2) Request for the extension is filed with the Commissioner before the time fixed by the regulations for making such election or application, or within such time thereafter as the Commissioner may consider reasonable under the circumstances; and

(3) It is shown to the satisfaction of the Commissioner that the granting of the extension will not jeopardize the interests of the Government.

For purposes of this section, an application for an extension of time for filing a return under section 6081 is not an application for relief in respect of tax.

(b) *Exceptions applicable to elections required to be made prior to November 20, 1970.* Notwithstanding the provisions of paragraph (a) of this section, the time fixed by the regulations in this chapter shall not be extended in cases of the following types of elections and applications required by such regulations to be made prior to November 20, 1970:

(1) An election required to be made in or with the taxpayer's original income tax return;

(2) An election required to be exercised by the filing of a claim for credit or refund, unless the election is required to be exercised on or before a date which precedes the date of expiration of the period of limitations provided in section 6511;

(3) An election required to be filed in a petition to the Tax Court;

(4) An application for permission to change a previous election;

(5) An application for permission to change an accounting method as described in §§ 1.77-1 and 1.446-1;

(6) An application for permission to change an accounting period as described in § 1.442-1; or

(7) An application for permission to change the method of treating bad debts as described in § 1.166-1.

Because this Treasury decision will not be detrimental to any taxpayer, it is hereby found unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., section 553(b) or subject to the effective date limitation of 5 U.S.C., section 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: November 16, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-15665; Filed, Nov. 19, 1970; 8:50 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 551—LOCAL DELIVERY DRIVERS AND HELPERS; WAGE PAYMENT PLANS

Recordkeeping Requirements

Pursuant to the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and Secretary's Orders, No. 2–69 (34 F.R. 1203), No. 19–70, and No. 20–70, Part 551 of Title 29, Code of Federal Regulations is amended to delete the reference to "29 CFR 516.14" and substitute therefor "§ 516.15 of this chapter". This change in the cross reference was made necessary by the revision of Part 516, 32 F.R. 9551.

This amendment shall be effective immediately upon publication in the FEDERAL REGISTER, as public notice, procedure, and delay in the effective date are found unnecessary under the provisions of 5 U.S.C. 554 in view of the editorial character of the change.

Section 551.9 of Title 29, Code of Federal Regulations, is amended to read as follows:

§ 551.9 Recordkeeping requirements.

The records which must be kept and the computations which must be made with respect to employees for whom the overtime pay exemption under section 13(b)(11) is taken are specified in § 516.15 of this chapter.

(Sec. 13(b)(11), 75 Stat. 74, 29 U.S.C. 213 (b)(11))

Signed at Washington, D.C., this 16th day of November 1970.

ROBERT D. MORAN,
Administrator,
Wage and Hour Division.

[F.R. Doc. 70–15624; Filed, Nov. 19, 1970; 8:46 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 100—EXCHANGE OF PAPER CURRENCY AND COIN

Subpart B—Exchange of Mutilated Paper Currency

The Department of the Treasury finds that it is necessary to amend the existing regulations governing the exchange of paper currency and coin at 31 CFR Part 100 (also appearing as Department Circular No. 55, revised as of August 1, 1970 (35 F.R. 11020)) to reflect a change in Department policy regarding the conditions under which and the values at which mutilated paper currency will be redeemed. The Department also finds in accord with 5 U.S.C. 553 that notice and public procedure are unnecessary since the amendments involve general statements of policy and rules of agency procedure.

Accordingly, Subpart B, Part 100, Chapter I of Title 31 of the Code of Federal Regulations is amended in the following ways:

1. By revising § 100.5 to read:

§ 100.5 Mutilated paper currency.

Lawfully held paper currency of the United States which has been mutilated will be exchanged at its face amount if clearly more than one-half of the original whole note remains. Fragments of such mutilated currency which are not clearly more than one-half of the original whole note will be exchanged at face value only if the Treasurer of the United States is satisfied that the missing portions have been totally destroyed. His judgment shall be based on such evidence of total destruction as he deems necessary and shall be final.

2. By revising § 100.6 to read:

§ 100.6 Destroyed paper currency.

No relief will be granted on account of lawfully held paper currency of the United States which has been totally destroyed.

§§ 100.7, 100.9 [Revoked]

3. By revoking §§ 100.7 and 100.9.

(Sec. 1, 49 Stat. 938; 31 U.S.C. 773a)

Effective date. These amendments shall be effective on January 1, 1971.

Dated: November 13, 1970.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 70–15682; Filed, Nov. 19, 1970; 8:51 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Pacific Ocean, Calif.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.202 establishing and governing the use of a danger zone in the Pacific Ocean between Point Sal and Point Conception, Calif., is hereby amended with respect to its caption and paragraph (b) (2), (3), (5), (6), and (7) changing the name of the using and enforcing agency, effective upon publication in the FEDERAL REGISTER, and use of the danger zone continued for an additional 5 years, as follows:

§ 204.202 Pacific Ocean, Space and Missile Test Center (SAMTEC), Vandenberg AFB, Calif.; danger zone.

* * * * *

(b) *The regulations.* * * *

(2) The stopping or loitering of vessels is expressly prohibited within a 3-mile radius of Purisima Point (Zone 8) unless prior permission is obtained from the Commander, Space and Missile Test Center (SAMTEC).

(3) The firing of missiles will take place in any one or any group of zones in the danger area at frequent and irregular intervals throughout the year. The Commander, Space and Missile Test Center will announce hazardous firing operations. Each week public notices giving advance information for hazardous firing operations will appear in "Notice to Mariners." For the benefit of the fishermen and small craft operations, announcements will be made on radio frequency 2638 kc. Additionally, information will be posted on notice boards located outside Port Control Offices at Santa Barbara, Port San Luis, and Morro Bay.

* * * * *

(5) No seaplanes, other than those approved for entry by the Commander, Space and Missile Test Center, may enter the danger zone during firing periods.

(6) The regulations in this section shall be enforced by personnel attached to the Space and Missile Test Center (SAMTEC) and by such agencies as may be designated by the Commander, Space and Missile Test Center, Vandenberg Air Force Base, Calif.

(7) The Commander, Space and Missile Test Center will extend full cooperation relating to the public use of the danger area and will fully consider every reasonable request for its use in light of requirements for national security and safety of persons and property.

* * * * *

[Regs., Nov. 3, 1970, 1522–01 (Pacific Ocean, Calif.)—ENGCW–ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For The Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[F.R. Doc. 70–15607; Filed, Nov. 19, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[3d Rev. S.O. 1009, Amdt. 2]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Division 3, acting as an Appellate Division, held at its office in Washington, D.C., on the 13th day of November 1970.

Upon consideration of telegrams received November 10, 1970, from the Union Carbide Corp.; and November 12,

1970, from the Allegheny Ludlum Steel, Division of Allegheny Ludlum Industries, Inc., and the Republic Steel Corp., which telegrams are hereby accepted as petitions seeking reconsideration and suspension of certain provisions of Third Revised Service Order No. 1009.

It appearing, that Third Revised Service Order No. 1009, as amended, paragraphs (a) (1) (ii) and (vii), relating to cars assigned to the exclusive use of a shipper, having been made effective upon short notice, could have an unintended dislocative effect upon the operations of affected shippers, and that a brief postponement of the effective date is warranted to afford such shippers an opportunity to make orderly adjustments in their operations and car requirements:

It is ordered, That Third Revised Service Order No. 1009, as amended, be, and it is hereby, further amended by substituting the following paragraph (a) (1), (ii), and (vii), for paragraph (a) (1), (ii), and (vii) thereof:

§ 1033.1009 Service Order No. 1009.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Placing of Cars.* * * *

(ii) Those provisions of this subdivision (ii) relating to cars assigned to the exclusive use of a shipper are hereby suspended until 11:59 p.m., November 29, 1970.

* * * * *

(vii) The provisions of this subdivision (vii) are hereby suspended until 11:59 p.m., November 29, 1970.

* * * * *

It is further ordered, That, except to the extent granted in the next preceding paragraph, the said petitions be, and they are, hereby, denied.

Effective date. This amendment shall become effective at 11:59 p.m., November 13, 1970.

(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 amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; 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, Division 3, Acting as an Appellate Division.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15669; Filed, Nov. 19, 1970; 8:50 a.m.]

[9th Rev. S.O. 1041]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of November 1970.

It appearing, That an acute shortage of certain plain boxcars exists on the railroads named in paragraph (a)(1) herein; that shippers located on the lines of these carriers are being deprived of such cars required for loading, resulting in a severe emergency and causing grain elevators to be unable to accept newly harvested grain, or to store grain on the ground, thus creating economic loss; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by these railroads are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1041 Service Order No. 1041.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in subparagraphs (2) and (4) of this paragraph, all plain boxcars which are listed in the registration of the specific railroads named herein in the Official Railway Equipment Register, ICC R.E.R. 377, issued by E. J. McFarland, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide and bearing the identification marks shown:

Burlington Northern Inc., Identification marks—BN, CBQ, GN, NP, SPS.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Identification marks—MILW.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, boxcars described in subparagraph (1) of this paragraph may be loaded to stations on the lines of the owning railroad, or to any other station which is closer to the owner than the station at which loaded. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(3) Boxcars described in subparagraph (1) of this paragraph shall not be backhauled empty from a junction with the car owner.

(4) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(5) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty, or loaded as authorized by subparagraph (2) or (4) of this paragraph, at a junction with the car owner.

(6) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 377, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(7) In determining distances to the car owner from the points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(8) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraph (2) or (4) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., November 17, 1970.

(d) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(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 a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order 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.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15670; Filed, Nov. 19, 1970; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Footnote 3 of § 10.53(e) as published on page 14057 of the FEDERAL REGISTER of Friday, September 4, 1970 (35 F.R. 14057), is amended to read:

§ 10.53 Seasons and limits on waterfowl, coots, gallinule and common snipe (Wilson's).

* * * * *

(e) Atlantic, Mississippi, and Central Flyways:

* * * * *

[3] The scaup bonus is applicable only in those States in which the areas in which it is to apply have been delineated, described and designated in the State's hunting regulations for the 1970–71 waterfowl hunting season. When applicable, the scaup bonus is in addition to the regular bag and possession limits specified elsewhere.

* * * * *

This amendment is to clarify an existing regulation. Therefore, it is determined that notice and public procedure thereon are impractical, unnecessary, and contrary to the public interest and this amendment is effective upon publication in the FEDERAL REGISTER.

(40 Stat. 755; 16 U.S.C. 703 et seq.)

A. V. TUNISON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 16, 1970.

[F.R. Doc. 70-15635; Filed, Nov. 19, 1970, 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Capitalization of Costs of Planting and Developing Citrus Groves

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations 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).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 278 of the Internal Revenue Code of 1954 to section 216 of the Tax Reform Act of 1969 (83 Stat. 573), such regulations are amended as follows:

PARAGRAPH 1. There are inserted immediately after § 1.275–1 the following new sections:

§ 1.278 Statutory provisions: capital expenditures incurred in planting and developing citrus groves.

SEC. 278. *Capital expenditures incurred in planting and developing citrus groves*—(a) *General rule.* Except as provided in subsection (b), any amount (allowable as a deduction without regard to this section), which is attributable to the planting, cultivation, maintenance, or development of any citrus grove (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted, shall be charged to capital account. For purposes of the preceding sentence, the portion of a citrus grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(b) *Exceptions.* Subsection (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus grove (or part thereof) which was:

(1) Replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests, or casualty, or

(2) Planted or replanted prior to the enactment of this section.

[Sec. 278 as added by sec. 216, Tax Reform Act 1969 (83 Stat. 573)]

§ 1.278–1 Capital expenditures incurred in planting and developing citrus groves.

(a) *General rule.* (1) (i) For taxable years beginning after December 31, 1969, and except as provided in subparagraph (2) (ii) of this paragraph and paragraph (b) of this section, there shall be charged to capital account any amount (allowable as a deduction without regard to section 278 or this section) which is attributable to the planting, cultivation, maintenance, or development of any citrus grove (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted. For purposes of this paragraph, the portion of a citrus grove planted in one taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). T, a fiscal year taxpayer, plants a citrus grove 5 weeks before the close of his taxable year ending in 1971. T is required to capitalize any amount (allowable as a deduction without regard to section 278 or this section) attributable to the planting, cultivation, maintenance, or development of such grove until the close of his taxable year ending in 1974.

Example (2). Assume the same facts as in example (1), except that T plants one portion of such grove 5 weeks before the close of his taxable year ending in 1971 and another portion of such grove at the beginning of his taxable year ending in 1972. The required capitalization period for expenses attributable to the first portion of such grove shall run until the close of T's taxable year ending in 1974. The required capitalization period for expenses attributable to the second portion of such grove shall run until the close of T's taxable year ending in 1975.

(2) (i) For purposes of section 278 and this section a "citrus grove" is defined as one or more trees of the rue family, often thorny and bearing large fruit with hard, usually thick peel and pulpy flesh, such as the orange, grapefruit, lemon, lime, citron, tangelo, and tangerine.

(ii) An amount attributable to the cultivation, maintenance, or development of a citrus grove (or part thereof) shall include, but shall not be limited to, the following developmental or cultural practices expenditures: Irrigation, cultivation, pruning, fertilizing, spraying, and upkeep of the citrus grove. The provisions of section 278(a) and this paragraph shall apply to expenditures for fertilizer and related materials notwithstanding the provisions of section 180, but shall not apply to expenditures attributable to real estate taxes, to soil and water conservation expenditures allowable as a deduction under section 175, or to expenditures for clearing land allowable as a deduction under section 182. Further, the provisions of section 278(a) and this paragraph apply only to expenditures allowable as deductions without regard to section 278 and have no application to expenditures otherwise chargeable to capital account, such as the cost of the land and preparatory expenditures incurred in connection with the citrus grove.

(3) (i) The period during which expenditures described in section 278(a) and this paragraph are required to be capitalized shall, once determined, be unaffected by a sale or other disposition of the citrus grove. Such period shall, in all cases, be computed by reference to the taxable years of the owner of the grove at the time that the citrus trees were planted. Therefore, if a citrus grove subject to the provisions of section 278 or this paragraph is sold or otherwise transferred by the original owner of the grove before the close of his fourth taxable year beginning with the taxable year in which the trees were planted, expenditures described in section 278(a) or this paragraph made by the purchaser or other transferee of the citrus grove from the date of his acquisition until the close of the original holder's fourth such taxable year are required to be capitalized.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. T, a fiscal year taxpayer, plants a citrus grove at the beginning of his taxable year ending in 1971. At the beginning of his taxable year ending in 1972, T sells the grove to X. The required period during which expenditures described in section 278 (a) are required to be capitalized runs from the date on which T planted the grove until the end of T's taxable year ending in 1974. Therefore, X must capitalize any such expenditures made by him from the time he purchased the grove from T until the end of T's taxable year ending in 1974.

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply to amounts allowable as deductions (without regard to section 278 or this section) and attributable to a citrus grove (or part thereof) which is replanted by a taxpayer after having been lost or damaged (while in the hands of such taxpayer) by reason of freeze, disease, drought, pests, or casualty.

(2) (i) Paragraph (a) of this section shall not apply to amounts allowable as deductions (without regard to section 278 or this section), and attributable to a citrus grove (or part thereof) which

was planted or replanted prior to December 30, 1969.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). T, a fiscal year taxpayer with a taxable year of July 1, 1969, through June 30, 1970, plants a citrus grove on August 1, 1969. Since the grove was planted prior to December 30, 1969, no expenses incurred with respect to the grove shall be subject to the provisions of paragraph (a).

Example (2). Assume the same facts as in example (1), except that T plants the grove on March 1, 1970. Since the grove was planted after December 30, 1969, all amounts allowable as deductions (without regard to section 278 or this section) and attributable to the grove shall be subject to the provisions of paragraph (a). However, since paragraph (a) applies only to taxable years beginning after December 31, 1969, T must capitalize only those amounts incurred during his taxable years ending in 1971, 1972, and 1973.

[F.R. Doc. 70-15663; Filed, Nov. 19, 1970; 8:50 a.m.]

[26 CFR Part 1]

INCOME TAX

Private Foundation Defined

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations 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).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

The following regulations relating to the definition of private foundation are prescribed under section 509 of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492).

PARAGRAPH 1. Immediately after § 1.504-1, insert the following sections:

EXEMPT ORGANIZATIONS

PRIVATE FOUNDATIONS

§ 1.509(a) Statutory provisions; private foundation defined; general rule.

SEC. 509. *Private foundation defined*—(a) *General rule.* For purposes of this title, the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than—

(1) An organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(2) An organization which—

(A) Normally receives more than one-third of its support in each taxable year from any combination of—

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year,

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

(B) Normally receives not more than one-third of its support in each taxable year from gross investment income (as defined in subsection (e));

(3) An organization which—

(A) Is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2);

(B) Is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2); and

(C) Is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) An organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

[Sec. 509(a), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 496)]

§ 1.509(a)-1 Definition of private foundation.

In general: Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) other than an organization described in section 509(a)(1), (2), (3), or (4). Organization which fall into the categories excluded from the definition of "private foundation" are generally those which either have broad public support or actively function in a supporting relationship to such organizations. Organizations which test for public safety are also excluded.

§ 1.509(a)-2 Exclusion for certain organizations described in section 170(b)(1)(A).

(a) *General rule.* Organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) are excluded from definition of "private foundation" by section 509(a)(1). For the requirements to be met by organizations described in section 170(b)(1)(A)(i) through (vi), see § 1.170-2(b) of this chapter and paragraph (b) of this section. For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) shall be construed to mean "other than an organization which is described only in clause (vii) or (viii)." For purposes of this section, an organization may qualify as a section 509(a)(1) organization regardless of the fact that it does not satisfy section 170(c)(2) because:

(1) Its funds are not used within the United States or its possessions, or

(2) It was created or organized other than in, or under the law of, the United States, any State or territory, the District of Columbia, or any possession of the United States.

(b) *Medical research organizations.* In order to qualify as a medical research organization described in section 509(a)(1) as an organization described in section 170(b)(1)(A)(iii), an organization must be directly engaged in the continuous active conduct of medical research in conjunction with a hospital described in section 501(c)(1) or (3). Such organization must be committed to spend every contribution for medical research before January 1 of the fifth calendar year which begins after the date such contribution is made. A medical research organization will be presumed to have made such commitment if its governing instrument or bylaws require that every contribution be spent for medical research before January 1 of the fifth calendar year which begins after the date such contribution is made. For purposes of this subparagraph, the term "contribution" shall not include bequests, legacies, devises, or transfers under section 2055 or 2106(a)(2): *Provided*, That all income derived from such bequests, legacies, devises, or transfers is required to be spent for the continuous active conduct of medical research in conjunction with a hospital described in section 501(c)(1) or (3) in a manner which would be sufficient to avoid the imposition of any tax upon the medical research organization under section 4942 (other than section 4942(e)) if it were a private foundation.

§ 1.509(a)-3 Broadly publicly supported organizations.

(a) *In general.* (1) Section 509(a)(2) excludes certain types of broadly, publicly supported organizations from private foundation treatment. An organization will be excluded under section 509

(a)(2) if it meets the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B).

(2) An organization will meet the one-third support test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives more than one-third of its support in each taxable year from any combination of:

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), subject to certain limitations described in paragraph (b) of this section.

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)). For purposes of this section, the amount of support received from the sources described in subdivisions (i) and (ii) of this subparagraph (subject to the limitations referred to in this subparagraph) will be referred to as the numerator of the one-third support fraction, and the total amount of support received (as defined in section 509(d)) will be referred to as the denominator of the one-third support fraction. For purposes of section 509(a)(2), paragraph (f) of this section distinguishes gifts and contributions from gross receipts; paragraph (g) of this section distinguishes grants from gross receipts; paragraph (h) of this section defines membership fees; paragraph (i) of this section defines "any bureau or similar agency of a governmental unit"; paragraph (j) of this section describes the treatment of certain indirect forms of support; paragraph (k) of this section describes the method of accounting for support; paragraph (l) of this section describes the treatment of gross receipts from section 513(a)(1), (2), or (3) activities; and paragraph (m) of this section distinguishes gross receipts from gross investment income.

(3) An organization will meet the one-third gross investment income test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from gross investment income (as defined in section 509(e)). For purposes of this section, the amount of gross investment income received will be referred to as the numerator of the one-third gross investment income fraction, and the total amount of support received (as defined in section 509(d)) will be referred to as the denominator of the one-third gross investment income fraction. For purposes of section 509(a)(2), paragraph (m) of this section distinguishes gross receipts from gross investment income.

(4) The one-third support test and the one-third gross investment income test are designed to insure that an organization which is excluded from private foundation treatment under section 509(a)(2) is responsive to the general public, rather than to the private interests of a limited number of donors or other persons.

(b) *Limitation on gross receipts*—(1) *General rule.* In computing the amount of support received from gross receipts under section 509(a)(2)(A)(ii) for purposes of the one-third support test of section 509(a)(2)(A), gross receipts from related activities received from any person, or from any bureau or similar agency of a governmental unit, are includible in any taxable year only to the extent that such receipts do not exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year.

(2) *Examples.* The application of this paragraph may be illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation receives gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the taxable year 1970, X, an organization described in section 501(c)(3), received support of $100,000 from the following sources:

Bureau M (a governmental bureau from which X received payments for services rendered)	$25,000
Bureau N (a governmental bureau from which X received payments for services rendered)	25,000
General public (gross receipts for services rendered)	20,000
Gross investment income	15,000
Contributions from individual substantial contributors (defined as disqualified persons under section 4946(a)(2))	15,000
Total support	100,000

Since the $25,000 received from each bureau amounts to more than the greater of $5,000 or 1 percent of X's support for 1970 (1% of $100,000=$1,000) under section 509(a)(2)(A)(ii), each amount is includible in the numerator of the one-third support fraction only to the extent of $5,000. Thus, for the taxable year 1970, X received support from sources which are taken into account in meeting the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau M	$5,000
Bureau N	5,000
General Public	20,000
	30,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, only $30,000 is includible in the aggregate numerator and $100,000 is includible in the aggregate denominator of the support fraction.

Example (2). For the taxable year 1970, Y, an organization described in section 501(c)(3), received support of $600,000 from the following sources:

Bureau O (gross receipts for services rendered)	$10,000
Bureau P (gross receipts for services rendered)	10,000
General public (gross receipts for services rendered)	150,000
General public (contributions)	40,000
Gross investment income	150,000
Contributions from substantial contributors	240,000
Total support	600,000

Since the $10,000 received from each bureau amounts to more than the greater of $5,000 or 1 percent of Y's support for 1970 (1% of $600,000=$6,000), each amount is includible in the numerator of the one-third support fraction only to the extent of $6,000. Thus, for the taxable year 1970, Y received support from sources required to meet the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau O	$6,000
Bureau P	6,000
General public (gross receipts)	150,000
General public (contributions)	40,000
Total	202,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, $202,000 is includible in the aggregate numerator and $600,000 is includible in the aggregate denominator of the support fraction.

(c) *Definition of "normally"*—(1) *General rule.* The support tests set forth in section 509(a)(2) are to be computed on the basis of the nature of the organization's "normal" sources of support. Subject to the special provisions of subparagraph (6) of this paragraph, an organization which has been in existence for at least 4 taxable years will be considered "normally" to receive in each taxable year more than one-third of its support from any combination of gifts, grants, contributions, membership fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) and not more than one-third of its support from gross investment income, if, for either:

(i) The period of the 4 taxable years immediately preceding the taxable year for which the support tests are being applied, or

(ii) The period of the taxable year and the 3 taxable years immediately preceding the taxable year for which the support tests are being applied,

the aggregate amount of the support received during the applicable period from gifts, grants, contributions, memberships fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) is more than one-third, and the aggregate amount of the support received from gross investment is not more than one-third, of the total support of the organization for the applicable period.

(2) *Terminations under section 507(b)(1)(B).* For the special rules applicable to the term "normally" as applied to private foundations which elect to terminate their private foundation status pursuant to the 12-month or 60-month procedure provided in section 507(a)(1)(B), see the regulations under such section.

(3) *Unusual grants.* The 4-year aggregation test for support, prescribed in subparagraph (1) of this paragraph, is applied to take into account the fact that in most cases the proportions of support an organization receives from different sources may vary from year to year and therefore to avoid having minor variations in a particular year prevent an organization with broad public support from meeting the support tests of section 509(a)(2). However, an organization may receive one or more unusual or unexpected gifts, grants, contributions or bequests from substantial contributors (classified as disqualified persons in section 4946(a)(1)(A)) in 1 particular year which are substantial enough to affect adversely its "normally" status over the 4-year aggregation period. In such cases, the support test prescribed in either subparagraph (1) (i) or (ii) of this paragraph may be computed on the basis of a 3-year aggregation with the taxable year in which the unusual gifts, grants, contributions or bequests were received being excluded from the computations.

(4) *Deviation from publicly supported status.* Notwithstanding subparagraph (3) of this paragraph, in some cases a particular gift, grant, contribution or bequest may be of such consequence or significance in relation to the organization's regular sources of public support that it may substantially alter the organization's method of operations, derogate from its publicly supported nature, and constitute a device to avoid the provisions of chapter 42 of subtitle D of this title. Therefore, the 1-taxable-year-exclusion rule set forth in subparagraph (3) of this paragraph will be applied only if no fundamental change has taken place in the normal broad, publicly supported nature of the organization or in its operations. If such change has taken place, the period for the application of the support tests described in subparagraph (3) of this paragraph shall not apply. In addition, with respect to the year of such change, the period described in subparagraph (1)(i) of this paragraph shall not apply and the period described in subparagraph (1)(ii) of this paragraph shall apply.

(5) *Determining factors.* In determining whether the provisions of subparagraph (4) rather than subparagraph (3) of this paragraph apply to a taxable year in which a particular gift, grant, contribution or bequest was made, all pertinent facts and circumstances, including the following factors, are to be taken into consideration:

(i) Whether the particular gift was made by a person (or persons standing in a relationship to such person which is described in section 4946(a)(1)(C) through (G)) who created, or stood in a position of authority with respect to, the organization.

(ii) Whether, prior to the receipt of the particular gift, the organization was relatively dormant and did not carry on or support an active program of exempt activities.

(iii) Whether any other unusual gifts, substantial in nature, were previously made to the organization by the donor (or persons standing in a relationship to such donor which is described in section 4946(a)(1)(C) through (G)) of the particular gift involved.

(iv) Whether the donor (or persons standing in a relationship to such donor which is described in section 4946(a)(1)(C) through (G)) received any benefit (other than a benefit, such as inurement of earnings, which is prohibited under section 501(c)(3)) from making the gift or from the subsequent operation of the organization. For purposes of this subdivision, the term "benefit" shall not include benefits of a nonmaterial nature, such as the naming of a building or similar recognition, or the deduction for a charitable contribution under section 170.

(6) *Grantors and contributors.* In the situation described in subparagraphs (4) and (5) of this paragraph, the status (with respect to the grantor or contributor under sections 170, 4942, and 4945) of contributions made to such organization during the taxable year being tested will not be affected until notice of change of status of such organization under section 509 is made to the public (such as by publication in the Internal Revenue Bulletin), unless the grantor or contributor (or any person standing in a relationship to such grantor or contributor which is described in section 4946(a)(1)(C) through (G) was in part responsible for, or was aware of, the act or failure to act that resulted in the application of subparagraphs (4) and (5) of this paragraph, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 509(a)(2) organization.

(7) *Examples.* The application of the principles set forth in this paragraph is illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation received gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, the term "gross investment income" is as defined in section 509(e), and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the years 1970 through 1973, X, an organization exempt under section 501(c)(3) which makes scholarship grants to needy students of a particular city, received support from the following sources:

1970:	
Gross receipts (general public)	$35,000
Contributions (substantial contributors)	36,000
Gross investment income	29,000
Total support	100,000
1971:	
Gross receipts (general public)	$34,000
Contributions (substantial contributors)	35,000
Gross investment income	31,000
Total support	100,000
1972:	
Gross receipts (general public)	$35,000
Contributions (substantial contributors)	30,000
Gross investment income	35,000
Total support	100,000
1973:	
Gross receipts (general public)	$30,000
Contributions (substantial contributors)	39,000
Gross investment income	31,000
Total support	100,000

In applying section 509(a)(2) to the taxable year 1974 on the basis of subparagraph (1)(i) of this paragraph, the total amount of support from gross receipts from the general public ($134,000) for the period 1970 through 1973 was more than one-third, and the total amount of support from gross investment income ($126,000) was less than one-third, of its total support for the same period ($400,000). For the taxable year 1974, X is therefore considered "normally" to receive more than one-third of its support from the public sources described in section 509(a)(2)(A) and less than one-third of its support from gross investment income referred to in section 509(a)(2)(B). The fact that X received less than one-third of its support from section 509(a)(2)(A) sources in 1973 and more than one-third of its support from gross investment income in 1972 does not affect its status since it met the "normally" test over a 4-year period.

Example (2). Assume the same facts as in example (1) except that in 1973 X also received an unexpected bequest of $50,000 from A, an elderly widow who was interested in encouraging the work of X, but had no other relationship to it. X used the bequest to create five new scholarships. Its operations otherwise remained the same. Under these circumstances X could not meet the 4-year support test since the total amount received from gross receipts from the general public ($134,000) would not be more than one-third of its total support for the 4-year period ($450,000). Since A is considered a substantial contributor under section 507(d)(2), she is a disqualified person under section 4946(a)(1)(A) and her bequest cannot be included in the numerator of the one-third support test under section 509(a)(2)(A). However, since A's bequest was an unusual one in terms of the "normal" sources of X's support, under subparagraph (3) of this paragraph the computation under subparagraph (1)(i) of this paragraph may be made on the basis of 1970, 1971, and 1972. For these 3 years, the amount of support from the general public ($104,000) is more than one-third, and the amount of support from gross investment income ($95,000) is not more than one-third, of the total support for the same 3 years ($300,000). Therefore, X will be considered to have met the support test for the taxable year 1974.

Example (3). In 1970, Y, an organization described in section 501(c)(3), was created by A, the holder of all the common stock in M corporation, B, A's wife, and C, A's business associate. Each of the three creators made small cash contributions to Y to enable it to begin operations. The purpose of Y was to sponsor and equip athletic teams for underprivileged children in the community. Between 1970 and 1973, Y was able to raise small amounts of contributions through fundraising drives and selling admission to some of the sponsored sporting events. During its first year of operations, it was determined that Y was excluded from the definition of "private foundation" under the provisions of section 509(a)(2). A made small contributions to Y from time to time. At all times, the operations of Y were carried out on a small scale, usually being restricted to the sponsorship of two to four baseball teams

of underprivileged children. In 1974, M recapitalized and created a first and second class of 6 percent nonvoting preferred stock, most of which was held by A and B. A then contributed 49 percent of his common stock in M to Y. A, B, and C continued to be active participants in the affairs of Y from its creation through 1974. A's contribution of M's common stock was substantial and constituted 90 percent of Y's total support for 1974. Although Y could satisfy the one-third support test on the basis of the 4 taxable years prior to 1974, a combination of the facts and circumstances described in subparagraph (5) of this paragraph indicate that the contribution by A in 1974 altered the publicly supported nature of Y so fundamentally that Y could no longer meet the requirements of section 509(a)(2)(A). The period for determining the "normal" sources of support which is described in subparagraph (1)(i) or (3) of this paragraph is not available and the period described in subparagraph (1)(ii) of this paragraph applies. Therefore, for purposes of 1974, the period for applying the one-third support test is 1971, 1972, 1973, and 1974.

(d) *Definition of "normally"; organizations in existence fewer than 4 taxable years*—(1) *General rule.* Except as provided in paragraph (e) of this section, a new organization must meet the one-third support test and the one-third gross investment income test for a period of at least 1 taxable year before it will be considered as "normally" meeting such tests for purposes of section 509(a)(2). After an organization has met these tests for its first taxable year, it must continue to meet them each succeeding taxable year for a total period of 4 taxable years (including its first taxable year) in order to be considered as "normally" meeting such tests for each succeeding taxable year during this period. In determining whether it has met such tests for its second, third, and fourth taxable years, the required computations shall be made on an aggregate basis covering all taxable years preceding the taxable year being tested. After the organization has met such tests for its first 4 taxable years, it will be considered as "normally" meeting the tests set forth in section 509(a)(2)(A) and (B) only if it meets them during the period described in paragraph (c)(1)(i) or (ii) of this section, as modified by paragraph (c)(3) of this section.

(2) *Special rule.* If an organization fails to meet such tests at the end of its first taxable year, but does meet such tests at the end of its second taxable year on an aggregate basis computed for the 2-year period, it will be considered as "normally" meeting such tests for such 2-year period as to the organization itself and grantors and contributors thereto. Except as provided in paragraph (e) of this section, upon failing to meet such tests at the end of its first taxable year, an organization seeking status under section 509(a)(2) shall be treated as a private foundation for such year (unless it satisfies the requirements of section 509(a)(1), (3), or (4)) for all purposes other than those of section 508(e). An organization shall not be treated as a private foundation for purposes of section 508(e) unless and until it is established that it fails to meet such tests and cannot satisfy the requirements of section 509(a)(1), (3), or (4) for its first 2 taxable years. If it fails to meet such tests at the end of its first taxable year, but does meet such tests at the end of its second taxable year, as described in this subparagraph, any tax imposed under chapter 42 for its first taxable year shall be abated and section 509(b) shall not be deemed to apply for its first taxable year. Once an organization has met such tests after its second taxable year, it must satisfy the requirements of subparagraph (1) of this paragraph until it has been in existence for 4 taxable years and then satisfy the requirements of paragraph (c) of this section.

(3) *Unusual grants.* If a newly created organization receives unusual gifts, grants, contributions, or bequests in any of its first 4 taxable years, the provisions of paragraph (c)(3), (4), (5), and (6) of this section shall apply. For example, if an organization fails to meet the one-third support test for its first taxable year because its initial support was received from a small number of substantial contributors, but meets such test for its second taxable year because of its gross receipts from services rendered, it may be permitted to exclude the first year if it satisfies paragraph (c)(3) of this section. It will then meet such test under the provisions of this paragraph.

(4) *Organizations failing to meet the requirements of § 1.509(a)-3(e).* An organization which fails to establish, pursuant to paragraph (e) of this section, that it can reasonably be expected to meet the tests set forth in section 509(a)(2), will be considered as "normally" meeting such tests if it subsequently satisfies the provisions of this paragraph during its first taxable year, or first 2 taxable years, as the case may be.

(e) *Definition of "normally"; new organizations; special rule for first 2 years*—(1) *Special rule.* The one-third support test and the one-third gross investment income test described in paragraph (d) of this section cannot be applied to a newly created organization which has just commenced operating. Such organization will be considered as meeting the tests set forth in section 509(a)(2) for its first taxable year or first 2 taxable years, as prescribed in this subparagraph, if it establishes to the satisfaction of the Commissioner, by the submission of evidence described in subparagraph (3) of this paragraph, that it can reasonably be expected to meet such tests during its first 2 taxable years (in the manner described in paragraph (d)(1) or (2) of this section). This subparagraph shall be applicable with respect to the organization, as well as with respect to grantors and contributors thereto, until such organization has met such tests for its first taxable year, or for its first 2 taxable years if the organization qualifies under paragraph (d)(2), rather than paragraph (d)(1), of this section, or (with respect to the organization) until the organization is notified by the Commissioner or his delegate prior to the expiration of such 2-year period that it will no longer be considered as "normally" meeting the tests under section 509(a)(2) pursuant to the provisions of this subparagraph. The status of contributions with respect to grantors or contributors under sections 170, 4942, and 4945 made to such organization will not be affected until notice of change of status of such organization is made to the public (such as by publication in the Internal Revenue Bulletin), unless the grantor or contributor (or any person standing in a relationship to such grantor or contributor which is described in section 4946(a)(1)(C) through (G)) was in part responsible for, or was aware of, the act or failure to act that resulted in the organization's loss of section 509(a)(2) status or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 509(a)(2) organization. Once an organization meets the tests set forth in paragraph (d)(1) or (2) of this section for its first taxable year, or first 2 taxable years, as the case may be, this subparagraph shall no longer apply and such organization must meet such tests in the manner described in paragraph (d) of this section for the balance of its first 4 taxable years, and in the manner described in paragraph (c) of this section, thereafter, in order to be considered as "normally" meeting the tests set forth in section 509(a)(2). An organization which, pursuant to the provisions of this subparagraph, has been considered as meeting such tests for its first 2 taxable years, has not been notified by the Commissioner or his delegate prior to the expiration of such 2-year period that it will no longer be considered as "normally" meeting such tests, and subsequently fails to meet such tests for such period, will not be considered to be an organization described in section 509(a)(2)—

(i) As of the first day of its third taxable year for purposes of making any determination under the internal revenue laws (other than sections 507(d) and 4940), and

(ii) As of the first day of its first taxable year for purposes of sections 507(d) and 4940,

with respect to such organization, or any grantor or contributor thereto.

(2) *Basic consideration.* In determining whether an organization can reasonably be expected (within the meaning of subparagraph (1) of this paragraph) to meet the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B) for its first 2 taxable years, the basic consideration is whether its organizational structure, proposed programs or activities, and intended method of operation are such as to attract the type of broadly based support from the general public, public charities, and governmental units which is necessary to meet such tests. While the factors which are relevant to this determination, and the weight accorded to each of them, may differ from case to case, depending on the nature and functions of

the organization, a favorable determination will not be made where the facts clearly indicate that an organization is likely to receive:

(i) Less than one-third of its support (subject to the limitations described in paragraph (b) of this section) from persons other than disqualified persons, from governmental units described in section 170(c)(1), and from organizations described in section 170(b)(1)(A) (other than clauses (vii) and (viii)), or

(ii) More than one-third of its support from gross investment income,

for its first 2 taxable years (in the manner described in paragraph (d) (1) or (2) of this section, as modified by paragraph (d)(3) of this section).

(3) *Factors taken into account.* All pertinent facts and circumstances shall be taken into account under subparagraph (2) of this paragraph in determining whether the organizational structure, programs or activities, and method of operation of an organization are such as to enable it to meet the tests under section 509(a)(2) for its first 2 years. Some of the pertinent factors are:

(i) Whether the organization has or will have a governing body which is comprised of public officials, or individuals chosen by public officials acting in their capacity as such, of persons having special knowledge in the particular field or discipline in which the organization is operating, of community leaders, such as elected officials, clergymen and educators, or, in the case of a membership organization, of individuals elected pursuant to the organization's governing instrument or bylaws by a broadly based membership. This characteristic does not exist if the membership of the organization's governing body is such as to indicate that it represents the personal or private interests of disqualified persons, rather than the interests of the community or the general public.

(ii) Whether a substantial portion of the organization's initial funding is to be provided by the general public, by public charities, or by government grants, rather than by a limited number of grantors or contributors who are disqualified persons with respect to the organization. It may be determined that such initial funding is being provided by the general public, even though the organization plans to limit its activities to a particular community or region or to a special field which can be expected to appeal to a limited number of persons. Because of the application of paragraph (d)(3) of this section, the subsequent sources of funding which the organization can reasonably expect to receive after it has become established and fully operational will also be taken into account.

(iii) Whether a substantial proportion of the organization's initial funds are placed, or will remain, in an endowment, and whether the investment of such funds is unlikely to result in more than one-third of its total support being received from gross investment income.

(iv) In the case of an organization which carries on fund-raising activities, whether the organization has developed a concrete plan for solicitation of funds from the general public on a community or areawide basis; whether any steps have been taken to implement such plan; whether any firm commitments of financial or other support have been made to the organization by civic, religious, charitable, or similar groups within the community; and whether the organization has made any commitments to, or established any working relationships with, those organizations or classes of persons intended as the future recipients of its funds.

(v) In the case of an organization which carries on community services, such as slum clearance and employment opportunities, whether the organization has a concrete program to carry out its work in the community; whether any steps have been taken to implement that program; whether it will receive any part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant or contribution; and whether it has enlisted the sponsorship or support of other civic or community leaders involved in community service programs similar to those of the organization.

(vi) In the case of an organization which carries on educational or other exempt activities for, or on behalf of, members, whether the solicitation for dues-paying members is designed to enroll a substantial number of persons in the community, area, profession, or field of special interest (depending on the size of the area and the nature of the organization's activities); whether membership dues for individual (rather than institutional) members have been fixed at rates designed to make membership available to a broad cross-section of the public rather than to restrict membership to a limited number of persons; and whether the activities of the organization will be likely to appeal to persons having some broad common interest or purpose, such as educational activities in the case of symphony societies or alumni associations or civic affairs in the case of parent-teacher associations.

(vii) In the case of an organization which provides goods, services, or facilities, whether the organization is or will be required to make its services, facilities, performances or products available (regardless of whether a fee is charged) to the general public, public charities, or governmental units, rather than to a limited number of persons or organizations; whether the organization will avoid executing contracts to perform services for a limited number of firms or governmental agencies or bureaus; and whether the service to be provided is one which can be expected to meet a special or general need among a substantial portion of the general public.

(f) *Gifts and contributions distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from public sources, all "gifts" and "contributions" (within the meaning of section 509(a)(2)(A)(i)) received from persons other than disqualified persons, from governmental units, or from organizations described in section 170(b)(1)(A) (other than clauses (vii) and (viii)), are includible in the numerator of the support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such "gross receipts" do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in § 1.509(a)-3(b). The terms "gifts" and "contributions" shall, for purposes of section 509(a)(2), have the same meaning as such terms have under section 170(c) and also include bequests, legacies, devises, and transfers within the meaning of section 2055 or 2106(a)(2). Thus, for purposes of section 509(a)(2)(A), any payment of money or transfer of property without adequate consideration shall be considered a "gift" or "contribution". Where payment is made or property transferred as consideration for admissions, sales of merchandise, performance of services, or furnishing of facilities to the donor, the status of the payment or transfer under section 170(c) shall determine whether and to what extent such payment or transfer constitutes a "gift" or "contribution" under section 509(a)(2)(A)(i) as distinguished from "gross receipts" from related activities under section 509(a)(2)(A)(ii).

(2) *Valuation of appreciated property.* For purposes of section 509(a)(2), the amount includible in computing support with respect to gifts, grants or contributions of appreciated property shall be the fair market or rental value of such property at the date of such gift or contribution.

(3) *Example.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following example:

Example. P is a local agricultural club described in section 501(c)(3). In order to encourage interest and proficiency by young people in farming and raising livestock, it makes awards at its annual fair for outstanding specimens of produce and livestock. Most of these awards are donated by local businessmen. When the awards are made, the donors are given recognition for their donations by being identified as the donor of the award. The recognition given to donors is merely incidental to the making of the award to worthy youngsters. For these reasons, the donations will constitute "contributions" for purposes of section 509(a)(2)(A)(i).

(g) *Grants distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from public sources, all "grants" (within the meaning of section 509(a)(2)(A)(i)) received from persons other than disqualified persons, from governmental units, or from organizations described in section 170(b)(1)(A) (other than clauses (vii) and (viii)), are includible in full in the numerator of the

support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such gross receipts do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in paragraph (b) of this section. A grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to insure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies and beneficial to the public. The grantee may also perform a service or produce a work product which incidentally benefits the grantor. Because of the imposition of terms and conditions, the frequent similarity of public purposes of grantor and grantee, and the possibility of benefit resulting to the grantor, amounts received as grants "for" the carrying on of exempt activities are sometimes difficult to distinguish from amounts received as gross receipts "from" the carrying on of exempt activities. The fact that the agreement, pursuant to which payment is made, is designated a "contract" or a "grant" is not controlling for purposes of classifying the payment under section 509(a)(2).

(2) *Distinguishing factors.* For purposes of section 509(a)(2)(A)(ii), in distinguishing the term "gross receipts" from the term "grants", the term "gross receipts" means amounts received from an activity which is not an unrelated trade or business, if a specific service, facility, or product is provided to serve the direct and immediate needs of the payor, rather than primarily to confer a direct benefit upon the general public. Research leading to the development of tangible products for the use or benefit of the payor will generally be treated as a service provided to serve the direct and immediate needs of the payor, while basic research or studies carried on in the physical or social sciences will generally be treated as primarily to confer a direct benefit upon the general public.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). M, a nonprofit research organization described in section 501(c)(3), engages in some contract research. It receives funds from the Government to develop a specific electronic device needed to perfect articles of space equipment. The initiative for the project came solely from the Government. Furthermore, the Government could have contracted with profit-making research organizations which carry on similar activities. The funds received from the Government for this project do not constitute "grants" within the meaning of section 509(a)(2)(A)(i). M provided a specific product at the Government's request and thus was serving the direct and immediate needs of the payor within the meaning of subparagraph (2) of this paragraph.

Example (2). N is a nonprofit educational organization described in section 501(c)(3). Its principal activity is to operate institutes to train employees of various industries in the principles of management and administration. The government pays N to set up a special institute for certain government employees and to train them over a 2-year period. Management training is also provided by profit-making organizations. The funds received are included as "gross receipts." The particular services rendered were to serve the direct and immediate needs of the Government in the training of its employees within the meaning of subparagraph (2) of this paragraph.

Example (3). The Office of Economic Opportunity makes a Community Action Program Grant to O, an organization described in section 509(a)(1). O serves as a "delegate agency" of OEO for purposes of financing a local community action program. As part of this program, O signs an agreement with X, an educational and charitable organization described in section 501(c)(3), to carry out a housing program for the benefit of poor families. Pursuant to this agreement, O pays X out of the funds provided by OEO to build or rehabilitate low income housing and to provide advisory services to other nonprofit organizations in order for them to meet similar housing objectives, all on a nonprofit basis. Payments made from O to X constitute "grants" for purposes of section 509(a)(2)(A) because such program is carried on primarily for the direct benefit of the community.

Example (4). P is an educational institute described in section 501(c)(3). It carries on studies and seminars to assist institutions of higher learning. It receives funds from the Government to research and develop a program of black studies for institutions of higher learning. The performance of such a service confers a direct benefit upon the public. Because such program is carried on primarily for the direct benefit of the public, the funds are considered a "grant".

Example (5). Q is an organization described in section 501(c)(3) which carries on medical research. Its efforts have primarily been directed toward cancer research. Q sought funds from the Government for a particular project being contemplated in connection with its work. In order to encourage its activities, the Government gives Q the sum of $25,000. The research project sponsored by Government funds is primarily to provide direct benefit to the general public, rather than to serve the direct and immediate needs of the Government. The funds are therefore considered a "grant".

Example (6). R is a public service organization described in section 501(c)(3) and composed of state and local officials involved in public works activities. The Bureau of Solid Waste Management of the Department of Health, Education, and Welfare paid R to study the feasibility of a particular system for disposal of solid waste. Upon completion of the study, R was required to prepare a final report setting forth its findings and conclusions. Although R is providing the Bureau of Solid Waste Management with a final report, such report is the result of basic research and study in the physical sciences and is primarily to provide direct benefit to the general public by serving to further the general functions of Government, rather than a direct and immediate governmental need. The funds paid to R are therefore a "grant" within the meaning of section 509(a)(2).

Example (7). S is an organization described in section 501(c)(3). It was organized and is operated to further African development and strengthen understanding between the United States and Africa. To further these purposes, S receives funds from the Agency for International Development and the Department of State under which S is required to carry out the following programs: Selection, transportation, orientation, counseling, and language training of African students admitted to American institutions of higher learning; payment of tuition, other fees, and maintenance of such students; and operation of schools and vocational training programs in underdeveloped countries for residents of those countries. Since the programs carried on by S are primarily to provide direct benefit to the general public, all of the funds received by S from the Federal agencies are considered "grants" within the meaning of section 509(a)(2).

(h) *Definition of membership fees*—(1) *General rule.* For purposes of section 509(a)(2), the fact that a membership organization provides services, admissions, facilities, or merchandise to its members as part of its overall activities will not, in itself, result in the classification of fees received from members as "gross receipts" rather than "membership fees". If an organization uses membership fees as a means of selling admissions, merchandise, services, or the use of facilities to members of the general public who have no common goal or interest (other than the desire to purchase such admissions, merchandise, services, or use of facilities), then the income received from such fees shall not constitute "membership fees" under section 509(a)(2)(A)(i), but shall, if from a related activity, constitute "gross receipts" under section 509(a)(2)(A)(ii). On the other hand, if the basic purpose for making the payment is to provide support for the organization rather than to purchase admissions, merchandise, services, or the use of facilities, then the income received from such payment shall constitute "membership fees".

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M is a symphony society described in section 501(c)(3). Its primary purpose is to support the local symphony orchestra. The organization has three classes of membership. Contributing members pay annual dues of $10, sustaining members pay $25, and honorary members pay $100. The dues are placed in a maintenance fund which is used to provide financial assistance in underwriting the orchestra's annual deficit. Members have the privilege of purchasing subscriptions to the concerts before they go on sale to the general public, but must pay the same price as any other member of the public. They also are entitled to attend a number of rehearsals each season without charge. Under these circumstances, M's receipts from members constitute "membership fees" for purposes of section 509(a)(2)(A)(i).

Example (2). N is a theater association described in section 501(c)(3). Its purpose is to support a repertory company in the community in order to make live theatrical performances available to the public. The organization sponsors six plays each year. Members of the organization are entitled to a season subscription to the plays. The fee paid as dues approximates the retail price of the six plays, less a 10 percent discount. Tickets to each performance are also sold directly to the general public. The organization also holds a series of lectures on the theater which

members may attend. Under these circumstances, the fees paid by members as dues will be considered "gross receipts" from a related activity. Although the fees are designated as membership fees, they are actually admissions to a series of plays.

(i) *"Bureau" defined*—(1) *In general.* The term "any bureau or similar agency of a governmental unit" (within the meaning of section 509(a)(2)(A)(ii)), refers to a specialized operating unit of the executive, judicial, or legislative branch of Government where business is conducted under certain rules and regulations. Since the term "bureau" refers to a unit functioning at the operating, as distinct from the policy-making, level of Government, it is normally descriptive of a subdivision of a department of Government. The term "bureau", for purposes of section 509(a)(2)(A)(ii), would therefore not usually include those levels of Government which are basically policy-making or administrative, such as the office of the Secretary or Assistant Secretary of a department, but would consist of the highest operational level under such policy-making or administrative levels. Each subdivision of a larger unit within the Federal Government, which is headed by a Presidential appointee holding a position at or above Level V described in section 2211 of the Federal Executive Salary Act of 1964 (5 U.S.C. 2211), will normally be considered an administrative or policy-making, rather than an operating, unit. Amounts received from a unit functioning at the policy-making or administrative level of Government will be treated as received from one bureau or similar agency of such unit.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). The Bureau of Health Insurance is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is a part of the Department of Health, Education, and Welfare, whose Secretary performs a policy-making function, and is under the Social Security Administration, which is basically an administrative unit. The Bureau of Health Insurance is in the first operating level within the Social Security Administration. Similarly, the National Cancer Institute would be considered a "bureau", as it is an operating part of the National Institutes of Health within the Department of Health, Education, and Welfare.

Example (2). The Bureau for Africa and the Bureau for Latin America are considered "bureaus" within the meaning of section 509(a)(2)(A)(ii). Both are separate operating units under the Administrator of the Agency for International Development, a policy-making official. If an organization received gross receipts from both of these bureaus, the amount of gross receipts received from each would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (3). The Bureau of International Affairs of the Civil Aeronautics Board is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is an operating unit under the administrative office of the Executive Director. The subdivisions of the Bureau of International Affairs are Geographic Areas and Project Development Staff. If an organization received gross receipts from these subdivisions, the total gross receipts from these subdivisions would be considered gross receipts from the same "bureau," the Bureau of International Affairs, and would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (4). The Department of Mental Health, a State agency which is an operational part of State X's Department of Public Health, is considered a "bureau." The Department of Public Health is basically an administrative agency and the Department of Mental Health is at the first operational level within it.

(j) *Grants from public charities*—(1) *General rule.* For purposes of the one-third support test in section 509(a)(2)(A), grants (as defined in paragraph (g) of this section) received from an organization described in section 509(a)(1) (hereinafter referred to in this subparagraph as "public charity") are generally includible in full in computing the numerator of the recipient's support fraction for the taxable year in question. It is sometimes necessary to determine whether the recipient of a grant from a public charity has received such support from the public charity as a grant, or whether the recipient has in fact received such support as an indirect contribution from a donor to the public charity. If the amount received is considered a grant from the public charity, it is fully includible in the numerator of the support fraction under section 509(a)(2)(A). However, if the amount received is considered to be an indirect contribution from one of the public charity's donors which has passed through the public charity to the recipient organization, such amount will retain its character as a contribution from such donor and, if, for example, the donor is a substantial contributor (as defined in section 507(d)(2)) with respect to the ultimate recipient, such amount shall be excluded from the numerator of the support fraction under section 509(a)(2). If a public charity makes both an indirect contribution from its donor and an additional grant to the ultimate recipient, the indirect contribution shall be treated as made first.

(2) *Indirect contributions.* For purposes of subparagraph (1) of this paragraph, an indirect contribution is one which is expressly or impliedly earmarked by the donor as being for, or for the benefit of, a particular recipient (rather than for a particular purpose).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a national foundation for the encouragement of the musical arts, is an organization described in section 170(b)(1)(A)(vi). A gives M a donation of $5,000 without imposing any restrictions or conditions upon the gift. M subsequently makes a $5,000 grant to X, an organization devoted to giving public performances of chamber music. Since the grant to X is treated as being received from M, the $5,000 grant is fully includible in the numerator of X's support fraction for the taxable year of receipt.

Example (2). Assume M is the same organization described in example (1). B gives M a donation of $10,000, but requires that M spend the money for the purpose of supporting organizations devoted to the advancement of contemporary American music. M has complete discretion as to the organizations of the type described to which it will make a grant. M decides to make grants of $5,000 each to Y and Z, both being organizations described in section 501(c)(3) and devoted to furthering contemporary American music. Since the grants to Y and Z are treated as being received from M, Y and Z may each include the $5,000 grant in the numerator of its support fraction for purposes of section 509(a)(2)(A). Although the donation to M was conditioned upon the use of the funds for a particular purpose, M was free to select the ultimate recipient.

Example (3). N is a national foundation for the encouragement of art and is an organization described in section 170(b)(1)(A)(vi). Grants to N are permitted to be earmarked for particular purposes. O, which is an art workshop devoted to training young artists and claiming status under section 509(a)(2), persuades C, a private foundation, to make a grant of $25,000 to N. C is a disqualified person with respect to O. C made the grant to N with the understanding that N would be bound to make a grant to O in the sum of $25,000, in addition to a matching grant of N's funds to O in the sum of $25,000. Only the $25,000 received directly from N is considered a grant from N. The other $25,000 is deemed an indirect contribution from C to O and is to be excluded from the numerator of O's support fraction.

(k) *Method of accounting.* For purposes of section 509(a)(2), an organization's support will be determined solely on the cash receipts and disbursement method of accounting described in section 46(c)(1). For example, if a grantor makes a grant to an organization payable over a term of years, such grant will be includible in the support fraction of the grantee organization only when and to the extent amounts payable under the grant are actually received by the grantee.

(l) *Gross receipts from section 513(a)(1), (2) or (3) activities.* For purposes of section 509(a)(2)(A)(ii), gross receipts from activities described in section 513(a)(1), (2), or (3) will be considered gross receipts from activities which are not unrelated trade or business.

(m) *Gross receipts distinguished from gross investment income.* (1) For purposes of section 509(a)(2), where the charitable purpose of an organization described in section 501(c)(3) is accomplished through the furnishing of facilities for a rental fee or loans to a particular class of persons, such as aged, sick or needy persons, the support received from such persons will be considered "gross receipts" (within the meaning of section 509(d)(2)) from an activity which is not an unrelated trade or business, rather than "gross investment income". However, if such organization also furnishes facilities or loans to persons who are not members of such class and such furnishing does not contribute importantly to the accomplishment of such organization's exempt purposes (aside from the need of such organization for income or funds or the use it makes of the profits derived), the support received from such furnishing will be considered "rents" or "interest" and

therefore will be treated as "gross investment income" within the meaning of section 509(d)(4).

(2) The provisions of this paragraph may be illustrated by the following example:

Example. X, an organization described in section 501(c)(3), is organized and operated to provide living facilities for needy widows of deceased servicemen. X charges such widows a small rental fee for the use of such facilities. Since X is accomplishing its exempt purpose through the rental of such facilities, the support received from the widows is considered "gross receipts" within the meaning of section 509(d)(2). However, if X rents part of its facilities to persons having no relationship to X's exempt purpose, the support received from such rentals will be considered "gross investment income" within the meaning of section 509(d)(4).

§ 1.509(a)-4 Supporting organizations.

(a) *In general.* (1) Section 509(a)(3) excludes from the definition of "private foundation" those organizations which meet the requirements of subparagraphs (A), (B), and (C) thereof.

(2) Section 509(a)(3)(A) provides that a section 509(a)(3) organization must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in section 509(a)(1) or (2). Section 509(a)(3)(A) describes the nature of the support or benefit which a section 509(a)(3) organization must provide to one or more section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(A), paragraph (b) of this section generally describes the organizational and operational tests; paragraph (c) of this section describes permissible purposes under the organizational test; paragraph (d) of this section describes the requirement of supporting or benefiting one or more "specified" publicly supported organizations; and paragraph (e) of this section describes permissible beneficiaries and activities under the operational test.

(3) Section 509(a)(3)(B) provides that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a)(1) or (2). Section 509(a)(3)(B) and paragraph (f) of this section describe the nature of the relationship which must exist between the section 509(a)(3) and section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(B), paragraph (g) of this section defines "operated, supervised or controlled by"; paragraph (h) of this section defines "supervised or controlled in connection with"; and paragraph (i) of this section defines "operated in connection with".

(4) Section 509(a)(3)(C) provides that a section 509(a)(3) organization must not be controlled directly or indirectly by disqualified persons (other than foundation managers or organizations described in section 509(a)(1) or (2)). Section 509(a)(3)(C) and paragraph (j) of this section prescribe a limitation on the control over the section 509(a)(3) organization.

(b) *Organizational and operational tests.* (1) Under subparagraph (A) of section 509(a)(3), in order to qualify as an organization described in section 509(a)(3) (hereinafter referred to in this section as a "supporting organization"), an organization must be both organized and operated exclusively "for the benefit of, to perform the functions of, or to carry out the purposes of" (hereinafter referred to in this section as being organized and operated "to support or benefit") one or more specified organizations described in section 509(a)(1) or (2) (hereinafter referred to in this section as "publicly supported organizations"). If an organization fails to meet either the organizational or the operational test, it cannot qualify as an organization described in section 509(a)(3).

(2) In the case of organizations created prior to January 1, 1970, the organizational and operational tests shall apply as of January 1, 1970. Therefore, even though the original articles of organization did not limit its purposes to those required under section 509(a)(3)(A) and even though it operated before January 1, 1970, for some purpose other than those required under section 509(a)(3)(A), an organization will satisfy the organizational and operational tests if, on January 1, 1970, and at all times thereafter, it is so constituted as to comply with these tests.

For the special rules pertaining to the application of the organizational and operational tests to organizations terminating their private foundation status under the 12-month or 60-month termination period provided under section 507(b)(1)(B) by becoming "public" under section 509(a)(3), see the regulations under section 507(b).

(c) *Organizational test*—(1) *In general.* An organization is organized exclusively for one or more of the purposes specified in section 509(a)(3)(A) only if its articles of organization (as defined in § 1.501(c)(3)-1(b)(2)):

(i) Limit the purposes of such organization to one or more of the purposes set forth in section 509(a)(3)(A);

(ii) Do not empower the organization to engage in activities which are not in furtherance of the purposes referred to in subdivision (i) of this subparagraph;

(iii) State the specified publicly supported organizations on whose behalf such organization is to be operated (within the meaning of paragraph (d) of this section); and

(iv) Do not empower the organization to operate to support or benefit any organization other than the specified publicly supported organizations referred to in subdivision (iii) of this subparagraph.

(2) *Purposes.* In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes set forth in section 509(a)(3)(A). Therefore, an organization which, by the terms of its articles, is formed "for the benefit of" one or more specified publicly supported organizations shall, if it otherwise meets the other requirements of this paragraph, be considered to have met the organizational test. Similarly, articles which state that an organization is formed "to perform the publishing functions" of a specified university are sufficient to comply with the organizational test. An organization which is "operated, supervised, or controlled by" (within the meaning of paragraph (g) of this section) or "supervised or controlled in connection with" (within the meaning of paragraph (h) of this section) one or more section 509(a)(1) or (2) organizations to carry out the purposes of such organizations, will be considered as meeting the requirements of this paragraph if the purposes set forth in its articles are similar to, but no broader than, the purposes set forth in the articles of its controlling section 509(a)(1) or (2) organizations. If, however, the organization by which it is operated, supervised, or controlled is a publicly supported section 501(c)(4), (5), or (6) organization (deemed to be a section 509(a)(2) organization under the provisions of section 509(a)(3)), the supporting organization will be considered as meeting the requirements of this paragraph if its articles require it to carry on charitable, etc., activities.

(3) *Limitations.* An organization is not organized exclusively for the purposes set forth in section 509(a)(3)(A) if its articles permit it to operate to support or benefit any organization other than those specified publicly supported organizations referred to in subparagraph (1)(iii) of this paragraph. Thus, for example, an organization will not meet the organizational test under section 509(a)(3)(A) if its articles empower it to pay over any part of its income to, or perform any service for, any organization other than those publicly supported organizations specified in its articles (within the meaning of paragraph (d) of this section). The fact that the actual operations of such organization have been exclusively for the benefit of the specified publicly supported organizations shall not be sufficient to permit it to meet the organizational test.

(d) *Specified organizations*—(1) *In general.* In order to meet the requirements of section 509(a)(3)(A), an organization must be organized and operated exclusively to support or benefit one or more "specified" publicly supported organizations. The manner in which the publicly supported organizations must be "specified" in the articles for purposes of section 509(a)(3)(A) will depend upon whether the supporting organization is "operated, supervised, or controlled by" or "supervised or controlled in connection with" (within the meaning of paragraphs (g) and (h) of this section) such organizations or whether it is "operated in connection with" (within the meaning of paragraph (i) of this section) such organizations.

(2) *Nondesignated publicly supported organizations; requirements.* (i) Except as provided in subdivision (ii) of this subparagraph, in order to meet the requirements of subparagraph (1) of this paragraph, the articles of the supporting

organization need not designate each of the "specified" organizations by name only if:

(*a*) The supporting organization is operated, supervised, or controlled by (within the meaning of paragraph (g) of this section), or is supervised or controlled in connection with (within the meaning of paragraph (h) of this section) such publicly supported organizations; and

(*b*) The articles of organization of the supporting organization require that it be operated to support or benefit one or more beneficiary organizations which are designated by class or purpose and which include the organizations referred to in this subdivision (i) (without designating such organizations by name).

For example, X is an organization which operates for the benefit of institutions of higher learning in the State of Y. If X is controlled by these institutions (within the meaning of paragraph (g) of this section) and such institutions are all section 509(a)(1) organizations, X's articles will meet the organizational test if they require X to operate for the benefit of institutions of higher learning or educational organizations in the State of Y (without naming each institution).

(ii) If an organization seeking section 509(a)(3) status is operated in connection with (within the meaning of paragraph (i) of this section) one or more section 509(a) (1) or (2) organizations, the supporting organization will meet the requirements of subparagraph (1) of this paragraph even though its articles do not designate each of the "specified" organizations by name if:

(*a*) There has been an historic and continuing relationship between the supporting organization and the section 509 (a) (1) or (2) organizations, and

(*b*) By reason of such relationship, there has developed a substantial identity of interests between such organizations.

(3) *Nondesignated publicly supported organizations; scope of rule.* If the requirements of subparagraph (2) of this paragraph are met, a supporting organization will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(i) Permit the substitution of one publicly supported organization within a designated class for another publicly supported organization either in the same or a different class designated in the articles;

(ii) Permit the supporting organization to operate for the benefit of new or additional publicly supported organizations of the same or a different class designated in the articles; or

(iii) Permit the supporting organization to vary the amount of its support among different publicly supported organizations within the class or classes of organizations designated by the articles.

For example, X is an organization which operates for the benefit of private colleges in the State of Y. If X is controlled by these colleges (within the meaning of paragraph (g) of this section) and such colleges are all section 509(a)(1) organizations, X's articles will meet the organizational test even if they permit X to operate for the benefit of any new colleges created in State Y in addition to the existing colleges or in lieu of one which has ceased to operate, or if they permit X to vary its support by paying more to one college than to another in a particular year.

(4) *Designated publicly supported organizations.* If an organization is organized and operated to support one or more publicly supported organizations and it is "operated in connection with" such organization or organizations, then, except as provided in subparagraph (2) (ii) of this paragraph, its articles of organization must, for purposes of satisfying the organizational test under section 509(a)(3)(A), designate the "specified" organizations by name. Under the circumstances described in this subparagraph, a supporting organization which has one or more "specified" organizations designated by name in its articles, will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(i) Permit a publicly supported organization which is designated by class or purpose, rather than by name, to be substituted for the publicly supported organization or organizations designated by name in the articles, but only if such substitution is conditioned upon the occurrence of an event which is beyond the control of the supporting organization, such as loss of exemption, substantial failure or abandonment of operations, or dissolution of the publicly supported organization or organizations designated in the articles; or

(ii) Permit the supporting organization to vary the amount of its support between different designated organizations, so long as it meets the requirements of the integral part tests set forth in paragraph (i)(3) of this section with respect to each particular beneficiary organization.

(e) *Operational test*—(1) *Permissible beneficiaries.* An organization will be regarded as "operated exclusively" to supported one or more specified section 509(a) (1) or (2) organizations (hereinafter referred to as the "operational test") only if it engages solely in activities which support or benefit the specified section 509(a) (1) or (2) organizations. An organization will not be regarded as "operated exclusively" if any part of its activities is in furtherance of a purpose other than supporting or benefiting one or more specified section 509 (a) (1) or (2) organizations. An organization will be regarded as operated exclusively to support or benefit one or more specified section 509(a) (1) or (2) organizations even if it supports or benefits an organization, other than a private foundation, which is described in section 501(c)(3) and is operated, supervised, or controlled directly by or in connection with such section 509(a) (1) or (2) organizations, or which is described in section 511(a)(2)(B).

(2) *Permissible activities.* A section 509(a)(3) organization is not required to pay over its income to the section 509(a) (1) or (2) organizations in order to meet the operational test. It may satisfy the test by using its income to carry on an independent activity or program which supports or benefits the specified section 509(a) (1) or (2) organizations. The supporting organization may also engage in fund raising activities, such as solicitations, fund raising dinners, and unrelated trade or business to raise funds for the section 509(a) (1) or (2) organizations, or for its supporting programs.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M is a separately incorporated alumni association of X University and is an organization described in section 501(c)(3). X University is designated in M's articles as the sole beneficiary of its support. M uses all of its dues and income to support its own program of educational activities for alumni, faculty, and students of X University and to encourage alumni to maintain a close relationship with the university and to make contributions to it. M does not distribute any of its income directly to X for the latter's general purposes. M pays no part of its funds to, or for the benefit of, any organization other than X. Under these circumstances, M is considered as operated exclusively to perform the functions and carry out the purposes of X. Although it does not pay over any of its funds to X, it carries on a program which both supports and benefits X.

Example (2). N is a separately incorporated religious and educational organization described in section 501(c)(3). It was formed and is operated by Y Church to provide religious training for the members of the church. While it does not maintain a regular faculty, N conducts a Sunday school, weekly adult education lectures on religious subjects, and other similar activities for the benefit of the church members. All of its funds are disbursed in furtherance of such activities and no part of its funds is paid to, or for the benefit of, any organization other than Y Church. N is considered as operated exclusively to perform the educational functions of Y Church and to carry out its religious purposes by providing various forms of religious instruction.

Example (3). P is an organization described in section 501(c)(3). Its primary activity is providing financial assistance to S, a section 509(a)(1) organization which aids underdeveloped nations in Central America. P's articles of organization designate S as the principal recipient of P's assistance. However, P also makes a small annual general purpose grant to T, a private foundation engaged in work similar to that carried on by S. T performs a particular function that assists in the overall aid program carried on by S. Even though P is operating primarily for the benefit of S, a specified section 509(a)(1) organization, it is not considered as operated exclusively for the purposes set forth in section 509(a)(3)(A). The grant to T, a private foundation, prevents it from complying with the operational test under section 509(a)(3)(A).

Example (4). Assume the same facts as Example (3), except that T is a section 501 (c)(3) organization other than a private foundation and is operated in connection with S. Under these circumstances, P will be considered as operated exclusively to support S within the meaning of section 509(a)(3)(A).

(f) *Nature of relationship required between organizations*—(1) *In general.* Section 509(a)(3)(B) describes the nature of the relationship required between a section 501(c)(3) organization and one or more section 509(a)(1) or (2) organizations in order for such section 501(c)(3) organization to qualify under the provisions of section 509(a)(3). To meet the requirements of section 509(a)(3), an organization must be operated, supervised, or controlled by or in connection with one or more section 509(a)(1) or (2) organizations. If an organization does not stand in one of such relationships (as provided in this paragraph) to one or more section 509(a)(1) or (2) organizations, it is not an organization described in section 509(a)(3).

(2) *Types of relationships.* Section 509(a)(3)(B) sets forth three different types of relationships, one of which must be met in order to meet the requirements of subparagraph (1) of this paragraph. Thus, a section 509(a)(3) organization may be:

(i) Operated, supervised, or controlled by,

(ii) Supervised or controlled in connection with, or

(iii) Operated in connection with, one or more section 509(a)(1) or (2) organizations.

(3) *Requirements of relationships.* Although more than one type of relationship may exist in any one case, any relationship described in section 509(a)(3)(B) must insure that:

(i) The section 509(a)(3) organization will be responsive to the needs or demands of one or more section 509(a)(1) or (2) organizations; and

(ii) The section 509(a)(3) organization will constitute an integral part of, or maintain a significant involvement in, the operations of one or more section 509(a)(1) or (2) organizations.

(4) *General description of relationships.* In the case of section 509(a)(3) organizations which are "operated, supervised, or controlled by" one or more section 509(a)(1) or (2) organizations, the distinguishing feature of this type of relationship is the presence of a substantial degree of direction by the latter over the conduct of the former, as described in paragraph (g) of this section. In the case of section 509(a)(3) organizations which are "supervised or controlled in connection with" one or more section 509(a)(1) or (2) organizations, the distinguishing feature is the presence of common supervision or control among the governing bodies of all organizations involved, such as the presence of common directors, as described in paragraph (h) of this section. In the case of a section 509(a)(3) organization which is "operated in connection with" one or more section 509(a)(1) or (2) organizations, the distinguishing feature is that the former is responsive to, and significantly involved in the operations of, the latter, as described in paragraph (i) of this section.

(g) *Meaning of "operated, supervised or controlled by".* (1) Each of the items "operated by", "supervised by", and "controlled by", as used in section 509(a)(3)(B), presupposes a substantial degree of direction over the policies, programs, and activities of an organization seeking section 509(a)(3) status by one or more section 509(a)(1) or (2) organizations. The relationship required under any one of these terms is comparable to that of a parent and subsidiary, where the subsidiary is under the direction of, and accountable or responsible to, the parent organization. This relationship is established by the fact that a majority of the officers, directors, or trustees of the organization seeking section 509(a)(3) status are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more section 509(a)(1) or (2) beneficiary organizations.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). X is a university press which is organized and operated as a nonstock educational corporation to perform the publishing and printing for M University, a section 509(a)(1) organization. Control of X is vested in a Board of Governors appointed by the Board of Trustees of M University upon the recommendation of the president of the university. X is considered to be operated, supervised, or controlled by M University within the meaning of section 509(a)(3)(B).

Example (2). Y Council was organized under the joint sponsorship of seven independent section 509(a)(1) or (2) organizations, each of which is dedicated to the advancement of knowledge in a particular field of social science. The sponsoring organizations organized Y Council as a means of pooling their ideas and resources for the attainment of common objectives, including the conducting of scholarly studies and formal discussions in various fields of social science. Under Y Council's bylaws, each of the seven sponsoring organizations elects three members to Y's board of trustees for 3-year terms. Y's board also includes the president of Y Council and eight other individuals elected at large by the board. Pursuant to policies established or approved by the board, Y Council engages in research planning and evaluation in the social sciences and sponsors or arranges conferences, seminars, and similar programs for scholars and social scientists. It carries out these activities through its own full-time professional staff, through a part-time committee of scholars, and through grant recipients. Under the above circumstances, Y Council is subject to a substantial degree of direction by the sponsoring section 509(a)(1) or (2) organizations. It is therefore considered to be operated, supervised, or controlled by such sponsoring organizations within the meaning of sections 509(a)(3)(B).

(h) *Meaning of "supervised or controlled in connection with".* (1) In order for an organization seeking section 509(a)(3) status to be "supervised or controlled in connection with" one or more section 509(a)(1) or (2) organizations, there must be common supervision or control by the persons supervising or controlling both the organization seeking section 509(a)(3) status and the section 509(a)(1) or (2) organizations to insure that the organization seeking section 509(a)(3) status will be responsive to the needs and requirements of the section 509(a)(1) or (2) organizations. Therefore, in order to meet such requirement, the control or management of the organization seeking section 509(a)(3) status must be vested in the same persons that control or manage the section 509(a)(1) or (2) organizations.

(2) An organization will not be considered to be "supervised or controlled in connection with" one or more section 509(a)(1) or (2) organizations if such organization merely makes payments (mandatory or discretionary) to one or more named section 509(a)(1) or (2) organizations, even if the obligation to make payments to the named beneficiaries is enforceable under State law by such beneficiaries and its governing instrument contains provisions whose effect is described in section 508(e)(1)(A) and (B). Such arrangements do not provide a sufficient "connection" between the payor organization and the needs and requirements of the section 509(a)(1) or (2) organizations to constitute supervision or control in connection with such organizations.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a philanthropist, founded X School for Orphan Boys (an organization described in section 509(a)(1)). At the same time A founded X School, he also established Y trust into which he transferred all of the operating assets of the school, together with a substantial endowment for it. Under the provisions of the trust instrument, the same persons who control and manage the school also control and manage the trust. The sole function of Y trust is to hold legal title to X school's operating and endowment assets, to invest the endowment assets and to apply the income from the endowment to the benefit of the school in accordance with direction from the school's governing body. Under these circumstances, Y trust is organized and operated "for the benefit of" X school and is "supervised or controlled in connection with" such organization within the meaning of section 509(a)(3). The fact that the same persons control both X and Y insures Y's responsiveness to X's needs.

Example (2). B, a philanthropist, created P, a charitable trust for the benefit of Z, a symphony orchestra described in section 509(a)(2). B transferred 100 shares of common stock to P. Under the terms of the trust instrument, the trustees (none of whom is under the control of B) were required to pay over all of the income produced by the trust assets to Z. The governing instrument of P contains certain provisions whose effect is described in section 508(e)(1)(A) and (B). Under applicable State law, Z can enforce the provisions of the trust instrument and compel payment to Z in a court of equity. There is no relationship between the trustees of P and the governing body of Z. Under these circumstances P is not supervised or controlled in connection with a section 509(a)(1) or (2) organization. Because of the lack of any common supervision or control by the trustees of P and the governing body of Z, P is not supervised or controlled in connection with Z within the meaning of section 509(a)(3)(B).

(i) *Meaning of "operated in connection with"*—(1) *General rule.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph, an organization will be considered as being operated in connection with one or more section

509(a) (1) or (2) organizations only if it meets the "responsiveness test" which is defined in subparagraph (2) of this paragraph and the "integral part test" which is defined in subparagraph (3) of this paragraph.

(ii) In the case of an organization which was supporting or benefiting one or more specified section 509(a) (1) or (2) organizations before (insert date on which the regulations proposed are published in notice form in the FEDERAL REGISTER), additional facts and circumstances, such as an historic and continuing relationship between organizations, may be taken into account, in addition to the factors described in subparagraph (2) of this paragraph, to establish compliance with the responsiveness test.

(iii) If—

(*a*) An organization seeking section 509(a)(3) status can establish that it has met the integral part test set forth in subparagraph (3)(ii) of this paragraph for any 5-year period,

(*b*) Such organization cannot meet the requirements of such test for its current taxable year solely because the amount received by each section 509(a) (1) or (2) organization from such organization is no longer a sufficiently substantial portion of each beneficiary organization's total support to satisfy subparagraph (3)(ii) of this paragraph, and

(*c*) There has been an historic and continuing relationship of support between such organizations between the end of such 5-year period and the taxable year in question,

then such organization will be considered as meeting the requirements of the integral part test in subparagraph (3)(ii) of this paragraph for such taxable year.

(2) *Responsiveness test.* For purposes of this paragraph, an organization will be considered to meet the "responsiveness test" if the organization is responsive to the needs or demands of the section 509(a) (1) or (2) organizations within the meaning of this subparagraph. In order to meet this test, either subdivision (i) or (ii) of this subparagraph must be satisfied.

(i) (*a*) One or more officers, directors, or trustees of the organization seeking section 509(a)(3) status are elected or appointed by the officers, directors, trustees, or membership of the section 509(a) (1) or (2) organizations;

(*b*) One or more members of the governing bodies of the section 509(a) (1) or (2) organizations are also officers, directors or trustees of, or hold other important offices in, the organization seeking section 509(a)(3) status; or

(*c*) The officers, directors or trustees of the organization seeking section 509 (a)(3) status maintain a close and continuous working relationship with the officers, directors or trustees of the section 509(a) (1) or (2) organizations; and

by reason of (*a*), (*b*), or (*c*) of this subdivision, the officers, directors or trustees of the section 509(a) (1) or (2) organizations have a significant voice in the investment policies of the organization seeking section 509(a)(3) status, in the timing of grants, the manner of making them, and the selection of recipients by such organization, and in otherwise directing the use of the income or assets of such organization.

(ii) (*a*) The organization seeking section 509(a)(3) status is a charitable trust under State law;

(*b*) Each specified section 509(a) (1) or (2) organization is a named beneficiary under such charitable trust's governing instrument; and

(*c*) The beneficiary organization has the power to enforce the trust and compel an accounting under State law.

(3) *Integral part test.* For purposes of this paragraph, an organization will be considered to meet the "integral part test" if it maintains a significant involvement in the operations of each of the section 509(a) (1) or (2) organizations, and the section 509(a) (1) or (2) organizations are in turn dependent upon such organization for the type of support which it provides. In order to meet this test, either subdivision (i) or (ii) of this subparagraph must be satisfied.

(i) The activities engaged in for or on behalf of the section 509(a) (1) or (2) organizations are activities to perform the functions of, or to carry out the purposes of, such organizations, and, but for the involvement of the supporting organization, would normally be engaged in by the section 509(a) (1) or (2) organizations themselves.

(ii) Such organization makes payments to or for the use of one or more section 509(a) (1) or (2) organizations of substantially all of its income, and the amount of support received by each beneficiary organization from such organization is a sufficiently substantial portion of each beneficiary organization's total support to insure the attentiveness of each beneficiary organization to the operations of the organization seeking section 509(a)(3) status. For purposes of this subdivision, if such organization makes payments to or for the use of a particular department or school of a university, such department or school shall be considered as the beneficiary organization supported. However, where none of the beneficiary organizations is dependent upon such organization for a substantial portion of the beneficiary organization's support, the requirements of this subparagraph will not be satisfied, even though such beneficiary organizations have enforceable rights against such organization under State law.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (*1*). N is a nonprofit publishing organization described in section 501(c)(3). It does all of the publishing and printing for the churches of a particular denomination (which are organizations described in section 509(a)(1)). Control of the organization is vested in a five-man Board of Directors, which includes one church official and four lay members of the congregations of that denomination. N does no other printing or publishing, except for the churches. It publishes all of the churches' religious as well as secular tracts and materials. Under these circumstances, N is considered as being "operated in connection with" a number of section 509(a)(1) organizations. Publishing religious literature is an integral part of the churches' activities; it is carried on by N on behalf of the churches; and there is sufficient direction over N's activities by the churches to insure responsiveness by N to their needs.

Example (*2*). O, an alumini association described in section 501(c)(3), was formed to promote a spirit of loyalty among graduates of Y University, a section 509(a)(1) organization, and to effect united action in promoting the general welfare of the university. A special committee of Y's governing board meets with O and makes recommendations as to the allocation of O's program of gifts and scholarships to the university and its students. O also provides certain functions which would otherwise be part of Y's functions, such as maintaining records of alumni. O publishes a bulletin to keep alumni aware of the activities of the university. Under these circumstances O is considered to be operated in connection with Y within the meaning of section 509(a)(3)(B).

Example (*3*). P is a trust created under the will of A for the purpose of furthering musical education. As a means of accomplishing its purposes P founded X, a school of music described in section 509(a)(1). The trust instrument is thereafter amended to name X specifically as the beneficiary of the trust. X can enforce its equitable rights as trust beneficiary under State law. Members of the governing body of X form a minority of the foundation managers of P. For many years the organizations have been operated in close association with each other. P provides the principal endowment fund for the operation of X. In addition, while the governing body of X concerns itself with artistic policies, the foundation managers of P handle the budgetary concerns of X. X's annual budget is prepared with the assistance of P's foundation managers and is approved by P. Under these circumstances, P is considered to be operated in connection with X within the meaning of section 509(a)(3)(B).

Example (*4*). Q is a charitable trust described in section 501(c)(3) and created under the will of C. Prior to his death, C built H Hospital and deeded it to I University for use as a training and clinical facility for I's medical school. Both H and I are organizations described in section 509(a)(1). C created Q to perpetuate his interest in, and assistance to, H Hospital. The sole purpose of Q was to provide financial support for H, the beneficiary organization named in C's will. H can enforce its equitable rights as trust beneficiary under State law. After the death of C, Q continued to provide substantial support for H. It was primarily responsible for the erecting of a new hospital building, as well as the construction of other facilities for the hospital. In addition, each medical department of H indicates during the year what its greatest needs are. Once these requests are approved by the medical director of I University's Medical School, they are presented to Q, and subject to the amount of Q's income (all of which is applied to H), these requests are honored and the new equipment or facility is supplied through Q's funds. The governing body of Q and those of H and I are completely independent. However, based on the above facts, Q is responsive to the needs of H, Q maintains a substantial involvement in the conduct of H, and H is substantially dependent upon the receipt of support from Q. Accordingly, Q is operated in connection with one or more section 509(a)(1) organizations within the meaning of section 509(a)(3)(B).

Example (5). R is a charitable trust created under the will of B. Its purpose is to hold assets as an endowment for S, a hospital, T, a university, and U, a national medical research organization (all being described in section 509(a)(1) and specifically named in the trust instrument), and to distribute all of the income each year in equal shares among the three named beneficiaries. S, T, and U have certain enforceable rights against R under State law, including the right to compel an accounting. Except for making these annual payments, the trustees of R have no further contacts or relationships with S, T, or U. The payments by R to such organizations do not comprise a substantial portion of the total support of any of these organizations. Although R meets the responsiveness test described in subparagraph (2) of this paragraph, it does not meet the integral part test described in subparagraph (3) of this paragraph. R is not, therefore, considered as operated in connection with one or more section 509(a) (1) or (2) organizations within the meaning of section 509(a)(3)(B).

Example (6). S is a charitable trust described in section 501(c)(3). S was created under the will of C in 1910 for the purpose of providing aged and indigent women with care and shelter. Prior to his death in 1910, C helped to create T, a home for aged women, through a substantial inter vivos contribution. Although T is not specifically named in C's will, the trustees of S (who are completely independent of T) have paid over all of S's income to T in furtherance of the trust's purposes since the death of C. S establishes that between 1910 and 1955, the amount of support received by T from S was a sufficiently substantial portion of T's total support to satisfy the provisions of § 1.509(a)-4(i)(3)(ii). In 1956, T merged with U, a home for aged and indigent men, and V, a nursing home. S continued to pay all its income to W, the organization resulting from the merger of T, U, and V. However, as a result of the merger and certain changes in the methods of financing the operations, the payments made by S after 1955 no longer were sufficiently substantial to satisfy the integral part test of § 1.509(a)-4(i)(3)(ii). W qualifies as an organization described in section 509(a)(2). For the taxable year 1971, S meets the responsiveness test under § 1.509(a)-4(i)(2)(ii). Although W is not a named beneficiary under S's governing instrument, pursuant to § 1.509(a)-4(i)(1)(ii) the historic and continuing relationship between the organizations will be taken into account to establish compliance with the responsiveness test. Furthermore, pursuant to § 1.509(a)-4(i)(1)(iii), under the facts set forth above, the integral part test under § 1.509(a)-4(i)(3)(ii) will be considered as being satisfied for the taxable year 1971. Thus S will be considered as "operated in connection with" W for the taxable year 1971.

(j) *Control by disqualified persons*—(1) *In general.* Under the provisions of section 509(a)(3)(C) an organization which is described in section 509(a)(3) may not be controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in section 509(a) (1) or (2). An organization will be considered "controlled", for purposes of section 509(a)(3)(C), if the disqualified persons, by aggregating their votes or positions of authority, may require such organization to perform any act which significantly affects its operations or may prevent such organization from performing such act. This includes, but is not limited to, the right of any substantial contributor or his spouse to designate annually the recipients, from among the organizations described in section 509(a) (1) or (2), of the income attributable to his contribution to the organization seeking section 509(a)(3) status. Except as provided in subparagraph (2) of this paragraph, an organization will be considered to be controlled directly or indirectly by one or more disqualified persons if the voting power of such persons is 50 percent or more of the total voting power of the organization's governing body or if one of such persons has the right to exercise veto power over the actions of the organization. Thus, if the governing body of a foundation is composed of five trustees, none of whom has a veto power over the actions of the organization, and no more than two trustees are at any time disqualified persons, such foundation will not be considered to be controlled directly or indirectly by one or more disqualified persons by reason of this fact alone.

(2) *Proof of independent control.* Notwithstanding subparagraph (1) of this paragraph, an organization shall be permitted to establish to the satisfaction of the Commissioner that disqualified persons do not directly or indirectly control it. For example, in the case of a religious organization operated in connection with a church, the fact that the majority of the organization's governing body is composed of lay persons who are substantial contributors to the organization will not disqualify the organization under section 509(a)(3)(C) if a representative of the church, such as a bishop or other official, has control over the policies and decisions of the organization.

(k) *Organizations operated in conjunction with certain section 501(c) (4), (5), or (6) organizations.* For purposes of section 509(a)(3), an organization which is operated in conjunction with an organization described in section 501 (c) (4), (5), or (6) (such as a social welfare organization, labor or agricultural organization, business league, or real estate board) shall, if it otherwise meets the requirements of section 509 (a)(3), be considered an organization described in section 509(a)(3) if such section 501(c) (4), (5), or (6) organization would be described in section 509(a) (2) if it were an organization described in section 501(c)(3). The section 501(c) (4), (5), or (6) organization, which the section 509(a)(3) organization is operating in conjunction with, must therefore meet the tests of a publicly supported organization set forth in section 509(a) (2). For example, X medical association, described in section 501(c)(6), is supported almost entirely by membership dues of $100 per member. X organized and operated an endowment fund for the sole purpose of furthering medical education. The fund is an organization described in section 501(c)(3). Since the medical association is supported almost entirely by membership dues of $100 per member, it would be a publicly supported organization described in section 509(a) (2) if it were described in section 501 (c)(3) rather than section 501(c)(6). Accordingly, if the fund otherwise meets the requirements of section 509(a)(3), it will be considered an organization described in section 509(a)(3).

§ 1.509(a)-5 Special rules of attribution.

(a) *Retained character of gross investment income.* (1) For purposes of determining whether an organization meets the gross investment income test set forth in section 509(a)(2)(B), amounts received by such organization from:

(i) An organization which seeks to be described in section 509(a)(3) by reason of its support of such organization; or

(ii) A charitable trust, corporation, fund, or association described in section 501(c)(3) (including a charitable trust described in section 4947(a)(1)) or a split interest trust described in section 4947(a)(2), which is required by its governing instrument or otherwise to distribute, or which normally does distribute, at least 25 percent of its adjusted net income (within the meaning of section 4942(f)) to such organization, and such distribution normally comprises at least 5 percent of such distributee organization's adjusted net income.

will retain their character as gross investment income (rather than gifts or contributions) to the extent that such amounts are characterized as gross investment income in the possession of the distributing organization described in subdivision (i) or (ii) of this subparagraph or, if the distributing organization is a split interest trust described in section 4947(a)(2), to the extent that such amounts would be characterized as gross investment income attributable to transfers in trust after May 26, 1969, if such trust were a private foundation. For purposes of this section, all income which is characterized as gross investment income in the possession of the distributing organization shall be deemed to be distributed first by such organization and shall retain its character as such in the possession of the recipient of amounts described in this paragraph. If an organization described in subdivision (i) or (ii) of this subparagraph makes distributions to more than one organization, the amount of gross investment income deemed distributed shall be prorated among the distributees.

(2) For purposes of subparagraph (1) of this paragraph, amounts paid by an organization to provide goods, services, or facilities for the direct benefit of an organization seeking section 509(a)(2) status (rather than for the direct benefit of the general public) shall be treated in the same manner as amounts received by the latter organization. Such amounts will be treated as gross investment income to the extent that such amounts are characterized as gross investment income in the possession of the organization spending such amounts. For example, X is an organization described in subparagraph (1)(i) of this paragraph. It uses part of its funds to provide Y, an organization seeking section

509(a)(2) status, with certain services which Y would otherwise be required to purchase on its own. To the extent that the funds used by X to provide such services for Y are characterized as gross investment income in the possession of X, such funds will be treated as gross investment income received by Y.

(3) An organization seeking section 509(a)(2) status shall file a separate statement with its Form 990, Annual Information Return, setting forth all amounts received from organizations described in subparagraph (1) (i) or (ii) of this paragraph.

(b) *Relationships created for avoidance purposes.* (1) If a relationship between an organization seeking section 509(a)(3) status and an organization seeking section 509(a)(2) status:

(i) Is established or availed of after October 9, 1969, and

(ii) One of the purposes of establishing or utilizing such relationship is to avoid classification as a private foundation with respect to either organization,

the character and amount of support received by the section 509(a)(3) organization will be attributed to the section 509(a)(2) organization for purposes of determining whether the latter meets the one-third support test and the one-third gross investment income test under section 509(a)(2). If a relationship described in this subparagraph is established or utilized by an organization seeking section 509(a)(3) status and two or more organizations seeking section 509(a)(2) status, the amount of support received by the former organization will be prorated among the latter organizations and the character of each class of support (as defined in section 509(d)) will be attributed pro rata to each such organization. The provisions of this paragraph and of paragraph (a) of this section are not mutually exclusive.

(2) In determining whether a relationship between one or more organizations seeking section 509(a)(2) status (hereinafter referred to as "beneficiary organizations") and an organization seeking section 509(a)(3) status (hereinafter referred to as the "supporting organization") has been established or availed of to avoid classification as a private foundation (within the meaning of subparagraph (1) of this paragraph), all pertinent facts and circumstances, including the following, shall be taken into account as evidence that a relationship was not established or availed of to avoid classification as a private foundation:

(i) The supporting organization is operated to support or benefit several specified beneficiary organizations.

(ii) The beneficiary organization has a substantial number of dues-paying members (in relation to the public it serves and the nature of its activities) and such members have an effective voice in the management of both the supporting and beneficiary organizations.

(iii) The beneficiary organization is composed of several membership organizations, each of which has a substantial number of members (in relation to the public it serves and the nature of its activities), and such membership organizations have an effective voice in the management of the supporting and beneficiary organizations.

(iv) The beneficiary organization receives a substantial amount of support from the general public, public charities or governmental grants.

(v) The supporting organization uses its funds to carry on a meaningful program of activities to support or benefit the beneficiary organization and such use would, if such supporting organization were a private foundation, be sufficient to avoid the imposition of any tax upon such organization under section 4942.

(vi) The supporting organization is not able to exercise substantial control or influence over the beneficiary organization by reason of the former's receiving support or holding assets which are disproportionately large in comparison with the support received or the assets held by the latter.

(vii) Different persons manage the operations of the beneficiary and supporting organizations and each organization performs a different function.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, an organization described in section 509(a)(2), is a council composed of 10 learned societies. Each member society has a large membership of scholars interested in a particular academic area. In 1970 M established N, an organization seeking section 509(a)(3) status, for the purpose of carrying on research and study projects of interest to the member societies. The principal source of funds for N's activities is from foundation and government grants and contracts. The principal source of funds for M's activities after the creation of N is membership dues. M continued to maintain a wide variety of activities for its members, such as publishing periodicals and carrying on seminars and conferences. N is subject to complete control by the governing body of M. Under these circumstances, the relationship between these organizations is not one which is described in subparagraph (1) of this paragraph.

Example (2). Q is a local medical research organization described in section 509(a)(2). Its fixed assets are negligible and it carries on research activities on a limited scale. It also makes a limited number of grants to scientists and doctors who are engaged in medical research of interest to Q. It receives support through small government grants and a few research contracts from private foundations. R is an organization described in section 501(c)(3). As of January 1, 1970, R was classified as a private foundation under section 509. It has a substantial endowment which it uses to make grants to various charitable and scientific organizations described in section 501(c)(3). During 1970, R agrees to subsidize the research activities of Q. R amends its governing instrument to provide specifically that all of R's support will be used for research activities which are approved and supervised by Q. R also amends its bylaws to permit a minority of Q's board of directors to be members of R's governing body. R then gives timely notification under section 507(b)(1)(B)(ii) that R is terminating its private foundation status by meeting the requirements of section 509(a)(3) by the end of the 12-month period described in section 507(b)(1)(B)(i). For purposes of determining whether R has met the requirements of section 509(a)(3) by the end of the 12-month period, as well as determining Q's status under section 509(a)(2), the character and amount of support received by R will be attributed to Q.

(c) *Effect on organizations claiming section 509(a)(3) status.* If an organization claiming section 509(a)(2) status fails to meet either the one-third support test or the one-third gross investment income test under section 509(a)(2) by reason of the application of the provisions of paragraph (a) or (b) of this section, and such organization is one of the specified organizations (within the meaning of section 509(a)(3)(A)) for whose support or benefit an organization claiming section 509(a)(3) status is operated, the organization claiming section 509(a)(3) status will not be considered to be operated exclusively to support or benefit one or more section 509(a)(1) or (2) organizations.

§ 1.509(a)-6 Classification under section 509(a).

If an organization is described in section 509(a)(1) and also in another paragraph of section 509(a), it will be treated as described in section 509(a)(1). For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) shall be construed to mean "other than an organization which is described only in clause (vii) or (viii)". For example, X is an organization which is described in section 170(b)(1)(A)(vi), but could also meet the description of section 170(b)(1)(A)(viii) as an organization described in section 509(a)(2). For purposes of the one-third support test in section 509(a)(2)(A), contributions from X to other organizations will be treated as support from an organization described in section 170(b)(1)(A)(vi) rather than from an organization described in section 170(b)(1)(A)(viii).

§ 1.509(b) Statutory provisions; private foundation defined; continuation of private foundation status.

SEC. 509. *Private foundation defined.* * * *

(b) *Continuation of private foundation status.* For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

[Sec. 509(b), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 497)]

§ 1.509(b)-1 Continuation of private foundation status.

(a) *In general.* If an organization is a private foundation (within the meaning of section 509(a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507. Therefore, if an organization

was described in section 501(c)(3) and was a private foundation within the meaning of section 509(a) on October 9, 1969, it shall be treated as a private foundation for all periods thereafter, even though it may also satisfy the requirements of an organization described in some other paragraph of section 501(c). For example, if on October 9, 1969, an organization was described in section 501(c)(3), but because of its activities, it could also have qualified as an organization described in section 501(c)(4), such organization will continue to be treated as a private foundation, if it was a private foundation within the meaning of section 509(a) on October 9, 1969.

(b) *Taxable private foundations.* If an organization is a private foundation on October 9, 1969, and it is determined that it is not exempt under section 501(a) as an organization described in section 501(c)(3) as of any date after October 9, 1969, such organization, even though it may operate thereafter as a taxable entity, will continue to be treated as a private foundation unless its status as such is terminated under section 507. For example, X organization is a private foundation on October 9, 1969. It is subsequently determined that, as of July 1, 1972, X is no longer exempt under section 501(a) as an organization described in section 501(c)(3) because, for example, it has not conformed its governing instrument pursuant to section 508(e). X will continue to be treated as a private foundation after July 1, 1972, unless its status as such is terminated under section 507. However, if an organization is not exempt under section 501(a) as an organization described in section 501(c)(3) on October 9, 1969, then it will not be treated as a private foundation within the meaning of section 509(a) by reason of section 509(b), unless it becomes a private foundation on a subsequent date.

§ 1.509(c) Statutory provisions; private foundation defined; status of organization after termination of private foundation status.

SEC. 509. *Private foundation defined.* * * *

(c) *Status of organization after termination of private foundation status.* For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

[Sec. 509(c), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 497)]

§ 1.509(c)-1 Status of organization after termination of private foundation status.

(a) *In general.* For purposes of Part II of Subchapter F of this chapter, an organization whose status as a private foundation is terminated under section 507 shall be treated as an organization created on the day after the date of such termination. An organization whose private foundation status has been terminated under the provisions of section 507(a) will, if it continues to operate, be treated as a new organization and must, if it desires to be classified under section 501(c)(3), give notification that it is applying for recognition of section 501(c)(3) status pursuant to the provisions of section 508(a).

(b) *Effect upon section 507(d)(1).* If the private foundation status of an organization has been terminated under section 507(b)(1)(B) and the regulations thereunder, and:

(1) Such organization does not continue at all times thereafter to meet the requirements of section 509(a), (1), (2), or (3) (and is therefore no longer excluded from the definition of a private foundation); and

(2) The status of such organization as a private foundation is thereafter terminated under section 507(a),

then the tax imposed under section 507(c)(1) upon the aggregate tax benefit (described in section 507(d)(1)) resulting from section 501(c)(3) status shall be computed only upon the aggregate tax benefit resulting after the date on which the organization again becomes a private foundation under subparagraph (1) of this paragraph.

§ 1.509(d) Statutory provisions; private foundation defined; definition of support.

SEC. 509. *Private foundation defined.* * * *

(d) *Definition of support.* For purposes of of this part and chapter 42, the term "support" includes (but is not limited to)—

(1) Gifts, grants, contributions, or membership fees,

(2) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

(3) Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business.

(4) Gross investment income (as defined in subsection (e)),

(5) Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

(Sec. 509(d), as added by section 101(a), Tax Reform Act 1969 (83 Stat. 497))

§ 1.509(e) Statutory provisions; private foundation defined; definition of gross investment income.

SEC. 509. *Private foundation defined.* * * *

(e) *Definition of gross investment income.* For purposes of subsection (d), the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511.

(Sec. 509(e), as added by section 101(a), Tax Reform Act 1969 (83 Stat. 498))

§ 1.509(e)-1 Definition of gross investment income.

For the distinction between gross receipts and gross investment income, see § 1.509(a)-3(m).

[F.R. Doc. 70-15664; Filed, Nov. 19, 1970; 8:50 a.m.]

[26 CFR Part 1]

INCOME TAX

Information Reporting by Health Care Carriers

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commisisoner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations 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).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to revise the rules under the Income Tax Regulations (26 CFR Part 1) under section 6041 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.6041-7 is amended to read as follows:

§ 1.6041-7 Permission to submit information required by Form 1099 or W-2 on magnetic tape.

(a) *General.* For rules relating to permission to submit the information required by Form 1099 or W-2 on magnetic tape or other media, see § 1.9101-1. See also paragraph (b)(2) of § 31.6011(a)-7 of this chapter (Employment Tax Regulations) for additional rules relating to Form W-2.

(b) *Returns on magnetic tape by departments of health care carriers.* (1) For calendar years beginning on or after January 1, 1971, a health care carrier, or an agent thereof, making payment of

fees or other compensation to providers of medical and health care services, may make a separate return on magnetic tape for each separate department within a specific line of such carrier's business, so long as all of such returns taken together contain all of the information required by section 6041 with respect to each provider of medical and health care services to whom such health care carrier makes payments aggregating $600 or more during the calendar year. Examples of separate departments within a specific line of such carrier's business (such as health and accident insurance) include, but are not limited to, separate departments to process claims of individual and group policyholders; and separate departments established along geographic lines.

(2) For purposes of this paragraph, the term "health care carrier" means any person making health care payments: (i) In exchange for the payment of a premium, (ii) in accordance with an employee benefit program, or (iii) in connection with a government-sponsored health care program.

[F.R. Doc. 70-15637; Filed, Nov. 19, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1064]

[Docket No. AO-23-A40]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Aladdin Hotel, 1215 Wyandotte Street, Kansas City, Mo., beginning at 9:30 a.m., local time, on December 1, 1970, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposals set forth below.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 1. Revise § 1064.12(b) to provide that the qualification percentage be raised from 30 percent during November, December, and January, to 50 percent during these respective months.

Proposal No. 2. Revise § 1064.12(c) to provide that a supply plant operated by a cooperative association be qualified if 50 percent of the member producer milk of such cooperative association is received during the immediately preceding 12-month period of pool distributing plants either directly from member producers' farms or by transfers from such supply plant.

Proposal No. 3. Revise § 1064.15 (a) and (b) to provide that diverted milk may not exceed 100 percent of the handler's receipts at pool distributing plant(s) in each month, rather than the present 35 percent thereof in September through January, and 100 percent thereof in February through August.

Proposal No. 4. Revise paragraphs (b) and (c) of § 1064.51 to read as follows:

§ 1064.51 Class prices.

* * * * *

(b) *Class II milk.* The Class II price shall be the Class III price plus 15 cents; and

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

Proposed by Land O'Lakes Creameries, Inc.:

Proposal No. 5. Delete §1064.44(c) and in the introductory text of § 1064.44(d) preceding subparagraph (1) delete ", located not more than 400 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the city halls of Kansas City, Mo., or Topeka, Kans."

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 6. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Post Office Box 4606, Overland Park, Kans. 66204, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on November 17, 1970.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-15676; Filed, Nov. 19, 1970; 8:51 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-CE-85]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

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

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Three new instrument approach procedures have been developed for the Traverse City, Mich., Municipal Airport. In addition, one of the present instrument approaches at this airport is being canceled. Accordingly, it is necessary to alter the Traverse City, Mich., control zone and transition area to adequately protect aircraft executing the new approach procedures and to delete those portions of the designations which are no longer required. In making these changes at Traverse City it is also necessary for the FAA to reword the Bellaire, Mich., transition area description to make it compatible with the new Traverse City airspace redesignation.

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

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

TRAVERSE CITY, MICH.

Within a 5-mile radius of Traverse City Municipal Airport (latitude 44°44'35" N., longitude 85°34'55" W.); and within 3 miles each side of the Traverse City VORTAC 158° and 338° radials, extending from the 5-mile-radius zone to 8 miles south of the VORTAC.

(2) In § 71.181 (35 F.R. 2134), the following transition areas are amended to read:

TRAVERSE CITY, MICH.

That airspace extending upward from 700 feet above the surface within a 10½-mile radius of Traverse City Municipal Airport (latitude 44°44'35" N., longitude 85°34'55" W.); within 4½ miles west and 9½ miles east of the Traverse City VORTAC 158° radial, extending from the 10½-mile-radius area to 18½ miles south of the VORTAC; and within 5 miles each side of the Traverse City VORTAC 344° radial, extending from the 10½-mile-radius area to 20 miles north of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 19½-mile radius of the Traverse City VORTAC, extending from the Traverse City VORTAC 060° radial clockwise to the Traverse City VORTAC 129° radial; within a 25-mile radius of the Traverse City VOR TAC, extending from the Traverse City VOR TAC 268° radial clockwise to the Traverse City VORTAC 060° radial; and within 4½ miles north and 9½ miles south of the Traverse City ILS localizer east course, extending from the 19½-mile-radius area to 18½ miles east of the OM.

BELLAIRE, MICH.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Antrim County Airport (latitude 44°59'15" N., longitude 85°12'00" W.); and within 3 miles each side of the 198° bearing from Antrim County Airport, extending from the 11-mile-radius area to 14 miles south of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles west and 4½ miles east of the 198° bearing from the Antrim County Airport, extending from the airport to 25 miles south of the airport, excluding the portion which overlies the Traverse City, Mich., transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on October 22, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-15633; Filed, Nov. 19, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-96]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Bartow, Fla., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Miami Area Office, Air Traffic Branch, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Bartow transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Bartow Municipal Airport (lat. 27°57'00" N., long. 81°47'00" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations in climb from 700 to 1,200 feet above the surface and in descent from 1,500 to 1,000 feet above the surface. A prescribed instrument approach procedure to Bartow Municipal Airport, utilizing the Lakeland, Fla., VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 10, 1970.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 70-15634; Filed, Nov. 19, 1970; 8:47 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

HOUSING INVESTMENT GUARANTY PROJECTS IN LATIN AMERICAN COUNTRIES

Special Addendum for Central American Common Market

A. The Agency for International Development has issued a public announcement, dated September 1, 1970, entitled "Special Announcement for Costa Rica and Guatemala" (35 F.R. 15848–15849), concerning the reopening of the Latin American Housing Investment Guaranty Program. This Special Addendum announces the approval of an allocation of additional investment guaranty authority (tentative) as follows: US $10 million for the development of Model Communities within the Central American Common Market area. Competitive applications must be submitted at the A.I.D. Regional Office for Central America and Panama (ROCAP) in Guatemala between February 15, 1971 and March 1, 1971.

By "competitive applications," A.I.D. means applications on forms furnished by A.I.D.; which applications are prepared by applicants as described in paragraph C–3, below.

NOTE: A.I.D. housing investment guaranty authority is also available to eligible nonprofit applicants for worthwhile projects without reference to all of the limitations imposed by the general public announcement and this Special Addendum; and A.I.D. will consider applications for housing investment guaranty authority from such eligible nonprofit sponsors at any time. Nonprofit applicants are invited to approach, at their convenience, the A.I.D. Mission in Guatemala, the A.I.D. Regional Housing and Urban Development Office in ROCAP (Guatemala), or the A.I.D. Office of Housing in Washington, D.C., to discuss the criteria and guidelines for negotiations leading to housing investment guaranty awards.

In addition to the applicable general requirements for competitive applications set forth in the "Special Announcement", and in the "Information for Applicants", dated September 1, 1970 (35 F.R. 15845–15848), the following requirements have been established specifically for housing investment guaranty Model Community projects proposed for Central America:

B. Program objective:

The allocation of housing investment guaranty authority for use as described in this Special Addendum is unique in that it is the first to be made available for utilization in connection with a project which may be developed in any major city in a multinational area. The objective of this unique program is to develop a minimum of one and a maximum of two planned communities which will serve as models for the entire Central American region. They should utilize the most advanced design and construction techniques within the framework of modern concepts of urban community planning and provide sources of employment and convenient access to goods, services, health, education, and recreational facilities. A.I.D. Housing Investment Guaranty will be available only for those loans financing dwelling units.

C. Special conditions for all housing investment guaranty Model Community projects approved for the Central America Common Market area:

1. *Borrower.* The Borrower of the A.I.D.-guaranteed loan investments shall be the Central American Bank for Economic Integration (CABEI) which shall provide its full faith and credit guaranty of dollar repayment of the loan.

2. *Fees, reserves and charges.* (a) A.I.D. Guaranty Fee: The A.I.D. Guaranty fee will be one-half of 1 percent per annum of the outstanding guaranteed loan investment.

Applicants should consult with the Home Loan Department of CABEI as to its fees for performing the function of Borrower and for administration of the guaranteed loan investment.

3. *Status of applicant.* Eligible applicants must be corporations chartered or to be chartered under the laws of a country, department, Federal district, or municipality within the Central American Common Market, or joint ventures of such corporation and corporations of the United States or other eligible countries as described in section II–A–2 of the "Information for Applicants." Interested parties should inquire of the Regional Office for Central America and Panama Affairs (ROCAP) as to their eligibility prior to preparing an application.

4. *Eligible projects.* Eligible projects will be considered only under Private Housing, Local Participation, and Institutions important to the Alliance categories, or any combination thereof (see "Information for Applicants" section 1(C)).

Projects proposed in accordance with this special addenda must have all of the following characteristics:

(a) They shall be approved by the national, regional, and/or municipal economic and planning authorities where such authorities exist.

(b) They shall propose the utilization of not less than $5 million nor more than $10 million in housing investment guaranty authority.

(c) They shall propose projects containing most, if not all the following elements:

(i) Single family residential areas.

(ii) Multifamily residential areas (condominiums or cooperatives).

(iii) Commercial areas.

(iv) Light industrial areas.

(v) Heavy industrial areas, if appropriate.

(vi) Public-use areas: community recreational facilities, schools, churches, etc.

(vii) Community facilities: streets, sewer, water, power, telephone, parking.

(d) Residential areas proposed shall encompass an appropriate mix of dwelling units with minimum sales prices of US$3,500 to maximum sales prices of US$8,500.

(e) Projects proposed shall be within the metropolitan areas of cities within the Central American Common Market area having populations (based on latest available census data) of at least 100,000 persons.

5. *Other investment guaranties.* All applications must indicate commitments from interested industrial and commercial interests for the construction of those elements of the proposed planned community which will utilize investment resources not guarantied by an A.I.D. Housing Investment Guaranty. A.I.D. Housing Investment Guaranty will be available only for those loans financing dwelling units. Applicants are advised, however, that the U.S. Government, through the Overseas Private Investment Corporation, can under certain conditions provide specific risk guaranties of the long-term investments required (covering the risk of expropriation, war or revolution, and convertibility), or extended risk guaranties covering up to 75 percent of the value of the long-term investment required against all risks.

6. *Community organization.* In connection with all projects submitted under this Special Addendum, Sponsors must propose the creation of a permanent community organization, which shall be composed of all residents and commercial and industrial interests in the planned community; which shall be a juridical entity in accordance with all applicable laws, rules, and regulations of the host country; and which shall have a Board composed of representatives of all of the elements of the community, including, if possible, the local government.

Purchasers of dwelling units, and developers of the commercial and industrial sectors, shall be assessed a monthly charge for the maintenance of community facilities and public use areas, community security and fire protection, and such other uses as may be deemed appropriate by the Board.

7. *Additional information.* For additional information on any of the foregoing requirements and basic standards, please communicate with:

The Agency for International Development, Regional Office for Central America and Panama Affairs, Housing and Urban Development Office, Galerias Espana, Plazuela Espana, Zone 9, Guatemala City, Guatemala, C.A.

Mr. John D. Kilgore, RHUDO.

MILTON DREXLER,
Acting Deputy Director,
Office of Housing.

NOVEMBER 13, 1970.

[F.R. Doc. 70-15639; Filed, Nov. 19, 1970; 8:48 a.m.]

Office of the Secretary

[Public Notice 334]

CULTURALLY SIGNIFICANT OBJECTS

Temporary Exhibition Within the United States

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312, dated October 14, 1966 (31 F.R. 202, October 18, 1966) and Delegation of Authority No. 113, dated December 23, 1966 (32 F.R. 58, January 5, 1967), I hereby determine that (1) the two paintings described below, to be imported, pursuant to a loan agreement between the Museum of Modern Art, New York, N.Y., and the U.S.S.R. Hermitage Museum, with the approval of the U.S.S.R. Ministry of Curture, for temporary exhibition without profit within the United States are of cultural significance, and that (2) the temporary exhibition or display of such paintings within the United States by such museum is in the national interest:

1. Picasso—*Factory at Horta.* 1909. Oil on canvas, 53 x 60 cm.
2. Picasso—*Three Women.* 1908. Oil on canvas, 200 x 178 cm.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

JOHN RICHARDSON, Jr.,
Assistant Secretary for Educational and Cultural Affairs.

NOVEMBER 18, 1970.

[F.R. Doc. 70-15756; Filed, Nov. 19, 1970; 10:39 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-243; Customs Delegation Order 39]

DEPUTY COMMISSIONER OF CUSTOMS ET AL.

Order of Succession

NOVEMBER 16, 1970.

Order of Commissioner of Customs establishing an order of succession of persons to act as Commissioner of Customs.

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 F.R. 2875), it is hereby ordered that the following officers of the Bureau of Customs in the order of succession enumerated, shall act as Commissioner of Customs or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs;

2. The Assistant Commissioner of Customs, Office of Regulations and Rulings;

3. The Assistant Commissioner of Customs, Office of Administration.

This order supersedes the order of succession established in Delegation Order No. 35, dated October 24, 1969 (T.D. 69-239; 34 F.R. 17532).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[F.R. Doc. 70-15681; Filed, Nov. 19, 1970; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-3663]

IDAHO

Notice of Classification of Public Lands for Multiple-Use Management

NOVEMBER 13, 1970.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2460, the public lands within the areas described below are hereby classified for multiple-use management. Publication of this notice has the effect (a) of segregating all the public land within the areas described below from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171), and (b) of further segregating the lands described in paragraph 4 of this notice from the operation of the general mining laws (30 U.S.C. ch. 2) and from surface use and occupancy under the mineral leasing laws. Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Several comments were received following publication of a notice of proposed classification in the FEDERAL REGISTER of August 13, 1970 (35 F.R. 12859), and at the public hearing which was held at Rigby, Idaho, on September 9, 1970. All comments have been carefully considered and evaluated in light of the law and the regulations. The record showing the comments and other information is on file and can be examined in either the Idaho Falls District Office, Idaho Falls, Idaho, or the Idaho Land Office, Boise, Idaho.

3. The public lands affected by this proposed classification are located within the following described areas of Jefferson and Madison Counties and are shown on maps on file in the Idaho Falls District Office, Bureau of Land Management, Idaho Falls, Idaho, and the Idaho Land Office, Bureau of Land Management, 334 Federal Building, Boise, Idaho.

BOISE MERIDIAN, IDAHO

JEFFERSON COUNTY

T. 8 N., R. 32 E.,
Secs. 1, 2, and 3;
Secs. 10 through 15, inclusive.
T. 8 N., R. 33 E.,
Sec. 5, lots 3 and 4, S½NW¼, and SW¼;
Sec. 6;
Sec. 7, lots 1 through 4, inclusive, N½NE¼, and E½W½;
Sec. 18, lots 1 through 4, inclusive, and E½W½.
T. 4 N., R. 34 E.,
Secs. 1, 2, and 3;
Secs. 10 through 15, inclusive;
Secs. 22 through 27, inclusive;
Sec. 28, SE¼SE¼;
Sec. 33, E½E½;
Secs. 34, 35, and 36.
T. 5 N., R. 34 E.,
Secs. 10 through 15, inclusive;
Secs. 22 through 27, inclusive;
Secs. 34, 35, and 36.
T. 7 N., R. 34 E.,
Secs. 1 through 4, inclusive;
Secs. 9 through 14, inclusive;
Sec. 15, E½.
T. 8 N., R. 34 E.,
Secs. 1 through 4, inclusive;
Secs. 9 through 16, inclusive;
Secs. 21 through 28, inclusive;
Secs. 33 through 36, inclusive.
T. 4 N., R. 35 E.,
Secs. 2 through 9, inclusive;
Sec. 10, N½;
Secs. 17, 18, and 19;
Sec. 20, W½NW¼;
Sec. 30, N½ and SW¼;
Sec. 31, W½.
T. 5 N., R. 35 E.,
Sec. 1, lots 1, 2, 3, E½SW¼, and SE¼;
Sec. 7;
Sec. 8, SW¼SW¼;
Sec. 11, S½N½ and S½;
Sec. 12, NE¼, NE¼NW¼, S½NW¼, and S½;
Secs. 13, 14, and 15;
Sec. 17, W½NW¼ and S½;
Secs. 18 through 24, inclusive;
Sec. 25, N½;
Secs. 26 through 35, inclusive.
T. 6 N., R. 35 E.,
Sec. 13, SE¼;
Secs. 24, 25, and 36.
T. 7 N., R. 35 E.,
Sec. 1, N½ and W½SW¼;
Secs. 2 through 10, inclusive;
Sec. 11, W½E½ and W½;
Sec. 13, W½W½;
Secs. 14 through 18, inclusive;
Sec. 19, N½NE¼ and SE¼NE¼;
Sec. 20, N½;
Sec. 21, N½;
Sec. 22, N½;
Sec. 23, N½NW¼ and SW¼NW¼.
T. 8 N., R. 35 E.,
Secs. 1 through 36, inclusive.
T. 5 N., R. 36 E.,
Sec. 2, lots 5 and 6, S½NW¼, and SW¼;
Secs. 3 through 10, inclusive;
Secs. 15 through 21, inclusive;
Sec. 27, SW¼NW¼ and W½SW¼;
Secs. 28, 29, and 30.

T. 6 N., R. 36 E.,
Secs. 1 through 4, inclusive;
Sec. 8, E½;
Secs. 9 through 17, inclusive;
Sec. 18, NE¼ and S½;
Secs. 19 through 36, inclusive.
T. 7 N., R. 36 E.,
Secs. 24 and 25;
Sec. 34, SE¼;
Sec. 35, S½;
Sec. 36.
T. 8 N., R. 36 E.,
Secs. 1 through 9, inclusive;
Sec. 11, N½;
Sec. 12, N½ and SE¼;
Sec. 13, NE¼;
Secs. 16 through 21, inclusive;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30.
T. 4 N., R. 37 E.,
Sec. 12, S½SE¼;
Sec. 13, NE¼ and S½;
Sec. 23, NE¼NE¼, S½NE¼, and NW¼SE¼;
Sec. 24, NW¼NW¼.
T. 5 N., R. 37 E.,
Secs. 1 through 6, inclusive;
Secs. 9 through 12, inclusive;
Sec. 14, W½;
Sec. 15.
T. 6 N., R. 37 E.,
Secs. 1 through 36, inclusive.
T. 7 N., R. 37 E.,
Sec. 1, E½;
Sec. 12, E½;
Sec. 13;
Secs. 19 through 36, inclusive.
T. 4 N., R. 38 E.,
Sec. 7, lot 4;
Sec. 18, lots 1 through 4, SE¼NW¼, and E½SW¼;
Sec. 19, W½NE¼ and E½NW¼.
T. 5 N., R. 38 E.,
Secs. 4 through 9, inclusive.
T. 6 N., R. 38 E.,
Secs. 4 through 9, inclusive;
Secs. 16 through 21, inclusive;
Secs. 28 through 33, inclusive.
T. 7 N., R. 38 E.,
Secs. 4 through 9, inclusive;
Secs. 16 through 21, inclusive;
Secs. 28 through 33, inclusive.

The public lands within these areas described in Jefferson County aggregate approximately 187,500 acres of public lands.

BOISE MERIDIAN, IDAHO

MADISON COUNTY

T. 5 N., R. 38 E.,
Secs. 1, 2, 3, and 10.
T. 6 N., R. 38 E.,
Secs. 1, 2, and 3;
Secs. 10 through 15, inclusive;
Secs. 22 through 27, inclusive;
Secs. 34, 35, and 36.
T. 7 N., R. 38 E.,
Secs. 22 through 27, inclusive;
Secs. 34, 35, and 36.
T. 6 N., R. 39 E.,
Secs. 7, 18, and 19.
T. 7 N., R. 39 E.,
Sec. 19, N½.

The public lands within these areas described in Madison County aggregate approximately 13,500 acres.

4. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the mining and mineral leasing laws:

BOISE MERIDIAN, IDAHO

SAGE JUNCTION INTERCHANGE STUDY AREA

T. 6 N., R. 36 E.,
Sec. 22, SE¼;
Sec. 27, N½NE¼.

This area aggregates 240 acres.

5. For a period of 30 days from the date of publication of this notice of classification in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR Subpart 2461. During this period, interested parties may submit comments to the Secretary of Interior, LLM 320, Washington, D.C. 20240.

WILLIAM L. MATHEWS,
State Director.

[F.R. Doc. 70-15619; Filed, Nov. 19, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

GRAIN STANDARDS

Texas Grain Inspection Point

Statement of considerations. Because of the death of official Grain Inspector Cordell C. Keller, the Tulia Grain Inspection Department, Tulia, Tex., has ceased to operate as an official inspection agency as defined in section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75 (m)).

The following existing official inspection agency and persons have applied for designation (in accordance with § 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act) to operate an official inspection agency at Tulia, Tex.:

Plainview Grain Exchange, Inc., Plainview, Tex.
Benjamin Doyle Hutson, Tulia, Tex.
Kenneth R. Loyd, Tulia, Tex.

The above applications do not preclude other interested agencies and persons from making similar applications. Other interested parties are hereby given opportunity to make application for designation to operate an official inspection agency at Tulia, Tex., according to the requirements in § 26.97 of the regulations (7 CFR 26.97).

Section 7(f) of the Act (7 U.S.C. 79(f)) provides that not more than one inspection agency shall be operative at any one time for any one city, town, or other area.

Members of the grain trade who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate an official inspection agency at Tulia, Tex.

Opportunity is hereby afforded interested parties to submit written data, views, or arguments with respect to the requests to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions should be in duplicate and should be mailed to the Hearing Clerk not later than 30 days after this notice is published in the FEDERAL REGISTER. All submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the written data, views, or arguments received by the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to the requests.

Done in Washington, D.C., this 16th day of November 1970.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 70-15636; Filed, Nov. 19, 1970; 8:47 a.m.]

Office of the Secretary

ALABAMA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Alabama natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ALABAMA

Butler.	Crenshaw
Choctaw.	Henry.
Conecuh.	Mobile.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of November 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15677; Filed, Nov. 19, 1970; 8:51 a.m.]

KANSAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Kansas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

KANSAS

Atchison.	Greenwood.
Douglas.	Leavenworth.
Elk.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special

livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of November 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15678; Filed, Nov. 19, 1970; 8:51 a.m.]

NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of North Carolina natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH CAROLINA

Robeson.	Sampson.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of November 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15679; Filed, Nov. 19, 1970; 8:51 a.m.]

SOUTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of South Carolina natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

SOUTH CAROLINA

Aiken.	Kershaw.
Calhoun.	Sumter.
Clarendon.	Williamsburg.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of November, 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-15680; Filed, Nov. 19, 1970; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce

AMERICAN HEALTH FOUNDATION

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00773-33-11700. Applicant: American Health Foundation, 180 East End Avenue, New York, N.Y. 10028. Article: Automatic smoking machine, Model RM 20/68. Manufacturer: Heinr Borgwaldt, West Germany.

Intended use or article: The article will be used for scientific chemical and biological examinations of tobacco and tobacco smoke for research in tobacco carcinogenesis.

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, is being manufactured in the United States.

Reasons: The foreign article has the capability of automatically smoking up to 30 cigarettes, in a manner simulating human smoking, to provide representative samples of cigarette smoke condensates for studies of carcinogenesis.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 19, 1970, that the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises that it knows of no domestically manufactured cigarette smoking machine that provides the pertinent characteristic.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15640; Filed, Nov. 19, 1970; 8:48 a.m.]

BATTELLE MEMORIAL INSTITUTE ET AL.

Notice of 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 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Bureau of Domestic Commerce, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, 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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00200-75-46040. Applicant: Battelle Memorial Institute, Pacific Northwest Laboratories, Post Office Box 999, Richland, Wash. 99352. Article: Electron microscope, Model HU-200F. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article will be used to study the microstructure of refractory elements after irradiation with neutrons and charged particles; the production of voids in metals during high temperature irradiation; and to study the effect of irradiation temperature total damage, impurities and prior thermomechanical treatment on the number density and size of voids. Application received by Commissioner of Customs: October 8, 1970.

Docket No. 71-00199-00-54800. Applicant: Valparaiso University, Department of Psychology, Heritage Hall 201, Valparaiso, Ind. 46383. Article: Optical Bench Components. Manufacturer: Precision Tool & Instrument Co., Ltd., United Kingdom. Intended use of article: The articles will be used to replace parts of existing scientific instruments used in research on visual perception and teaching. Application received by Commissioner of Customs: October 8, 1970.

Docket No. 71-00182-33-43780. Applicant: Ochsner Foundation Hospital, 1516 Jefferson Highway, New Orleans, La. 70121. Article: Ionescu-Ross-Wooler Fascia Lata Valve Supports (Heart Valve Supports). Manufacturer: Hypodermic Services, United Kingdom. Intended use of article: The articles will be used in heart surgery as a vital part of heart valve replacement, when totally artificial vales are not desirable. Application

received by Commissioner of Customs: September 30, 1970.

Docket No. 71–00187–33–46500. Applicant: Stanford University, Department of Medicine, 300 Pasteur Drive, Palo Alto, Calif. 94305. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for research concerning the ultrastructural localization of insulin in the kidney, liver, and pancreas of animals of varying physiological states. In addition, attempts will be made to stain ultrathin plastic sections of insulin-containing tissues directly with ferritin conjugated-insulin antibodies. Application received by Commissioner of Customs: October 2, 1970.

Docket No. 71–00192–98–70000. Applicant: University of Nebraska, Lincoln, Nebr. 68503. Article: Five each miniature net radiometers, Model CN–6, spare domes and calibration certificates. Manufacturer: Middleton & Co., Pty. Ltd., Australia. Intended use of article: The article will be used in a research program related to the study of energy and matter transfers at the earth's surface. The net radiation over and within the canopy of irrigated crops will be measured. Application received by Commissioner of Customs: October 6, 1970.

Docket No. 71–00193–98–75000. Applicant: University of Nebraska, Lincoln, Nebr. 68503. Article: Two each soil heat flux plates. Manufacturer: Middleton & Co. Pty. Ltd., Australia. Intended use of article: The article will be used in a research program related to study of energy transfer at the earth's surface. The flow of thermal energy into and out of soil will be measured. Application received by Commissioner of Customs: October 6, 1970.

Docket No. 71–00196–15–29900. Applicant: California Institute of Technology, 1201 East California Boulevard, Pasadena, Calif. 91109. Article: Birefringent tuneable universal filter. Manufacturer: Bernard Halle, West Germany. Intended use of article: The article will be used for the vidicon camera on the Apollo Telescope Mount (ATM) Photoheliograph. Application received by Commissioner of Customs: October 7, 1970.

Docket No. 71–00197–99–29800. Applicant: Southern Illinois University, Edwardsville, Ill. 62025. Article: Film Editing Machine, Model ST 900W. Manufacturer: Steenbeck, West Germany. Intended use of article: The article will be used in the applicant's film editing laboratory which serves the total university through the production and distribution of motion pictures. The specific types of films to be produced will be news films and educational-training films. Application received by Commissioner of Customs: October 8, 1970.

Docket No. 71–00198–00–46040. Applicant: Columbia University Medical School, 630 West 168th Street, New York, N.Y. 10032. Article: Universal Cassette and two magazines. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to fit an existing Elmiskop 1A electron microscope, for studies concerning human eyes removed at surgery for various diseases. Application received by Commissioner of Customs: October 8, 1970.

Docket No. 71–00202–23–46040. Applicant: Los Angeles County, University of Southern California Medical Center, 1200 North State Street, Los Angeles, Calif. 90033. Article: Electron microscope, Model HU–11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research on the male and female reproductive tracts of experimental animals, as well as the human patient. The ultrastructural changes due to disease or medication will be studied. Also, the electron microscope will be used for educational purposes for the training of research fellows and residents in obstetrics and gynecology and pathology. Application received by Commissioner of Customs: October 12, 1970.

Docket No. 71–00203–33–43780. Applicant: The Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Total Hip Joint Replacements, 12 each. Manufacturer: Protek Ltd., Switzerland. Intended use of article: The purposes for which the articles are intended to be used are for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery. Application received by Commissioner of Customs: October 12, 1970.

Docket No. 71–00204–88–4300. Applicant: Montana State University, Bozeman, Mont. 59715. Article: Astatic Magnetometer NY–2 with optical lamp scale, sample stage, and coil calibration set. Manufacturer: Geophysical Chemical Apparatus Kyoritsuska Ltd., Japan. Intended use of article: The article will be used in the laboratory portions of geology courses for the measurement of the directions of magnetic dipoles in rock specimens and for research by staff and graduate students on paleomagnetism and its applications. Application received by Commissioner of Customs: October 12, 1970.

Docket No. 71–00205–33–46040. Applicant: University of Louisville, School of Dentistry, Health Sciences Center, Louisville, Ky. 40202. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research on healing of superficial wounds inflicted to the wall of the large blood vessels; an ultrastructural study on the effect of cytotoxic agents on the microcirculation; and for educational purposes in oral pathology. Application received by Commissioner of Customs: October 13, 1970.

Docket No. 71–00208–61–77030. Applicant: Cornell University, New York State College of Agriculture, Ithaca, N.Y. 14850. Article: NMR spectrometer, Model JNM–MH–60–II. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for research on the determination of the structure of metabolites isolated from a variety of insecticides and herbicides; for analysis of hydrocarbon type in leaf waxes and seed oil; and for studies on material fractionated or isolated from soil organic matter, plant material and other natural sources. Application received by Commissioner of Customs: October 13, 1970.

Docket No. 71–00209–33–46040. Applicant: Medical University of South Carolina, Department of Pathology, 37 Mill Street, Charleston, S.C. 29401. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily for the training of undergraduate and graduate students in the techniques and applications of electron microscopy. Application received by Commissioner of Customs: October 13, 1970.

Docket No. 71–00210–65–46070. Applicant: University of Wisconsin—Milwaukee, 1900 East Kenwood Boulevard, Room 350, Milwaukee, Wis. 53201. Article: Scanning electron microscope, Model JSM–U3. Manufacturer: Japan Electron Optics Lab. Co, Ltd., Japan. Intended use of article: The article will be used for surface studies investigating the microdynamics of the braze joining process; for examination of field electron emission tips; for studies of vapor deposited thin films and integrated circuits produced by vapor depositions; and for high vacuum surface physics research. Application received by Commissioner of Customs: October 14, 1970.

Docket No. 71–00211–33–46040. Applicant: University of Wisconsin, Meat and Animal Science, Muscle Biology Laboratory, Madison, Wis. 53706. Article: Electron microscope, Model HU–11DS. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for an investigation of isolated muscle proteins; anmorphological study of the nerve muscle interaction; and for research on the ultrastructural localization of glycogen phosphorylase. Application received by Commissioner of Customs: October 16, 1970.

Docket No. 71–00214–33–46500. Applicant: University of Wisconsin Medical School, Bardeen Medical Labs., 1255 Linden Drive, Madison, Wis. 53706. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for biological studies on embryonic tissues from mammalian and avian sources. The properties to be investigated are those which lend themselves to an understanding of embryonic cell death as a normal and necessary morphogenetic process in development. Application received by Commissioner of Customs: October 16, 1970.

Docket No. 71–00212–33–46040. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Electron microscope, Model HU–11E–2. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for scientific research projects and for educational purposes. Investigations concern transport of materials across the plasma membrane; transport of anions and cations across mitochondrial membranes; contractile phenomena in blood platelets, skeletal and cardiac muscle cells, mitotic

cells, and mitochondria; and biosynthesis of macromolecules such as the acid mucosubstances associated with the plasma membrane and the nucleoproteins of viruses. Application received by Commissioner of Customs: October 16, 1970.

Docket No. 71-00213-00-41200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, N. Mex. 87544. Article: Tunable extended interaction oscillator. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article will be used to produce high power to meet special requirements for research in a La_2 crystal. Application received by Commissioner of Customs: October 16, 1970.

Docket No. 71-00215-16-61800. Applicant: Bays Mountain Nature Center, 225 West Center Street, City Hall Building, Kingsport, Tenn. 37660. Article: Model Venus planetarium instrument. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article will be used for precision sky and apparent sky motion simulation for educational and public programs including astronomy and navigation instruction. Application received by Commissioner of Customs: October 19, 1970.

Docket No. 71-00216-98-26000. Applicant: Occupational Centre, Boces Alleg. Country, Belmont, N.Y. 14813. Article: Theory of electricity device. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used in classes for teaching the basic theory of electricity by having the students construct electrical articles. Application received by Commissioner of Customs: October 19, 1970.

Docket No. 71-00218-33-46040. Applicant: The Medical College of Pennsylvania, Department of Microbiology, 3300 Henry Avenue, Philadelphia, Pa. 19129. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for investigations concerning the interrelationship of potential human oncogenic viruses with mammalian cells and the role of biologically active proteins (such as interferon) on influencing these interactions. Graduate and medical students and postdoctoral fellows will learn current techniques employed in ultrastructural research in the fields of oncology and cell biology. Application received by Commissioner of Customs: October 21, 1970.

Docket No. 71-00221-33-46500. Applicant: Clark University, 950 Main Street, Worcester, Mass. 01610. Article: Ultramicrotome, Model Om U2. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article will be used to prepare ultrathin sections of rat tissues—liver, adrenals, pineal glands, nerve fibers; lichens; algae, and fungal cells; and nerve fibers of a number of marine invertebrates and frogs. The investigations concern the function of cells, and more specifically, the fine structure-function relationships of subcellular organelles and membrane systems. Application received by Commissioner of Customs: October 21, 1970.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15641; Filed, Nov. 19, 1970; 8:48 a.m.]

COLUMBIA-PRESBYTERIAN MEDICAL CENTER

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00819-33-43780. Applicant: Columbia-Presbyterian Medical Center, Department Obstetrics-Gynecology, 622 West 168th Street, New York, N.Y. 10032. Article: Fiberoptic hysteroscope. Manufacturer: Manabu Medical Instruments Co., Ltd., Japan.

Intended use of article: The article will be used in clinical research to inspect the lining of the uterus and more specifically as a means of identifying the location where the fallopian tube enters the uterus. The capability of delivering substances through the tip of the instrument may develop a nonsurgical sterilization in the human female, by using a substance developed by the applicant.

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, is being manufactured in the United States.

Reasons: The foreign article is a specialized telescopic instrument which combines a standard lens system with a fiberoptic lighting system which does not burn the lining of the uterus, a fluid control system which permits the entry and discharge of sterile saline to distend the cavity of the uterus for examination and photography of the uterine wall, a system for delivering substances through its tip and a camera specifically designed to adapt to this combination.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 23, 1970, that the combination of characteristics described above is pertinent to the applicant's research studies. HEW further advises that it knows of no comparable device for reaching internal parts of the body which provides the pertinent combination of characteristics.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15643; Filed, Nov. 19, 1970; 8:48 a.m.]

FLORIDA TECHNOLOGICAL UNIVERSITY

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00798-65-46040. Applicant: Florida Technological University, Post Office Box 25000, Orlando, Fla. 32816. Article: Electron microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used in ENGR 351 Structure and Properties of Materials, ENG 352 Materials of Engineering, EMS 432 Metallurgy and EMS 499 Undergraduate Research. These courses are for engineering materials science majors in the engineering program and involve laboratory work and demonstrations. Students will be introduced to modern research techniques and methods on metals, alloys, and crystals.

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, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 250 to 400,000 magnifications, without changing the pole piece. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. The Model EMU-4B, with its standard pole piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 400 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification

range between 500 and 70,000 magnifications, an optional low magnification pole piece should be used. Changing the pole piece on the Model EMU–4B requires a break in the vacuum of the column.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 12, 1970, that the applicant requires the capability of rapid shift from very low to very high magnification without opening the column in order to achieve the purposes for which the foreign article is intended to be used.

NBS further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of rapidly moving from 250 to 400,000 magnifications without changing pole pieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic.

For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15645; Filed, Nov. 19, 1970; 8:48 a.m.]

HUMBOLDT STATE COLLEGE

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.)

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00650–33–46040. Applicant: Humboldt State College, Arcata, Calif. 95521. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for an investigation of the development of vascular tissues in plants; a study in muscle ultrastructure with an investigation of the subcellular structure of avion muscles; a study of the physiological effects of fluorides on plant cells; and investigation of the origin and development of the mitotic spindle apparatus in normal and abnormal divisions; and studies in the ultrastructure of motile protozoa.

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, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. The model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 9, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15646; Filed, Nov. 19, 1970; 8:48 a.m.]

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00814–33–46040. Applicant: Iowa State University of Science and Technology, Department of Botany and Plant Pathology, Ames, Iowa 50010. Article: Electron microscope, Model HS–8–2. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for formal laboratory exercises in two courses in electron microscope techniques as applied to biology, Botany 680 "Laboratory in Electron Microscopy" and Biochemistry 575 "Microscopy Laboratory". These are one-quarter lecture-laboratory courses in which eight to 12 students are enrolled and each student uses about 40 beam hours of microscope time. The secondary use of this instrument will be to carry a high volume of research work of a "survey" character.

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, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being supplied by the Forgflo Corp. (Forgflo). The Model EMU–4B electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 23, 1970, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes.

We, therefore, find that the Model EMU–4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15647; Filed, Nov. 19, 1970; 8:48 a.m.]

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00794–33–46040. Applicant: Iowa State University of Science and Technology-Biochemistry and Biophysics, Ames, Iowa 50010. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for projects concerning the

cytochemical and ultrastructural studies on eukaryotic morphogenetic processes; genetic control of bacteriophage T4 maturation; the structure and function of catalytic proteins (enzymes); and dark-field microscopy on macromolecules.

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, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15648; Filed, Nov. 19, 1970; 8:48 a.m.]

MEDICAL UNIVERSITY OF SOUTH CAROLINA

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00786-33-46500. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for the investigation of human and animal tissues prepared with electron microscopic cytochemical techniques. These techniques will impart electron density to specific tissue components thereby revealing sites of reaction product. Evaluation of this data will yield useful information concerning the biochemical properties of macromolecules of normal and diseased cell organelles.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies of macromolecules of normal and diseased cell organelles which will utilize electron microscopic cytochemical techniques and which will require long series of ultrathin uniform sections of difficulty cut specimens in soft embedding materials. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00519-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15655; Filed, Nov. 19, 1970; 8:49 a.m.]

MEDICAL UNIVERSITY OF SOUTH CAROLINA

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00787-33-46500. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter, A.B., Sweden.

Intented use of article: The article will be used for the investigation of human and animal tissues prepared with electron microscopic cytochemical techniques. These techniques will impart electron density to specific tissue components thereby revealing sites of reaction product. Evaluation of this data will yield useful information concerning the biochemical properties of macromolecules of normal and diseased cell organelles.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which

relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies of macromolecules of normal and diseased cell organelles which will utilize electron microscopic cytochemical techniques and which will require long series of ultrathin uniform sections of difficultly cut specimens in soft embedding materials. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00519-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15656; Filed, Nov. 19, 1970; 8:49 a.m.]

MOUNT SINAI HOSPITAL, NEW YORK, N.Y.

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00805-33-46500. Applicant: Mount Sinai Hospital, 11 East 100th Street, New York, N.Y. 10029. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce ultrathin sections for electron microscopic examination. Pathologic ocular tissues from patients as well as normal embryonic materials will be studied. One of the major themes in the investigative work will be the three dimensional configuration of intracytoplasmic organelles in retinal and corneal tissues where there is a need for extremely thin sections to determine the specific relationship between adjacent structures.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult". The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's study of pathological changes in the intracellular organelle systems in ocular disease and the normal sequence of embryonic ocular morphogenesis which requires long series of ultrathin uniform sections of retinal and corneal tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00203-33-46500 which conforms in many particulars to the captioned application. We therefore find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15651; Filed, Nov. 19, 1970; 8:49 a.m.]

NORTH CAROLINA STATE UNIVERSITY

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00828-33-46040. Applicant: North Carolina State University, Electron Microscope Facility, Institute of Biological Sciences, Gardner Hall, Room 1222, Raleigh, N.C. 27607. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for the training of graduate and undergraduate students and faculty personnel in the techniques and applications of electron microscopy. Courses in General Biology, Cell Biology, and Topics in Biological Ultrastructure will use the electron microscope for teaching.

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 is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for

instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 23, 1970, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15652; Filed, Nov. 19, 1970; 8:49 a.m.]

NORTHEASTERN UNIVERSITY

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00788–33–46500. Applicant: Northeastern University, 360 Huntington Avenue, Boston, Mass. 02115. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies of the central nervous system and of other organs of the body-all in animals. The experiments will involve tracing fiber connections in the central nervous system, studying ultrastructure, and investigating neuropathology of the brain and spinal cord. Also graduate students will use the instrument to learn electron microscopy including thin sectioning.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surface. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–00665–33–46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the central nervous system which requires long series of ultrathin sections of relatively soft specimens which are embedded in soft media to facilitate silver nitrate staining. HEW cites as a precedent its prior recommendation relating to Docket No. 70–00639–33–46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT–2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15653; Filed, Nov. 19, 1970; 8:49 a.m.]

PRINCETON UNIVERSITY

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00796–33–46040. Applicant: Princeton University, Purchasing Department, Post Office Box 33, Princeton, N.J. 08540. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used in high resolution studies of bacteria, cell organelles, membranes, nuclei acids and viruses. Research concerns the morphological transitions occurring in cell organelles such as mitochondrion and chloroplast; the biological and molecular properties of membrane transport systems and the molecular architecture of membranes; and nucleic acid structure will be investigated with respect to the topology of mitochondrial, viral, and bacterial DNA.

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, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15654; Filed, Nov. 19, 1970; 8:49 a.m.]

UNIVERSITY OF CHICAGO

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00096-00-46040. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: Tilting and rotation cartridge. Manufacturer: Siemens A.G., West Germany.

Intended use or article: The article is an accessory for a previously imported electron microscope.

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, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used. The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15642; Filed, Nov. 19, 1970; 8:48 a.m.]

UNIVERSITY OF CONNECTICUT

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00806-33-46500. Applicant: University of Connecticut—Health Center, Life Science Annex, Room 707, Oral Biology Department, Box U-155, Storrs, Conn. 06268. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research on salivary glands, using a variety of embedding mixture in order to obtain optimal results. Water-insoluble Durcupan will be used for analysis of the ultrastructure of the salivary glands, while the water-soluble compound will be used for autoradiography and cytochemistry. Maraglas will be used particularly for the ultrastructure analysis of developing embryonal glandular anlage having low electron density.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult". The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's ultrastructural analysis of developing embryonal glandular anlage (early aggregation of cells) which requires ultrathin sectioning of such soft material as salivary gland embedded in soft water soluble materials. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00519-33-46500 which conforms in many particulars to the captioned application. We therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15644; Filed, Nov. 19, 1970; 8:48 a.m.]

UNIVERSITY OF MINNESOTA

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00789-33-46040. Applicant: University of Minnesota, Minneapolis, Minn. 55455. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab., Co., Ltd., Japan.

Intended use of article: The article will be used for research on the location of the site of action of follicular stimulating hormone and human chorionic gonadotrophin in the human ovarian tissue. Postdoctoral trainees in the Department of Obstetrics and Gynecology will be taught to use this instrument.

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, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 500,000 magnifications, without changing

the pole piece. The most closely comparable domestic instrument is the Model EMU–4B which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. The Model EMU–4B, with its standard pole piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 400 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole piece should be used. Changing the pole piece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 30, 1970, that the applicant requires the capability of rapid shift from very low to very high magnification without opening the column in order to achieve the purposes for which the foreign article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of rapidly moving from 220 to 500,000 magnifications without changing pole pieces, while at the same time providing high-quality low magnification, is considered to be a pertinent characteristic.

For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15649; Filed, Nov. 19, 1970; 8:49 a.m.]

UNIVERSITY OF MISSOURI

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00688–98–46040. Applicant: University of Missouri-Kansas City, 1011 East 51st Street, Kansas City, Mo. 64110. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for studies concerning graphite filamentary growths and for determination of the basic structure. A course entitled "Theory and Practice of Electron Microscopy" will utilize the article to teach the fundamentals of operation and sample preparation.

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, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America, and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.)

We are advised by the National Bureau of Standards in its memorandum dated September 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70–15650; Filed, Nov. 19, 1970; 8:49 a.m.]

UNIVERSITY OF WISCONSIN

Notice of 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 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00733–33–46500. Applicant: University of Wisconsin, 518 SMI, 470 North Charter Street, Madison, Wis. 53706. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research and also by selected graduate students in the study of ultrastructure. One investigation concerns animal experiments directed to characterizing the agent, elucidating the pathogenesis, and determining the host range of the disease called Transmissible Mink Encephalopathy. Another project is to obtain brain tissues either from fresh autopsy material or by biopsy from children or adults with "degenerative" brain diseases and to subject these to studies in the electron microscope in the search for direct or indirect evidence of viral infection.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–00665–33–46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 6, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving ultrathin sectioning of mammalian brain and spinal cord tissue which includes both normal and the

softer irregularly vacuolated diseased tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00203-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15659; Filed, Nov. 19, 1970; 8:49 a.m.]

VETERANS ADMINISTRATION HOSPITAL, MIAMI, FLA.

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00795-33-46040. Applicant: Veterans Administration Hospital, 1201 Northwest 16th Street, Miami, Fla. 33125. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands.

Intended use of article: The article will be used for research studies concerning a survey of the cell types and general architecture of the human anterior pituitary gland; the identification of the various secretory cell types seen in electron micrographs with the cell types of classical histology; an attempt to identify ferritin-tagged specific antibody on the tumor cells during rejection in immunized animals; and the examination of tumor tissue from patients with pituitary adenomas.

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, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15657; Filed, Nov. 19, 1970; 8:49 a.m.]

VETERANS ADMINISTRATION HOSPITAL, SAN JUAN, P.R.

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00804-33-46500. Applicant: Veterans Administration Hospital, San Juan, P.R. 00920. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study the ultrastructure of the human small intestine in health and disease and also the ultrastructure of small intestine of laboratory animals under various physiological states. The studies are designed to obtain information on the etiology, pathogenesis and pathophysiology of tropical sprue and to give some insight into the mechanisms involved in water absorption by the intestine.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues 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 great variation in physical properties is very difficult". The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 9, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's ultrastructural study of water absorption by the small intestines of animals and humans which requires long series of uniform ultrathin sections of delicate and friable tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00203-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15658; Filed, Nov. 19, 1970; 8:49 a.m.]

YALE UNIVERSITY

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00834-33-19095. Applicant: Yale University, Bureau of Purchases, 20 Ashmun Street, New Haven, Conn. 06520. Article: Microdensitometer, Model Mark IIICS. Manufacturer: Joyce, Loebl & Co., United Kingdom.

Intended use of article: The article will be used for research on nucleic acids, proteins and viruses. The hydrodynamic properties (i.e., sedimentation velocity, buoyant density and diffusion constant), electrophoretic mobility and molecular weights will be investigated. Multiple experiments will be conducted utilizing analytical ultracentrifugation of DNA and RNA and analytical gel electrophoresis of RNA and proteins.

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, is being manufactured in the United States.

Reasons: The foreign article can accommodate samples up to 5 by 10 inches and has a range of 0 to 6 optical density units.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 23, 1970, that both the sample size and range of the foreign article are pertinent to the applicant's research studies.

HEW further advises that it knows of no comparable domestic microdensitometer that provides both of the pertinent characteristics of the article.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15660; Filed, Nov. 19, 1970; 8:49 a.m.]

YALE UNIVERSITY

Notice of 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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

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 Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00785-33-46500. Applicant: Yale University, School of Medicine, 333 Cedar Street, New Haven, Conn. 06510. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study the trabecular meshwork of the eye, Schlemm's canal, the ciliary body and iris. In addition, ocular melanomas, retinoblastomas, choroidial nevi, chorid and retina adjacent to tumors, in vivo and in vitro induced by virus and carcinogens will be examined.

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, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, 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 case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." require a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 6, 1970, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies of the anatomy and pharmacology of the eye including ocular melanomas and tumors which require the sectioning of soft materials (ciliary epithelium as well as nerve ending vesicles in pellet form, obtained by ultracentrifugation) embedded in water soluble methacrylate. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00203-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

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 is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 70-15661; Filed, Nov. 19, 1970; 8:49 a.m.]

Bureau of International Commerce

[Files 22(70)-9, 23(66)-23]

ANTHONY YOUNG, LTD., ET AL.

Notice of Related Party Determination

In the matter of Anthony Young Ltd., Fergie and Young Ltd., Northeast Walker Ltd., Northern Technical Services, Lanesra Associates, and Beeston Instruments (Engineering) Ltd.; Files 22(70)-9, 23(66)-23; all of Old Basford, Nottingham, England.

An order dated August 20, 1968 was entered by the Bureau of International Commerce, U.S. Department of Commerce against B&Y (Gates) Electronic Developments Ltd., London, England, and other parties, denying all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data for an indefinite period. This order was published in the FEDERAL REGISTER on August 28, 1968 (33 F.R. 12146).

Section 388.1(b) of the Export Control Regulations provides, in part, that to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section the firms listed above, namely, Anthony Young Ltd., Fergie and Young Ltd., Northeast Walker Ltd., Northern Technical Services, Lanesra Associates, and Beeston Instruments (Engineering) Ltd., all located in Old Basford, Nottingham, England, are related parties to said B&Y (Gates) Electronic Developments, Ltd. Under this determination the terms and restrictions of the order of August 20, 1968, are effective against said related parties.

The said related parties are being notified of this determination and advised that if they contend that the ruling is not justified, they may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: November 10, 1970.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 70-15621; Filed, Nov. 19, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-75]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Issuance of Amended Facility License

No request for a hearing or petition to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on July 14, 1970 (35 F.R. 11274), and having made the findings set forth in the amendment, the Atomic Energy Commission has issued Amendment No. 6 to Facility License No. CX-13, as proposed in that notice. The amendment authorizes the National Aeronautics and Space Administration (NASA) at Cleveland, Ohio, to operate its Zero Power Reactor I (ZPR-I), located on the Lewis Research Center site and modified under Construction Permit No. CPCX-30, at its previously approved power level of up to 100 watts (thermal).

The Commission has also found that modification of the ZPR-I has been completed in accordance with the terms and conditions of Construction Permit No. CPCX-30 and that the application for the amendment to the facility license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I.

A copy of the license amendment is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the license amendment may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 12th day of November 1970.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-15557; Filed, Nov. 19, 1970; 8:45 a.m.]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Notice of Availability of Detailed Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and to the Atomic Energy Commission's regulations in 10 CFR Part 50, notice is hereby given that a document entitled "Detailed Statement on the Environmental Considerations by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Related to the Proposed Construction of the Trojan Nuclear Plant by the Portland General Electric Company, City of Eugene, Oreg., and Pacific Power and Light Company" is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the office of Mr. Richard Hogan, Law Library, Columbia County Circuit Court, St. Helens, Oreg., where it will be available for public inspection. Appended to the statement are the applicants' environmental report and the comments of various Federal, State, and local agencies. A public hearing on the application for a construction permit commences November 19, 1970, in St. Helens, Oreg.

Single copies of the statement may be obtained by writing to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 13th day of November 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[F.R. Doc. 70-15606; Filed, Nov. 19, 1970; 8:45 a.m.]

[Docket No. 50-356]

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

Notice of Issuance of Construction Permit

No request for a hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on October 13, 1970 (35 F.R. 16061), the Atomic Energy Commission (the Commission) has issued Construction Permit No. CPRR-110 to the University of Illinois at Urbana-Champaign. The construction permit authorizes the construction and operation of a low-power reactor assembly (LOPRA) for educational and research purposes on the University's campus in Urbana, Ill.

Dated at Bethesda, Md., this 12th day of November 1970.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-15605; Filed, Nov. 19, 1970; 8:45 a.m.]

[Dockets Nos. 50-352, 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Availability of Applicant's Environmental Statement and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that Philadelphia Electric Co. has submitted a report dated October 1970, which discusses environmental considerations relating to the proposed construction of the Limerick Generating Station, Units 1 and 2. A copy of the report is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the Public Library in Pottstown, Pa. The Philadelphia Electric Co. has applied for a construction permit for its proposed Limerick Generating Station, Units 1 and 2, to be located on its site in Limerick Township, Montgomery County, Pa.

The Commission hereby requests comments on the proposed action and on the report from State and local agencies of any affected State (with respect to matters within their jurisdiction) which are authorized to develop and enforce environmental standards. If the Commission is not provided with comments by any State or local agency within 60 days of publication of this notice in the FEDERAL REGISTER, the Commission will presume that the agency has no comments to make.

Copies of Philadelphia Electric Co.'s report, dated October 1970, and the comments thereon of Federal agencies (whose comments are being separately requested by the Commission) will be supplied to such State and local agencies upon request addressed to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 17th day of November 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director, Division of Reactor Licensing.

[F.R. Doc. 70-15726; Filed, Nov. 19, 1970; 8:51 a.m.]

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Notice of Proposed Issuance of Facility Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of a facility operating license to Commonwealth Edison Co. (Commonwealth Edison) which would authorize the licensee to possess, use, and operate the Dresden Nuclear Power Station Unit 3 (Dresden 3), a single cycle, boiling, light water reactor, on Commonwealth Edison's site in Grundy County, Ill., at steady state power levels not to exceed 2,527 megawatts (thermal), in accordance with the provisions of the license and the Technical Specifications appended thereto. Construction of Dresden 3 was authorized by Provisional Construction Permit No. CPPR-22 issued by the Commission on October 14, 1966.

The Commission has found that the application for the facility license (as amended) complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. Appropriate reviews of the application by the Commission and the Advisory Committee on Reactor Safeguards (ACRS) have been completed. In its report to the Chairman dated July 17, 1970, the ACRS stated its belief that Dresden 3 can be operated at power levels up to 2,527 megawatts (thermal) without undue risk to the health and safety of the public provided certain actions were taken.

Prior to issuance of the operating license, the facility will be inspected by the Commission to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permit No. CPPR-22. The license will be issued after the Commission makes the findings, reflecting its review of the application, which are set forth in the proposed license, and concludes that the issuance of this license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, Commonwealth Edison will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In the event that construction has not been completed to permit full power operation, the Commission may issue a facility operating license consistent with the level of construction completed to permit initial fuel loading and low power testing prior to the issuance of the full power license.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, Commonwealth Edison may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or appropriate order.

Prior to issuance of the facility operating license, the Commission will issue a detailed environmental statement for the Dresden Unit 3 facility. The availability of the statement will be published in the FEDERAL REGISTER. The statement will be prepared consistent with Appendix D of 10 CFR Part 50 of the Commission's regulations.

For further details with respect to this proposed facility operating license, see (1) the Commonwealth Edison application for a facility license dated November 17, 1967, as amended (Amendments Nos. 8 through 24), (2) the report of the Advisory Committee on Reactor Safeguards on the application for Dresden 3, dated July 17, 1970, (3) the proposed facility operating license, (4) the Technical Specifications attached as Appendix A to the proposed facility operating license, and (5) a related safety evaluation prepared by the Division of Reactor Licensing, all of which will be available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (3) and (5) may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 18th day of November 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-15749; Filed, Nov. 19, 1970; 10:14 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22689; Order 70-11-56]

BUFFALO AERONAUTICAL CORP.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority November 13, 1970.

The Postmaster General filed a notice of intent October 28, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 61.47 cents per great circle aircraft mile for the transportation of mail by aircraft between Jamestown and Albany, via Buffalo and Syracuse, N.Y., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft E-18S aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue and order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Buffalo Aeronautical Corp., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 61.47 cents per great circle aircraft mile between Jamestown and Albany, via Buffalo and Syracuse, N.Y., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Buffalo Aeronautical Corp., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Mohawk Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buffalo Aeronautical Corp.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons 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 incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed, presenting issues for hearing, the issues involved in determining the fair and reasonable final rate

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Buffalo Aeronautical Corp., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., and Mohawk Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15673; Filed, Nov. 19, 1970; 8:50 a.m.]

[Docket No. 22683; Order 70-11-55]

EXECUTIVE AIR TRAVEL, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority November 13, 1970.

The Postmaster General filed a notice of intent October 27, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 53.9 cents per great circle aircraft mile for the transportation of mail by aircraft between Sioux Falls and Rapid City, via Huron and Pierre, S. Dak., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft D-18S aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Executive Air Travel, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 53.9 cents per great circle aircraft mile between Sioux Falls and Rapid City, via Huron and Pierre, S. Dak., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Executive Air Travel, Inc., the Postmaster General, North Central Airlines, Inc., Western Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Executive Air Travel, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order all persons 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 incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance wih Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Executive Air Travel, Inc., the Postmaster General, North Central Airlines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15674; Filed, Nov. 19, 1970; 8:50 a.m.]

[Docket No. 22709; Order 70-11-61]

JIM HANKINS AIR SERVICE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority November 16, 1970.

The Postmaster General filed a notice of intent November 3, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 53 cents per great circle aircraft mile for the transportation of mail by aircraft between Fayetteville, Ark., and Oklahoma City, Okla., via Fort Smith and Little Rock, Ark., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Jim Hankins Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 53 cents per great circle aircraft mile between Fayetteville, Ark., and Oklahoma City, Okla., via Fort Smith and Little Rock, Ark., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Jim Hankins Air Service, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Jim Hankins Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons 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 incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Jim Hankins Air Service, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., and Frontier Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15675; Filed, Nov. 19, 1970; 8:50 a.m.]

[Docket No. 21433]

NOVO CORP. AND ESTATE OF EDWARD L. RICHTER

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held on December 2, 1970, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., November 16, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-15672; Filed, Nov. 19, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP71-132]

COLUMBIA GAS TRANSMISSION CORP. ET AL.

Notice of Application

NOVEMBER 10, 1970.

Take notice that on November 2, 1970, Columbia Gas Transmission Corp. (Columbia), 20 Montchanin Road, Wilmington, Del. 19807, Atlantic Seaboard Corp. (Seaboard), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25325, Cumberland and Allegheny Gas Co. (C&A), 800 Union Trust Building, Pittsburgh, Pa. 15230, Home Gas Co. (Home), 800 Union Trust Building, Pittsburgh, Pa. 15230, Kentucky Gas Transmission Corp. (KGT), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25325, The Manufacturers Light & Heat Co. (Manufacturers), 800 Union Trust Building, Pittsburgh, Pa. 15230, The Ohio Fuel Gas Co. (Ohio Fuel), 99 North Front Street, Columbus, Ohio 43215, United Fuel Gas Co. (United Fuel), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25325, filed in Docket No. CP71-132 a joint application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Columbia to consolidate and to operate all the facilities and properties of its affiliates, Seaboard, C&A, Home, KGT, Manufacturers, Ohio Fuel, and United Fuel, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that upon completion of the proposed consolidation, Columbia will perform all acts, be successor in interest to all gas purchase agreements (except as noted in the application), make all sales, render all other services now being performed by its said affiliates, including all acts, sales, operation of all facilities, and other services heretofore certificated by the Commission or hereafter certificated prior to the issuance of the authorization requested herein and in all other respects become the successor in interest of each of the other applicants in all activities subject to the regulatory jurisdiction of the Federal Power Commission.

The application states that no change in the supply or in the delivery of natural gas to ultimate consumers will result from the consolidation. Nor will the proposed consolidation result in any change in the levels of applicants' FPC rate schedules on file with the Commission or the service available thereunder at the time the transaction is consummated. Further, no construction is required in order to effectuate the proposed consolidation.

The application states that the proposed consolidation represents an internal reorganization of corporate entities constituting the transmission subsidiaries of the Columbia Gas System, Inc. The applicants allege that Columbia's management of the consolidated properties and operations will enhance the coordination of rate, legal, operating, planning, and treasury functions, and will eliminate various duplicative efforts. Further, the limitations in contractual gas purchases between affiliated companies will be eliminated, affording Columbia greater flexibility in utilizing gas supply and permitting greater flexibility in construction of facilities and in System design.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15610; Filed, Nov. 19, 1970; 8:45 a.m.]

[Docket No. CP71-133]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 10, 1970.

Take notice that on November 2, 1970, United Gas Pipe Line Co. (applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed an application in Docket No. CP71-133 pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which it will purchase from producers in the general area of its existing transmission system from time to time during the calendar year 1971, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of gas in producing areas generally coextensive with its system.

Applicant states that the total cost will not exceed $1,750,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15609; Filed, Nov. 19, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

CONSOLIDATED BANKSHARES OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Consolidated Bankshares of Florida, Inc., Fort Lauderdale, Fla., which plans to acquire 100 percent of the voting shares (less directors' qualifying shares) of Security First National Bank of Plantation, Fla., a proposed new bank, for prior approval by the Board of Governors of action whereby Applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of First National Bank in Fort Lauderdale; Plantation First National Bank, Plantation; Guaranty First National Bank of Fort Lauderdale; and Ocean First National Bank of Fort Lauderdale, all in Florida.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, November 13, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-15614; Filed, Nov. 19, 1970; 8:46 a.m.]

FIRST HOLDING CO., INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Holding Co., Inc., which is a bank holding company located in Waukesha, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Elm-Brook State Bank, Brookfield, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, November 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-15615; Filed, Nov. 19, 1970; 8:46 a.m.]

SOCIETY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Society Corp., which is a bank holding company located in Cleveland, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The Second National Bank of Ravenna, Ravenna, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, November 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-15616; Filed, Nov. 19, 1970; 8:46 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

CLINCHFIELD COAL CO.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) has been accepted for consideration as follows:

(1) ICP Docket No. 10422, Clinchfield Coal Co., Camp Branch No. 1 Mine, USBM ID No. 44 00280 0, near Carrie, Dickenson County, Va., Section ID No. 001 (5 Lt. W. Mains), Section ID No. 003 (7 Lt. W. Mains).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 17, 1970.

[F.R. Doc. 70-15618; Filed, Nov. 19, 1970; 8:46 a.m.]

FREEMAN COAL MINING CORP.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) has been received as follows:

ICP Docket No. 10734, Freeman Coal Mining Corp., Orient No. 5 Mine, USBM ID No. 11 00587 0, West Frankfort, Franklin County, Ill., Section ID No. 003 (Main East), Section ID No. 004 (2 North Off Main East).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 17, 1970.

[F.R. Doc. 70-15617; Filed, Nov. 19, 1970; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2857]

COLONIAL FUND, INC.

Notice of Filing of Application for Order of Exemption To Permit Purchase of Securities During an Underwriting

NOVEMBER 16, 1970.

Notice is hereby given that The Colonial Fund, Inc. (applicant), 75 Federal Street, Boston, Mass. 02110, registered as an open-end, diversified investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 10(f) of the Act for an order of the Commission exempting from the prohibitions of section 10(f) the purchase by applicant of 80,000 units of Tenneco Inc., in a proposed public offering. The units proposed to be purchased by applicant are part of a total of 5,500,000 units to be offered to the public pursuant to a registration statement filed with the Commission under the Securities Act of 1933. Each unit consists of one share of common stock and one warrant to purchase one share of common stock of Tenneco Inc. The price of the units to the public and the underwriting discounts and commissions are to be filed by amendment.

All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

James H. Orr, and James Coggeshall, Jr., directors of applicant, are also directors of The First Boston Corp. The First Boston Corp. is expected to be one of the principal underwriters of the public offering of the Tenneco Inc., units.

Section 10(f) of the Act, as here pertinent, provides that no registered investment company shall purchase any security during the existence of any underwriting or selling syndicate, if any director of such registered investment company is an affiliated person of a principal underwriter of such security. Section 10(f) provides further that the Commission may exempt a transaction from this prohibition if and to the extent that such exemption is consistent with the protection of investors; and Rule 10f-3 of the general rules and regulations promulgated under the Act exempts a transaction from the provisions of section 10(f) if the conditions enumerated in the rule are met.

Applicant represents in support of its application that the provisions of Rule 10f-3 are met in all respects, except that the underwriting discount may exceed the maximum percentage of the public offering price specified in paragraph (b) of Rule 10f-3.

Paragraph (b) of Rule 10f-3 specifies a gross commission to the principal underwriters of not more than 7 percent of the public offering price if the security to be purchased is a common stock. Although the rule does not provide specifically for a maximum commission with respect to a public offering of warrants, subsection (4) of paragraph (b) permits a gross commission to the principal underwriter of 1.50 percent of the public offering price in respect of "any other security to be purchased."

Applicant requests that the Commission by its order under section 10(f) of the Act exempt applicant's purchase of 80,000 units of Tenneco Inc., subject to the requirements that:

(i) The conditions of paragraphs (a), (c), (d), (e), and (f) of Rule 10f-3 are met;

(ii) The gross commission to the principal underwriters of the offering of Tenneco Inc., units shall not exceed 7 percent of the public offering price of the units; and

(iii) A statement of the transaction clearly indicating compliance with the order of the Commission shall be filed with the Commission within 3 days after the confirmation thereof.

Notice is further given that any interested person may, not later than November 27, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney

at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70–15626; Filed, Nov. 19, 1970; 8:47 a.m.]

[70–4942]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Short-Term Promissory Notes

NOVEMBER 16, 1970.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L), Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960, an electric utility subsidiary company of General Public Utilities Corp. (GPU), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

JCP&L proposes to issue and sell, or to renew, from time to time prior to December 31, 1971, to the banks named below its short-term promissory notes, each of which will mature not later than 9 months from the date of issue, will be prepayable at any time without premium, and will bear interest at the prime rate in effect for commercial borrowings at the date of issue of the note at the bank from which such borrowing is made. The aggregate principal amount of such notes to be outstanding at any one time will not exceed $54 million. JCP&L also proposes to surrender, upon the effectiveness of an order in this proceeding, the authority to issue short-term promissory notes granted to it by this Commission by order dated July 24, 1970 (Holding Company Act Release No. 16790).

Although no commitments or agreements for such borrowings have been made, JCP&L expects that, as and to the extent that its cash needs require, borrowings will be effected from among the following banks, the maximum to be borrowed and outstanding from each such bank being as follows:

Irving Trust Co., New York, N.Y.	$13,300,000
The Chase Manhattan Bank NA, New York, N.Y.	6,000,000
Chemical Bank, New York, N.Y.	3,000,000
Bankers Trust Co., New York, N.Y.	1,500,000
Fidelity Uni..n Trust Co., Newark, N.J.	6,000,000
First National State Bank of New Jersey, Newark, N.J.	2,500,000
National Newark & Essex Bank Newark, N.J.	3,000,000
First Jersey National Bank, Jersey City, N.J.	3,000,000
American National Bank & Trust, Morristown, N.J.	2,000,000
The Hunterdon County National Bank, Lambertville, N.J.	300,000
The Central Jersey Bank & Trust Co., Freehold, N.J.	1,000,000
The Monmouth County National Bank, Red Bank, N.J.	1,000,000
First Merchants National Bank, Asbury Park, N.J.	600,000
First National Bank of Passaic County, Passaic, N.J.	1,000,000
First National Bank of South Jersey, Pleasantville, N.J.	1,000,000
New Jersey National Bank, Asbury Park, N.J.	1,700,000
The First National Iron Bank of New Jersey, Morristown, N.J.	1,300,000
The National State Bank, Elizabeth, N.J.	2,000,000
Summit & Elizabeth Trust Co., Summit, N.J.	1,200,000
The National Union Bank of Dover, N.J.	600,000
New Jersey Bank NA, Haledon, N.J.	1,000,000
Union County Trust Co., Summit, N.J.	1,000,000
Total	54,000,000

The proceeds from the sale of the notes will be used by JCP&L for the purpose of financing its business as a public utility company, including construction expenditures, the repayment of other short-term borrowings and the temporary reimbursement of its treasury for construction expenditures provided therefrom.

JCP&L estimates that its expenses incident to the proposed transactions will be approximately $3,500, including counsel fees of $3,250, and it states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. However, it is also stated that approval by the Board of Public Utility Commissioners of the State of New Jersey will be required for a renewal, extension, or replacement of any notes issued by JCP&L, if, as a result thereof, the loan evidenced thereby is not repaid within 12 months of the original date of the note or notes.

Notice is further given that any interested person may, not later than December 3, 1970, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70–15629; Filed, Nov. 19, 1970; 8:47 a.m.]

[812–2841]

MASSACHUSETTS INVESTORS GROWTH STOCK FUND, INC.

Notice of Filing of Application for Order Exempting Sale by Open-End Company of Securities at Other Than Public Offering Price

NOVEMBER 13, 1970.

Notice is hereby given that Massachusetts Investors Growth Stock Fund, Inc. (Applicant), 200 Berkeley Street, Boston, Mass. 02116, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) 15 U.S.C. section 80a–1 et seq., as an open-end diversified management investment company, has filed an application pursuant to 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of JTS Co. (JTS). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representation which are summarized below.

JTS, a Georgia corporation, is a personal holding company, all of whose outstanding stock is owned by not more than fifteen stockholders, and is thus exempted from the definition of an investment company and the necessity to register thereunder by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Applicant and JTS, assets owned by JTS, with a value of approximately $450,540 on August 14, 1970, will be transferred to Applicant in exchange for shares of Applicants stock.

The number of shares of Applicant to be issued to JTS is to be determined by dividing the aggregate market value of the assets of JTS (subject to certain adjustments set forth in the application) to be transferred to the Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. If the valuation in the agreement had taken place on August 14, 1970, when the net asset value per share of Applicant's shares was $9.03, JTS would have received approximately 49,893 shares of Applicant's stock.

When received by JTS, the shares of Applicant are to be distributed to the JTS shareholders upon the liquidation of JTS. Applicant has been advised by the management of JTS that the shareholders of JTS do not have any present intention of distributing the shares of Applicant to be received upon such liquidation following the sale of assets transactions or of redeeming any substantial number thereof. Applicant does presently intend to sell a portion of the securities acquired from JTS subsequent to their acquisition as set out in the application.

Applicant represents that no affiliation exists between JTS or any director or stockholder thereof, and Applicant, and that the agreement was negotiated at arm's-length by the principals of both corporations.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 27, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 70-15627; Filed, Nov. 19, 1970; 8:47 a.m.]

[File No. 2-38785]

PULLMAN TRANSPORT LEASING CO.

Notice of Application and Opportunity for Hearing

NOVEMBER 13, 1970.

Notice is hereby given that Pullman Transport Leasing Co. (Company) has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (Act) for a finding by the Commission that the trusteeship of First National City Bank (FNCB) under Pullman Transport Leasing Co. Equipment Trust, Series 1 and the trusteeship of FNCB under a proposed new Equipment Trust Agreement covering Pullman Transport Leasing Co. Equipment Trust, Series 2 which is proposed to be qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNCB from acting as trustee under the existing Equipment Trust Agreement and under the Equipment Trust Agreement to be qualified.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate such conflicting interest, or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of said indentures.

The Company alleges that:

1. The Company has filed with the Commission a registration statement covering a proposed equipment trust to be designated as Pullman Transport Leasing Co. Equipment Trust, Series 2 (Series 2 Trust) under which approximately $23,200,000 principal amount of certificates are expected to be issued pursuant to an Equipment Trust Agreement (Series 2 Indenture) to be qualified under the Act.

2. The Company desires to appoint FNCB, a corporation organized as a national banking association under the laws of the United States of America, to act as trustee under the Series 2 Indenture.

3. FNCB is presently acting as trustee under Pullman Transport Leasing Co. Equipment Trust, Series 1, which is the Company's only presently existing equipment trust. Of the amount issued under the present FNCB trusteeship, $28,250,000 aggregate principal amount of Equipment Trust Certificates are outstanding. An additional $1,750,000 aggregate principal amount of such certificates which were sold pursuant to delayed delivery contracts will be issued on January 6, 1971.

4. Each of the Series 1 Equipment Trust Certificates issued under the FNCB trusteeship is and the Series 2 certificates will be secured by a separate lot of identified railroad cars, so that should the trustee have occasion to proceed against the security under one of these trusts, such action would not affect the security, or the use of any security, under the other trust. Thus, the existence of the other trusteeship should in no way inhibit or discourage the trustee's actions.

5. The Company is not in default under any of its equipment trust obligations.

The Company waives notice of hearing, hearing on the issues raised by this application and all rights to specify procedures under Rule 8(b) of the Commission's rules of practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than November 27, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary

or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 70-15628; Filed, Nov. 19, 1970; 8:47 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

AMERICAN MOTORS CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of August 14, 1970, the U.S. Tariff Commission made a report of the results of an investigation (TEA-W-27) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of former automotive soft-trim workers of the American Motors Corp., Wyoming, Mich. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with automotive soft trim produced by the American Motors Corp. at Wyoming, Mich., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of said corporation at Wyoming, Mich. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the finding of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation following which a recommendation was made to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 35 F.R. 16068; 29 CFR Part 90). After due consideration, I make the following certification:

Those workers of the American Motors Corp. Soft-Trim plant located at Wyoming, Mich., who became or will become unemployed or underemployed after January 3, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 13th day of November 1970.

HERBERT N. BLACKMAN, *Deputy Assistant Secretary for Trade and Adjustment Policy.*

[F.R. Doc. 70-15622; Filed, Nov. 19, 1970; 8:46 a.m.]

D. H. BALDWIN CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

On August 31, 1970, a petition requesting certification of eligibility to apply for adjustment assistance was filed with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Steelworkers of America, on behalf of workers of the Cincinnati, Ohio, plant of the D. H. Baldwin Co. The petition points out that the request for certification is made under Proclamation 3964 ("Modification of Trade Agreement Concession and Adjustment of Duty on Certain Pianos") of February 21, 1970 (35 F.R. 3645). In that Proclamation, the President, among other things, acted to provide under section 302(a)(3) with respect to the piano industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

The Trade Expansion Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3) upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof. The same degree of causal connection is applicable here as under the tariff adjustment and other adjustment assistance provisions; that is, the increased imports have been the major factor.

Upon receipt of the petition, the Department's Director of the Office of Foreign Economic Policy instituted an investigation, following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation 34 F.R. 18342 and 35 F.R. 14113; 29 CFR Part 90). The Director reported that increased imports of pianos of the types covered by the Presidential Proclamation 3964 have been the major factor in causing the unemployment or underemployment of a significant number or proportion of workers from the plant of the D. H. Baldwin Co. in Cincinnati, Ohio. He further reported that this unemployment or underemployment began after May 9, 1970, and has continued to the present.

After due consideration, I make the following certification:

All hourly workers of the D. H. Baldwin Co. piano plant at Cincinnati, Ohio, who became or will become unemployed or underemployed after May 9, 1970, are eligible to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 13th day of November 1970.

HERBERT N. BLACKMAN, *Deputy Assistant Secretary for Trade and Adjustment Policy.*

[F.R. Doc. 70-15623; Filed, Nov. 19, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 17, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42078—*Peanuts from and to points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-198), for interested rail carriers. Rates on peanuts, unshelled, raw, in bulk or in sacks, in boxes or in barrels, in carloads, as described in the application, between points in Arkansas, on the one hand, and points in Oklahoma and Texas, on the other.

Grounds for relief—Market competition.

Tariff—Supplement 86 to Southwestern Freight Bureau, agent, tariff ICC 4737.

FSA No. 42079—*Clay, kaolin, or pyrophyllite to points in western trunkline territory.* Filed by O. W. South, Jr., agent (No. A6208), for interested rail carriers. Rates on clay, kaolin, or pyrophyllite, in carloads, as described in the application, from Aberdeen, Miss., and points taking same rates, to points in western trunkline territory.

Grounds for relief—Rate relationship.

Tariff—Supplement 107 to Southern Freight Association, agent, tariff ICC S-751.

FSA No. 42080—*Urea from Courtright and Port Robinson, Ontario, Canada.* Filed by Southwestern Freight Bureau, agent (No. B-196), for interested rail carriers. Rates on urea, in bulk, in packages, in boxcars and covered hopper cars, in carloads, as described in the application, from Courtright and Port Robinson, Ontario, Canada, to points in southwestern territory.

Grounds for relief—Market competition.

Tariff—Canadian Freight Association tariff ICC 335.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15666; Filed, Nov. 19, 1970; 8:50 a.m.]

[Notice 194]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 17, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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 field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 40915 (Sub-No. 39 TA), filed November 13, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663, Office: 1343 Logan Avenue, Costa Mesa, Calif. 92626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the plantsite and warehouse facilities of Samsonite Corp., Murfreesboro, Tenn., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 150 days. Supporting shipper: Samsonite Corp., 11200 East 45th Avenue, Denver, Colo. 80217. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 40915 (Sub-No. 40 TA), filed November 13, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663, Office: 1343 Logan Avenue, Costa Mesa, Calif. 92626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures*, from the plantsite and warehouse facilities of Sim-Kar Lighting Fixtures Co., Philadelphia, Pa., to Miami, Fla.; Atlanta, Ga.; Boston, Mass.; Minneapolis, Minn.; Cincinnati, Ohio; Portland, Oreg.; Dallas, Tex.; Salt Lake City, Utah; and Seattle, Wash.; for 150 days. Supporting shipper: Sim-Kar Lighting Fixtures Co., Inc., D and Tioga Streets, Philadelphia, Pa. 19134. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 42537 (Sub-No. 44 TA), filed November 13, 1970. Applicant: CASSENS TRANSPORT COMPANY, Post Office Box 468, Edwardsville, Ill. 62025, Office: 1 West State Street, Hamel, Ill. 62046. Applicant's representative: Donald Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, busses, and chassis*, in initial movements, in truckaway service, from Belvidere, Ill., to points in Ohio, Pennsylvania, and West Virginia, for 180 days. Supporting shipper: Chrysler Corp., Post Office Box 1976, Detroit, Mich. 48321. Send protests to: Harold Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 51146 (Sub-No. 188 TA), filed November 13, 1970. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street 54303, Post Office Box 2298, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container parts and accessories and equipment* used in connection with the distribution of metal containers and *metal container ends* when moving with metal containers, from Baltimore, Md., to Charlotte, N.C., for 180 days. Supporting shipper: National Can Corp., Midway Center, 5959 South Cicero Avenue, Chicago, Ill. 60638 (Roger F. Hermann, Eastern Region Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 83217 (Sub-No. 50 TA), filed November 13, 1970. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee Avenue, 57104, Post Office Box 1252, Sioux Falls, S. Dak. 57101. Applicant's representative: Henry J. Schuette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, from West Fargo and Fargo, N. Dak., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Restricted to plantsite and warehouse facilities of Needham Packing Co., Inc., for 180 days. Supporting shipper: Needham Packing Co., Inc., 1911 Cunningham Drive, Sioux City, Iowa 51107, Edward A. O'Donnell, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 110563 (Sub-No. 49 TA), filed November 13, 1970. Applicant: COLDWAY FOOD EXPRESS, INC., Post Office Box 747, Ohio Building, 113 North Ohio Avenue, Sidney, Ohio 45365. Applicant's representative: John L. Maurer, Ohio Building, Box 259, Sidney, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from York, Nebr., to points in New York, New Jersey, Pennsylvania, and Maryland, for 150 days. Supporting shipper: Sunflower Packing Co., Inc., 1410 East 21st Street, Post Office Box 8183, Munger Station, Wichita, Kans. 67208. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 111397 (Sub-No. 93 TA), filed November 13, 1970. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: Herbert S. Melton, Jr., Box 1407, Avondale Station, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium hexafluoride*, in radioactive material containers, in specialized trailers, between port of entry on the United States-Canada boundary line at Port Huron, Mich., and the Atomic Energy Commission plantsites located at Oak Ridge, Tenn., at or near Sargents, Ohio, and McCracken County, Ky., for 180 days. Supporting shipper: Eldorado Nuclear Ltd., 151 Slater Street, Ottawa 4, Ontario, Canada (Mr. R. C. Powell, Secretary). Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 390 Federal Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 114301 (Sub-No. 63 TA), filed November 13, 1970. Applicant: DELAWARE EXPRESS CO., Post Office Box 97, Elkton, Md. 21921. Applicant's representative: James E. Spry (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fish products*, in bulk, from Wildwood, N.J., to points in New York, Pennsylvania, Ohio, Virginia, Delaware, and Maryland, for 150 days. Supporting shipper: Haynie Products, Inc., 5010 York Road, Baltimore, Md. 21212, William E. Fowler, Operations Manager. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 116947 (Sub-No. 13 TA), filed November 13, 1970. Applicant: HUGH H. SCOTT, doing business as SCOTT

TRANSFER CO., 920 Ashby Street SW., Atlanta, Ga. 30310. Applicant's representative: William Addams, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container parts and accessories and equipment* used in connection with the distribution of metal containers, and *metal container ends*, when moving with metal containers from Baltimore, Md., to Charlotte, N.C., for 150 days. Supporting shipper: National Can Corp., 5959 South Cicero Avenue, Chicago, Ill. 60638. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 118263 (Sub-No. 36 TA), filed November 13, 1970. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, Clarksville, Ind. 47131, Office: State Highway No. 131, Clarksville, Ind. 47130. Applicant's representative: Robert L. Charmoli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) in vehicles equipped with mechanical refrigeration; from Jacksonville, Ill., to points in Maryland, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia, for 180 days. Supporting shipper: Anderson Clayton Foods, 1 Main Place, Dallas, Tex. 75250. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 135069 TA, filed November 13, 1970. Applicant: ROCKAWAY TRUCKING, INC., Route 46, Rockaway, N.J. 07866. Applicant's representative: James J. Farrell, 206 North Boulevard, Belmar, N.J. 07719. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tichloromonofluoromethane, dichlorodifluoromethane, monochlorodifluoromethane*, in containers (1) between Wichita, Kans., on the one hand, and, on the other, Dover and Rockaway, N.J.; and (2) between Dover and Rockaway, N.J., on the one hand, and, on the other, points and places in the States of Conneticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Racon Inc., 1222 Route 46, Parsippany, N.J. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15671; Filed, Nov. 19, 1970; 8:50 a.m.]

[Notice 615]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 17, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72354. By order of November 9, 1970, the Motor Carrier Board approved the transfer to Charles Slagel, Ridgeland, Wis., of the operating rights in certificate No. MC-29819 issued January 28, 1941, to Russell Huston, Ridgeland, Wis., authorizing the transportation of livestock, from points in the towns of Sand Creek, Sheridan, and Wilson, Dunn County, and Dallas, Prairie Farm, and Sioux Creek, Barron County, Wis., to South St. Paul, St. Paul, Minneapolis, and Newport, Minn.; and general commodities, with exceptions, from South St. Paul, St. Paul, Minneapolis, and Newport, Minn., to points in the above-specified Wisconsin towns. Gary L. Bakke, New Richmond, Wis. 54017, attorney for applicants.

No. MC-FC-72468. By order of November 10, 1970, the Motor Carrier Board approved the transfer to Robert J. Grall, Manitowoc, Wis., of certificates Nos. MC-115556 and MC-115556 (Sub-No. 4) issued to Douglas DeWitt, Oconto, Wis., authorizing the transportation of: Lumber and sawdust, wooden flooring, wood chips, and coal, between specified points and areas in Wisconsin, Minnesota, Iowa, Illinois, Indiana, Ohio, and Michigan. Edward Solie, 4513 Vernon Boulevard, Madison, Wis. 53705, attorney for applicants.

No. MC-FC-72476. By order of November 10, 1970, the Motor Carrier Board approved the transfer to Tempo Cartage, Inc., Palatine, Ill., of certificate of registration No. MC-120919 (Sub-No. 1) issued December 17, 1963, to Edwin Brztowski, doing business as Illinois Motor Express, Palatine, Ill., evidencing a right to engage in transportation in interstate commerce as described in certificate of public convenience and necessity N. 11717 MC dated August 19, 1954, issued by the Illinois Commerce Commission. Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-15668; Filed, Nov. 19, 1970; 8:50 a.m.]

[No. 17000]

SALT

Rate Structure Investigation

NOVEMBER 2, 1970.

Rate structure investigation, Part 13, salt.

Notice is hereby given that on October 19, 1970, rail carriers parties to Southwestern Lines Freight Tariffs, ICC No. 4914 and ICC No. 4772 filed a petition for leave to file a concurrently tendered petition for further modification or vacation of the order entered herein on December 5, 1933 (197 I.C.C. 115), insofar as it prescribes rates on salt at 45,000-pound minimum in packages in boxcars and 80,000-pound minimum in bulk in boxcars or covered hopper cars from origin groups in southwestern territory to destinations in Virginia and West Virvinia, which are within the scope of Southwestern Lines Freight Tariff ICC No. 4687; and for permission to permit petitioners to cancel the involved rates in ICC No. 4772 and to establish them in ICC No. 4914. A reply to the tendered petition was received on October 27, 1970, by Morton Salt Co., a division of Morton International, Inc., advising that it has no objection to modifying the aforementioned order so long as such action is taken for the sole purpose of confining any changes to the record made in connection with "SWL-B-40-284" and companion dockets.

In the tendered petition, the rail carriers seek to establish rates on the following bases:

A. *Package shipments.* 1. All prescribed rates subject to 45,000-pound minimum to be increased 7 cents per 100 pounds.

2. The prescribed rates now subject to a 45,000-pound minimum to be retained with the minimum weight in connection therewith made 80,000 pounds.

3. New incentive rates to be established at a minimum weight of 100,000 pounds constructed as follows: where present prescribed rate is 31.5 cents or less per 100 pounds, such rate to be reduced 4 cents per 100 pounds; where present prescribed rate is over 31.5 cents per 100 pounds, but not over 36 cents per 100 pounds, such rate to be reduced 5 cents per 100 pounds; where present prescribed rate is over 36 cents per 100 pounds such rate to be reduced 6 cents per 100 pounds.

B. *Bulk shipments.* The prescribed rates now subject to 80,000-pound minimum to be retained but the minimum weight will be changed to 100,000 pounds when shipments are made in other than covered hopper cars, and when shipments are made in covered hopper cars the carload minimum weight will be 120,000 pounds, except when car is loaded to full visible or cubical capacity actual weight will apply, but not less than 100,000 pounds per car.

In support thereof petitioners assert that by orders dated September 25, and December 12, 1968, the rates prescribed by order dated December 5, 1933, on

salt in packages and in bulk within official territory and from other territories to official territory were modified, and the railroads were permitted to establish a rate structure similar to that sought herein. When the original order was issued the involved Virginia and West Virginia stations were considered in southern territory on traffic originating in western territory. At the present time, these stations are accorded levels of rates having application within and to official territory stations, and the amendment sought would permit such an adjustment to be made in connection with salt in packages and in bulk from stations in southwestern territory to those in Virginia and West Virginia considered herein. Petitioners urge that the following important parts of the justification submitted in support of the prior adjustments also support the instant adjustment:

A. The modified rate structure in connection with packaged shipments of salt will accomplish the following objectives desired by interested shippers, receivers, and rail carriers:

1. Preserve in all instances origin relationships.

2. Continue a reasonable basis of rates on the relatively few 45,000-pound shipments.

3. Preserve to shippers the prescribed basis of rates at the same per 100-pound cost while improving the carriers' revenues.

4. Encourage better utilization of higher capacity equipment and on the incentive 100,000-pound rates lower shippers per 100-pound cost.

5. Allow producers outside official territory to reach that market at the same mile-for-mile level which will exist from official territory origins to official territory points of consumption.

B. The modified rate structure in connection with bulk shipments of salt will satisfy the salt producers who wished the prescribed rates retained and will be advantageous to the carriers in light of the fact that the higher minimum weight afforded the bulk movements would produce better net revenue and give better utilization of carrier-furnished equipment, especially covered hopper cars.

C. Recent experience of the carriers and shippers has shown that in this time period, packaged salt may be loaded to weights of 100,000 pounds or more and bulk salt may be loaded to weights greater than 100,000 pounds in other than covered hopper cars and 120,000 pounds in covered hopper cars due to the larger cars that are available today. In fact there are some rates in effect today which provide for movements of salt, in bulk in covered hopper cars, subject to a minimum weight of 200,000 pounds. In 1933 this minimum would have been unbelievable but today, with the larger equipment in service, movements at this high minimum are common knowledge.

General public notification of the receipt of this petition will be given by publication of the instant notice in the FEDERAL REGISTER.

Any person interested in the subject matter of this petition and who wishes to participate actively in any further proceedings herein by filing and receiving copies of pleadings shall, on or before 10 days from the publication of this notice in the FEDERAL REGISTER, make known that fact by notifying the Commission, in writing, whether they support or oppose the determination sought in the petition. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceedings.

To prevent duplicity, the aforementioned reply of Morton Salt Co., a division of Morton International, Inc., will be considered as in support of the determination sought in the petition unless the Commission is otherwise advised within the time specified above.

It is not contemplated that there will be any further general public notification published in the FEDERAL REGISTER of subsequent procedural handling of this proceeding. Subsequent notices and/or orders entered herein will be served solely on persons responding to this notice, on the petitioners, and the Morton Salt Co., a division of Morton International, Inc.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-15667; Filed, Nov. 19, 1970; 8:50 a.m.]

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PART II

DEPARTMENT OF THE INTERIOR

Bureau of Mines

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Mandatory Safety Standards, Underground Coal Mines

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75 — MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Pursuant to the authority contained in paragraph (d) of section 301 of the Coal Mine Health and Safety Act of 1969 (Public Law 91–173), there was published in the FEDERAL REGISTER for August 14, 1970 (35 F.R. 12911), a notice of proposed rulemaking setting forth proposed amendments and a new Subpart S, "Approved Books and Records," to Part 75 of Title 30, Code of Federal Regulations, regarding mandatory health and safety standards in underground coal mines.

Interested persons were afforded a period of 30 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed amendments and the proposed new Subpart S. The period for submitting written comments, suggestions, or objections was subsequently extended to September 30, 1970, by a notice published in the FEDERAL REGISTER for September 5, 1970 (35 F.R. 14146). Approximately 21 associations, companies, and individuals submitted comments, suggestions, or objections. All were given careful consideration. A summary of the comments and an explanation of the actions taken with respect to them will be prepared by the Bureau of Mines and will be available 30 days from the date of this publication in the Office of the Deputy Director for Health and Safety, Room 4512, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Some of the standards have been revised as suggested; in other instances, revisions were made in view of the comments received. Some of the suggestions could not be adopted because they were contrary to the statutory provisions.

Part 75 of Title 30, Code of Federal Regulations, Subchapter O—Coal Mine Health and Safety—Mandatory Health and Safety Standards, Underground Coal Mines, amended and revised as set forth below is herewith promulgated and shall become effective upon publication in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

NOVEMBER 12, 1970.

Subpart A—General

Subpart B—Qualified and Certified Persons

Subpart C—Roof Support

Subpart D—Ventilation

Subpart E—Combustible Materials and Rock Dusting

AUTHORITY: The provisions of this Part 75 issued pursuant to the authority vested in the Secretary of the Interior under secs. 301 (d) and 508 of the Federal Coal Mine Health and Safety Act of 1969, Public Law 91-173, 83 Stat. 747, 30 U.S.C. 812.

Subpart A—General

§ 75.1 Scope.

This Part 75 sets forth safety standards compliance with which is mandatory in each underground coal mine subject to the Federal Coal Mine Health and Safety Act of 1969. Some standards also are applicable to surface operations. Regulations and criteria supplementary to these standards also are set forth in this part.

§ 75.2 Definitions.

[STATUTORY PROVISIONS]

For the purpose of this Part 75, the term—

(a) "Certified" or "registered" as applied to any person means a person certified or registered by the State in which the coal mine is located to perform duties prescribed by this Part 75, except that in a State where no program of certification or registration is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification or registration shall be by the Secretary;

(b) "Qualified person" means, as the context requires,

(1) An individual deemed qualified by the Secretary and designated by the operator to make tests and examinations required by this Part 75; and

(2) An individual deemed, in accordance with minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment;

(c) "Permissible" as applied to—

(1) Equipment used in the operation of a coal mine, means equipment, other than permissible electric face equipment, to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire.

(2) Explosives, shot-firing units, or blasting devices used in such mine, means explosives, shot-firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) The manner of use of equipment or explosives, shot-firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "Rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, adobe, or other inert material preferably light colored, 100 per centum of which will pass through a sieve having 20 meshes per linear inch and 70 per centum or more of which will pass through a sieve having 200 meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 4 per centum of free and combined silica (SiO_2), or, where the Secretary finds that such silica concentrations are not available, which does not contain more than 5 per centum of free and combined silica;

(e) "Anthracite" means coals with a volatile ratio equal to 0.12 or less;

(f) "Volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(g) (1) "Working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle.

(2) "Working place" means the area of a coal mine inby the last open crosscut,

(3) "Working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "Active workings" means any place in a coal mine where miners are normally required to work or travel;

(h) "Abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for working places under Subpart D of this Part 75;

(i) "Permissible" as applied to electric face equipment means all electrically operated equipment taken into or used inby the last open crosscut of an entry or a room of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the specifications of the Secretary, to assure that such equipment will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the specifications of the Secretary, to prevent, to the greatest extent possible, other accidents in the use of such equipment; and the regulations of the Secretary or the Director of the Bureau of Mines in effect on March 30, 1970, relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment as permissible shall continue in effect until modified or superseded by the Secretary, except that the Secretary shall provide procedures, including, where feasible, testing, approval, certification, and acceptance in the field by an authorized representative of the Secretary, to facilitate compliance by an operator with the requirements of § 75.500 within the periods prescribed therein;

(j) "Low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "higher voltage" means more than 1,000 volts;

(k) "Respirable dust" means only dust particulates 5 microns or less in size;

(l) "Coal mine" includes areas of adjoining mines connected underground;

(m) "Secretary" means the Secretary of the Interior or his delegate; and

(n) "Act" means the Federal Coal Mine Health and Safety Act of 1969.

Subpart B—Qualified and Certified Persons

§ 75.100 Certified person.

(a) The provisions of Subpart D—Ventilation of this Part 75 require that certain examinations and tests be made by a certified person. A certified person within the meaning of those provisions

is a person who has been certified as a mine foreman (mine manager), an assistant mine foreman (section foreman), or a preshift examiner (mine examiner). A person who has been so certified is also a qualified person within the meaning of those provisions of Subpart D of this part which require that certain tests be made by a qualified person and within the meaning of § 75.1106.

(b) A person who is certified as a mine foreman, an assistant mine foreman, or a preshift examiner by the State in which the coal mine is located is, to the extent of the State's certification, a certified person within the meaning of the provisions of Subpart D of this part and § 75.1106 referred to in paragraph (a) of this section.

(c) (1) The Secretary may temporarily certify for periods of time not to exceed 6 months for each such temporary certification, persons in the categories of mine foreman, assistant mine foreman, and preshift examiner whenever the State in which such persons are presently employed in such categories does not provide for such certification with respect to the coal mines in which such persons are employed, if the operator of such a coal mine in which such persons are employed makes an application and satisfactory showing that each such person has had at least 2 years experience underground in a coal mine and has held the position of mine foreman, assistant mine foreman, or preshift examiner for a period of 6 months immediately preceding the filing of the application and is qualified to test for methane and for oxygen deficiency. Applications for temporary Secretarial certification should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

(2) A person certified by the Secretary under this paragraph (c) will be a certified person, within the meaning of the provisions of Subpart D of this part and § 75.1106 referred to in paragraph (a) of this section, only with respect to the coal mine in which he is employed at the time the application for certification is filed.

§ 75.150 Tests for methane and for oxygen deficiency; qualified person.

(a) The provisions of Subpart D—Ventilation of this part and § 75.1106 require that tests for methane and for oxygen deficiency be made by a qualified person. A person is a qualified person for this purpose if he is a certified person under § 75.100.

(b) Pending issuance of Federal standards, a person will be considered a qualified person for testing for methane and for oxygen deficiency:

(1) If he has been qualified for this purpose by the State in which the coal mine is located; or

(2) The Secretary may qualify persons for this purpose in a coal mine in which persons are not qualified for this purpose by the State upon an application and a satisfactory showing by the operator of the coal mine that each such person has been trained and designated by the operator to test for methane and oxygen deficiency and has made such tests for a period of 6 months immediately preceding the application. Applications for Secretarial qualification should be submitted to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 75.151 Tests for methane; qualified person; additional requirement.

Notwithstanding the provisions of § 75.150, on and after January 1, 1971, no person shall be a qualified person for testing for methane unless he demonstrates to the satisfaction of an authorized representative of the Secretary that he is qualified to test for methane with a portable methane detector approved by the Bureau of Mines under Part 22 of this chapter (Bureau of Mines Schedule 8C).

§ 75.152 Tests of air flow; qualified person.

A person is a qualified person within the meaning of the provisions of Subpart D—Ventilation of this part requiring that tests of air flow be made by a qualified person only if he is a certified person under § 75.100 or a person trained and designated by a certified person to perform such tests.

§ 75.153 Electrical work; qualified person.

(a) An individual is a qualified person within the meaning of §§ 75.511 and 75.512, to perform electrical work (other than work on energized surface high voltage lines) if he has been qualified as a mine electrician by the State in which the mine is located and if the State required, as a condition of qualification at least 1 year experience in performing electrical work underground in a coal mine.

(b) If the State in which the mine is located does not require as a condition of qualification at least 1 year experience in performing electrical work underground in a coal mine or if a State has no program for qualifying persons as mine electricians, the Secretary, pending issuance of federal standards which will give recognition to practical experience, may temporarily qualify persons for this purpose for periods of time not to exceed 6 months for each temporary certification if the operator of the coal mine in which such persons are employed makes an application and a satisfactory showing that each such person (1) has been performing electrical work, including the inspection, testing, and maintenance of electrical equipment and circuits, underground in a coal mine for 1 year preceding the application, or (2) has equivalent experience. Applications for temporary Secretarial qualification and renewals for an additional 6 months should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, Pittsburgh, Pa. 15213.

§ 75.154 Repair of energized surface high voltage lines; qualified person.

An individual is a qualified person within the meaning of § 75.705 for the purpose of repairing energized surface high voltage lines only if he has had at least 2 years experience in electrical maintenance, and at least 2 years experience in the repair of energized high voltage surface lines located on poles or structures.

§ 75.155 Qualified hoisting engineer; qualifications.

(a) (1) A person is a qualified hoisting engineer within the provisions of Subpart O of this part, for the purpose of operating a steam-driven hoist in a coal mine, if he has at least 1 year experience as an engineer in a steam-driven hoisting plant and is qualified by the State in which the mine is located as a steam-hoisting engineer; or

(2) If a State has no program for qualifying persons as steam-hoisting engineers, the Secretary may temporarily qualify persons for this purpose for periods of time not to exceed 6 months for each temporary certification if the operator of the coal mine in which such persons are employed makes an application and a satisfactory showing that each such person has had 1 year experience in operating steam-driven hoists and has held the position of hoisting engineer for a period of 6 months immediately preceding the application.

(b) (1) A person is a qualified hoisting engineer within the provisions of Subpart O of this part, for the purpose of operating an electrically driven hoist in a coal mine, if he has at least 1 year experience operating a hoist plant in a mine or maintaining electric-hoist equipment in a mine and is qualified by the State in which the mine is located as an electric-hoisting engineer; or

(2) If a State has no program for qualifying persons as electric-hoisting engineers, the Secretary may temporarily qualify persons for this purpose for periods of time not to exceed 6 months for each temporary certification if the operator of the coal mine in which such persons are employed makes an application and a satisfactory showing that each such person has had 1 year experience in operating electric-driven hoists and has held the position of hoisting engineer for a period of 6 months immediately preceding the application.

(c) Applications for Secretarial qualification should be submitted to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 75.159 Records of certified and qualified persons.

The operator of each coal mine shall maintain a list of all certified and qualified persons designated to perform duties under this Part 75.

§ 75.160 Training programs.

[STATUTORY PROVISION]

Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in the Act.

§ 75.160–1 Plans for training programs.

On or before December 31, 1970, each operator shall submit to the District Manager a program or plan setting forth what, when, how, and where he will train and retrain persons whose work assignments require that they be certified or qualified. Such program shall provide: (a) For certified persons, annual training courses in methane measurement and oxygen deficiency testing, roof and rib control, ventilation, first aid, principles of mine rescue, and the provisions of this Part 75, and (b) for qualified persons, annual courses in performance of the tasks which they perform as qualified persons.

Subpart C—Roof Support

§ 75.200 Roof control programs and plans.

[Statutory Provisions]

Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine and approved by the Secretary shall be adopted and set out in printed form on or before May 29, 1970. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every 6 months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished to the Secretary or his authorized representative and shall be available to the miners and their representatives.

§ 75.200–1 Roof control program requirements.

Each operator shall adopt an adequate program for improving roof control systems. This program shall include a roof control plan, provision for the training of miners, a history of all unintentional roof falls, and systematic evaluation of the effectiveness of the roof control system in use.

§ 75.200–2 Roof control plans.

Each operator shall adopt a roof control plan suitable to the roof conditions and the mining system for all underground roadways, travelways including escapeways, and working places of each mine.

§ 75.200–3 Filing of roof control plans.

Roof control plans shall be filed with the District Manager of the Coal Mine Health and Safety District in which the mine is located.

§ 75.200–4 Actions on roof control plans.

The appropriate District Manager shall notify the operator in writing of the approval of a proposed roof control plan. If revisions are required for approval, the changes required will be specified and the operator will be afforded an opportunity to discuss the revisions with the District Manager.

§ 75.200–5 General information required in roof control plans.

A roof control plan shall include the following information:

(a) Name and address of the company.

(b) Name and address of the mine.

(c) Names and addresses of the responsible officials.

(d) Area of the mine covered by the roof control plan.

(e) A columnar section of the mine strata which shall:

(1) Show the name and thickness of the coalbed mined and any persistent partings.

(2) Identify by type and show the thickness of each stratum (rock layer) up to and including the main roof over and for 10 feet under the coalbed.

(3) Show the maximum cover over the mining area covered included in the roof control plan.

(f) A description of the sequence of mining and installation of supports including temporary supports. The description shall include:

(1) Drawings on 8½-inch by 11-inch paper or on paper folded to this size, showing the location of all roof, face, and rib supports for each method of mining employed at the mines. The scale shall be specified and not less than 5 feet to the inch nor more than 20 feet to the inch. A legend explaining all the symbols used shall also be included on the drawings.

(2) A list of all roof support materials employed in the roof control system including, where applicable, the name of the manufacturer and its designation for the item. Prior approval shall be obtained before making any changes in the materials listed.

§ 75.200–6 Criteria for approval of roof control plans.

Sections 75.200–7 through 75.200–14 set out the criteria by which District Managers will be guided in approving roof control plans on a mine-by-mine basis. Additional measures may be required. Roof control plans which do not conform to these criteria may be approved providing the operator can satisfy the District Manager that the resultant roof conditions will provide no less than the same measure of protection to the miners.

§ 75.200–7 Criteria—Full roof bolting plan.

A full roof bolting plan is one in which roof bolts constitute the sole means of roof support at a face as part of the normal mining cycle.

(a) Roof bolt assemblies should meet the following specifications:

(1) All components of the roof bolt assembly should comply with the American National Standards Institute, "Specifications for Roof Bolting Materials in Coal Mines".

(2) Roof bolts that provide support by creating a beam of laminated strata should be of a length that assures adequate anchorage, but in no case should the length of the bolt be less than 30 inches.

(3) Roof bolts that provide support by suspending the immediate roof from a stronger overlying strata should be of a length that permits anchoring at least 12 inches in the stronger strata.

(4) Bearing plates used directly against the mine roof should be not less than 6 inches square or of equivalent area. In exceptional cases where the mine roof is firm and not susceptible to sloughing, bearing plates 5 inches square or of equivalent area may be used.

(5) When wooden material such as planks, header blocks, and crossbars are used between the bearing plate and the roof for additional bearing, the use should be limited to short life openings (not to exceed 3 years) unless treated. Bearing plates used in conjunction with wooden materials should be not less than 4 inches square or of equivalent area.

(6) When washers are used, the shape of such washers should conform to the shape of roof bolt head and the shape of the bearing plate and such washers should be of sufficient strength to withstand loads up to the yield point of the roof bolt.

(b) Installation practices:

(1) Finishing bits should be easily identifiable by sight or feel and the diameter should be within a tolerance of plus 0.030-inch minus zero of the manufacturers recommended hole diameter for the anchor used.

(2) Torque ranges specified in the roof control plan should be capable of providing roof bolt loads to within plus or minus 1,000 pounds of 50 percent of either the yield point of the roof bolt being used or the anchorage capacity of the strata, whichever is less. In no case, however, should installed torques provide loads that exceed the yield point of the roof bolt being used or the anchorage capacity. Relationship for determining roof bolt load for torque applied are as follows:

Cone Neck or Self-Centering Roof Bolt

⅝-inch expansion type roof bolt—30 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—30 lbs. of load per ft.-lb. of torque.

Standard Roof Bolt Without Hard Washer or Lubricant

⅝-inch expansion type roof bolt—50 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—40 lbs. of load per ft.-lb. of torque.

Standard Roof Bolt With Hard Washer or Lubricant

⅝-inch expansion type roof bolt—60 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—60 lbs. of load per ft.-lb. of torque.

(3) Each operator should outline and describe roof bolt testing procedures to be followed in the roof control plan. The procedures to be followed should include:

(i) Providing and maintaining an approved, calibrated torque wrench on each roof bolting machine. An approved wrench should be one that will indicate the actual torque on the roof bolt.

(ii) Designating a qualified person to spot-check torques on at least 25 percent of the roof bolts immediately after the working place has been fully bolted. If the majority of the installed torques fall outside the recommended range, the remaining roof bolts in the working place should be tested. If the majority of the torques still fall outside the recommended range, necessary adjustments in the equipment used for tightening the roof bolts should be made immediately. If, after adjustments are made and required torques are not achieved, supplementary support such as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars should be installed.

(iii) On a daily basis, spot-check torques on at least 10 percent of the roof bolts from the outby corner of the last open crosscut to the face and record the results. This record should show the number of roof bolts tested, number of roof bolts below the recommended range, and the number of roof bolts above the recommended range. If results show that a majority of the roof bolts are not maintaining at least 70 percent of the minimum torque required (50 percent if plates bear against wood), or have exceeded the maximum required torque by 50 percent, supplementary support such as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars should be installed until a review of the adequacy of the roof control plan is made by an authorized representative of the Secretary.

(4) Devices should be used to compensate for the angle when roof bolts are installed at angles greater than 5° from the perpendicular to the roof line.

(c) Roof bolting pattern:

(1) Roof bolt spacing either lengthwise or crosswise should not exceed 5 feet.

(2) Roof bolts should be installed as close as possible to, but not more than 5 feet from the rib before a sidecut is started.

(3) Roof bolts should be installed as close as possible to, but not more than 5 feet from, the face before starting conventional cutting or a continuous miner run.

(d) Openings should not exceed 20 feet in width where roof bolting is the sole means of roof support.

§ 75.200–8 Criteria—Conventional roof control plan.

A conventional roof control plan is one in which installation of materials other than roof bolts such as metal or wood posts, jacks, or cribs in conjunction with wooden cap blocks (half headers), footers (sills), planks and beams are installed as the sole means of roof support at a face as part of the normal mining cycle.

(a) Support materials should meet the following specifications:

(1) Posts should be of solid, straight grain wood with the ends sawed square and free from defects which would affect their strength.

(2) The diameter of round posts should not be less than one inch for each 15 inches of length, but in no case should the diameter be less than 4 inches; split posts should have a cross-sectional area equal to that required for round posts to equivalent length.

(3) Wooden cap blocks and footers should have flat paralleled sides and be not less than 2 inches thick, 4 inches wide and 12 inches long.

(4) Wooden crossbars and planks should be straight and of solid wood. Crossbars should have a minimum cross-sectional area of 24 square inches and the minimum thickness should be 3 inches. Planks should have a minimum cross-sectional area of 8 square inches and a minimum thickness of 1 inch.

(5) Cribbing material should be of wood having parallel flat sides. In no case should the crib be less than 30 inches square.

(b) Installation practices:

(1) No more than two wooden wedges should be used to install a post.

(2) Posts should not be installed under roof susceptible to sloughing or under disturbed roof without a wooden cap block, plank, or crossbar between the post and the roof.

(3) Posts should be installed tight and on solid footing.

(4) Blocks used for lagging between the roof and wooden crossbars, planks, or metal bars should be spaced so that the load on the supports will be equally distributed.

(5) Cap blocks should be used between jacks and the roof.

(c) Conventional support pattern:

(1) Spacing of roadway roof supports should not exceed 5 feet.

(2) Width of roadways should not exceed 14 feet on the straight and 16 feet on the curves.

(3) Roof supports should be installed to within 5 feet of the uncut face; however, the supports nearest the face may be removed to facilitate the operation of face equipment if equivalent temporary support is installed prior to removal.

(4) When an opening is no longer needed for storing supplies or for travel of equipment the roof at the entrance of all such openings along travelways should be supported by extending the post line across the opening.

(d) Openings should not exceed 20 feet in width where the roof is supported solely by conventional means.

§ 75.200–9 Criteria—Combination roof control plan.

For a plan where both roof bolts and conventional supports are used for roof control at the face, the criteria for a Full Roof Bolting Plan and a Conventional Roof Control Plan should apply with the following modifications:

(a) Any place being driven over 20 feet in width should be supported by a Combination Roof Control Plan.

(b) The roadway should be limited to 16 feet in width on both the straight and the curves to within 10 feet of the uncut face.

(c) A row of posts should be set for each 5 feet of space between the roadway posts and the ribs.

(d) Openings should not exceed 30 feet in width.

§ 75.200–10 Criteria—Spot roof bolting plan.

Spot roof bolting may be used only as a supplement to the approved roof control plan at random locations where adverse roof conditions are encountered. Where spot roof bolting is used, the criteria in § 75.200–7, (a) and (b) of the Full Roof Bolting Plan should apply. In addition, roof bolts should be installed in accordance with roof conditions, but in no case should spacing exceed 4 feet lengthwise and crosswise. Roof bolting should begin under safe roof and continue for the length of the adverse roof condition until safe roof is again encountered.

§ 75.200–11 Criteria—Pillar recovery plan.

Any reduction in pillar size during second mining shall be considered pillar recovery. Second mining is construed to be intentional retreat mining. The following criteria are applicable to pillar recovery roof control plans:

(a) Sections 75.200–7, 75.200–8, and 75.200–9 should apply depending on whether the pillar recovery plan calls for conventional support or a combination of conventional support and roof bolting.

(b) During development, the size and shape of the pillars should be dictated by the depth of cover, height of coal and other conditions associated with the coalbed. The smallest dimension of the pillar should be no less than 20 feet.

(c) Pillar splits and lifts should not exceed 20 feet in width.

(d) A minimum of two rows of breaker posts or the equivalent should be installed on not more than 4-foot centers across each opening leading into pillared areas and such posts should be installed before production is started. Such posts should be installed near the breakline between the lift being started and the gob.

(e) A row of roadside-radius (turn) posts or the equivalent should be installed on not more than 4-foot centers leading into pillar splits, including secondary splits in slabs, wings, or fenders.

(f) The width of the roadway leading from the solid pillars to a final stump (pushout) should not exceed 14 feet. At least two rows of posts or their equivalent should be set on each side of the roadway on not more than 4-foot centers. Only one open roadway leading to a final stump (pushout) should be permitted.

(g) Before full pillar recovery is begun in areas where roof bolts were used as the sole means of roof support and openings are more than 16 feet wide, supplementary support should be installed. Supplementary supports should

consist of at least one row of posts installed on either side on not more than 4-foot centers lengthwise and limit the width of all roadways to 16 feet. These supports should be extended from the entrance to the split for at least one full pillar outby the pillar in which the split is being made.

(h) The following criteria should apply to open end pillaring:

(1) At least two rows of breaker posts or their equivalent should be installed between the lift being started and the gob on not more than 4-foot centers before the initial cut is made and should be extended to within 7 feet of the face. The width of the roadway should not exceed 14 feet.

(2) If the roof in open end pillaring has a tendency to hang, falls should be made, or cribs installed in addition to the breakline posts between the active lift and the hanging area. The cribs should be set not more than 8 feet apart. Heavy duty hydraulic jacks set at centers close enough to give equivalent support may be substituted for cribs, if such jacks are removed remotely.

§ 75.200–12 Criteria—special roof control plan.

A special roof control plan should be adopted and followed when support is installed on an intermittent basis but only at predetermined locations such as at intersections, or when equipment is especially designed to provide either natural or artificial support as the coal is mined. Special roof control plans also cover experimental installations using new devices, materials, and methods for roof support.

(a) The following criteria should apply to mining systems employing continuous mining machines designed to give natural roof support by means of an arched roof:

(1) Where coal roof other than that included in the arch is necessary for roof support, positive means should be used to assure that at least 6 inches of coal roof is maintained at all times. In the event that less than 6 inches of coal roof is encountered, all work in such places should be stopped, the continuous miner withdrawn, and artificial roof support installed. A roof control plan for the support to be installed in such cases must be submitted for approval.

(2) During the development of four-way intersections, the roof between the tangents of the arches in the entry or room should be supported with artificial roof supports prior to the development of the fourth entrance to such intersection.

(3) All areas where the width of openings is to exceed the normal cutting width of the continuous mining machine should be supported with additional support as specified in the roof control plan before any other work is performed in the place.

(4) All areas where the arch is broken, except planned areas such as those covered in subparagraphs (2) and (3) of this paragraph should be considered as having unsupported roof and such roof should have artificial roof supports installed prior to any other work being performed in the area.

(b) The following criteria should apply to mining methods using continuous miners with integral roof bolting equipment where roof bolts are the sole means of roof support:

(1) The distance between roof bolts should not exceed 8 feet crosswise, unless additional material such as wooden planks, wooden beams, or metal straps are installed in conjunction with the roof bolts. Roof bolts installed more than 8 feet but less than 9 feet apart should be supplemented with a wooden plank at least 2 inches thick by 8 inches wide or its equivalent. Roof bolts installed more than 9 feet but less than 10 feet apart should be supplemented with a wooden plank at least 3 inches thick by 8 inches wide or its equivalent. Roof bolts should not be installed more than 10 feet apart.

(2) Work in intersections, pillar splits, or other such places should not be started until additional support has been installed where the roof is supported with only two roof bolts crosswise. Such support should reduce bolt spacing to maximum of 5 feet.

(3) The maximum opening width where the roof is supported by only two roof bolts crosswise should be 16 feet.

(4) The distance between the last row of bolts and the face should not exceed the distance from the head of the machine to the integral roof bolting equipment before starting a continuous miner run.

(c) Before any new support materials, devices or systems are used as a sole means of roof support, their effectiveness should be demonstrated by experimental installations in areas approved by an authorized representative of the Secretary.

§ 75.200–13 Criteria—temporary support.

(a) The following criteria should apply to the installation of temporary supports in faces:

(1) In areas where permanent artificial support is required temporary support should be used until such permanent support is installed.

(2) Only those persons engaged in installing temporary support should be allowed to proceed beyond the last permanent support until such temporary supports are installed.

(3) A minimum of two temporary supports should be installed on not more than 5-foot centers and within 5 feet of the rib or face when work is being done between such support and the nearest rib or face. At least four temporary supports should be installed on not more than 5-foot centers when work is being done in other areas of the face inby the last permanent support. No person should be permitted to proceed beyond temporary support in any direction unless such support is within 5 feet of the rib, face, or permanent support.

(b) During rehabilitation work such as rebolting, installing crossbars, or other permanent roof support, taking down loose roof and cleaning up falls of roof, temporary roof supports should be installed and the following criteria should apply:

(1) Where rebolting work is being done or crossbars are being installed, at least two rows of temporary supports on not more than 5-foot centers should be installed across the place so that the work in progress is done between the installed temporary supports and permanent roof supports installed in sound roof. The distance between the permanent supports and the nearest temporary supports should not exceed 5 feet.

(2) Tools used to take down loose material should be of a design that will enable workmen to perform their duties from a safe position without exposure to falling material. Where loose material is being taken down, a minimum of two temporary supports on centers of not more than 5 feet should be set between the workmen and the material if such work cannot be done from an area supported by permanent roof supports.

(3) Where roof falls have occurred a minimum of four temporary supports shall be set before starting any work in and around the affected area. These supports should be located so as to provide the maximum protection for persons working in the area.

§ 75.200–14 Criteria—roof support recovery.

Any operator who intends to recover roof supports should include a detailed plan for such recovery in the roof control plan. The following criteria should apply to recovery procedures:

(a) Recovery should be done only under the direct supervision of a mine foreman, assistant mine foreman, or section foreman.

(b) Only experienced miners should be assigned to such work.

(c) The person supervising recovery should make a careful examination and evaluation of the roof and designate each support to be recovered.

(d) Supports should not be recovered in the following areas:

(1) Where roof fractures are present or there are other indications of the roof being structurally weak.

(2) Where any second mining has been done.

(3) Where torque readings on roof bolts or visual observations of conventional support indicate excessive loading.

(e) Two rows of temporary supports on not more than 4-foot centers, lengthwise and crosswise, should be set across the place, beginning not more than 4 feet inby the support being recovered. In addition, at least one temporary support should be provided as close as practicable to the support being recovered.

(f) Temporary supports used should not be recovered unless recovery is done remotely from under roof where the permanent supports have not been disturbed and two rows of temporary support, set across the place on 4-foot centers, are maintained at all times between the workmen and the unsupported area.

(g) No one should be permitted to enter any area from which supports have been recovered.

(h) Entrances to the areas from which supports are being recovered should be marked with danger signs placed at conspicuous locations. The danger signs will suffice as long as further support recovery work is being done in the area. If the recovery work is completed or suspended for 3 or more days, the areas should be barricaded.

§ 75.201 Mining methods.

[STATUTORY PROVISIONS]

The method of mining followed in any coal mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

§ 75.201–1 Widths of openings.

(a) The method of mining shall provide widths of openings and pillar dimensions compatible with effective roof control. These widths and dimensions shall be incorporated into the roof control plan submitted for approval.

(b) Where excessive widths result from poor mining practices, additional roof support shall be installed before any travel or other work is done in such area. If excessive widths of openings are a result of coal sloughing, additional support shall be installed and the mining system reevaluated to determine changes that are necessary to minimize such occurrences.

§ 75.201–2 Pillar recovery methods.

In addition to those criteria set forth in § 75.200–11 which may be required in the roof control plan, the following shall apply to pillar recovery:

(a) The overall pillar recovery system shall be designed to minimize the possibility of outbursts or squeezes. The manner and sequence of recovery shall be included in the roof control plan submitted for approval.

(b) Where full pillar recovery is being done, extraction shall be such as to allow total caving of the main roof in the pillared area.

(c) During partial pillar recovery sufficient coal shall be left in place to support the main roof to the extent that the possibility of undue forces overriding the working places will be minimized.

(d) A combination of full and partial pillar recovery shall not be conducted on the same pillar line.

(e) If full extraction of pillars is being done and physical conditions such as standing water, adverse roof conditions, and falls of roof, or law requirements concerning oil and gas wells or surface subsidence dictate that some pillars of coal are to be left in place, a sufficient amount of coal shall be left to support the main roof so as to minimize the possibility of undue forces overriding the working places.

(f) Where full recovery of pillars is planned, the design of the pillars shall be compatible with the planned method of extraction.

(g) Pillaring methods shall eliminate pillar points and pillars that project inby the breakline.

(h) When recovering adjacent pillars left and right from the same opening, mining shall be completed in one such pillar lift and the openings posted off with at least two rows of breaker posts on not more than 4-foot centers before operations are started in the second pillar.

§ 75.201–3 Longwall mining.

Longwall mining shall be considered as a modification of the open-end method of pillar extraction and the support system for the longwall shall be approved on an individual basis.

§ 75.202 Roof support materials.

[STATUTORY PROVISIONS]

The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mines as the Secretary may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

§ 75.202–1 Adequate supply and location of roof support materials.

The operator shall have an adequate supply of roof support material (including temporary supports) as specified in the approved roof control plan for the type of mining being conducted as close as practical to the working face, but no farther away than the first open crosscut outby the working face unless storing of such supplies in this area poses a hazard to the miner. In such cases supplies shall be stored at an alternate location approved by an authorized representative of the Secretary. Where mining equipment such as roof drilling machines or timbering machines are required to install the supports, such support material may be transported from place to place on the equipment. An adequate supply shall be defined as sufficient material including temporary supports, to support roof exposed by one complete cycle of mining. An additional supply of supplementary roof support materials, such as posts, jacks, crossbars, or different length roof bolts, shall be available in each working section in the event adverse roof conditions, such as water coming from the roof, slips, washouts, wants, roof cracks, are encountered.

§ 75.203 Roof bolt tests.

[STATUTORY PROVISIONS]

When installation of roof bolts is permitted, such roof bolts shall be tested in accordance with the approved roof control plan.

§ 75.203–1 Testing requirements.

The criteria which may be required in the roof control plan for testing installed roof bolts are set forth in § 75.200–7 (b) (3), (ii), and (iii).

§ 75.204 Roof bolt recovery.

[STATUTORY PROVISIONS]

Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

§ 75.204–1 Requirements for roof bolt recovery.

To assure that miners are protected during roof bolt recovery work, the operator shall conform with criteria set forth in § 75.200–14.

§ 75.205 Roof testing.

[STATUTORY PROVISIONS]

Where miners are exposed to danger from falls of roof, face, and ribs the operator shall examine and test the roof, face, and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

Subpart D—Ventilation

§ 75.300 Mechanical ventilation—main fans.

[STATUTORY PROVISIONS]

All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

§ 75.300–1 Criteria—For approval of main fan installation and operation.

Sections 75.300–2 through 75.300–3, inclusive, set out the criteria by which Coal Mine Safety District Managers will be guided in approving main fan installation and operation on a mine-by-mine basis. Additional measures may be required. Installation and operating practices not conforming to these criteria may be approved, providing the operator can satisfy the District Manager that the results of such practices will provide no less than the same measure of protection to the miners.

§ 75.300–2 Criteria—Installation of main fans.

(a) Main fans should be:

(1) Installed on the surface.

(2) Installed in fireproof housings and connected to the mine opening with fireproof air ducts.

(3) Equipped with a pressure-recording gage and an automatic signal device

designed to give alarm should the fan slow or stop. The signal from this device should be placed so that it will be seen or heard by a responsible person who is always on duty and can hear or will observe such alarm when men are underground and who should take appropriate action immediately as prescribed in § 75.321 or § 75.300–3(b).

(b) To protect main fans from forces coming out of the mine should an explosion occur:

(1) Main fans should be offset not less than 15 feet from the nearest side of the mine opening, and explosion doors or a weak wall having a cross-sectional area equal to or greater than the connection entry should be provided in direct line with possible explosion forces, or

(2) Main fans may be installed in line with a diversion entry, slope, or shaft (fan entry) driven from the mine air courses to the surface. The surface opening of the fan entry should be no less than 15 feet nor more than 100 feet from the surface opening of the connected mine air course (pressure relief entry). The pressure relief entry opening should be provided with a weak wall or explosion doors in direct line with forces of an explosion originating underground and such weak wall or explosion doors should have a cross-sectional area equal to or greater than the pressure relief entry and cross-sectional area of the pressure relief entry should not be less than that of the fan entry. The underground intersection of the fan entry and pressure relief entry should be no less than 15 feet nor more than 100 feet from the surface opening of the pressure relief entry. The pillar of coal between the pressure relief entry and the fan entry should, regardless of coal bed height, contain not less than 2,500 square feet.

(c) Main fans may be driven either by electric motors or internal combustion engines.

(1) When electric motors are used, they should be provided with a separate power circuit independent of any other mine circuit.

(2) When an internal combustion engine is used the engine should be installed in a fireproof housing, located so as to be protected from possible fuel supply fire or explosions and the engine and exhaust should be located out of direct line with the airstream produced by the fan and be vented to the atmosphere in such a manner that the exhaust gases cannot contaminate the mine intake airstream or any enclosure.

(d) In mines ventilated by multiple force or multiple exhaust main fans, each main fan installation should be equipped with fireproof doors so designed and positioned that in event of the failure of a main fan the doors at the fan will automatically close and prevent air reversal through the fan.

(e) In mines ventilated by a combination of force and exhaust main fans, fireproof automatic closing doors should be installed so that in event of fan failure or stoppage, the doors will automatically close to prevent air reversal that would affect the safety of the miners.

(f) The area surrounding all main fans should be kept free of flammable material for at least 100 feet in all directions.

§ 75.300–3 Criteria—Operation of main fan.

(a) All main fans should be kept in continuous operation except in the event of:

(1) Scheduled maintenance or adjustments on idle days when all men other than those performing evaluation of adjustments are withdrawn from the mine and the mine power is cut off.

(2) Uncontrolled stoppage or fan failure.

(3) Other stoppages, when written permission is obtained from an authorized representative of the Secretary.

(b) If an unusual variance in the mine ventilation pressure is observed, or if an electrical or mechanical deficiency of a main fan is detected, the mine superintendent or assistant mine superintendent or mine foreman should be notified immediately and appropriate action or repairs should be instituted promptly.

(c) Airflow should be maintained in all intake and return air courses of a mine. Where multiple fans are used, neutral areas (areas without perceptible air movement) created by pressure equalization between main fans should not be permitted.

§ 75.300–4 Inspection, examinations, and records.

(a) All main fans shall be inspected daily by a person trained and designated by the operator to make such inspections to insure the electrical and mechanical reliability of such fans.

(b) The fan pressure recording gages shall be examined daily and the charts for such gages shall be changed after completing one revolution.

(c) Automatic closing doors as required in multiple fan systems shall be inspected at least once a month (intervals of not more than 31 days), to insure proper operation.

(d) Results of the inspections shall be recorded in a daily fan inspection book approved by the Secretary.

(e) Records of the daily fan inspections and the fan pressure recording gage charts shall be maintained for a minimum of 1 year and such records and charts shall be made available for inspection by interested persons.

(f) The provisions of paragraphs (b) and (e) of this section with respect to fan pressure recording gages will not be applied when a fan pressure recording gage is not required by the District Manager.

§ 75.301 Air quality, quantity, and velocity.

[Statutory Provisions]

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

§ 75.301–1 Quantity of air reaching working face.

A minimum quantity of 3,000 cubic feet a minute of air shall reach each working face from which coal is being cut, mined or loaded and any other working face so designated by the District Manager, in the approved ventilation plan.

§ 75.301–2 Harmful quantities of noxious gases.

Concentrations of noxious or poisonous gases, other than carbon dioxide, shall not exceed the current threshold limit values (TLV) as specified and applied by the American Conference of Governmental Industrial Hygienists. Detectors or laboratory analysis of mine air samples shall be used to determine the concentrations of harmful, noxious or poisonous gases.

§ 75.301–3 Locations of air measurements.

The locations at which the quantity of air shall be measured are as follows:

(a) When a single split of air is used the volume of air shall be measured at the last open crosscut in a pair or set of developing entries or the last open crosscut in any pair or set of rooms which shall be the last crosscut through the line of pillars that separates the intake and return air courses. When the split system of ventilation is used, the volume of air shall be measured in the last open crosscut through the line of pillars that separates the intake and return air courses of each split.

(b) The volume of air at the intake end of a pillar line ventilated by a single split of air, shall be measured in the intake entry furthest from the return air courses and immediately outby the first open crosscut outby the line of pillars being mined. When a split system of ventilation is used, the volume of air shall be measured inby the last intake air split point.

(c) When longwall mining is practiced the volume of air shall be measured in the intake entry or entries at the intake end of the longwall face and the longwall shall be constructed as a pillar line.

(d) The volume of air reaching each working face shall be measured at the inby end of the line brattice or other approved device.

§ 75.301–4 Velocity of air; minimum requirements.

(a) On and after March 30, 1971, except in working places using a blowing system as the primary means of face ventilation or in working places where a lower mean entry air velocity has been determined to be adequate to render harmless and carry away methane and to reduce the level of respirable dust to the lowest attainable level by the Coal Mine Safety District Manager, the minimum mean entry air velocity shall be 60 feet a minute in (1) all working places where coal is being cut, mined, or loaded from the working face with mechanical mining equipment, and (2) in any other working place designated by the Coal Mine Safety District Manager for the district in which the mine is located in which excessive amounts of respirable dust are being generated by any type of mechanical mining equipment.

(b) (1) Except as provided in subparagraph (2) of this paragraph, and except in working places where combination face ventilation systems are employed, the mean entry air velocity of air passing through any room, entry, crosscut, pillar cut, or other working place shall be established as follows:

(i) The quantity of air, when measured at the inby end of the line brattice or other approved device, shall be determined;

(ii) The cross sectional area of the room, entry, crosscut, pillar cut, or other working place, when measured at or near the inby end of the line brattice system or other approved device, less the cross sectional area of the line brattice system or other approved device, shall be determined;

(iii) The air quantity measured in subdivision (i) of this subparagraph shall then be divided by the remaining cross sectional area as determined in subdivision (ii) of this subparagraph and the resulting quotient shall constitute the mean entry air velocity; thus:

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(2) When longwall mining is used the mean entry air velocity at the longwall face shall be determined by establishing the total intake air quantity delivered to the longwall face and dividing this quantity by the cross sectional area of the longwall place at the entrance to the longwall face.

(c) The determination of mean entry air velocity may be made either immediately before mining equipment enters a working place or during its presence in such working place and the person making such determination shall use an anemometer or other device approved by the Secretary.

§ 75.302 Ventilation of the working face.

[Statutory Provisions]

(a) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement, where such exception will not pose a hazard to the miners. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(b) The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive, and noxious gases, dust and explosive fumes.

(c) Brattice cloth used underground shall be of flame-resistant material.

§ 75.302–1 Installation of line brattice and other devices.

(a) Line brattice or any other approved device used to provide ventilation to the working face from which coal is being cut, mined or loaded and other working faces so designated by the Coal Mine Safety Manager, in the approved ventilation plan, shall be installed at a distance no greater than 10 feet from the area of deepest penetration to which any portion of the face has been advanced unless a greater distance is approved by the Coal Mine Safety District Manager of the area in which the mine is located.

(b) When line brattice is used:

(1) The space between the line brattice and the nearest rib shall be sufficiently free of any obstructions such as supplies, equipment or debris to provide for the adequate coursing of air and permit necessary passage through such space; however, this does not exclude the use of auxiliary tubing or ventilation control devices in such space.

(2) Check curtains required in conjunction with the line brattice shall be so installed to minimize air leakage and permit traffic to pass through without adversely affecting face ventilation.

§ 75.302–2 Repair of line brattice.

When the line brattice or other ventilating device is damaged to an extent that ventilation of the working face is inadequate, production activities in the working place shall cease until necessary repairs are made and adequate ventilation restored.

§ 75.302–3 Flame resistant brattice cloth and ventilation tubing.

Brattice cloth (jute or any substitute) and ventilation tubing used underground, shall be flame resistant to the extent that the flame spread index shall be 25 or less except that brattice cloth or ventilation tubing with a flame spread index of 50 or less may be used up until December 30, 1970. The flame spread index shall be determined by ASTM methods of test E–84 or E–162.

§ 75.302–4 Auxiliary fans and tubing.

In the event that auxiliary fans and tubing are used in lieu of or in conjunction with a line brattice system to provide ventilation of the working face:

(a) The fan shall be of a permissible type, maintained in permissible condition, so located and operated to avoid any recirculation of air at any time, and inspected frequently by a certified person when in use.

(1) Fans approved and maintained under Bureau of Mines Schedule 2G or 2F (Part 18 of this chapter) will meet the requirements of this section.

(2) Persons certified under Subpart B of this part will meet the requirements for this section.

(b) In places where auxiliary fans are used, accumulations of methane resulting from unscheduled stoppage of the main fan shall be removed after restoration of normal mine ventilation, by conducting the air current into the place with line brattice or the equivalent. Auxiliary fans shall not be operated in such place during stoppage of normal mine ventilation, and until methane accumulations have been removed.

(c) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(d) In places where auxiliary fans are used, the ventilation during scheduled idle periods such as weekends and idle shifts, shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(e) If the air passing through the auxiliary fan or tubing contains 1.0 volume per centum or more of methane, the provisions of § 75.308 shall be applied. Should the requirements of § 75.308 necessitate deenergizing the auxiliary fan, the auxiliary fan shall not be restarted until the methane content in the affected area is less than 1.0 volume per centum and such changes or adjustments have been made to the auxiliary ventilation system as required to insure that the volume of air delivered by the auxiliary system is adequate to maintain the methane content in the auxiliary fan and tubing at less than 1.0 volume per centum.

(f) To insure that an adequate volume and velocity of air is supplied continuously to the working face where auxiliary fan and tubing are used for face ventilation, a line brattice or other approved device shall be installed in accordance with § 75.302–1 before the auxiliary fan is stopped.

(g) All face ventilation systems using auxiliary fans and tubing or machine mounted diffusers shall be approved under the provisions of § 75.316.

§ 75.303 Preshift examination.

[Statutory Provisions]

(a) Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of

the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date and time at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "danger" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination, such mine examiner shall report the results of his examination to a person, designated by the operator to receive such reports at a designated station on the surface of the mine, before other persons enter the underground areas of such mine to work in such shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(b) No person (other than certified persons designated under this § 75.303) shall enter any underground area, except during any shift, unless an examination of such area as prescribed in this § 75.303 has been made within 8 hours immediately preceding his entrance into such area.

§ 75.303–1 Determination of course, volume, velocity of air.

To determine whether the air in each split is traveling in its proper course and in normal volume and velocity, the mine examiner shall use an anemometer or other device approved by the Secretary to measure the velocity and determine the volume of air at the following locations:

(a) The last open crosscut of each pair or set of developing entries;

(b) The last open crosscut of each pair or set of rooms;

(c) The intake end of each pillar line.

§ 75.303–2 Air measurement devices; approval; application for approval.

(a) All devices, other than anemometers, designed and constructed to test air volume or air velocity shall be approved by the Secretary only if such devices are designed and constructed so as not to cause accidents in the use of such equipment.

(b) All devices for testing air volume or air velocity which contain electrical components shall be approved for permissiblity under Bureau of Mines Schedule 2G (Part 18 of this chapter).

(c) Applications for approval of air measurement devices other than anemometers may be submitted to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 75.304 On-shift examinations for hazardous conditions.

[Statutory Provisions]

At least once during each coal-producing shift, or more often if necessary for safety, each working section shall be examined for hazardous conditions by certified persons designated by the operator to do so. Any such conditions shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such conditions to a safe area, except those persons referred to in section 104(d) of the Act, until the danger is abated. Such examination shall include tests for methane with a means approved by the Secretary for detecting methane and for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary.

§ 75.304–1 Coal-producing shift.

The term "coal-producing shift" means any shift during which one or more of the following operations are performed: Cutting, blasting, or loading of coal, or the hauling of coal from the face areas, regardless of whether the coal is dumped at a tipple.

§ 75.304–2 Examination of working sections.

Working sections to be examined for hazardous conditions by a certified person under § 75.304 are those working sections in which work is performed in a coal producing shift.

§ 75.304–3 Tests for methane.

Additional tests to determine the methane content in the air in all working sections may be required by the Coal Mine Safety District Manager if necessary for safety and a record shall be kept of all tests. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.305 Weekly examinations for hazardous conditions.

[Statutory Provisions]

In addition to the preshift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. Such weekly examinations need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 104(d) of the Act, until such danger is abated. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

§ 75.305–1 Intervals of examination.

Examinations as required by § 75.305 shall be made at least once each week and the phrase "once each week" shall mean at intervals not exceeding 7 days rather than at any time during each calendar week.

§ 75.305–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved

by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.306 Weekly ventilation examinations.

[STATUTORY PROVISIONS]

At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume and, when the Secretary so prescribes, the velocity reaching each working face, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the coal mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

§ 75.306–1 Qualified person.

The air measurements required by § 75.306 shall be made by a qualified person as defined in § 75.152, using an anemometer or other device approved by the Secretary.

§ 75.306–2 Intervals of examinations.

The phrase "once each week" shall mean at intervals not exceeding 7 days rather than at any time during each calendar week.

§ 75.307 Methane examinations.

[STATUTORY PROVISIONS]

At the start of each shift, tests for methane shall be made at each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of methane is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until the air therein contains less than 1.0 volume per centum of methane. Examinations for methane shall be made during the operation of such equipment at intervals of not more than 20 minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting methane.

§ 75.307–1 Methane examinations at face.

An examination for methane shall be made at the face of each working place during each shift and immediately prior to the entry of such electrical equipment into any working place. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.308 Methane accumulations in face areas.

[STATUTORY PROVISIONS]

If at any time the air at any working place, when tested at a point not less than 12 inches from the roof, face, or rib, contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall contain less than 1.0 volume per centum of methane. While such changes or adjustments are underway and until they have been achieved, power to electric face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions shall be carried out under the direction of the operator or his agent so as not to endanger other areas of the mine. If at any time such air contains 1.5 volume per centum or more of methane, all persons, except those referred to in section 104(d) of the Act, shall be withdrawn from the area of the mine endangered thereby to a safe area, and all electric power shall be cut off from the endangered area of the mine, until the air in such working place shall contain less than 1.0 volume per centum of methane.

§ 75.308–1 Changes or adjustments in ventilation.

The "changes or adjustments" which shall be made in the ventilation means increasing the quantity or improving the distribution of air in the affected working place to the extent sufficient to reduce and maintain the methane content less than 1.0 volume per centum when operations are resumed.

§ 75.308–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.309 Return air; tests and adjustments.

[STATUTORY PROVISIONS]

(a) If, when tested, a split of air returning from any working section contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of methane. Tests under this § 75.309 shall be made at 4-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting methane.

(b) If, when tested, a split of air returning from any working section contains 1.5 volume per centum or more of methane, all persons except those persons referred to in section 104(d) of the Act, shall be withdrawn from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area of the mine, until the air in such split shall contain less than 1.0 volume per centum of methane.

§ 75.309–1 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane as required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.309–2 Location of methane test.

The methane content in a split of air returning from any working section shall be measured at such point or points where methane may be present in the air current in such split between the last working place of the working section ventilated by the split and the junction of such split with another airsplit or the location at which such split is used to ventilate seals or abandoned areas. Tests to determine the methane content of such split shall be made at a point not less than 12 inches from the roof or ribs.

§ 75.309–3 Changes or adjustments in ventilation.

The "changes or adjustments" which shall be made in the ventilation means increasing the quantity of air in the affected split or improving the distribution of air in the working section to the extent that the methane content in the affected split is reduced and maintained less than 1.0 volume per centum.

§ 75.309–4 Record of tests.

The results of such tests shall be recorded in the daily record book located on the surface.

§ 75.310 Methane in virgin territory.

[STATUTORY PROVISIONS]

In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in § 75.301 for the last open crosscut, if the air in the split returning from such workings does not pass over trolley wires or trolley feeder wires, and if a certified person designated by the operator is continually testing the methane content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons, except those referred to in section 104(d) of the Act, from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area only when the air returning from such workings contains 2.0 volume per centum or more of methane.

§ 75.310–1 Virgin territory.

The term "virgin territory" means that area of a mine that is being penetrated for the first time, is not surrounded on all sides by previous mining, and is of such extent that there has not been sufficient mining to reduce the amount of methane liberated during the extraction process.

§ 75.310–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.310–3 Location of methane tests.

The methane content in a split of air returning from any active workings of a mine shall be measured at such point or points where methane may be present in the air current in such split between the last working place ventilated by the split and the junction of such split with another air split or at a point where such split is used to ventilate seals or abandoned areas. Tests to determine the methane content of such split shall be made at a point not less than 12 inches from the roof or ribs.

§ 75.311 Air passing opening of abandoned areas.

[STATUTORY PROVISIONS]

Air which has passed by an opening of any abandoned area shall not be used to ventilate any working place in the coal mine if such air contains 0.25 volume per centum or more of methane. Examinations of such air shall be made during the preshift examination required by § 75.303. In making such tests, a certified person designated by the operator shall use means approved by the Secretary for detecting methane. For the purposes of this § 75.311, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

§ 75.311–1 Approved means for detecting methane.

Tests to determine whether the air contains 0.25 volume per centum or more methane, shall be made with a methane detector approved by the Secretary.

§ 75.312 Air passing through abandoned, inaccessible, or robbed area.

[STATUTORY PROVISIONS]

Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

§ 75.312–1 Pillared areas.

The phrase "an area from which the pillars have been removed" includes the area where second mining has been done regardless of the amount of recovery obtained. Second mining is construed to be intentional retreat mining.

§ 75.312–2 Tests for methane.

Tests to determine whether the air contains 0.25 volume per centum or more methane shall be made with a methane detector approved by the Secretary, and such test shall be made in the intake air current at a point between the area from which pillars have been removed and the adjacent working places.

§ 75.313 Methane monitor.

[STATUTORY PROVISIONS]

The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after March 30, 1970, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under §§ 75.500, 75.501, and 75.504. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. The sensing device of such monitor shall be installed as close to the working face as practicable. Such monitor shall be set to deenergize automatically such equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume per centum of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically equipment on which it is installed when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume per centum of methane.

§ 75.313–1 Methane monitors, maintenance.

The operator of any mine in which methane monitors are installed on any equipment shall establish and adopt a definite maintenance program designed to keep such monitors operative and a written description of such program shall be available for inspection. At least once each month the methane monitors shall be checked for operating accuracy with a known methane-air mixture and shall be calibrated as necessary. A record of calibration tests shall be kept in a book approved by the Secretary.

§ 75.313–2 Methane monitors; determination of reliability.

The methane monitors listed below are approved as reliable for detecting concentrations of methane.

Manufacturer	Part No.	Type of power
Bacharach Instrument Co.	23–7052	120v. AC.
Do	23–7090	240v. AC.
Do	23–7091	440v. AC.
Do	23–7092	480v. AC.
Do	23–7093	550v. AC.
Do	23–7053	200–350v. DC.
Mine Safety Appliances Co.	08–95100	110–120v. AC 50–60 Hz. 220–240v. AC 50–60 Hz. 440–480v. AC 50–60 Hz. 500–600v. AC 50–60 Hz. 275v. DC to be used with "MineSpot" cap lamp battery. 550v. DC to be used with "MineSpot" cap lamp battery.
Do	08–456400	Do.
Do	08–456060	Do.

§ 75.314 Inspection of idle and abandoned areas.

[STATUTORY PROVISIONS]

Idle and abandoned areas shall be inspected for methane and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible but not more than 3 hours before other persons are permitted to enter or work in such areas. Persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting methane and in the use of a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

§ 75.314–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device.

§ 75.315 Examinations before intentional roof fall.

[STATUTORY PROVISIONS]

Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether methane is present. Such person shall use means approved by the Secretary for detecting methane. If in such examination, methane is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of methane.

§ 75.315–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame

safety lamp may be used as a supplemental testing device.

§ 75.316 Ventilation system and methane and dust control plan.

[STATUTORY PROVISIONS]

A ventilation system and methane and dust control plan and revisions thereof suitable to the conditions and the mining system of the coal mine and approved by the Secretary shall be adopted by the operator and set out in printed form on or before June 28, 1970. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine, such additional or improved equipment as the Secretary may require, the quantity and velocity of air reaching each working face, and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every 6 months.

§ 75.316–1 Information to be submitted by operator.

The operator shall submit to the Coal Mine Safety District Manager in whose district such mine is located, the following:

(a) An accurate up-to-date map of the coal mine at a scale of not more than 500 feet to the inch and supporting data which shall include:

(1) The limits of the mine property including all known underground workings bordering the mine above and below and on adjacent properties.

(2) The location of all oil and gas wells.

(3) The location of all surface installed fans, type of fan, manufacturer's name, size of fan, and complete current operating specifications.

(4) Location of all surface mine openings.

(5) Any abnormal conditions or reservations, such as faults which may affect mine ventilation system design.

(6) Projections of anticipated mine development for at least 1 year.

(7) Direction and volume of air at each surface mine opening.

(8) All underground workings with the active working sections delineated.

(9) Location of all stoppings, overcasts, undercasts, regulators, seals, and ventilating and man doors.

(10) The volume of air entering and leaving each split, passing through the last open crosscut in each set of entries and rooms, at the intake end of each pillar line, and at each working face.

(11) The velocity of the air current, when such velocity is required at each working face, in all conveyor belt haulage entries, where trolley haulage systems are maintained, and where trolley wires and trolley feeder wires are installed.

(12) Average entry height in conveyor belt and trolley haulage systems.

(13) Areas which have been abandoned and areas from which pillars have been wholly or partially removed.

(b) A ventilation system and methane and dust control plan which shall show in detail:

(1) The methane and dust control practices along all haulageways and travelways, at all transfer points, at underground crushers and dumps, in all active working places and in such other areas as may be required by such District Manager.

(2) All face ventilation systems used and drawings illustrating system use, anticipated air quantities and velocities in the working place and the use and application of the system under all anticipated mining conditions.

(3) When auxiliary face ventilation systems are used, a detailed plan of such system including equipment specifications, fan capacity, method of application, and methods to be used for maintaining continuous airflow to the working face in event of auxiliary equipment failure.

(4) The bleeder entry system, when such system is used including:

(i) Methods for maintaining the bleeder entries free of obstructions such as roof falls and standing water.

(ii) Ventilating devices such as regulators, stoppings and bleeder connectors used to control air movement through the gob bleeder entries.

§ 75.316–2 Criteria for approval of ventilation system and methane and dust control plan.

This section sets out the criteria by which District Managers will be guided in approving a ventilation system and dust control plan on a mine-by-mine basis. Additional measures may be required. A ventilation system and dust control plan not conforming to these criteria may be approved, providing the operator can satisfy the District Manager that the results of such ventilation system and dust control plan will provide no less than the same measure of protection to the miners.

(a) In mines using multiple main fans, the ventilation system should be so arranged that no adverse air reversal will occur, should failure or stoppage of any main fan or fans occur.

(b) Permanent stoppings, overcasts, undercasts, and shaft partitions should be constructed of substantial, incombustible material, such as concrete, concrete blocks, cinder block, brick or tile, or some other incombustible material having sufficient strength to serve the purpose for which the stopping or partition is intended. In heavy or caving areas, timbers laid longitudinally "skin to skin" may be used. Such permanent stoppings should be erected between the intake and return aircourses in entries and should be maintained to and including the third connecting crosscut outby the faces of the entries. Permanent stoppings should be used to separate belt haulage entries from entries used as intake an return aircourses.

(c) A crosscut should be provided at or near the face of each entry or room before the place is abandoned.

(d) The methane content in any return aircourse other than an aircourse returning the split of air from a working section (as provided in §§ 75.309 and 75.310) should not exceed 2.0 volume per centum. The methane content in the air in active workings shall be less than 1.0 volume per centum. If, at any time, the air in any active working contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in the mine so that air shall contain less than 1.0 volume per centum of methane.

(e) Bleeder entries, bleeder systems, or equivalent means should be used in all active pillaring areas to ventilate the mined areas from which the pillars have been wholly or partially extracted, so as to control the methane content in such areas. Bleeder entries or bleeder systems established after June 28, 1970, should conform with the requirements of this § 75.316–2.

(1) Bleeder entries shall be defined as special aircourses developed and maintained as part of the mine ventilation system and designed to continuously move air-methane mixtures from the gob, away from active workings and deliver such mixtures to the mine return aircourses. Bleeder entries should be connected to those areas from which pillars have been wholly or partially extracted at strategic locations in such a way to control airflow through such gob area, to induce drainage of gob gas from all portions of such gob areas and to minimize the hazard from expansion of gob gases due to atmospheric pressure change.

(2) Bleeder systems shall include any combination of bleeder entries, bleeder entry connections to any area from which pillars are wholly or partially extracted and all associated ventilation control devices. Such systems should extend from active pillar line of such gob to the intersection of that bleeder split with any other split of air, and shall not include active workings.

(f) (1) Bleeder entries developed after June 28, 1970, should be adequately maintained and free of water to permit safe travel or, if such bleeder entries cannot be traveled without exposing the mine examiner to undue hazard, such bleeder system should be designed and maintained so that bleeder entry performance can be evaluated for adequacy and continuity by a means approved by the Coal Mine Safety District Manager.

(2) When the mine operator deems that safe examination can be made such examination should be made at least once each week by a certified person designated by the operator to do so and the results of such examinations shall be recorded in a book as prescribed in § 75.305. The certified person shall place his initials, the time and the date at as many locations in the bleeder entries as are necessary to indicate that the entire length has been examined.

(3) When bleeder entry travel is considered unsafe the evaluation of bleeder entry performance should be adequate to indicate that the bleeder system is functioning as specified in § 75.316–3 (e) (1) and shall be made at least once each week by a certified person or persons and the results shall be recorded in a book as prescribed in § 75.305. To protect the safety of the miners when bleeder entry performance evaluation requires altering the normal airflow through the affected area, such evaluation should be made during idle shifts

with power cut off from the affected area. Due precaution should be taken so as not to endanger any other area of the mine and suitable examinations for methane should be made at the edges of the pillar and such other places as may be required.

(g) The ventilation pressure differential between the active pillar line and the junction of any bleeder connection to the bleeder entries of such system should at all times be adequate to insure gob gas drainage to the bleeder entries. The pressure differential shall be considered adequate when perceptible air-flow exists in all open or regulated bleeder connections, as determined with chemical smoke or other approved means.

(h) The methane content of the air current in the bleeder split at the point where such split enters any other air split should not exceed 2.0 volume per centum.

(i) When the return aircourses from all or part of the bleeder entries of a gob area and air other than that used to ventilate the gob area is passing through the return aircourses, the bleeder connectors between the return air courses and the gob shall be considered as bleeder entries and the concentration of methane should not exceed 2.0 volume per centum at the intersection of the bleeder connectors and the return aircourses.

§ 75.317 Maintenance of detecting devices.

[STATUTORY PROVISIONS]

Each operator shall provide for the proper maintenance and care of the permissible flame safety lamp or any other approved device for detecting methane and oxygen deficiency by a person trained in such maintenance, and, before each shift, care shall be taken to insure that such lamp or other device is in a permissible condition.

§ 75.318 Pillar recovery without bleeder system.

[STATUTORY PROVISIONS]

Where areas are being pillared on March 30, 1970, without bleeder entries, or without bleeder systems or any equivalent means, pillar recovery may be completed in the area, to the extent approved by an authorized representative of the Secretary, if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of methane.

§ 75.319 Ventilation of mechanized mining sections.

[STATUTORY PROVISIONS]

Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of 9 months, may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on March 30, 1970.

§ 75.319-1 Mechanized mining section.

The term "mechanized mining section" means an area of a mine in which coal is mined with one set of production equipment, characterized in a conventional mining section by a single loading machine, or in a continuous mining section by a single continuous mining machine, and which is comprised of a number of contiguous working places. Specialized mining sections, such as longwall mining sections, which utilize equipment other than specified in this section, may, if approved by the Coal Mine Safety District Manager, be ventilated by a single split of air.

§ 75.320 Examination for methane before blasting.

[STATUTORY PROVISIONS]

In all underground areas of a coal mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for methane shall be made by a qualified person with means approved by the Secretary for detecting methane. If methane is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of methane. No shots shall be fired until the air contains less than 1.0 volume per centum of methane.

§ 75.321 Stoppage of fans, plans.

[STATUTORY PROVISIONS]

Each operator shall adopt a plan on or before May 29, 1970, which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (a) to withdraw all persons from the working sections, (b) to cut off the power in the mine in a timely manner, (c) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of 1.0 volume per centum or more exists therein, and (d) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

§ 75.321-1 Reasonable period.

Unless a different period of time is approved by the Coal Mine Safety District Manager, "reasonable period" referred to in § 75.321 means a time lapse of not more than 15 minutes.

§ 75.322 Change in ventilation.

[STATUTORY PROVISIONS]

Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

§ 75.323 Countersigning of reports.

[STATUTORY PROVISIONS]

The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, they shall be corrected promptly. If such conditions create an imminent danger, the operator shall withdraw all persons from, or prevent any person from entering, as the case may be, the area affected by such conditions, except those persons referred to in section 104(d) of the Act, until such danger is abated. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

§ 75.324 Reports by mine foremen.

[STATUTORY PROVISIONS]

Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book approved by the Secretary provided for that purpose a report of the condition of the mine or portion thereof under his supervision, which report shall state clearly the location and nature of any hazardous condition observed by him or reported to him during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and shall be open for inspection by interested persons.

§ 75.325 Reopening mines.

[STATUTORY PROVISIONS]

Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection shall be made of the entire mine by an authorized representative of the Secretary before mining operations commence.

§ 75.326 Aircourses and belt haulage entries.

[STATUTORY PROVISIONS]

In any coal mine opened after March 30, 1970, the entries used as intake and return air courses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such

air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to March 30, 1970, which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to permit adequately the coursing of intake or return air through such entries, (a) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate active working places, and (b) when the belt haulage entries are not necessary to ventilate the active working places, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane.

§ 75.327 Air courses and trolley haulage systems.

[STATUTORY PROVISIONS]

In any coal mine opened on or after March 30, 1970, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake aircourses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

§ 75.327–1 Velocity of air.

Unless a higher velocity is approved by the Coal Mine Safety District Manager, the velocity of the air current in the trolley haulage entries shall be limited to not more than 250 feet a minute. A higher air velocity may be required to limit the methane content in such haulage entries or elsewhere in the mines to less than 1.0 per centum and provide an adequate supply of oxygen.

§ 75.328 Ventilation during pillar extraction.

[STATUTORY PROVISION]

While pillars are being extracted in any area of a coal mine, such area shall be ventilated in the manner prescribed by this Subpart D "Ventilation."

§ 75.329 Bleeder systems.

[STATUTORY PROVISION]

On or before December 30, 1970, all areas from which pillars have been wholly or partially extracted and abandoned areas, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed, as determined by the Secretary or his authorized representative. When ventilation of such areas is required, such ventilation shall be maintained so as continuously to dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from the hazards of such methane and other explosive gases. Air coursed through underground areas from which pillars have been wholly or partially extracted which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

§ 75.329–1 Sealing or ventilation of pillared or abandoned area.

(a) All areas of a coal mine from which the pillars have been wholly or partially extracted and abandoned areas shall be ventilated or sealed by December 30, 1970. For those coal mines in which ventilation can be maintained so as to continuously dilute, render harmless and carry away methane and other exlosive gases within such areas and to protect the active workings of the mine from hazards of such methane and other explosive gases, the operator shall request permission from the Coal Mine Safety District Manager in whose district the mine is located to ventilate such areas.

(b) The request for permission to ventilate such areas must be submitted in time to allow consideration of the request, to obtain approval, and to permit the operator to install the ventilation system, or to install seals in the event the request to ventilate is denied, on or before December 30, 1970.

(c) The determination of whether ventilation will be permitted will be made after taking into consideration the history of methane and other explosive gases in the mine, the size of the gob or abandoned areas, and if the areas can be ventilated adequately.

(d) To be considered for approval the request shall contain the following information provided by the mine operator.

(1) Name of mine and company.

(2) Location of mine (town, county, State).

(3) Operator's name and address.

(4) Date of application.

(5) A detailed history of the methane content determined throughout the mine and when available, the volume of air in which such methane determinations were made, to support the operator's application to ventilate.

(e) A description of the method by which the areas from which the pillars have been wholly or partially extracted and abandoned areas shall be ventilated and such maps and drawings as may be required to illustrate such method and to indicate existing or proposed air volumes used to ventilate such areas.

(f) The signature and title of the person who submits the application for the operator.

§ 75.329–2 Construction of seals or bulkheads.

Pending the development and publication of definitive specifications for explosion-proof seals or bulkheads, such seals or bulkheads may be constructed of solid, substantial, and incombustible materials such as concrete, brick, cinder block, or tile, or the equivalent, sufficient to prevent an explosion which may occur in the atmosphere on one side of the seal or bulkhead from propagating to the atmosphere on the other side; provided, however, that upon publication of definitive specifications, all such seals or bulkheads, including those in place at the time of such publication, shall be required to meet or exceed those specifications.

§ 75.330 Sealing abandoned sections.

[STATUTORY PROVISIONS]

In the case of mines opened on or after March 30, 1970, or in the case of working sections opened on or after such date in mines open prior to such date, the mining system shall be designed in accordance with a plan and revisions thereof approved by the Secretary and adopted by such operator so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads.

§ 75.330–1 Plan for sealing abandoned sections.

For approval the plan for isolating each set of cross entries, room entries, or panel entries shall include the following:

(a) A mine map at a scale not more than 500 feet to the inch which is sufficiently detailed to illustrate the mining system employed, depth of cover and dimensions of barrier pillars left in place bordering such areas, the proximity of all active workings, and the proposed location and sequence of construction of all necessary mine seals required, when mining is completed in a mining area. Such map shall illustrate the location of such mine seals as may be required should mining conditions necessitate abandonment of a mining area prior to the scheduled completion date.

(b) A detailed drawing or drawings of proposed explosion-proof seal construction which shall meet the requirements of § 75.329–2. Such drawings shall show the pillars in which the seals will be erected and such pillars shall be of sufficient size and number to protect the seals.

Subpart E—Combustible Materials and Rock Dusting

§ 75.400 Accumulation of combustible materials.

[STATUTORY PROVISION]

Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active workings, or on electric equipment therein.

§ 75.400–1 Definitions.

(a) The term "coal dust" means particles of coal that can pass a No. 20 sieve.

(b) The term "float coal dust" means the coal dust consisting of particles of coal that can pass a No. 200 sieve.

(c) The term "loose coal" means coal fragments larger in size than coal dust.

§ 75.400–2 Cleanup program.

A program for regular cleanup and removal of accumulations of coal and float coal dusts, loose coal, and other combustibles shall be established and maintained. Such program shall be available to the Secretary or authorized representative.

§ 75.401 Abatement of dust; water or water with a wetting agent.

[STATUTORY PROVISION]

Where underground mining operations in active workings create or raise excessive amounts of dust, water or water with a wetting agent added to it, or other no less effective methods approved by the Secretary or his authorized representative, shall be used to abate such dust. In working places, particularly in distances less than 40 feet from the face, water, with or without a wetting agent, or other no less effective methods approved by the Secretary or his authorized representative, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

§ 75.401–1 Excessive amounts of dust.

The term "excessive amounts of dust" means coal and float coal dust in the air in such amounts as to create the potential of an explosion hazard.

§ 75.402 Rock dusting.

[STATUTORY PROVISION]

All underground areas of a coal mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within 40 feet of all working faces, unless such areas are inaccessible or unsafe to enter or unless the Secretary or his authorized representative permits an exception upon his finding that such exception will not pose a hazard to the miners. All crosscuts that are less than 40 feet from a working face shall also be rock dusted.

§ 75.402–1 Definition.

The term "too wet" means that sufficient natural moisture is retained by the dust that when a ball of finely divided material is squeezed in the hands water is exuded.

§ 75.402–2 Exceptions.

Exceptions granted under § 75.402 by the Secretary or his authorized representative shall be reviewed periodically.

§ 75.403 Maintenance of incombustible content of rock dust.

[STATUTORY PROVISION]

Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a coal mine and maintained in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where methane is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of methane where 65 and 80 per centum, respectively, of incombustibles are required.

§ 75.403–1 Incombustible content.

Moisture contained in the combined coal dust, rock dust and other dusts shall be considered as a part of the incombustible content of such mixture.

§ 75.404 Exemption of anthracite mines.

[STATUTORY PROVISION]

Sections 75.401, 75.402, and 75.403 shall not apply to underground anthracite mines.

Subpart F—Electrical Equipment—General

§ 75.500 Permissible electric equipment.

[STATUTORY PROVISION]

On and after March 30, 1971:

(a) All junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible;

(b) All handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate on or before May 30, 1970, which are taken into or used inby the last open crosscut of any coal mine shall be permissible;

(c) All electric face equipment which is taken into or used inby the last open crosscut of any coal mine classified under any provision of law as gassy prior to March 30, 1970, shall be permissible; and

(d) All other electric face equipment which is taken into or used inby the last crosscut of any coal mine, except a coal mine referred to in § 75.501, which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, shall be permissible.

§ 75.500–1 Other low horsepower electric face equipment.

Other low horsepower electric face equipment designated pursuant to the provisions of § 75.500(b) is all other electric-driven mine equipment, except low horsepower rock dusting equipment, and employs an electric current supplied by either a power conductor or battery and consumes not more than 2,250 watts of electricity and which is taken into or used inby the last open crosscut.

§ 75.501 Permissible electric face equipment; coal seams above water table.

[STATUTORY PROVISION]

On and after March 30, 1974, all electric face equipment, other than equipment referred to in paragraph (b) of § 75.500, which is taken into and used inby the last open crosscut of any coal mine which is operated entirely in coal seams located above the water table and which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, and in which one or more openings were made prior to December 30, 1969, shall be permissible.

§ 75.501–1 Coal seams above the water table.

As used in § 75.501, the phrase "coal seams above the water table" means coal seams in a mine which are located at an elevation above a river or the tributary of a river into which a local surface water system naturally drains.

§ 75.501–2 Permissible electric face equipment.

(a) On and after March 30, 1971, in mines operated entirely in coal seams which are located at elevations above the water table:

(1) All junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible; and

(2) All handheld electric drills, blower and exhaust fans, electric pumps, and all other electric-driven mine equipment, except low horsepower rock dusting equipment, that employs an electric current supplied by either a power conductor or battery and consumes not more than 2,250 watts of electricity, which is taken into or used inby the last open crosscut shall be permissible.

(b) On and after March 30, 1974, in mines operated entirely in coal seams which are located at elevations above the water table, all electric face equipment which is taken into or used inby the last crosscut shall be permissible.

§ 75.502 Permits for noncompliance.

An operator need not comply with paragraph (d) of § 75.500 or with § 75.501 during the period of time specified in a permit issued by the Interim Compliance Panel established by the Act.

§ 75.503 Permissible electric face equipment; maintenance.

[STATUTORY PROVISIONS]

The operator of each coal mine shall maintain in permissible condition all electric face equipment required by §§ 75.500, 75.501, 75.504 to be permissible which is taken into or used inby the last open crosscut of any such mine.

§ 75.503–1 Statement listing all electric face equipment.

Each operator of a coal mine shall complete and file Bureau of Mines Form No. 6–1496 entitled "Coal Operator's Electrical Survey" and Form 6–1496 Supplemental entitled "Operator's Survey of Electrical Face Equipment." Forms may be obtained from any Coal Mine Safety District Office or Subdistrict Office of the Bureau of Mines. Separate forms shall be filed for each mine. Copies one and two of the completed form shall be filed with the Coal Mine District or Subdistrict Manager for the district in which each mine is located on or before May 30, 1970. An operator must list all electric face equipment being used at each mine

as of the time of filing, all such equipment being repaired, and all standby electric equipment stored at or in the mine which the operator intends to use as face equipment.

§ 75.504 Permissibility of replacement and rebuilt electric face equipment.

[STATUTORY PROVISION]

On and after March 30, 1971, all replacement equipment acquired for use in any mine referred to in §§ 75.500, 75.501, 75.503 shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use on or after March 30, 1971, such equipment shall be put in, and thereafter maintained in, a permissible condition, unless, in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

§ 75.505 Mines classed gassy; use and maintenance of permissible electric face equipment.

[STATUTORY PROVISION]

Any coal mine which, prior to March 30, 1970, was classed gassy under any provision of law and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

§ 75.506 Electric face equipment; requirements for permissibility.

(a) Electric-driven mine equipment and accessories manufactured on or after March 30, 1973, will be permissible electric face equipment only (1) if they are fabricated, assembled, or built under an approval, or any extension thereof, issued by the Bureau of Mines in accordance with schedule 2G, or any subsequent Bureau of Mines schedule promulgated by the Secretary after March 30, 1970, which amends, modifies, or supersedes the permissibility requirements of schedule 2G, and (2) if they are maintained in a permissible condition.

(b) Except as provided in paragraph (c) of this § 75.506 electric-driven mine equipment and accessories manufactured prior to March 30, 1973, will be permissible electric face equipment (1) if they were fabricated, assembled, or built under an approval, or any extension thereof, issued by the Bureau of Mines in accordance with the schedules set forth below, and (2) if they are maintained in a permissible condition.

Bureau of Mines Schedule 2D, May 23, 1936;
Bureau of Mines Schedule 2E, February 15, 1945;
Bureau of Mines Schedule 2F, August 3, 1955; and
Bureau of Mines Schedule 2G, March 19, 1968.

Copies of these schedules are available at all Coal Mine Safety District and Subdistrict Offices of the Bureau of Mines.

(c) Electric driven mine equipment and accessories bearing the Bureau of Mines approval numbers listed in appendix A to this subpart are permissible electric face equipment only if they are maintained in a permissible condition.

(d) Electric cap lamps, electric mine lamps other than standard cap lamps, flame safety lamps, portable methane detectors, telephones and signaling devices, single- and multiple-shot blasting units, lighting equipment for illuminating underground mines, and methane-monitoring systems will be permissible electric face equipment only (1) if they are approved under the appropriate Bureau of Mines schedule applicable to such equipment and (2) if they are in permissible condition. The Bureau of Mines schedules referred to, dates issued, and the appropriate parts of this chapter are:

Electric Cap Lamps, Bureau of Mines Schedule 6D, August 26, 1939 (Part 19);
Electric Mine Lamps Other than Standard Cap Lamps, Bureau of Mines Schedule 10C, May 17, 1938 (Part 20);
Flame Safety Lamps, Bureau of Mines Schedule 7C, August 30, 1935 (Part 21);
Portable Methane Detectors, Bureau of Mines Schedule 8C, October 31, 1935 (Part 22);
Telephone and Signaling Devices, Bureau of Mines Schedule 9B, October 25, 1938 (Part 23);
Single Shot Blasting Units, Bureau of Mines Shedule 12D, November 27, 1945 (Part 24);
Multiple Shot Blasting Units, Bureau of Mines Schedule 16E, May 19, 1960 (Part 25);
Lighting Equipment for Illuminating Underground Workings, Bureau of Mines Schedule 29A, December 2, 1958 (Part 26); and
Methane-Monitoring Systems, Bureau of Mines Schedule 32A, July 27, 1966 (Part 27).

§ 75.506–1 Electric face equipment; permissible condition; maintenance requirements.

(a) Except as provided in paragraph (b) of this section, electric face equipment which meets the requirements for permissibility set forth in § 75.506 will be considered to be in permissible condition only if it is maintained so as to meet the requirements for permissibility set forth in the Bureau of Mines schedule under which such electric face equipment was initially approved, or, if the equipment has been modified, it is maintained so as to meet the requirements of the schedule under which such modification was approved.

(b) Electric face equipment bearing the Bureau of Mines approval number listed in Appendix A of this subpart will be considered to be in permissible condition only if it is maintained so as to meet the requirements for permissibility set forth in Bureau of Mines Schedule 2D or, if such equipment has been modified, it is maintained so as to meet the requirements of the schedule under which the modification was approved.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, where the minimum requirements for permissibility set forth in the appropriate Bureau of Mines schedule under which such equipment or modifications were approved have been superseded by the requirements of this Part 75, the latter requirements shall be applicable.

§ 75.507 Power connection points.

[STATUTORY PROVISIONS]

Except where permissible power connection units are used, all power-connection points outby the last open crosscut shall be in intake air.

§ 75.508 Map of electrical system.

[STATUTORY PROVISIONS]

The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps, and trolley wires and trolley feeder wires, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

§ 75.508–1 Mine tracks.

When mine track is used as a conductor of a trolley system, the location of such track shall be shown on the map required by § 75.508, with a notation of the number of rails and the size of such track expressed in pounds per yard.

§ 75.508–2 Changes in electric system map; recording.

Changes made in the location, electrical rating or setting within the mine electrical system shall be recorded on the map of such system no later than the end of the next workday following completion of such changes.

§ 75.509 Electric power circuit and electric equipment; deenergization.

[STATUTORY PROVISIONS]

All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing.

§ 75.510 Energized trolley wires; repair.

[STATUTORY PROVISIONS]

Energized trolley wires may be repaired only by a person trained to perform electrical work and to maintain electrical equipment and the operator of a mine shall require that such person wear approved and tested insulated shoes and wireman's gloves.

§ 75.510–1 Repair of energized trolley wires; training.

The training referred to in § 75.510 must include training in the repair and maintenance of live trolley wires, and in the hazards involved in making such repairs, and in the limitations of protective clothing used to protect against such hazards.

§ 75.511 Low-, medium-, or high-voltage distribution circuits, and equipment; repair.

[STATUTORY PROVISION]

No electrical work shall be performed on low-, medium-, or high-voltage distribution circuits or equipment, except by a qualified person or by a person trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by the operator or his agent.

§ 75.511–1 Qualified person.

To be a qualified person within the meaning of § 75.511, an individual must meet the requirements of § 75.153.

§ 75.512 Electric equipment; examination, testing and maintenance.

[STATUTORY PROVISION]

All electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

§ 75.512–1 Qualified person.

To be a qualified person within the meaning of § 75.512, an individual must meet the requirements of § 75.153.

§ 75.512–2 Frequency of examinations.

The examinations and tests required by § 75.512 shall be made at least weekly. Permissible equipment shall be examined to see that it is in permissible condition.

§ 75.513 Electric conductor; capacity and insulation.

[STATUTORY PROVISION]

All electric conductors shall be sufficient in size and have adequate current carrying capacity and be of such construction that a rise in temperature resulting from normal operation will not damage the insulating materials.

§ 75.513–1 Electric conductor; size.

An electric conductor is not of sufficient size to have adequate carrying capacity if it is smaller than is provided for in the National Electric Code, 1968. In addition, equipment and trailing cables that are required to be permissible must meet the requirements of the appropriate schedules of the Bureau of Mines.

§ 75.514 Electrical connections or splices; suitability.

[STATUTORY PROVISION]

All electrical connections or splices in conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

§ 75.515 Cable fittings; suitability.

[STATUTORY PROVISION]

Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames, the holes shall be substantially bushed with insulated bushings.

§ 75.516 Power wires; support.

[STATUTORY PROVISION]

All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.

§ 75.516–1 Installed insulators.

Well-insulated insulators is interpreted to mean well-installed insulators. Insulated J-hooks may be used to suspend insulated power cables for temporary installation not exceeding 6 months and for permanent installation of control cables such as may be used along belt conveyors.

§ 75.517 Power wires and cables; insulation and protection.

[STATUTORY PROVISIONS]

Power wires and cables, except trolley wires, trolley feeder wires, and bare signal wires, shall be insulated adequately and fully protected.

§ 75.517–1 Power wires and cables; insulation and protection.

Power wires and cables installed on or after March 30, 1970, shall have insulation with a dielectric strength at least equal to the voltage of the circuit.

§ 75.517–2 Plans for insulation of existing bare power wires and cables.

(a) On or before December 31, 1970, plans for the insulation of existing bare power wires and cables installed prior to March 30, 1970, shall be filed with the District Manager of the Coal Mine Safety District in which the mine is located to permit approval and prompt implementation of such plans.

(b) The appropriate District Manager shall notify the operator in writing of the approval of a proposed insulation plan. If revisions are required for approval, the changes required will be specified.

(c) An insulation plan shall include the following information:

(1) Name and address of the company, the mine and the responsible officials;

(2) Map or diagram indicating location of power wires and cables required to be insulated;

(3) Total length of bare power wires and cables required to be insulated;

(4) Schedule for the replacement or insulation of bare power wires and cables;

(5) Type of insulation to be used and the voltage rating as indicated by the manufacturer.

(d) The District Manager shall be guided by the following criteria in approving insulation plans on a mine-by-mine basis. Insulation not conforming to these criteria may be approved provided the operator can satisfy the Bureau of Mines that the insulation will provide no less than the same measure of protection.

(1) Insulation shall be adequate for the applied voltage of the circuit.

(2) When tubing is used to insulate existing power wires and cables, it shall have a dielectric strength at least equal to the voltage of the circuit. When the tubing is split for purposes of installation, the joints shall be effectively sealed. The butt ends may be sealed with a moisture resistant insulating tape.

(3) When tape is used to insulate existing power wires and cables, it shall be applied half-lapped and one thickness of the tape shall have a dielectric strength at least equal to the voltage of the circuit. The tape shall be self-adhesive and moisture resistant.

§ 75.518 Electric equipment and circuits; overload and short circuit protection.

[STATUTORY PROVISION]

Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electrict equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

§ 75.518–1 Electric equipment and circuits; overload and short circuit protection; minimum requirements.

A device to provide either short circuit protection or protection against overload which does not conform to the provisions of the National Electric Code, 1968, does not meet the requirement of § 75.518. In addition, such devices on electric face equipment and trailing cables that are required to be permissible must meet the requirements of the applicable schedules of the Bureau of Mines.

§ 75.518–2 Incandescent lamps, overload and short circuit protection.

Incandescent lamps installed along haulageways and at other locations, not contacting combustible material, and powered from trolley or direct current feeder circuits, need not be provided with

separate short circuit or overload protection, if the lamp is not more than 8 feet in distance from such circuits.

§ 75.519 Main power circuits; disconnecting switches.

[STATUTORY PROVISION]

In all main power circuits, disconnecting switches shall be installed underground within 500 feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within 500 feet of all other places where main power circuits enter the underground area of the mine.

§ 75.519–1 Main power circuits; disconnecting switches; locations.

Section 75.519 requires (a) that a disconnecting switch be installed on the surface at a point within 500 feet of the place where the main power circuit enters the underground area of a mine, and (b) that, in an instance on which a main power circuit enters the underground area through a shaft or borehole, a disconnecting switch be installed underground within 500 feet of the bottom of the shaft or borehole.

§ 75.520 Electric equipment; switches.

[STATUTORY PROVISION]

All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

§ 75.521 Power conductors, lightning arresters.

[STATUTORY PROVISION]

Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within 100 feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than 25 feet.

§ 75.522 Lighting devices.

[STATUTORY PROVISION]

No device for the purpose of lighting any coal mine which has not been approved by the Secretary or his authorized representative shall be permitted in such mine.

§ 75.522–1 Incandescent and fluorescent lamps.

(a) Except for areas of a coal mine inby the last open crosscut, incandescent lamps may be used to illuminate underground areas. When incandescent lamps are used in a track entry or belt entry or near track entries to illuminate special areas other than structures, the lamps shall be installed in weather-proof sockets located in positions such that the lamps will not come in contact with any combustible material. Lamps used in all other places must be of substantial construction and be fitted with a glass enclosure.

(b) Incandescent lamps within glass enclosures or fluorescent lamps may be used inside underground structures (except magazines used for the storage of explosives and detonators). In underground structures lighting circuits shall consist of cables installed on insulators or insulated wires installed in metallic conduit or metallic armor.

§ 75.523 Electric face equipment; deenergization.

[STATUTORY PROVISION]

An authorized representative of the Secretary may require in any mine that electric face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

APPENDIX A

List of permissible electric face equipment approved by the Bureau of Mines prior to May 23, 1936.

MOTOR-DRIVEN MINE EQUIPMENT

(Approved Under Schedules 2, 2A, 2B, and 2C)

AIR COMPRESSORS

Approval No.	Date
128	March 21, 1927.
128A	July 16, 1926.

COAL DRILLS AND DRILLING MACHINES

Hand Drills

109	September 19, 1922.
154	August 1, 1928.
184	February 7, 1930.
227	July 29, 1931.
254	July 15, 1933.

Post Drills

119	April 15, 1925.
119A	Do.
225	July 10, 1931.
225A	Do.
228	August 12, 1931.
228A	February 17, 1932.
230	August 20, 1931.
230A	Do.
237	December 1, 1931.
237A	Do.

Drilling Machines

147	February 8, 1928.
147A	Do.
176	September 9, 1929.
176A	Do.

LOADING AND CONVEYING EQUIPMENT

LOADING MACHINES

Unmounted Type

122	January 8, 1926.
122A	Do.

Caterpillar-Mounted Type

150	May 11, 1928.
186	March 15, 1930.
222	May 8, 1931.
222A	July 28, 1931.
229	August 17, 1931.
229A	Do.
235	November 27, 1931.
235A	October 29, 1931.
278	January 17, 1935.
278A	Do.
283A	March 12, 1935.
284A	Do.
285A	Do.
294	September 18, 1935.
300A	May 6, 1936.
127	July 16, 1926.
127A	September 23, 1927.

LOADING AND CONVEYING EQUIPMENT—Con.

LOADING MACHINES—continued

Track-Mounted Type

194	June 6, 1930.
194A	Do.
217	February 27, 1931.
217A	Do.
276	January 11, 1935.
277	January 17, 1935.
282A	March 12, 1935.
291A	July 3, 1935.

Pit-Car Loaders

167	March 27, 1929.
167A	Do.
175	July 26, 1929.
175A	June 24, 1929.
250	December 10, 1932.
250A	Do.
252A	February 20, 1933.

CONVEYORS

Belt Type

236	November 19, 1931.
287A	March 12, 1935.
296A	January 6, 1936.

Chain Type

151	May 19, 1928.
209	December 2, 1930.
240	March 12, 1932.
240A	Do.
298A	March 3, 1936.

Power Units for Conveyors

265	February 12, 1934.
265A	March 9, 1934.
390A	March 23, 1934.

Shaker Type

247	October 21, 1932.
257A	August 11, 1933.
262A	December 8, 1933.
271	May 20, 1935.
271A	October 17, 1934.
274A	December 13, 1934.
286A	March 12, 1935.
295	September 20, 1935.
299A	April 9, 1936.

Scraper-type Loaders

138	August 5, 1927.
138A	Do.
196	September 29, 1930.
196A	July 26, 1930.
226	July 27, 1931.
255	July 31, 1933.
256	Do.

MINING MACHINES, MACHINERY-MOVING EQUIPMENT, MISCELLANEOUS TRUCKS, AND WATER SPRAY SUPPLY UNITS

MINING MACHINES

Shortwall Machines

103	November 2, 1917.
103A	Do.
105	February 9, 1922.
105A	Do.
106	Do.
106A	Do.
107	Do.
107A	Do.
108	Do.
108A	Do.
111	October 16, 1922.
111A	Do.
113	November 4, 1924.
113A	Do.
114	February 7, 1925.
114A	Do.
115	Do.
115A	Do.
153	July 31, 1928.
153A	Do.
193	June 3, 1930.
193A	Do.

197	July 31, 1930.
197A	Do.
198	August 1, 1930.
198A	Do.
201	September 8, 1930.
201A	Do.
204	October 13, 1930.
204A	December 13, 1930.
223	May 13, 1931.
223A	Do.
241	March 18, 1932.
241A	Do.
258	August 15, 1933.
259A	August 16, 1933.
260A	August 17, 1933.
273	November 30, 1934.
288	March 27, 1935.
288A	Do.
292	September 11, 1935.
292A	Do.
293A	Do.

Longwall Machines

185	February 24, 1930.
185A	Do.
218	March 10, 1931.
218A	Do.
246	August 19, 1932.
246A	Do.
261	September 12, 1933.

Track or caterpillar mounted

112	March 13, 1924.
112A	Do.
118	March 12, 1925.
118A	Do.
125	April 26, 1926.
125A	Do.
172	April 30, 1929.
172A	Do.
188	April 15, 1930.
188A	Do.
207	November 14, 1930.
207A	Do.
216	February 12, 1931.
216A	Do.
231	August 31, 1931.
231A	Do.
242	April 7, 1932.
244	June 18, 1932.
244A	September 20, 1932.
253A	February 25, 1933.
267	June 27, 1934.
268A	July 25, 1934.
269A	September 24, 1934.
280A	March 4, 1935.
297	January 27, 1936.
297A	Do.

Mine Pumps

140	November 1, 1927.
140A	Do.
143	Do.
143A	Do.
144	Do.
144A	Do.
199	August 18, 1930.
199A	Do.
208	November 29, 1930.
210	December 15, 1930.
210A	Do.
211	December 17, 1930.
211A	Do.
213	December 29, 1930.
213A	Do.
214	January 2, 1931.
214A	Do.
215	Do.
215A	Do.
248	October 31, 1932.
248A	November 23, 1932.
264	January 31, 1934.
264A	Do.
272	October 23, 1934.
272A	Do.

Rock-Dusting Machines

130	November 5, 1926.
137	July 2, 1927.
146	January 20, 1928.
146A	April 3, 1928.
180	October 30, 1929.
180A	January 17, 1930.
206	November 12, 1930.
279	February 14, 1935.

Room and Car-Spotting Hoists

116	February 13, 1925.
116A	Do.
164	January 21, 1931.
164A	Do.
165	Do.
165A	Do.
169	April 5, 1929.
169A	February 26, 1934.
190	April 20, 1930.
251A	January 16, 1933.
263	January 11, 1934.
266A	February 27, 1934.

STORAGE-BATTERY LOCOMOTIVES AND POWER TRUCKS

(Approved under Schedules 15, 2C, 2D, and 2E)

Gathering Locomotives

1501	October 11, 1921.
1502	November 13, 1922.
1503	March 24, 1923.
1505	April 5, 1924.
1507	August 20, 1925.
1508	March 21, 1925.
1509	September 25, 1925.
1511	November 10, 1925.
1512	November 11, 1925.
1513	February 25, 1926.
1516	December 28, 1926.
1517	February 10, 1927.
1520	May 27, 1929.
1521	June 13, 1930.
1522	September 12, 1930.
1523	December 19, 1930.
1525	July 25, 1934.
1526	December 20, 1935.

Tandem Locomotive

1518	November 21, 1927.

Power Trucks

1506	May 5, 1924.
1505A	June 21, 1926.
1510C	December 31, 1926.
1514	December 18, 1926.
1515	December 28, 1926.
1512C	September 13, 1928.
1519C	April 6, 1929.
1524C	June 25, 1934.

JUNCTION, DISTRIBUTION, AND SPLICE BOXES

(Approved under Schedules 2D and 2E)

Junction Boxes

400	June 16, 1928.
400A	August 5, 1925.
401	May 11, 1927.
401A	Do.
402	Do.
402A	Do.
403	April 14, 1931.
403A	Do.
405A	December 4, 1933.

Subpart G—Trailing Cables

§ 75.600 Trailing cables; flame resistance.

[STATUTORY PROVISIONS]

Trailing cables used in coal mines shall meet the requirements established by the Secretary for flame-resistant cables.

§ 75.600–1 Approved cables; flame resistance.

The requirements for flame resistant cables are set forth in § 18.64 of this chapter (Bureau of Mines Schedule 2G).

§ 75.601 Short circuit protection of trailing cables.

[STATUTORY PROVISIONS]

Short circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

§ 75.601–1 Short circuit protection; ratings and settings of circuit breakers.

Circuit breakers providing short circuit protection for trailing cables shall be set so as not to exceed the maximum allowable instantaneous settings specified in this section; however, higher settings may be permitted by an authorized representative of the Secretary when he has determined that special applications are justified:

Conductor size AWG or MGM	*Maximum allowable circuit breaker instantaneous setting (amperes)*
14	50
12	75
10	150
8	200
6	300
4	500
3	600
2	800
1	1,000
1/0	1,250
2/0	1,500
3/0	2,000
4/0	2,500
250	2,500
300	2,500
350	2,500
400	2,500
450	2,500
500	2,500

§ 75.601–2 Short circuit protection; use of fuses; approval by the Secretary.

Fuses shall not be employed to provide short circuit protection for trailing cables unless specifically approved by the Secretary.

§ 75.601–3 Short circuit protection; dual element fuses; current ratings; maximum values.

Dual element fuses having adequate current-interrupting capacity shall meet the requirements for short circuit protection of trailing cables as provided in § 75.601, however, the current ratings of such devices shall not exceed the maximum values specified in this section:

Conductor size (AWG or MGM)	Single conductor cable		Two conductor cable	
	Ampacity	Maximum fuse rating	Ampacity	Maximum fuse rating
14			15	15
12			20	20
10			25	25
8	60	60	50	50
6	85	90	65	70
4	110	110	90	90
3	130	150	105	110
2	150	150	120	125
1	170	175	140	150
1/0	200	200	170	175
2/0	235	250	195	200
3/0	275	300	225	225
4/0	315	350	260	300
250	350	350	285	300
300	395	400	310	350
350	445	450	335	350
400	480	500	360	400
450	515	600	385	400
500	545	600	415	450

§ 75.602 Trailing cable junctions.

[STATUTORY PROVISION]

When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

§ 75.603 Temporary splice of trailing cable.

[STATUTORY PROVISION]

One temporary splice may be made in any trailing cable. Such trailing cable may only be used for the next 24-hour period. No temporary splice shall be made in a trailing cable within 25 feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this section, the term "splice" means the mechanical joining of one or more conductors that have been severed.

§ 75.604 Permanent splicing of trailing cables.

[STATUTORY PROVISIONS]

When permanent splices in trailing cables are made, they shall be:

(a) Mechanically strong with adequate electrical conductivity and flexibility;

(b) Effectively insulated and sealed so as to exclude moisture; and

(c) Vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

§ 75.604–1 Approved processes other than vulcanizing.

Raychem Corp.'s Thermofit Insulated Mine Splice is approved as meeting the flame-resistant requirements of paragraph (c) of § 75.604.

§ 75.605 Clamping of trailing cables to equipment.

[STATUTORY PROVISIONS]

Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections.

§ 75.606 Protection of trailing cables.

[STATUTORY PROVISIONS]

Trailing cables shall be adequately protected to prevent damage by mobile equipment.

§ 75.607 Breaking trailing cable and power cable connections.

[STATUTORY PROVISIONS]

Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

Subpart H—Grounding

§ 75.700 Grounding metallic sheaths, armors, and conduits enclosing power conductors.

[STATUTORY PROVISIONS]

All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the Secretary.

§ 75.700–1 Approved methods of grounding.

Metallic sheaths, armors and conduits in resistance grounded systems where the enclosed conductors are a part of the system will be approved if a solid connection is made to the neutral conductor; in all other systems, the following methods of grounding will be approved:

(a) A solid connection to a borehole casing having low resistance to earth;

(b) A solid connection to metal waterlines having low resistance to earth;

(c) A solid connection to a grounding conductor, other than the neutral conductor of a resistance grounded system, extending to a low resistance ground field located on the surface;

(d) Any other method of grounding, approved by an authorized representative of the Secretary, which ensures that there is no difference in potential between such metallic enclosures and the earth.

§ 75.701 Grounding metallic frames, casings, and other enclosures of electric equipment.

[STATUTORY PROVISIONS]

Metallic frames, casings, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded by methods approved by an authorized representative of the Secretary.

§ 75.701–1 Approved methods of grounding of equipment receiving power from ungrounded alternating current power systems.

For purposes of grounding metallic frames, casings and other enclosures of equipment receiving power from ungrounded alternating current power systems, the following methods of grounding will be approved:

(a) A solid connection between the metallic frame, casing, or other metal enclosure and the grounded metallic sheath, armor, or conduit enclosing the power conductor feeding the electrical equipment enclosed;

(b) A solid connection to a borehole casing having low resistance to earth;

(c) A solid connection to metal waterlines having low resistance to earth;

(d) A solid connection to a grounding conductor extending to a low resistance ground field located on the surface;

(e) Any other method of grounding, approved by an authorized representative of the Secretary, which ensures that there is no difference in potential between such metal enclosures and the earth.

§ 75.701–2 Approved method of grounding metallic frames, casings and other enclosures receiving power from single-phase 110–220-volt circuit.

In instances where single-phase 110–220-volt circuits are used to feed electrical equipment, the only method of grounding that will be approved is the connection of all metallic frames, casings and other enclosures of such equipment to a separate grounding conductor which establishes a continuous connection to a grounded center tap of the transformer.

§ 75.701–3 Approved methods of grounding metallic frames, casings and other enclosures of electric equipment receiving power from direct current power systems with one polarity grounded.

For the purpose of grounding metallic frames, casings and enclosures of any electric equipment or device-receiving power from a direct-current power system with one polarity grounded, the following methods of grounding will be approved:

(a) A solid connection to the mine track;

(b) A solid connection to the grounded power conductor of the system;

(c) Silicon diode grounding; however, this method shall be employed only when such devices are installed in accordance with the requirements set forth in paragraph (d) of § 75.703–3; and

(d) Any other method, approved by an authorized representative of the Secretary, which insures that there is no difference in potential between such metal enclosures and the earth.

§ 75.701–4 Grounding wires; capacity of wires.

Where grounding wires are used to ground metallic sheaths, armors, conduits, frames, casings, and other metallic enclosures, such grounding wires will be approved if:

(a) The cross-sectional area (size) of the grounding wire is at least one-half the cross-sectional area (size) of the power conductor where the power conductor used is No. 6 A.W.G., or larger.

(b) Where the power conductor used is less than No. 6 A.W.G., the cross-sectional area (size) of the grounding wire is equal to the cross-sectional area (size) of the power conductor.

§ 75.701–5 Use of grounding connectors.

The attachment of grounding wires to a mine track or other grounded power conductor will be approved if separate clamps, suitable for such purpose, are used and installed to provide a solid connection.

§ 75.702 Protection other than grounding.

[STATUTORY PROVISIONS]

Methods other than grounding which provide no less effective protection may be permitted by the Secretary or his authorized representative.

§ 75.702–1 Protection other than grounding; approved by an authorized representative of the Secretary.

Under this subpart no method other than grounding may be used to ensure against a difference in potential between metallic sheaths, armors and conduits, enclosing power conductors and frames, casings and metal enclosures of electric equipment, and the earth, unless approved by an authorized representative of the Secretary.

§ 75.703 Grounding offtrack direct-current machines and the enclosures of related detached components.

[STATUTORY PROVISIONS]

The frames of all offtrack direct-current machines and the enclosures of related detached components shall be effectively grounded, or otherwise maintained at no less safe voltages, by methods approved by an authorized representative of the Secretary.

§ 75.703–1 Approved method of grounding.

In instances where the metal frames both of an offtrack direct-current machine and of the metal frames of its component parts are grounded to the same grounding medium the requirements of § 75.703 will be met.

§ 75.703–2 Approved grounding mediums.

For purposes of grounding offtrack direct-current machines, the following grounding mediums are approved:

(a) The grounded polarity of the direct-current power system feeding such machines; or,

(b) The alternating current grounding medium where such machines are fed by an ungrounded direct-current power system originating in a portable rectifier receiving its power from a section power center. However, when such a medium is used, a separate grounding conductor must be employed.

§ 75.703–3 Approved methods of grounding offtrack mobile, portable and stationary direct-current machines.

In grounding offtrack direct-current machines and the enclosures of their component parts, the following methods of grounding will meet the requirements of § 75.703:

(a) The use of a separate grounding conductor located within the trailing cable of mobile and portable equipment and connected between such equipment and the direct-current grounding medium;

(b) The use of a separate ground conductor located within the direct-current power cable feeding stationary equipment and connected between such stationary equipment and the direct-current grounding medium;

(c) The use of a separate external ground conductor connected between stationary equipment and the direct-current grounding medium; or,

(d) The use of silicon diodes; however, the installation of such devices shall meet the following minimum requirements:

(1) Installation of silicon diodes shall be restricted to electric equipment receiving power from a direct-current system with one polarity grounded;

(2) Where such diodes are used on circuits having a nominal voltage rating of 250, they must have a forward current rating of 400 amperes or more, and have a peak inverse voltage rating of 400 or more;

(3) Where such diodes are used on circuits having a nominal voltage rating of 550, they must have a forward current rating of 250 amperes or more, and have a peak inverse voltage rating of 800 or more;

(4) Where fuses approved by the Secretary are used at the outby end of a trailing cable connected to electrical equipment employing silicon diodes, the rating of such fuses must not exceed 150 percent of the nominal current rating of the grounding diodes;

(5) Where circuit breakers are used at the outby end of a trailing cable connected to electrical equipment employing silicon diodes, the instantaneous trip setting shall not exceed 300 percent of the nominal current rating of the grounding diode;

(6) Overcurrent devices must be used and installed in such a manner that the operating coil circuit of the main contactor will open when a fault current with a value of 25 percent or less of the diode rating flows through the diode;

(7) The silicon diode installed must be suitable to the grounded polarity of the power system in which it is used and its threaded base must be solidly connected to the machine frame on which it is installed;

(8) In addition to the grounding diode, a polarizing diode must be installed in the machine control circuit to prevent operation of the machine when the polarity of a trailing cable is reversed;

(9) When installed on permissible equipment, all grounding diodes, overcurrent devices, and polarizing diodes must be placed in explosion proof compartments;

(10) When grounding diodes are installed on a continuous miner, their nominal diode current rating must be at least 750 amperes or more; and,

(11) All grounding diodes shall be tested, examined and maintained as electrical equipment in accordance with the provisions of § 75.512.

§ 75.703–4 Other methods of protecting offtrack direct-current equipment; approved by an authorized representative of the Secretary.

Other methods of maintaining safe voltage by preventing a difference between the frames of offtract direct-current machines and the earth must be approved by an authorized representative of the Secretary.

§ 75.704 Grounding frames of stationary high voltage equipment receiving power from ungrounded delta systems.

[STATUTORY PROVISIONS]

The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

§ 75.704–1 Approved methods of grounding.

The methods of grounding stated in § 75.701–1 will also be approved with respect to the grounding of frames of high-voltage equipment referred to in § 75.704.

§ 75.705 Work on high-voltage lines; deenergizing and grounding.

[STATUTORY PROVISIONS]

High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to March 30, 1970.

§ 75.705–1 Work on high-voltage lines.

(a) Section 75.705 specifically prohibits work on energized high-voltage lines underground;

(b) No high-voltage line, either on the surface or underground, shall be regarded as deenergized for the purpose of performing work on it, until it has been determined by a qualified person (as provided in § 75.153) that such high-voltage line has been deenergized and grounded. Such qualified person shall by visual observation (1) determine that the disconnecting devices on the high-voltage circuit are in open position and (2) ensure that each ungrounded conductor of the high-voltage circuit upon which work is to be done is properly connected to the system-grounding medium. In the case of resistance grounded or solid wye-connected systems, the neutral wire is the system-grounding medium. In the case of an ungrounded power system, either the steel armor or conduit enclosing the system or a surface grounding field is a system grounding medium;

(c) No work shall be performed on any high-voltage line on the surface which

is supported by any pole or structure which also supports other high-voltage lines until: (1) All lines supported on the pole or structure are deenergized and grounded in accordance with all of the provisions of this section which apply to the repair of energized surface high-voltage lines; or (2) the provisions of §§ 75.705–2 through 75.705–10 have been complied with, with respect to all lines, which are supported on the pole or structure.

(d) Work may be performed on energized surface high-voltage lines only in accordance with the provisions of §§ 75.705–2 through 75.705–10, inclusive.

§ 75.705–2 Repairs to energized surface high-voltage lines.

An energized high-voltage surface line may be repaired only when

(a) The operator has determined that:

(1) Such repairs cannot be scheduled during a period when the power circuit could be properly deenergized and grounded;

(2) Such repairs will be performed on power circuits with a phase-to-phase nominal voltage no greater than 15,000 volts;

(3) Such repairs on circuits with a phase-to-phase nominal voltage of 5,000 volts or more will be performed only with the use of live line tools;

(4) Weather conditions will not interfere with such repairs or expose those persons assigned to such work to an imminent danger; and

(b) The operator has designated a person qualified under the provisions of § 75.154 as the person responsible for carrying out such repairs and such person, in order to ensure protection for himself and other qualified persons assigned to perform such repairs from the hazards of such repair, has prepared and filed with the operator:

(1) A general description of the nature and location of the damage or defect to be repaired;

(2) The general plan to be followed in making such repairs;

(3) A statement that a briefing of all qualified persons assigned to make such repairs was conducted informing them of the general plan, their individual assignments, and the dangers inherent in such assignments;

(4) A list of the proper protective equipment and clothing that will be provided; and

(5) Such other information as the person designated by the operator feels necessary to describe properly the means or methods to be employed in such repairs.

§ 75.705–3 Work on energized high-voltage surface lines; reporting.

Any operator designating and assigning qualified persons to perform repairs on energized high-voltage surface lines under the provisions of § 75.705–2 shall maintain a record of such repairs. Such record shall contain a notation of the time, date, location, and general nature of the repairs made, together with a copy of the information filed with the operator by the qualified person designated as responsible for performing such repairs.

§ 75.705–4 Simultaneous repairs.

When two or more persons are working on an energized high-voltage surface line simultaneously, and any one of them is within reach of another, such persons shall not be allowed to work on different phases or on equipment with different potentials.

§ 75.705–5 Installation of protective equipment.

Before repair work on energized high-voltage surface lines is begun, protective equipment shall be used to cover all bare conductors, ground wires, guys, telephone lines, and other attachments in proximity to the area of planned repairs. Such protective equipment shall be installed from a safe position below the conductors or other apparatus being covered. Each rubber protective device employed in the making of repairs shall have a dielectric strength of 20,000 volts, or more.

§ 75.705–6 Protective clothing; use and inspection.

All persons performing work on energized high-voltage surface lines shall wear protective rubber gloves, sleeves, and climber guards if climbers are worn. Protective rubber gloves shall not be worn wrong side out or without protective leather gloves. Protective devices worn by a person assigned to perform repairs on high-voltage surface lines shall be worn continuously from the time he leaves the ground until he returns to the ground, and, if such devices are employed for extended periods, such person shall visually inspect the equipment assigned him for defects before each use and, in no case, less than twice each day.

§ 75.705–7 Protective equipment; inspection.

Each person shall visually inspect protective equipment and clothing provided him in connection with work on high-voltage surface lines before using such equipment and clothing, and any equipment or clothing containing any defect or damage shall be discarded and replaced with proper protective equipment or clothing prior to the performance of any electrical work on such lines.

§ 75.705–8 Protective equipment; testing and storage.

(a) All rubber protective equipment used on work on energized high-voltage surface lines shall be electrically tested by the operator in accordance with ASTM standards, Part 28, published February 1968, and such testing shall be conducted in accordance with the following schedule:

(1) Rubber gloves, once each month;

(2) Rubber sleeves, once every 3 months;

(3) Rubber blankets, once every 6 months;

(4) Insulator hoods and line hose, once a year; and

(5) Other electric protective equipment, once a year.

(b) Rubber gloves shall not be stored wrong side out. Blankets shall be rolled when not in use, and line hose and insulator hoods shall be stored in their natural position and shape.

§ 75.705–9 Operating disconnecting or cutout switches.

Disconnecting or cutout switches on energized high-voltage surface lines shall be operated only with insulated sticks, fuse tongs, or pullers which are adequately insulated and maintained to protect the operator from the voltage to which he is exposed. When such switches are operated from the ground, the person operating such devices shall wear protective rubber gloves.

§ 75.705–10 Tying into energized high-voltage surface circuits.

If the work of forming an additional circuit by tying into an energized high-voltage surface line is performed from the ground, any person performing such work must wear and employ all of the protective equipment and clothing required under the provisions of §§ 75.705–5 and 75.705–6. In addition, the insulated stick used by such person must have been designed for such purpose and must be adequately insulated and be maintained to protect such person from the voltage to which he is exposed.

§ 75.705–11 Use of grounded messenger wires; ungrounded systems.

Solely for purposes of grounding ungrounded high-voltage power systems, grounded messenger wires used to suspend the cables of such systems may be used as a grounding medium.

§ 75.706 Deenergized underground power circuits; idle days-idle shifts.

[STATUTORY PROVISIONS]

When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

Subpart I—Underground High-Voltage Distribution

§ 75.800 High-voltage circuits; circuit breakers.

[STATUTORY PROVISIONS]

High-voltage circuits entering the underground area of any coal mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

§ 75.800–1 Circuit breakers; location.

Circuit breakers protecting high-voltage circuits entering an underground area of any coal mine shall be located on the surface and in no case installed either underground or within a drift.

§ 75.800–2 Approved circuit schemes.

The following circuit schemes will be regarded as providing the necessary protection to the circuits required by § 75.800:

(a) Ground check relays may be used for undervoltage protection if the relay coils are designed to trip the circuit breaker when line voltage decreases to 40 percent to 60 percent of the nominal line voltage;

(b) Ground trip relays on resistance grounded systems will be acceptable as grounded phase protection;

(c) One circuit breaker may be used to protect two or more branch circuits, if the circuit breaker is adjusted to afford overcurrent protection for the smallest conductor.

§ 75.800–3 Testing, examination and maintenance of circuit breakers; procedures.

(a) Circuit breakers and their auxiliary devices protecting underground high-voltage circuits shall be tested and examined at least once each month by a person qualified as provided in § 75.153;

(b) Tests shall include:

(1) Breaking continuity of the ground check conductor, where ground check monitoring is used; and

(2) Actuating at least two (2) of the auxiliary protective relays.

(c) Examination shall include visual observation of all components of the circuit breaker and its auxiliary devices, and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 75.800–4 Testing, examination and maintenance of circuit breakers; record.

The operator of any coal mine shall maintain a written record of each test, examination, repair, or adjustment of all circuit breakers protecting high voltage circuits which enter any underground area of the coal mine. Such record shall be kept in a book approved by the Secretary.

§ 75.801 Grounding resistors.

[Statutory Provisions]

The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

§ 75.802 Protection of high-voltage circuits extending underground.

[Statutory Provisions]

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

§ 75.803 Fail safe ground check circuits on high-voltage resistance grounded systems.

[Statutory Provisions]

On and after September 30, 1970, high-voltage, resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available.

§ 75.803–1 Maximum voltage ground check circuits.

The maximum voltage used for ground check circuits under § 75.803 shall not exceed 96 volts.

§ 75.803–2 Ground check systems not employing pilot check wires; approval by the Secretary.

Ground check systems not employing pilot check wires will be approved only if it is determined that the system includes a fail safe design causing the circuit breaker to open when ground continuity is broken.

§ 75.803–3 High-voltage ground check circuits; extension of time for noncompliance.

Upon written application an extension of time may be granted for a period not to exceed 12 months after September 30, 1970, if the operator submits evidence showing that the necessary components required for proper compliance have been ordered and are unavailable at the time of such application. Any application for an extension of time under the provisions of this section shall be addressed to the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240, and shall set forth the following information:

(a) A list of the component parts ordered;

(b) The manufacturer, distributor, or dealer from whom such parts were ordered;

(c) The date of such order or orders; and,

(d) Expected date of delivery.

§ 75.804 Underground high-voltage cables.

[Statutory Provisions]

(a) Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (A.W.G.) for the ground continuity check circuit.

(b) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

§ 75.805 Couplers.

[Statutory Provisions]

Couplers that are used with medium-voltage or high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, no less effective couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

§ 75.806 Connection of single-phase loads.

[Statutory Provisions]

Single-phase loads, such as transformer primaries, shall be connected phase-to-phase.

§ 75.807 Installation of high-voltage transmission cables.

[Statutory Provisions]

All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are 6½ feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits.

§ 75.808 Disconnecting devices.

[STATUTORY PROVISIONS]

Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

§ 75.809 Identification of circuit breakers and disconnecting switches.

[STATUTORY PROVISIONS]

Circuit breakers and disconnecting switches underground shall be marked for identification.

§ 75.810 High-voltage trailing cables; splices.

[STATUTORY PROVISIONS]

In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with § 75.-604. Terminations and splices in all other high voltage cables shall be made in accordance with the manufacturer's specifications.

§ 75.811 High-voltage underground equipment; grounding.

[STATUTORY PROVISIONS]

Frames, supporting structures and enclosures of stationary, portable, or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment receiving power from resistance grounded systems shall be effectively grounded to the high-voltage ground.

§ 75.812 Movement of high-voltage power centers and portable transformers; permit.

[STATUTORY PROVISIONS]

Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this section, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

§ 75.812–1 Qualified person.

A person who meets the requirements of § 75.153 is a qualified person within the meaning of § 75.812.

§ 75.812–2 High-voltage power centers and transformers; record of examination.

The operator shall maintain a record of all examinations conducted in accordance with § 75.812. Such record shall be kept in a book approved by the Secretary.

Subpart J—Underground Low- and Medium-Voltage Alternating Current Circuits

§ 75.900 Low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers.

[STATUTORY PROVISIONS]

Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

§ 75.900–1 Circuit breakers; location.

Circuit breakers used to protect low- and medium-voltage circuits underground shall be located in areas which are accessible for inspection, examination, and testing, have safe roofs, and are clear of any moving equipment used in haulageways.

§ 75.900–2 Approved circuit schemes.

The following circuit schemes will be regarded as providing the necessary protection to the circuit required by § 75.900:

(a) Ground check relays may be used for undervoltage protection if the relay coils are designed to trip the circuit breaker when line voltage decreases to 40 to 60 percent of the nominal line voltage.

(b) One undervoltage device installed in the main secondary circuit at the source transformer may be used to provide undervoltage protection for each circuit that receives power from that transformer.

(c) One circuit breaker may be used to protect two or more branch circuits if the circuit breaker is adjusted to afford overcurrent protection for the smallest conductor.

(d) Circuit breakers with shunt trip, series trip or undervoltage release devices may be used if the tripping elements of such devices are selected or adjusted in accordance with the settings listed in the Tables of the National Electric Code, 1968.

§ 75.900–3 Testing, examination, and maintenance of circuit breakers; procedures.

Circuit breakers protecting low- and medium-voltage alternating current circuits serving three-phase alternating current equipment and their auxiliary devices shall be tested and examined at least once each month by a person qualified as provided in § 75.153. In performing such tests, actuating any of the circuit breaker auxiliaries or control circuits in any manner which causes the circuit breaker to open, shall be considered a proper test. All components of the circuit breaker and its auxiliary devices shall be visually examined and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 75.900–4 Testing, examination, and maintenance of circuit breakers; record.

The operator of any coal mine shall maintain a written record of each test, examination, repair, or adjustment of all circuit breakers protecting low- and medium-voltage circuits serving three-phase alternating current equipment used in the mine. Such record shall be kept in a book approved by the Secretary.

§ 75.901 Protection of low- and medium-voltage three-phase circuits used underground.

[STATUTORY PROVISIONS]

(a) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

§ 75.902 Low- and medium-voltage ground check monitor circuits.

[STATUTORY PROVISIONS]

On or before September 30, 1970, low- and medium-voltage resistance grounded systems shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground

check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

§ 75.902–1 Maximum voltage ground check circuits.

The maximum voltage used for such ground check circuits shall not exceed 40 volts.

§ 75.902–2 Approved ground check systems not employing pilot check wires.

Ground check systems not employing pilot check wires will be approved only if it is determined that the system includes a fail safe design causing the circuit breaker to open when ground continuity is broken.

§ 75.902–3 Low- and medium-voltage ground check circuit; extension of time for noncompliance.

Upon written application an extension of time may be granted, for a period not to exceed 12 months after September 30, 1970, if the operator submits evidence showing that the necessary components required for proper compliance have been ordered and are unavailable at the time of such application. Any application for extension of time under the provisions of this section shall be addressed to the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240 and shall set forth the following information:

(a) A list of the component parts ordered;

(b) The manufacturer, distributor, or dealer from whom such parts were ordered;

(c) The date of such order or orders; and,

(d) Expected delivery date.

§ 75.902–4 Attachment of ground conductors and ground check wires to equipment frames; use of separate connections.

In grounding equipment frames of all stationary, portable or mobile equipment receiving power from resistance grounded systems separate connections shall be used when practicable.

§ 75.903 Disconnecting devices.

[STATUTORY PROVISIONS]

Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected.

§ 75.904 Identification of circuit breakers.

[STATUTORY PROVISIONS]

Circuit breakers shall be marked for identification.

§ 75.905 Connection of single-phase loads.

[STATUTORY PROVISIONS]

Single-phase loads shall be connected phase-to-phase.

§ 75.906 Trailing cables for mobile equipment, ground wires, and ground check wires.

[STATUTORY PROVISIONS]

Trailing cables for mobile equipment shall contain one or more ground conductors having a cross-sectional area of not less than one-half the power conductor, and, on September 30, 1970, an insulated conductor for the ground continuity check circuit or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Splices made in the cables shall provide continuity of all components.

§ 75.907 Design of trailing cables for medium-voltage circuits.

[STATUTORY PROVISIONS]

Trailing cables for medium-voltage circuits shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor or a ground metallic shield over the assembly, except that on equipment employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

Subpart K—Trolley Wires and Trolley Feeder Wires

§ 75.1000 Cutout switches.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires, shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

§ 75.1001 Overcurrent protection.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

§ 75.1001–1 Devices for overcurrent protection.

Automatic circuit interrupting devices that will deenergize the affected circuit upon occurrence of a short circuit at any point in the system will meet the requirements of § 75.1001.

§ 75.1002 Location of trolley wires, trolley feeder wires, high-voltage cables and transformers.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

§ 75.1003 Insulation of trolley wires, trolley feeder wires and bare signal wires; guarding of trolley wires and trolley feeder wires.

[STATUTORY PROVISIONS]

Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately:

(a) At all points where men are required to work or pass regularly under the wires;

(b) On both sides of all doors and stoppings; and

(c) At man-trip stations.

The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

§ 75.1003–1 Other requirements for guarding of trolley wires and trolley feeder wires.

Adequate precaution shall be taken to insure that equipment being moved along haulageways will not come in contact with trolley wires or trolley feeder wires.

Subpart L—Fire Protection

§ 75.1100 Requirements.

[STATUTORY PROVISION]

Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements of the type, quality, and quantity of such equipment.

§ 75.1100–1 Type and quality of firefighting equipment.

Firefighting equipment required under this subpart shall meet the following minimum requirements:

(a) Waterlines: Waterlines shall be capable of delivering 50 gallons of water a minute at a nozzle pressure of 50 pounds per square inch.

(b) Portable water cars: A portable water car shall be of at least 1,000 gallons capacity (500 gallons capacity for anthracite mines) and shall have at least 300 feet of fire hose with nozzles. A portable water car shall be capable of providing a flow through the hose of 50 gallons of water per minute at a nozzle pressure of 50 pounds per square inch.

(c) A portable chemical car shall carry enough chemicals to provide a fire extinguishing capacity equivalent to that of a portable water car.

(d) Portable foam-generating machines or devices: A portable foam-generating machine or device shall have facilities and equipment for supplying the machine with 30 gallons of water per minute at 30 pounds per square inch for a period of 35 minutes.

(e) Portable fire extinguisher: A portable fire extinguisher shall be either (1) a multipurpose dry chemical type containing a nominal weight of 5 pounds of dry powder and enough expellant to apply the powder or (2) a foam-producing type containing at least 2½ gallons of foam-producing liquids and enough

expellant to supply the foam. Only fire extinguishers approved by the Underwriters Laboratories, Inc., or Factory Mutual Research Corp., carrying appropriate labels as to type and purpose, shall be used. After March 30, 1971, all new portable fire extinguishers acquired for use in a coal mine shall have a 2A 10 BC or higher rating.

(f)(1) Except as provided in subparagraph (2) of this paragraph, the fire hose shall be lined with a material having flame resistant qualities meeting requirements for hose in Bureau of Mines' Schedule 2G. The cover shall be polyester, or other material with flame-spread qualities and mildew resistance equal or superior to polyester. The bursting pressure shall be at least 4 times the water pressure at the valve to the hose inlet with the valve closed; the maximum water pressure in the hose nozzle shall not exceed 100 p.s.i.g.

(2) Fire hose installed for use in underground coal mines prior to December 30, 1970, shall be mildew-proof and have a bursting pressure at least 4 times the water pressure at the valve to the hose inlet with the valve closed, and the maximum water pressure in the hose nozzle with water flowing shall not exceed 100 p.s.i.g.

§ 75.1100–2 Quantity and location of firefighting equipment.

(a) *Working sections.* (1) Each working section of coal mines producing 300 tons or more per shift shall be provided with two portable fire extinguishers and 240 pounds of rock dust in bags or other suitable containers; waterlines shall extend to each section loading point and be equipped with enough fire hose to reach each working face unless the section loading point is provided with one of the following:

(i) Two portable water cars; or

(ii) Two portable chemical cars; or

(iii) One portable water car or one portable chemical car, and either (*a*) a portable foam-generating machine or (*b*) a portable high-pressure rock-dusting machine fitted with at least 250 feet of hose and supplied with at least 60 sacks of rock dust.

(2) Each working section of coal mines producing less than 300 tons of coal per shift shall be provided with two portable fire extinguishers, 240 pounds of rock dust in bags or other suitable containers, and at least 500 gallons of water and at least 3 pails of 10 quart capacity. In lieu of the 500 gallon water supply a waterline with sufficient hose to reach the working places, a portable water car (500 gallons capacity) or a portable all-purpose dry powder chemical car of at least 125-pounds capacity may be provided.

(b) *Belt conveyors.* In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. At least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry.

(c) *Haulage tracks.* (1) In mines producing 300 tons of coal or more per shift waterlines shall be installed parallel to all haulage tracks using mechanized equipment in the track or adjacent entry and shall extend to the loading point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than 500 feet, and 500 feet of firehose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available, may be used in lieu of waterlines prescribed under this paragraph.

(2) In mines producing less than 300 tons of coal per shift, there shall be provided at 500-foot intervals in all main and secondary haulage roads:

(i) A tank of water of at least 55-gallon capacity with at least 3 pails of not less than 10-quart capacity; or

(ii) Not less than 240 pounds of bagged rock dust.

(d) *Transportation.* Each track or off-track locomotive, self-propelled man-trip car, or personnel carrier shall be equipped with one portable fire extinguisher.

(e) *Electrical installations.* (1) Two portable fire extinguishers or one extinguisher having at least twice the minimum capacity specified for a portable fire extinguished in § 75.1100–1(e) shall be provided at each permanent electrical installation.

(2) One portable fire extinguisher and 240 pounds of rock dust shall be provided at each temporary electrical installation.

(f) *Oil storage stations.* Two portable fire extinguishers and 240 pounds of rock dust, shall be provided at each permanent underground oil storage station. One portable fire extinguisher shall be provided at each working section where 25 gallons or more of oil are stored in addition to extinguishers required under paragraph (a) of this section.

(g) *Welding, cutting, soldering.* One portable fire extinguisher or 240 pounds of rock dust shall be provided at locations where welding, cutting, or soldering with arc or flame is being done.

(h) *Powerlines.* At each wooden door through which powerlines pass there shall be one portable fire extinguisher or 240 pounds of rock dust within 25 feet of the door on the intake air side.

(i) *Emergency materials.* (1) At each mine producing 300 tons of coal or more per shift there shall be readily available the following materials at locations not exceeding 2 miles from each working section:

1,000 board feet of brattice boards
2 rolls of brattice cloth
2 hand saws
25 pounds of 8^d nails
25 pounds of 10^d nails
25 pounds of 16^d nails
3 claw hammers
25 bags of wood fiber plaster or 10 bags of cement (or equivalent material for stoppings)
5 tons of rock dust

(2) At each mine producing less than 300 tons of coal per shift the above materials shall be available at the mine, provided, however, that the emergency materials for one or more mines may be stored at a central warehouse or building supply company and such supply must be the equivalent of that required for all mines involved and within 1-hour's delivery time from each mine. This exception shall not apply where the active working sections are more than 2 miles from the surface.

§ 75.1100–3 Condition and examination of firefighting equipment.

All firefighting equipment shall be maintained in a usable and operative condition. Chemical extinguishers shall be examined every 6 months and the date of the examination shall be written on a permanent tag attached to the extinguisher.

§ 75.1101 Deluge-type water sprays, foam generators; main and secondary belt-conveyor drives.

[STATUTORY PROVISIONS]

Deluge-type water sprays or foam generators automatically actuated by rise in temperature, or other no less effective means approved by the Secretary of controlling fire, shall be installed at main and secondary belt-conveyor drives.

§ 75.1101–1 Deluge-type water spray systems.

(a) Deluge-type spray systems shall consist of open nozzles attached to branch lines. The branch lines shall be connected to a waterline through a control valve operated by a fire sensor. Actuation of the control valve shall cause water to flow into the branch lines and discharge from the nozzles.

(b) Nozzles attached to the branch lines shall be full cone, corrosion resistant and provided with blow-off dust covers. The spray application rate shall not be less than 0.25 gallon per minute per square foot of the top surface of the top belt and the discharge shall be directed at both the upper and bottom surfaces of the top belt and to the upper surface of the bottom belt.

§ 75.1101–2 Installation of deluge-type sprays.

Deluge-type water spray systems shall provide protection for the belt drive and 50 feet of fire-resistant belt or 150 feet of nonfire-resistant belt adjacent to the belt drive.

§ 75.1101–3 Water requirements.

Deluge-type water spray systems shall be attached to a water supply. Water so supplied shall be free of excessive sediment and noncorrosive to the system. Water pressure shall be maintained consistent with the pipe, fittings, valves, and nozzles at all times. Water systems shall include strainers with a flush-out connection and a manual shut-off valve. The water supply shall be adequate to provide flow for 10 minutes except that pressure tanks used as a source of water supply shall be of 1,000-gallon capacity for a

fire-resistant belt and 3,000 gallons for a nonfire-resistant belt may be provided.

§ 75.1101–4 Branch lines.

As a part of the deluge-type water spray system, two or more branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet.

§ 75.1101–5 Installation of foam generator systems.

(a) Foam generator systems shall be located so as to discharge foam to the belt drive, belt takeup, electrical controls, gear reducing unit and the conveyor belt.

(b) Foam generator systems shall be equipped with a fire sensor which actuates the system, and each system shall be capable of producing and delivering the following amounts of foam within 5 minutes:

(1) At fire-resistant belt installations, an amount which will fully envelop the belt drive, belt takeup, electrical controls, gear reducing unit, and the conveyor belt over a distance of 50 feet; and,

(2) At nonfire-resistant belt installations, an amount which will fully envelop the belt drive, belt takeup electrical controls, gear reducing unit, and the conveyor belt over a distance of 150 feet.

(c) The foam generator shall be equipped with a warning device designed to stop the belt drive when a fire occurs and all such warning devices shall be capable of giving both an audible and visual signal when actuated by fire.

(d) Water, power, and chemicals required shall be adequate to maintain water or foam flow for no less than 25 minutes.

(e) Water systems shall include strainers with a flush-out connection and a manual shut-off valve.

§ 75.1101–6 Water sprinkler systems; general.

Water sprinkler systems may be installed to protect main and secondary belt-conveyor drives, however, where such systems are employed, they shall be installed and maintained in accordance with §§ 75.1101–7 through 75.1101–11.

§ 75.1101–7 Installation of water sprinkler systems; requirements.

(a) The fire-control components of each water sprinkler system shall be installed, as far as practicable in accordance with the recommendations set forth in National Fire Protection Association 1968–69 edition, Code No. 13, "Installation of Sprinkler Systems" and such systems' components shall be of a type approved by the Underwriters' Laboratories, Inc., Factory Mutual Research Corp.

(b) Each sprinkler system shall provide protection for the motor drive belt takeup, electrical controls, gear reducing unit, and the 50 feet of fire-resistant belt, or 150 feet of nonfire-resistant belt adjacent to the belt drive.

(c) The components of each water sprinkler system shall be located so as to minimize the possibility of damage by roof fall or by the moving belt and its load.

§ 75.1101–8 Water sprinkler systems; arrangement of sprinklers.

(a) At least one sprinkler shall be installed above each belt drive, belt takeup, electrical control, and gear-reducing unit, and individual sprinklers shall be installed at intervals of no more than 8 feet along all conveyor branch lines.

(b) Two or more branch lines, at least one of which shall be above the top belt and one between the top and bottom belt, shall be installed in each sprinkler system to provide a uniform discharge of water to the belt surface.

(c) The water discharge rate from the sprinkler system shall not be less than 0.25 gallon per minute per square foot of the top surface of the top belt and the discharge shall be directed at both the upper and bottom surfaces of the top belt and to the upper surface of the bottom belt. The supply of water shall be adequate to provide a constant flow of water for 10 minutes with all sprinklers functioning.

(d) Each individual sprinkler shall be activated at a temperature of not less than 150° F. and not more than 300° F.

(e) Water systems shall include strainers with a flush-out connection and a manual shut-off valve.

§ 75.1101–9 Back-up water system.

One fire hose outlet together with a length of hose capable of extending to the belt drive shall be provided within 300 feet of each belt drive.

§ 75.1101–10 Water sprinkler systems; fire warning devices at belt drives.

Each water sprinkler system shall be equipped with a device designed to stop the belt drive in the event of a rise in temperature and each such warning device shall be capable of giving both an audible and visual warning when a fire occurs.

§ 75.1101–11 Inspection of water sprinkler systems.

Each water sprinkler system shall be examined weekly and a functional test of the complete system shall be conducted at least once each year.

§ 75.1101–12 Equivalent dry-pipe system.

Where water sprinkler systems are installed to protect main and secondary belt conveyor drives and freezing temperatures prevail, an equivalent dry-pipe system may be installed.

§ 75.1101–13 Dry powder chemical systems; general.

Self-contained dry powder chemical systems may be installed to protect main and secondary belt conveyor drives, however, where such systems are employed, they shall be installed and maintained in accordance with the provisions of §§ 75.1101–14 through 75.1101–22.

§ 75.1101–14 Installation of dry powder chemical systems.

(a) Self-contained dry powder chemical systems shall be installed to protect each belt-drive, belt takeup, electrical-controls, gear reducing units and 50 feet of fire-resistant belt or 150 feet of nonfire-resistant belt adjacent to the belt drive .

(b) The fire-control components of each dry powder chemical system shall be a type approved by the Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corp.

(c) The components of each dry powder chemical system shall be located so as to minimize the possibility of damage by roof fall or by the moving belt and its load.

§ 75.1101–15 Construction of dry powder chemical systems.

(a) Each self-contained dry powder system shall be equipped with hose or pipe lines which are no longer than necessary.

(b) Metal piping and/or hose between control valves and nozzles shall have a minimum bursting pressure of 500 p.s.i.g.

(c) Hose shall be protected by wire braid or its equivalent.

(d) Nozzles and reservoirs shall be sufficient in number to provide maximum protection to each belt, belt takeup, electrical controls, and gear reducing unit.

(e) Each belt shall be protected on the top surface of both the top and bottom belts and the bottom surface of the top belt.

§ 75.1101–16 Dry powder chemical systems; sensing and fire-suppression devices.

(a) Each self-contained dry powder chemical system shall be equipped with sensing devices which shall be designed to activate the fire-control system, sound an alarm and stop the conveyor drive motor in the event of a rise in temperature, and provision shall be made to minimize contamination of the lens of any optical sensing device installed in such system.

(b) Where sensors are operated from the same power source as the belt drive, each sensor shall be equipped with a standby power source which shall be capable of remaining operative for at least 4 hours after a power cutoff.

(c) Sensor systems shall include a warning indicator (or test circuit) which shows it is operative.

(d) Each fire-suppression system shall be equipped with a manually operated control valve which shall be independent of the sensor.

§ 75.1101–17 Sealing of dry powder chemical systems.

Each dry powder chemical system shall be adequately sealed to protect all components of the system from moisture, dust, and dirt.

§ 75.1101–18 Dry powder requirements.

Each dry powder chemical system shall contain the following minimum amounts of multipurpose dry powder:

Belt	*Dry powder, pounds*
Fire resistant	125
Non-fire resistant	250

§ 75.1101–19 Nozzles; flow rate and direction.

The nozzles of each dry powder chemical system shall be capable of discharging all powder within 1 minute after actuation of the system and such nozzles shall be directed so as to minimize the effect of ventilation upon fire control.

§ 75.1101–20 Safeguards for dry powder chemical systems.

Adequate guards shall be provided along all belt conveyors in the vicinity of each dry powder chemical system to protect persons whose vision is restricted by a discharge of powder from the system. In addition, hand-rails shall be installed in such areas to provide assistance to those passing along the conveyor after a powder discharge.

§ 75.1101–21 Back-up water system.

One fire hose outlet together with a length of hose capable of extending to the belt drive shall be provided within 300 feet of each belt drive.

§ 75.1101–22 Inspection of dry powder chemical systems.

(a) Each dry powder chemical system shall be examined weekly and a functional test of the complete system shall be conducted at least once each year.

(b) Where the dry powder chemical system has been actuated, all components of the system shall be cleaned immediately by flushing all powder from pipes and hoses and all hose damaged by fire shall be replaced.

§ 75.1102 Slippage and sequence switches.

[STATUTORY PROVISIONS]

Underground belt conveyors shall be equipped with slippage and sequence switches.

§ 75.1103 Automatic fire warning devices.

[STATUTORY PROVISIONS]

On or before May 29, 1970, devices shall be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

§ 75.1103–1 Automatic fire sensors.

A fire sensor system shall be installed on each underground belt conveyor. Sensors so installed shall be of a type which will (a) give warning automatically when a fire occurs on or near such belt; (b) provide both audible and visual signals that permit rapid location of the fire.

§ 75.1104 Underground storage, lubricating oil and grease.

[STATUTORY PROVISIONS]

Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in all underground areas in a coal mine shall be in fireproof, closed metal containers or other no less effective containers approved by the Secretary.

§ 75.1105 Housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps.

[STATUTORY PROVISIONS]

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

§ 75.1106 Welding, cutting, or soldering with arc or flame underground.

[STATUTORY PROVISIONS]

All welding, cutting, or soldering with arc or flame in all underground areas of a coal mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall, immediately before and during such operations, continuously test for methane with means approved by the Secretary for detecting methane. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of methane. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

§ 75.1106–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970 a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device. A person qualified to test for methane under § 75.151 will be a qualified person for the purpose of this section.

§ 75.1107 Fire suppression devices.

[STATUTORY PROVISIONS]

On and after March 30, 1971, fire-suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

§ 75.1108 Flame-resistant conveyor belts.

[STATUTORY PROVISIONS]

On and after March 30, 1970, all conveyor belts acquired for use underground shall meet the requirements to be established by the Secretary for flame-resistant conveyor belts.

§ 75.1108–1 Approved conveyor belts.

Conveyor belts which have been approved as flame-resistant by the Bureau of Mines under Part 18 of this chapter (Bureau of Mines Schedule 2G) meet the requirements of § 75.1108.

Subpart M—Maps

§ 75.1200 Mine map.

[STATUTORY PROVISIONS]

The operator of a coal mine shall have in a fireproof repository located in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on scale. Such map shall show:

(a) The active workings;

(b) All pillared, worked out, and abandoned areas, except as provided in this section;

(c) Entries and aircourses with the direction of airflow indicated by arrows;

(d) Contour lines of all elevations;

(e) Elevations of all main and cross or side entries;

(f) Dip of the coalbed;

(g) Escapeways;

(h) Adjacent mine workings within 1,000 feet;

(i) Mines above or below;

(j) Water pools above; and

(k) Either producing or abandoned oil and gas wells located within 500 feet of such mine and any underground area of such mine; and,

(l) Such other information as the Secretary may require. Such map shall identify those areas of the mine which have been pillared, worked out, or abandoned, which are inaccessible or cannot be entered safely and on which no information is available.

§ 75.1200–1 Additional information on mine map.

Additional information required to be shown on mine maps under § 75.1200 shall include the following:

(a) Name and address of the mine;

(b) The scale and orientation of the map;

(c) The property or boundary lines of the mine;

(d) All drill holes that penetrate the coalbed being mined;

(e) All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coalbed being mined;

(f) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;

(g) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown;

(h) The location and description of at least two permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys;

(i) The location of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines as provided under paragraph (m) of this section;

(j) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;

(k) The elevation of the floor at intervals of not more than 200 feet in:

(1) At least one entry of each working section, and main and cross entries;

(2) The last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries are abandoned;

(3) Rooms advancing toward or adjacent to property or boundary lines or adjacent mines;

(l) The elevation of any body of water dammed in the mine or held back in any portion of the mine; and,

(m) Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed 10-foot elevation levels, except that a broader spacing of contour lines may be approved by the District Manager for steeply-pitching coalbeds. Contour lines may be placed on overlays or tracings attached to mine maps.

§ 75.1200–2 Accuracy and scale of mine maps.

(a) The scale of mine maps submitted to the Secretary shall not be less than 100 or more than 500 feet to the inch.

(b) Mine traverses shall be advanced by closed loop methods of traversing or other equally accurate methods of traversing.

§ 75.1201 Certification.

[STATUTORY PROVISIONS]

Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located.

§ 75.1202 Temporary notations, revisions, and supplements.

[STATUTORY PROVISIONS]

Such map shall be kept up-to-date by temporary notations and such map shall be revised and supplemented at intervals prescribed by the Secretary on the basis of a survey made or certified by such engineer or surveyor.

§ 75.1202–1 Temporary notations, revisions, and supplements.

(a) Mine maps shall be revised and supplemented at intervals of not more than 6 months.

(b) Temporary notations shall include:

(1) The location of each working face of each working place;

(2) Pillars mined or other such second mining;

(3) Permanent ventilation controls constructed or removed, such as seals, overcasts, undercasts, regulators, and permanent stoppings, and the direction of air currents indicated;

(4) Escapeways designated by means of symbols.

§ 75.1203 Availability of mine map.

[STATUTORY PROVISIONS]

The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, by miners in the mine and their representatives and by operators of adjacent coal mines and by persons owning, leasing, or residing on surface areas of such mines or areas adjacent to such mines. The operator shall furnish to the Secretary or his authorized representative and to the Secretary of Housing and Urban Development, upon request, one or more copies of such maps and any revision and supplement thereof. Such map or revision and supplement thereof shall be kept confidential and its contents shall not be divulged to any other person, except to the extent necessary to carry out the provisions of this Act and in connection with the functions and responsiblities of the Secretary of Housing and Urban Development.

§ 75.1204 Mine closure; filing of map with Secretary.

[STATUTORY PROVISIONS]

Whenever an operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than 90 days, he shall promptly notify the Secretary of such closure. Within 60 days of the permanent closure or abandonment of the mine, or, when the mine is temporarily closed, upon the expiration of a period of 90 days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

§ 75.1204–1 Places to give notice and file maps.

Operators shall give notice of mine closures and file copies of maps with the Coal Mine Safety District Office for the district in which the mine is located.

Subpart N—Blasting and Explosives

§ 75.1300 Black blasting powder; mudcaps.

[STATUTORY PROVISIONS]

Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

§ 75.1301 Separate containers for explosives and detonators.

[STATUTORY PROVISIONS]

Explosives and detonators shall be kept in separate containers until immediately before blasting.

§ 75.1302 Blasting in underground anthracite mines.

[STATUTORY PROVISIONS]

In underground anthracite mines:

(a) Mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when methane or a fire hazard is not present, and if it is otherwise impracticable to start the battery;

(b) Open unconfined shake shots in pitching veins may be fired, when no methane or fire hazard is present, if the taking down of loose-hanging coal by other means is too hazardous; and

(c) Tests for methane shall be made immediately before such shots are fired and if 1.0 volume per centum or more of methane is present, when tested, such shot shall not be made until the methane content is reduced below 1.0 volume per centum.

§ 75.1303 Permissible explosives, detonators, blasting devices and shot firing units; stemming boreholes.

[STATUTORY PROVISIONS]

Except as provided in this section, in all underground areas of a coal mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than 20 shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Nothing in this subpart shall prohibit the use of compressed air blasting.

§ 75.1303–1 Use of nonpermissible shot-firing units; permits for use; procedures and safeguards.

(a) Where the Coal Mine Health and Safety District Manager has determined that the firing of more than 20 shots of permissible explosives will be necessary to reduce the overall hazard to which miners are exposed during underground blasting, he may, in writing, permit the use of nonpermissible shot-firing units if he finds that a permissible shot-firing unit does not have adequate blasting capacity and that the use of such permissible units will create any of the following development or construction hazards.

(1) Exposure to disturbed roof in an adjacent cavity while scaling and supporting the remaining roof prior to wiring a new series of shots;

(2) Exposure to underburden shots where prior shots have removed the burden adjacent to a remaining borehole;

(3) Exposure to an unsupported roof while redrilling large fragmented roof rock following the loss of predrilled boreholes during earlier blasting operations; and,

(4) Any other hazard created by the use of permissible shot-firing units during underground development or construction.

(b) Applications for permits for the use of nonpermissible shot-firing units shall be submitted in writing to the Coal Mine Health and Safety District Manager for the district in which the mine is located and shall contain the following information:

(1) The name and address of the mine;

(2) The active workings in the mine in which such units will be used and the approximate number of shots to be fired;

(3) The period during which such units are to be used;

(4) The nature of the development or construction for which they will be used, e.g., overcasts, undercasts, track grading, roof brushing or boomholes;

(5) A plan, proposed by the operator designed to protect miners in the mine from the hazards of methane and other explosive gases during each multiple shot, e.g., changes in the mine ventilation system, provisions for auxiliary ventilation and any other safeguards necessary to minimize such hazards.

(6) A statement of the specific hazards anticipated by the operator in blasting for overcasts, undercasts, track grading, brushing of roof, boomholes or other unusual blasting situations such as coalbeds of abnormal thickness.

(7) The method to be employed in the use of nonpermissible shot-firing units to avoid the dangers anticipated during development or construction which will ensure the protection of life and the prevention of injuries to the miners exposed to such underground blasting.

(c) (1) Permits for the use of nonpermissible shot-firing units shall be issued on a mine-by-mine basis for periods of time to be specified by the District Manager.

(2) Permits issued under the provisions of this § 75.1303–1 shall specify and include as a condition of their use, any safeguards, in addition to those proposed by the operator, which the Health and Safety District Manager issuing such permit has determined will be required to safeguard the welfare of the miners employed in the mine at the time of the blasting permitted.

§ 75.1304 Persons carrying explosives or detonators underground.

[STATUTORY PROVISIONS]

Explosives or detonators carried anywhere underground in a coal mine by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

§ 75.1305 Transporting explosives or detonators.

[STATUTORY PROVISIONS]

Explosives or detonators shall be transported in special closed containers:

(a) In cars moved by means of a locomotive or rope;

(b) On belts;

(c) In shuttle cars; or

(d) In equipment designed especially to transport such explosives or detonators.

§ 75.1306 Storage of explosives and detonators underground for one or more working sections.

[STATUTORY PROVISIONS]

When supplies of explosives and detonators for use in one or more working sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least 25 feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except in pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

§ 75.1307 Storage of explosives and detonators in underground working places.

[STATUTORY PROVISIONS]

Explosives and detonators stored in the working places shall be kept in separate closed containers which shall be located out of the line of blast and not less than 50 feet from the working face and 15 feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least 5 feet. Such explosives and detonators, when stored, shall be separated by a distance of at least 5 feet.

§ 75.1308 Examinations for fires after blasting.

[STATUTORY PROVISIONS]

After every blasting operation, an examination shall be made to determine whether fires have been started.

Subpart O—Hoisting and Mantrips

§ 75.1400 Hoisting equipment; general.

[STATUTORY PROVISIONS]

Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist-handling platforms, cages, or other devices used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency, and such catches shall be tested at least once every 2 months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are transported into, or out of, a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

§ 75.1400–1 Hoists; brakes, capability.

Brakes on hoists used to transport persons shall be capable of stopping and holding the fully loaded platform, cage, or other device at any point in the shaft, slope, or incline.

§ 75.1400–2 Hoists; tests of safety catches; records.

A record shall be made in a book of the tests, required by § 75.1400, of the safety catches or other devices approved by the Secretary. Each entry shall be signed by the person making the tests and countersigned by a responsible official.

§ 75.1400–3 Daily examination of hoisting equipment.

The daily examination required by § 75.1400, of hoisting equipment, including automatic elevators shall include but not be limited to the following:

(a) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points, such as near the attachments, where the rope rests on the sheaves and where the rope leaves the drum at both ends.

(b) An examination of the rope fastenings for defects.

(c) An examination of safety catches.

(d) An examination of the cage, platforms, elevators, or other devices for loose, missing, or defective parts.

(e) An examination of the head sheaves to check for broken flanges, defective bearings, rope alignment, and proper lubrication.

(f) An observation of the lining and all other equipment and appurtenances installed in the shaft.

§ 75.1400–4 Daily examinations of hoisting equipment; records.

Records of the daily examinations of hoisting equipment required by § 75.1400 shall be kept listing all items examined. Daily entries shall be signed by the person or persons making examinations. The reports of the examinations shall be read and countersigned by a responsible company official daily.

§ 75.1401 Hoists; rated capacities; ropes; indicators.

[STATUTORY PROVISIONS]

Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

§ 75.1401–1 Hoists, standards for ropes.

The American National Standards Institute "Specifications For the Use of Wire Ropes For Mines," M11.1–1960, or the latest revision thereof, shall be used as a guide in the use, selection, installation, and maintenance of wire ropes used for hoisting.

§ 75.1401–2 Hoists; notification of changes affecting rated capacity.

Alterations or changes in a hoist which affect the rated capacity shall be made

only with the approval of the Coal Mine Safety District or Subdistrict Manager.

§ 75.1401–3 Hoists; indicators.

The indicator required by § 17.1401 of this chapter shall be placed so that it is in clear view of the hoisting engineer and shall be checked daily to determine its accuracy.

§ 75.1402 Communication between shaft stations and hoist room.

[STATUTORY PROVISIONS]

There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

§ 75.1402–1 Communication between shaft stations and hoist room.

One of the methods used to communicate between shaft stations and the hoist room shall give signals which can be heard by the hoisting engineer at all times while men are underground.

§ 75.1402–2 Tests of signaling systems.

Signaling systems used for communication between shaft stations and the hoist room shall be tested daily.

§ 75.1403 Other safeguards.

[STATUTORY PROVISIONS]

Other safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

§ 75.1403–1 General criteria.

(a) Sections 75.1403–2 through 75.1403–11 set out the criteria by which an authorized representative of the Secretary will be guided in requiring other safeguards on a mine-by-mine basis under § 75.1403. Other safeguards may be required.

(b) The authorized representative of the Secretary shall in writing advise the operator of a specific safeguard which is required pursuant to § 75.1403 and shall fix a time in which the operator shall provide and thereafter maintain such safeguard. If the safeguard is not provided within the time fixed and if it is not maintained thereafter, a notice shall be issued to the operator pursuant to section 104 of the Act.

(c) Nothing in the sections in the § 75.1403 series in this Subpart O precludes the issuance of a withdrawal order because of imminent danger.

§ 75.1403–2 Criteria—Hoists transporting materials; brakes.

Hoists and elevators used to transport materials should be equipped with brakes capable of stopping and holding the fully loaded platform, cage, skip, car, or other device at any point in the shaft, slope, or incline.

§ 75.1403–3 Criteria—Drum clutch; attachment of ropes; cage construction.

(a) The clutch of free-drums on manhoist should be provided with a locking mechanism or interlocked with the brake to prevent the accidental withdrawal of the clutch.

(b) The hoist rope attached to a cage, man car, or trip should be equipped with two bridle chains or cables connected securely to the rope at least 3 feet above the attaching device and to the crosspiece of the cage, man car or trip.

(c) The hoist rope should have at least three full turns on the drum when extended to its maximum working length and should make at least one full turn on the drum shaft or around the spoke of the drum in the case of a free drum, and be fastened securely.

(d) Cages used for hoisting men should be constructed with the sides enclosed to a height of at least 6 feet and should have gates, safety chains, or bars across the ends of the cage when men are being hoisted or lowered.

(e) Self-dumping cages, platforms, or other devices used for transportation of men should have a locking device to prevent tilting when men are transported thereon.

(f) An attendant should be on duty at the surface when men are being hoisted or lowered at the beginning and end of each operating shift.

(g) Precautions should be taken to protect persons working in shaft sumps.

(h) Workmen should wear safety belts while doing work in or over shafts.

§ 75.1403–4 Criteria—Automatic elevators.

(a) The doors of automatic elevators should be equipped with interlocking switches so arranged that the elevator car will be immovable while any door is opened or unlocked, and arranged so that such door or doors cannot be inadvertently opened when the elevator car is not at a landing.

(b) A "Stop" switch should be provided in the automatic elevator compartment that will permit the elevator to be stopped at any location in the shaft.

(c) A slack cable device should be used where appropriate on automatic elevators which will automatically shut-off the power and apply the brakes in the event the elevator is obstructed while descending.

(d) Each automatic elevator should be provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

§ 75.1403–5 Criteria—Belt conveyors.

(a) Positive-acting stop controls should be installed along all belt conveyors used to transport men, and such controls should be readily accessible and maintained so that the belt can be stopped or started at any location.

(b) Belt conveyors used for regularly scheduled mantrips should be stopped while men are loading or unloading.

(c) All belt conveyors used for the transportation of persons should have a minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there should be at least 36 inches of side clearance where men board or leave such belt conveyors.

(d) When men are being transported on regularly scheduled mantrips on belt conveyors the belt speed should not exceed 300 feet per minute when the vertical clearance is less than 24 inches, and should not exceed 350 feet per minute when the vertical clearance is 24 inches or more.

(e) Adequate illumination including colored lights or reflective signs should be installed at all loading and unloading stations. Such colored lights and reflective signs should be so located as to be observable to all persons riding the belt conveyor.

(f) After supplies have been transported on belt conveyors such belts should be examined for unsafe conditions prior to the transportation of men on regularly scheduled mantrips, and belt conveyors should be clear before men are transported.

(g) A clear travelway at least 24 inches wide should be provided on both sides of all belt conveyors installed after March 30, 1970. Where roof supports are installed within 24 inches of a belt conveyor, a clear travelway at least 24 inches wide should be provided on the side of such support farthest from the conveyor.

(h) On belt conveyors that do not transport men, stop and start controls should be installed at intervals not to exceed 1,000 feet. Such controls should be properly installed and positioned so as to be readily accessible.

(i) Telephone or other suitable communications should be provided at points where men or supplies are regularly loaded on or unloaded from the belt conveyors.

(j) Persons should not cross moving belt conveyors, except where suitable crossing facilities are provided.

§ 75.1403–6 Criteria—Self-propelled personnel carriers.

(a) Each self-propelled personnel carrier should:

(1) Be provided with an audible warning device;

(2) Be provided with a sealed-beam headlight, or its equivalent, on each end;

(3) Be provided with reflectors on both ends and sides.

(b) In addition, each track-mounted self-propelled personnel carrier should:

(1) Be provided with a suitable lifting jack and bar, which shall be secured or carried in a tool compartment;

(2) Be equipped with 2 separate and independent braking systems properly installed and well maintained;

(3) Be equipped with properly installed and well-maintained sanding devices, except that personnel carriers (jitneys), which transport not more than 5 men, need not be equipped with such sanding device;

(4) If an open type, be equipped with guards of sufficient strength and height to prevent personnel from being thrown from such carriers.

§ 75.1403–7 Criteria—Mantrips.

(a) Mantrips should be operated independently of any loaded trip, empty trip,

or supply trip and should not be operated within 300 feet of any trip, including another mantrip.

(b) A sufficient number of mantrip cars should be provided to prevent overcrowding of men.

(c) Mantrips should not be pushed.

(d) Where mantrips are operated by locomotives on slopes such mantrips should be coupled to the front and rear by locomotives capable of holding such mantrips. Where ropes are used on slopes for mantrip haulage, such conveyances should be connected by chains, steel ropes, or other effective devices between mantrip cars and the rope.

(e) Safety goggles or eyeshields should be provided for all persons being transported in open-type mantrips.

(f) All trips, including trailers and sleds, should be operated at speeds consistent with conditions and the equipment used, and should be so controlled that they can be stopped within the limits of visibility.

(g) All mantrips should be under the direction of a supervisor and the operator of each mantrip should be familiar with the haulage safety rules and regulations.

(h) Men should proceed in an orderly manner to and from mantrips and no person should be permitted to get on or off a moving mantrip.

(i) Explosives and detonators should not be permitted on any mantrip or hauled within 5 minutes before or after any mantrip.

(j) Mantrips should not be permitted to proceed until the operator of the mantrip is assured that he has a clear road.

(k) Supplies or tools, except small hand tools or instruments, should not be transported with men.

(l) At places where men enter or leave mantrip conveyances, ample clearance should be provided and provisions made to prevent persons from coming in contact with energized electric circuits.

(m) The mine car next to a trolley locomotive should not be used to transport men. Such cars may be used to transport small tools and supplies. This is not to be construed as permitting the transportation of large or bulky supplies such as shuttle car wheel units, or similar material.

(n) Drop-bottom cars used to transport men should have the bottoms secured with an additional locking device.

(o) Extraneous materials or supplies should not be transported on top of equipment; however, materials and supplies that are necessary for or related to the operation of such equipment may be transported on top of such equipment if a hazard is not introduced.

§ 75.1403–8 Criteria—Track haulage roads.

(a) The speed at which haulage equipment is operated should be determined by the condition of the roadbed, rails, rail joints, switches, frogs, and other elements of the track and the type and condition of the haulage equipment.

(b) Track haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic. Where it is necessary to change the side on which clearance is provided, 24 inches of clearance should be provided on both sides for a distance of not less than 100 feet and warning signs should be posted at such locations.

(c) Track haulage roads developed after March 30, 1970, should have clearance on the "tight" side of a least 12 inches from the farthest projection of normal traffic. A minimum clearance of 6 inches should be maintained on the "tight" side of all track haulage roads developed prior to March 30, 1970.

(d) The clearance space on all track haulage roads should be kept free of loose rock, supplies, and other loose materials.

(e) Positive stopblocks or derails should be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines.

§ 75.1403–9 Criteria—Shelter holes.

(a) Shelter holes should be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by the Coal Mine Safety District Manager(s).

(b) Shelter holes should be readily accessible and should be at least 5 feet in depth, not more than 4 feet in width (except crosscuts used as shelter holes) and at least the height of the coal seam where the coal seam is less than 6 feet high and at least 6 feet in height where the coal seam is 6 feet or more in height.

(c) Shelter holes should be kept free of refuse and other obstructions. Crosscuts used as shelter holes should be kept free of refuse or other materials to a depth of at least 15 feet.

(d) Shelter holes should be provided at all manually operated doors and at switch throws except: (1) At room switches, or (2) at switches where more than 6 feet of side clearance is provided. The Coal Mine Safety District Manager(s) may permit exemption of this requirement if such shelter holes create a hazardous roof condition.

(e) At each underground slope landing where men pass and cars are handled, a shelter hole at least 10 feet in depth, 4 feet in width, and 6 feet in height should be provided.

§ 75.1403–10 Criteria—Haulage; general.

(a) A permissible trip light or other approved device such as reflectors, approved by the Coal Mine Safety District Manager(s), should be used on the rear of trips pulled, on the front of trips pushed and on trips lowered in slopes. However, trip lights or other approved devices need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads, during gathering operations at working faces, when trailing locomotives are used, or on trips pulled by animals.

(b) Cars on main haulage roads should not be pushed, except where necessary to push cars from side tracks located near the working section to the producing entries and rooms, where necessary to clear switches and sidetracks, and on the approach to cages, slopes, and surface inclines.

(c) Warning lights or reflective signs or tapes should be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(d) No person, other than the motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. No person should ride on any loaded car or on the bumper of any car. However, the brakeman may ride on the rear bumper of the last car of a slow moving trip pulled by a locomotive.

(e) Positive-acting stopblocks or derails should be used where necessary to protect persons from danger of runaway haulage equipment.

(f) An audible warning should be given by the operator of all self-propelled equipment including off-track equipment, where persons may be endangered by the movement of the equipment.

(g) Locomotives and personnel carriers should not approach to within 300 feet of preceding haulage equipment, except trailing locomotives that are an integral part of the trip.

(h) A total of at least 36 inches of unobstructed side clearance (both sides combined) should be provided for all rubber-tired haulage equipment where such equipment is used.

(i) Off-track haulage roadways should be maintained as free as practicable from bottom irregularities, debris, and wet or muddy conditions that affect the control of the equipment.

(j) Operators of self-propelled equipment should face in the direction of travel.

(k) Mechanical steering and control devices should be maintained so as to provide positive control at all times.

(l) All self-propelled rubber-tired haulage equipment should be equipped with well maintained brakes, lights, and a warning device.

(m) On and after March 30, 1971, all tram control switches on rubber-tired equipment should be designed to provide automatic return to the stop or off position when released.

§ 75.1403–11 Criteria—Entrances to shafts and slopes.

All open entrances to shafts should be equipped with safety gates at the top and at each landing. Such gates should be self-closing and should be kept closed except when the cage is at such landing.

§ 75.1404 Automatic brakes; speed reduction gear.

[STATUTORY PROVISIONS]

Each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, where space permits. Where space does not permit automatic brakes, locomotives and haulage cars shall be subject to speed reduction gear, or other similar devices approved by the Secretary, which are designed to stop the locomotives and haulage cars with the proper margin of safety.

§ 75.1404–1 Braking system.

A locomotive equipped with a dual braking system will be deemed to satisfy the requirements of § 75.1404 for a train comprised of such locomotive and haulage cars, provided the locomotive is operated within the limits of its design capabilities and at speeds consistent with the condition of the haulage road. A trailing locomotive or equivalent devices should be used on trains that are operated on ascending grades.

§ 75.1405 Automatic couplers.

[STATUTORY PROVISIONS]

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

§ 75.1405–1 Automatic couplers, haulage equipment.

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

Subpart P—Emergency Shelters

§ 75.1500 Emergency shelters.

[STATUTORY PROVISIONS]

The Secretary or an authorized representative of the Secretary may prescribe in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which persons may go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the persons while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers and the training of the miners in their proper use shall be submitted by the operator to the Secretary for his approval.

Subpart Q—Communications

§ 75.1600 Communications.

[STATUTORY PROVISIONS]

Telephone service or equivalent two-way communication facilities, approved by the Secretary or his authorized representative, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section of any coal mine this is more than 100 feet from a portal.

Subpart R—Miscellaneous

§ 75.1700 Oil and gas wells.

[STATUTORY PROVISIONS]

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

§ 75.1701 Abandoned areas, adjacent mines; drilling of boreholes.

[STATUTORY PROVISIONS]

Whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least 20 feet in advance of the working face of such working place and shall be continually maintained to a distance of at least 10 feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than 8 feet apart in the rib of such working place to a distance of at least 20 feet and at an angle of 45 degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of miners in such place.

§ 75.1702 Smoking; prohibition.

[STATUTORY PROVISIONS]

No person shall smoke, carry smoking materials, matches, or lighters underground, or smoke in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator shall institute a program, approved by the Secretary, to insure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters.

§ 75.1702–1 Smoking programs.

Programs required under § 75.1702 shall be submitted to the Coal Mine Safety District Manager for approval on or before May 30, 1970.

§ 75.1703 Portable electric lamps.

[STATUTORY PROVISIONS]

Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in the underground area of any coal mine, except as permitted under § 75.1106.

§ 75.1703–1 Permissible lamps.

Lamps approved by the Bureau of Mines under Part 19 or Part 20 of this chapter (Bureau of Mines Schedule 6D and Schedule 10C) are approved lamps for the purposes of § 75.1703.

§ 75.1704 Escapeways.

[STATUTORY PROVISIONS]

Except as provided in §§ 75.1705 and 75.1706, at least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground area of the mine of surface fires, fumes, smoke, and floodwater. Escape facilities approved by the Secretary or his authorized representative, properly maintained and frequently tested, shall be present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

§ 75.1704–1 Escapeways and escape facilities.

This section sets out criteria by which District Managers will be guided in approving escapeways and escape facilities. Escapeways and escape facilities that do not meet these criteria may be approved providing the operator can satisfy the District Manager that such escapeways and facilities will enable miners to escape quickly to the surface in the event of an emergency.

(a) Except in situations where the height of the coalbed is less than 5 feet, escapeways should be maintained at a height of at least 5 feet (excluding necessary roof support) and the travelway in such escapeway should be maintained at a width of at least 6 feet. In those situations where the height of the coalbed is less than 5 feet the escapeway should be maintained to the height of the coalbed (excluding any necessary roof support) and the travelway in such escapeways should be maintained at a width of at least 6 feet.

(b) Each escape shaft which is more than 20 feet deep shall include elevators, hoists, cranes, or other such equipment, which shall be equipped with cages and buckets. When such facilities are not automatically operated, an attendant shall be on duty during any coal-producing or maintenance shift. An "attendant" as used in this subsection means a person located on the surface in a position where it is possible to hear or see a

signal calling for the use of such facilities and who is readily available to operate such facilities or to readily obtain another person to operate such facilities.

(c) Stairways shall be installed in all escape shafts which are 20 feet or less in depth; however, in shafts 5 feet or less in depth, ladders may be substituted for stairways. Stairways and ladders shall be installed and maintained as follows:

(1) Stairways shall be of substantial construction, set on an angle not greater than 45 degrees with the horizontal and equipped on the open side with suitable handrails. Where landing platforms are necessary, they shall be at least 2 feet wide and 4 feet long and properly railed.

(2) Ladders shall be anchored securely, set on an angle of not more than 60 degrees and be substantially constructed and maintained in good condition.

§ 75.1705 Opening new mines.

[STATUTORY PROVISIONS]

When new coal mines are opened, not more than 20 miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such connections shall be made as soon as possible.

§ 75.1706 Final mining of pillars.

[STATUTORY PROVISIONS]

When only one mine opening is available, owing to final mining of pillars, not more than 20 miners shall be allowed in such mine at any one time, and the distance between the mine opening and working face shall not exceed 500 feet.

§ 75.1707 Escapeways; intake air; separation from belt and trolley haulage entries.

[STATUTORY PROVISIONS]

In the case of all coal mines opened on or after March 30, 1970, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as such extension does not pose a hazard to the miners.

§ 75.1707–1 New working section.

The term "new working section" as used in § 75.1707 means any extension of the belt or trolley haulage system in main, cross, and room entries necessary for the development of the mine on and after March 30, 1970. Room entries being developed as of March 30, 1970, with certified stop line limitations as shown on the mine map and retreating panels shall not be considered as new working sections.

§ 75.1708 Surface structures, fireproofing.

[STATUTORY PROVISIONS]

After March 30, 1970, all structures erected on the surface within 100 feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date which are located within 100 feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering miners underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard and shall be available for inspection by interested persons.

§ 75.1708–1 Surface structures; fireproof construction.

Structures of fireproof construction is interpreted to mean structures with fireproof exterior surfaces.

§ 75.1709 Accumulations of methane and coal dust on surface coal-handling facilities.

[STATUTORY PROVISIONS]

Adequate measures shall be taken to prevent methane and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall methane be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for methane by the Secretary on and after March 30, 1971. Where coal is dumped at or near air-intake openings, provisions shall be made to avoid dust from entering the mine.

§ 75.1710 Canopies or cabs; electric face equipment.

[STATUTORY PROVISIONS]

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

§ 75.1711 Sealing of mines.

[STATUTORY PROVISIONS]

On or after March 30, 1970, the opening of any coal mine that is declared inactive by the operator, or is permanently closed, or abandoned for more than 90 days, shall be sealed by the operator in a manner prescribed by the Secretary. Openings of all other mines shall be adequately protected in a manner prescribed by the Secretary to prevent entrance by unauthorized persons.

§ 75.1711–1 Sealing of shaft openings.

Shaft openings required to be sealed under § 75.1711 shall be effectively capped or filled. Filling shall be for the entire depth of the shaft and, for the first 50 feet from the bottom of the coalbed, the fill shall consist of incombustible material. Caps consisting of a 6-inch thick concrete cap or other equivalent means may be used for sealing. Caps shall be equipped with a vent pipe at least 2 inches in diameter extending for a distance of at least 15 feet above the surface of the shaft.

§ 75.1711–2 Sealing of slope or drift openings.

Slope or drift openings required to be sealed under § 75.1711 shall be sealed with solid, substantial, incombustible material, such as concrete blocks, bricks or tile, or shall be completely filled with incombustible material for a distance of at least 25 feet into such openings.

§ 75.1711–3 Openings of active mines.

The openings of all mines not declared by the operator, to be inactive, permanently closed, or abandoned for less than 90 days shall be adequately fenced or posted with conspicuous signs prohibiting the entrance of unauthorized persons.

§ 75.1712 Bathhouses and toilet facilities.

[STATUTORY PROVISIONS]

The Secretary may require any operator to provide adequate facilities for the miners to change from the clothes worn underground, to provide for the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

§ 75.1712–1 Availability of surface bathing facilities; change rooms; and sanitary facilities.

Except where a waiver has been granted pursuant to the provisions of § 75.1712–4, each operator of an underground coal mine shall on and after December 30, 1970, provide bathing facilities, clothing change rooms, and sanitary facilities, as hereinafter prescribed, for the use of the miners at the mine.

§ 75.1712–2 Location of surface facilities.

Bathhouses, change rooms, and sanitary toilet facilities shall be in a location convenient for the use of the miners. Where such facilities are designed to serve more than one mine, they shall be centrally located so as to be as convenient for the use of the miners in all the mines served by such facilities.

§ 75.1712–3 Minimum requirements of surface bathing facilities, change rooms, and sanitary toilet facilities.

(a) All bathing facilities, change rooms, and sanitary toilet facilities shall be provided with adequate light, heat, and ventilation so as to maintain a comfortable air temperature and to minimize the accumulation of moisture and odors, and such facilities shall be maintained in a clean and sanitary condition.

(b) Bathing facilities, change rooms, and sanitary toilet facilities shall be constructed and equipped so as to comply with applicable State and local building codes: *Provided, however,* That where no State or local building codes apply to such facilities, or where no State or local building codes exist, such facilities shall be constructed and equipped so as to

meet the minimum construction requirements of the National Building Code; and the minimum plumbing requirements of the U.S.A. Standard Plumbing Code, ASA A40.8–1955.

(c) In addition to the minimum requirements specified in paragraphs (a) and (b) of this § 75.1712–3, facilities maintained in accordance with § 75.1712–1 shall include the following:

(1) *Bathing facilities.* (i) Showers shall be provided with both hot and cold water.

(ii) At least one shower head shall be provided where five or less miners use such showers.

(iii) Where five or more miners use such showers, sufficient showers shall be furnished to provide approximately one shower head for each five miners.

(iv) A suitable cleansing agent shall be provided for use at each shower.

(2) *Sanitary toilet facilities.* (i) At least one sanitary flush toilet shall be provided where 10 or less miners use such facilities.

(ii) Where 10 or more miners use such sanitary toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary flush toilet for each 10 miners.

(iii) Where 30 or more miners use sanitary toilet facilities, one urinal may be substituted for one sanitary flush toilet, however, where such substitutions are made they shall not reduce the number of toilets below a ratio of two toilets to one urinal.

(iv) An adequate supply of toilet paper shall be provided with each toilet.

(v) Adequate handwashing facilities or hand lavatories shall be provided in or adjacent to each toilet facility.

(3) *Change rooms.* (i) Individual clothes storage containers or lockers shall be provided for storage of miners clothing and other incidental personal belongings during and between shifts.

(ii) Change rooms shall be provided with ample space to permit the use of such facilities by all miners changing clothes prior to and after each shift.

§ 75.1712–4 Waiver of surface facilities requirements.

The Coal Mine Safety District Manager for the district in which the mine is located may, upon written application by the operator, waive any or all of the requirements of §§ 75.1712–1 through 75.1712–3 if he determines that the operator of the mine cannot or need not meet any part or all of such requirements, and, upon issuance of such waiver, he shall set forth the facilities which will not be required and the specific reason or reasons for such waiver.

§ 75.1712–5 Application for waiver of surface facilities.

Applications for waivers of the requirements of §§ 75.1712–1 through 75.1712–3 shall be filed with the Coal Mine Safety District Manager and shall contain the following information:

(a) The name and address of the mine operator;

(b) The name and location of the mine;

(c) A statement explaining why, in the opinion of the operator, the installation or maintenance of the facilities is impractical or unnecessary.

§ 75.1712–6 Underground sanitary facilities; approved sanitary toilets; installation and maintenance.

(a) Except as provided in § 75.1712–7, each operator of an underground coal mine shall, on and after December 30, 1970, provide and maintain one approved sanitary toilet, together with an adequate supply of toilet tissue, in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single approved sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Only sanitary toilets approved by the Health Division, Coal Mine Health and Safety, Bureau of Mines shall meet the requirements of this section.

(c) Applications for approval of sanitary toilets shall be submitted to:

Health Division, Coal Mine Health and Safety, Bureau of Mines, U.S. Department of the Interior, Washington, D.C. 20240.

§ 75.1712–7 Underground sanitary facilities; waiver of requirements.

If it has been determined by the Coal Mine Safety District Manager for the district in which the mine is located that sanitary toilets cannot be provided and maintained within 500 feet of a working place because of the thickness of the coal seam or because of any other physical restriction in the underground workings, he may, upon written application by the operator, waive the location requirements for underground sanitary facilities with respect to such working place.

§ 75.1712–8 Application for waiver of location requirements for underground sanitary facilities.

Applications for waivers of the location requirements of § 75.1712–6 shall be filed with the Coal Mine Safety District Manager and shall contain the following information:

(a) The name and address of the mine operator;

(b) The name and location of the mine;

(c) The thickness of the coal seam in each working place in the mine for which a waiver is requested; and

(d) Other physical restrictions in the mine (for example, poor roof conditions, excessive water, timbering, etc.)

If a sanitary toilet cannot be installed within 500 feet of a working place because of physical conditions other than the thickness of the coal seam, the operator shall also include a short statement specifying areas in the mine which could be considered possible alternative sites for installation of such facilities.

§ 75.1712–9 Issuance of waivers.

Following the receipt of an application submitted in accordance with the provisions of § 75.1712–8, the Coal Mine Safety District Manager shall, if he determines that the operator cannot meet the location requirements of § 75.1712–6 with respect to any or all of the working places in the mine because of the coal seam thickness or because of other physical restriction, issue a waiver of the requirements of this section and designate an alternative site for installation of such facilities. The waiver issued shall specify each working place to which it shall apply, set forth the reasons for such waiver, and the reasons for designation of the alternative site.

§ 75.1712–10 Underground sanitary facilities; maintenance.

Sanitary toilets shall be regularly maintained in a clean and sanitary condition. Holding tanks shall be serviced and cleaned when full and in no case less than once each week by draining or pumping or by removing them to the surface for cleaning or recharging. Transfer tanks and transfer equipment used underground shall be equipped with suitable fittings to permit complete drainage of holding tanks without spillage and allow for the sanitary transportation of wastes to the surface. Waste shall be disposed of on the surface in accordance with State and local laws and regulations.

§ 75.1713 Emergency medical assistance; first-aid.

[STATUTORY PROVISIONS]

Each operator shall make arrangements in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first-aid and first-aid training shall be made available to all miners. Each coal mine shall have an adequate supply of first-aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements of this section, the operator shall meet at least minimum requirements prescribed by the Secretary of Health, Education, and Welfare.

§ 75.1713–1 Arrangements for emergency medical assistance and transportation for injured persons; agreements; reporting requirements; posting requirements.

(a) Each operator of an underground coal mine shall make arrangements with a licensed physician, medical service, medical clinic, or hospital to provide 24-hour emergency medical assistance for any person injured at the mine.

(b) Each operator of an underground coal mine shall make arrangements with an ambulance service, or otherwise provide, for 24-hour emergency transportation for any person injured at the mine.

(c) Each operator shall, on or before December 30, 1970, report to the District Manager for the district in which the mine is located the name, title and address of the physician, medical service, medical clinic, hospital or ambulance service with whom arrangements have

been made, or otherwise provided, in accordance with the provisions of paragraphs (a) and (b) of this § 75.1713–1.

(d) Each operator shall, within 10 days after any change of the arrangements required to be reported under the provisions of this § 75.1713–1, report such changes to the District Manager. If such changes involve a substitution of persons, the operator shall provide the name, title, and address of the person substituted together with the name and address of the medical service, medical clinic, hospital, or ambulance service with which such person or persons are associated.

(e) Each operator shall, immediately after making an arrangement required under the provisions of paragraphs (a) and (b) of this § 75.1713–1, or immediately after any change of such arrangement, post at appropriate places at the mine the names, titles, addresses, and telephone numbers of all persons or services currently available under such arrangements to provide medical assistance and transportation at the mine.

§ 75.1713–2 Emergency communications; requirements.

(a) Each operator of an underground coal mine shall establish and maintain a communication system from the mine to the nearest point of medical assistance for use in an emergency.

(b) The emergency communication system required to be maintained under paragraph (a) of this § 75.1713–2 may be established by telephone or radio transmission or by any other means of prompt communication to any facility (for example, the local sheriff, the State highway patrol, or local hospital) which has available the means of communication with the person or persons providing emergency medical assistance or transportation in accordance with the provisions of § 75.1713–1.

§ 75.1713–3 First-aid training; supervisory employees.

On or before December 30, 1970, each operator of an underground coal mine shall conduct first-aid training courses for selected supervisory employees at the mine, and report in writing to the District Manager the names and job titles of all supervisory employees so trained. Thereafter, each operator shall, within 60 days after the selection of a new supervisory employee to be trained, report in writing to the District Manager the name and job title of such employee and the date on which such employee satisfactorily completed a first-aid training course.

§ 75.1713–4 First-aid training program; availability of instruction to all miners.

On or before June 30, 1971, each operator of an underground coal mine shall make available to all miners employed in the mine a course of instruction in first-aid conducted by the operator or under the auspices of the operator, and such a course of instruction shall be made available to newly employed miners within 6 months after the date of employment.

§ 75.1713–5 First-aid training program; retraining of supervisory employees; availability to all miners.

Beginning January 1, 1971, each operator of an underground coal mine shall conduct refresher first-aid training courses each calendar year for all selected supervisory employees, and make available refresher first-aid training courses to all miners employed in the mine.

§ 75.1713–6 First-aid training program; minimum requirements.

(a) All first-aid training programs required under the provisions of §§ 75.1713–3 and 75.1713–4 shall include 10 class hours of training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

(b) Refresher first-aid training programs required under the provisions of § 75.1713–5 shall include five class hours of refresher training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

§ 75.1713–7 First-aid equipment; location; minimum requirements.

(a) Each operator of an underground coal mine shall maintain a supply of the first-aid equipment set forth in paragraph (b) of this § 75.1713–7 at each of the following locations:

(1) At the mine dispatcher's office or other appropriate work area on the surface in close proximity to the mine entry;

(2) At the bottom of each regularly traveled slope or shaft; however, where the bottom of such slope or shaft is not more than 1,000 feet from the surface, such first-aid supplies may be maintained on the surface at the entrance to the mine; and

(3) At a point in each working section not more than 500 feet outby the active working face or faces.

(b) The first-aid equipment required to be maintained under the provisions of paragraph (a) of this § 75.1713–7 shall include at least the following:

(1) One stretcher;

(2) One broken-back board. (If a splint stretcher combination is used it will satisfy the requirements of both (1) and (2)).

(3) 24 triangular bandages (15 if a splint-stretcher combination is used).

(4) Eight 4-inch bandage compresses;

(5) Eight 2-inch bandage compresses.

(6) Twelve 1-inch adhesive compresses;

(7) One foille;

(8) Two cloth blankets;

(9) One rubber blanket or equivalent substitute.

(10) Two tourniquets;

(11) One 1-ounce bottle of aromatic spirits of ammonia or 1 dozen ammonia ampules.

(12) The necessary complements of arm and leg splints or two each inflatable plastic arm and leg splints.

(c) All first-aid supplies required to be maintained under the provisions of paragraphs (a) and (b) of this § 75.1713–7 shall be stored in suitable, sanitary, dust tight, moisture proof containers and such supplies shall be accessible to the miners.

§ 75.1714 Self-rescue device.

[STATUTORY PROVISIONS]

A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for 1 hour or longer. Each operator shall train each miner in the use of such device.

§ 75.1714–1 Approved self-rescue devices.

(a) Until March 31, 1971, the requirements of § 75.1714 may be met by making available to each miner two MSA self-rescuers bearing Bureau of Mines approval number BM–1447.

(b) The requirements of § 75.1714 may be met by furnishing an Auer self-rescuer, bearing Bureau of Mines approval number BM–14F–76 or any other self-rescuer which has been officially approved by the Bureau of Mines as meeting the requirements of § 75.1714.

§ 75.1715 Identification check system.

[STATUTORY PROVISIONS]

Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine, kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than 16 gauge.

§ 75.1716 Operations under water.

[STATUTORY PROVISIONS]

Whenever an operator mines coal from a coal mine opened after March 30, 1970, or from any new working section of a mine opened prior to such date, in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, that is, in the judgment of the Secretary, sufficiently large to constitute a hazard to miners, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of miners working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to such body of water. No plan shall be approved unless there is a minimum of cover to be determined by the Secretary, based on test holes drilled by the operator in a manner to be prescribed by the Secretary. No such permit shall be required in the case of any new working section of a mine which is located under any water resource reservoir being constructed by a Federal agency on December 30, 1969, the operator of which is required by such agency to operate in a manner that protects the safety of miners working in such section from cave-ins and other hazards.

§ 75.1716–1 Operations underwater; notification by operator.

An operator planning to mine coal from coal mines opened after March 30, 1970, or from working sections in mines opened prior to such date, and in such manner that mining operations will be conducted, or tunnels constructed, under any river, stream, lake, or other body of water, shall give notice to the Coal Mine Safety District Manager in the district in which the mine is located prior to the commencement of such mining operations.

§ 75.1716–2 Permit required.

If in the judgment of the Coal Mine Safety District Manager the proposed mining operations referred to in § 75.-1716–1 constitute a hazard to miners, he shall promptly so notify the operator that a permit is required.

§ 75.1716–3 Applications for permits.

An application for a permit required under this section shall be filed with the Coal Mine Safety District Manager and shall contain the following general information:

(a) Name and address of the company.

(b) Name and address of the mine.

(c) Projected mining and ground support plans.

(d) A mine map showing the locations of the river, stream, lake, or other body of water and its relation to the location of all working places.

(e) A profile map showing the type of strata and the distance in elevation between the coal bed and the river, stream, lake or other body of water involved. The type of strata shall be determined by core test drill holes as prescribed by the Coal Mine Safety District Manager.

§ 75.1716–4 Issuance of permits.

If the Coal Mine Safety District Manager determines that the proposed mining operations under water can be safely conducted, he shall issue a permit for the conduct of such operations under such conditions as he deems necessary to protect the safety of miners engaged in those operations.

§ 75.1717 Exemptions.

[STATUTORY PROVISIONS]

No notice under § 75.1716–1 and no permit under § 75.1716–2 shall be required in the case of any new working section of a mine which is located under any water resource reservoir being constructed by a Federal agency as of December 30, 1969, and where the operator is required by such agency to operate in a manner that adequately protects the safety of miners.

§ 75.1718 Drinking water.

[STATUTORY PROVISIONS]

An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary containers.

§ 75.1718–1 Drinking water; quality.

(a) Potable water provided in accordance with the provisions of § 75.1718 shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located.

(b) Where no state or local health requirements apply to drinking water or where no state or local minimum health requirements exist, drinking water provided in accordance with the provisions of § 75.1718 shall contain a minimum of 0.2 milligrams of free chlorine per liter of water.

Subpart S—Approved Books and Records

§ 75.1800 Scope.

(a) The provisions of this Subpart S set forth the requirements for recording the results of certain tests and examinations conducted in underground coal mines. In addition, it specifies the approved books in which such results are to be recorded and the manner in which they shall be maintained.

(b) The approved books required to be maintained in accordance with the provisions of §§ 75.1801 through 75.1808 shall be secured by each operator from commercial sources. Facsimile copies of Bureau of Mines Forms 6–1331, 6–1489, 6–1490, 6–1491, 6–1492, 6–1493, and 6–1494, have been filed with the Office of the Federal Register, General Services Administration, Washington, D.C. 20408, and sample copies of each of these forms are available for the use of commercial printers or operators at each District or Subdistrict Coal Mine Health and Safety Office of the Bureau of Mines.

(c) When the District Manager has determined that record books kept in satisfaction of State requirements provide the information specified in any record book required by this Subpart S, and so advises the operators of mines located in that State, such approved State record books will be accepted in lieu of the record books specified in this Subpart S.

§ 75.1801 Examination of emergency escapeways and facilities, smokers' articles and fire doors; recording requirements; approved books.

The results of examinations of emergency escapeways and facilities, fire doors, and for smokers' articles required to be conducted under the provisions of §§ 75.1702, 75.1704, and 75.1708, shall be recorded in a book entitled "Examinations of Emergency Escapeways and Facilities; Smokers' Articles; Fire Doors" (Bureau of Mines Form 6–1331, Budget Bureau No. 42–R1589, March 1970).

§ 75.1802 Preshift—onshift and daily report; recording requirements; approved books.

The results of daily examinations and tests for hazardous conditions and roof bolt torque required to be conducted under the provisions of §§ 75.200–7(b)(3)(iii), 75.303, 75.304, 75.304–2, 75.309, 75.309–4, and 75.324, shall be recorded in a book entitled "Preshift—Onshift and Daily Report" (Bureau of Mines Form 6–1489, Budget Bureau No. 42–R1589, March 1970).

§ 75.1803 Weekly examinations for methane and hazardous conditions; recording requirements; approved books.

The results of weekly examinations for methane and hazardous conditions required to be conducted under the provisions of §§ 75.305, 75.306, and 75.316–2(f), shall be recorded in a book entitled "Weekly Examination for Methane and Hazardous Conditions" (Bureau of Mines Form 6–1490, Budget Bureau No. 42–R1589, March 1970).

§ 75.1804 Daily and monthly examination of ventilation equipment; recording requirements; approved books.

The results of daily and monthly examinations of ventilation equipment required to be conducted under the provisions of §§ 75.300 and 75.300–4, shall be recorded in a book entitled "Daily and Monthly Examination of Ventilation Equipment" (Bureau of Mines Form 6–1491, Budget Bureau No. 42–R1589, March 1970).

§ 75.1805 Examination of electrical equipment; recording requirements; approved books.

The results of examinations of electrical equipment required to be conducted under the provisions of §§ 75.313–1, 75.512, 75.512–2, 75.703–3(d)(11), 75.812, 75.812–2, 75.900, 75.900–3, and 75.900–4, shall be recorded in a book entitled "Examination of Electrical Equipment" (Bureau of Mines Form 6–1492, Budget Bureau No. 42–R1589, March 1970).

§ 75.1806 Monthly examination of surface high voltage circuit breakers; recording requirements; approved books.

The results of monthly examinations of high voltage circuit breakers on the surface required to be conducted under the provisions of §§ 75.800, 75.800–3, and 75.800–4, shall be recorded in a book entitled "Monthly Examination of Surface High Voltage Circuit Breakers" (Bureau of Mines Form 6–1493, Budget Bureau No. 42–R1589, March 1970).

§ 75.1807 Daily inspection of hoisting equipment; recording requirements; approved books.

The results of daily examinations of hoisting equipment required to be conducted under the provisions of §§ 75.1400, 75.1400–2, 75.1400–3, 75.1400–4, 75.1401–3, and 75.1402–2, shall be recorded in a book entitled "Report of Daily Inspection of Hoisting Equipment" (Bureau of Mines Form 6–1494, Budget Bureau No. 42–R1589, March 1970).

§ 75.1808 Maintenance of approved books and records; requirements.

All approved books and records maintained under the provisions of §§ 75.1801 through 75.1807 shall be stored in a fireproof repository on the surface of the mine chosen by the mine operator to minimize their destruction by fire or other hazard and such records shall be made available to interested persons.

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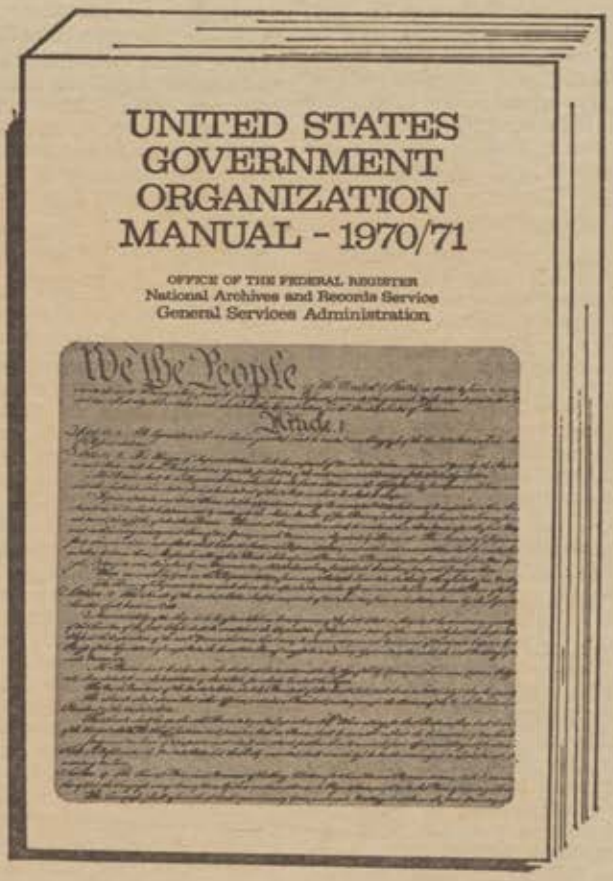

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