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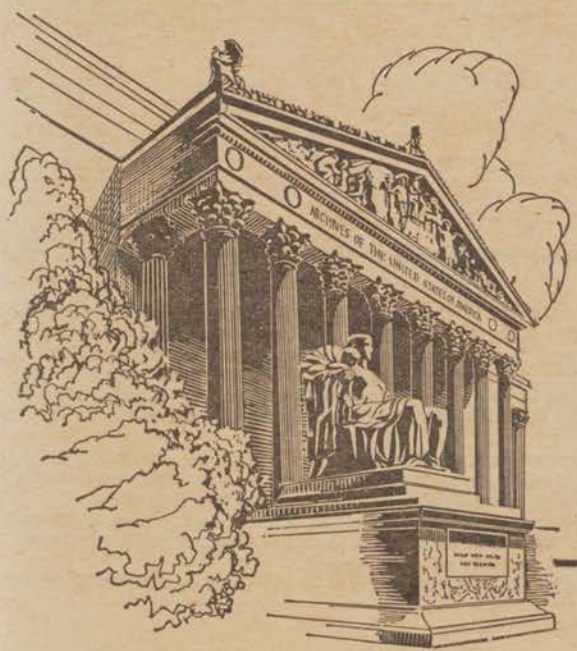
Pages 5207–5302

Agencies in this issue—

Detailed list of Contents appears inside.



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Contents

(Continued on next page)

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.

3 CFR

PROCLAMATION:
3974 ---- 5211

7 CFR

910 ---- 5213

9 CFR

76 (2 documents) ---- 5213, 5214

12 CFR

226 ---- 5214

14 CFR

39 ---- 5216
71 (2 documents) ---- 5216
95 ---- 5216
PROPOSED RULES:
71 (2 documents) ---- 5264
91 ---- 5264

17 CFR

PROPOSED RULES:
231 ---- 5272

18 CFR

157 ---- 5218
PROPOSED RULES:
201 ---- 5266
204 ---- 5266
260 ---- 5266

21 CFR

120 ---- 5219
121 (2 documents) ---- 5220
135c ---- 5220

30 CFR

75 ---- 5221
300 ---- 5255
301 ---- 5255

32A CFR

OI Reg. 1 ---- 5259

41 CFR

5A–73 ---- 5260
101–47 ---- 5260

42 CFR

PROPOSED RULES:
71 ---- 5263

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3974

NATIONAL DEFENSE TRANSPORTATION DAY AND NATIONAL TRANSPORTATION WEEK, 1970

By the President of the United States of America

A Proclamation

The story of America's growth is in large part the story of her growing transportation systems: the Post roads and canals which linked our first States, the Yankee Clippers which built New England's commerce, the steel rails which bound together a transcontinental community and the great air fleets which bring Hawaii and Alaska closer today than New York and Chicago were in 1940.

Today the field of transportation accounts for approximately 20 per cent of this nation's gross national product and employs more than ten million persons. Yet we know, as we enter a new decade, that the growth of our transportation systems is just beginning. This growth must be carefully planned and intelligently directed—both our economic prosperity and our military security will depend on it. And so will the quality of life in our country. It is important, for example, that considerations of safety and environmental protection be kept in mind as we expand our transportation systems.

It was to focus attention on both the achievements and the challenges of the transportation industry and its employees that the Congress, by a joint resolution approved May 16, 1957, requested the President to proclaim annually the third Friday of May each year as National Defense Transportation Day, and by a joint resolution approved May 14, 1962, requested the President to proclaim annually the week of May in which that Friday falls as National Transportation Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Friday, May 15, 1970, as National Defense Transportation Day, and the week beginning May 10, 1970, as National Transportation Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of March, in the year of our Lord nineteen hundred seventy, and of the Independence of the United States of America, the one hundred ninety-fourth.

Richard Nixon

[F.R. Doc. 70-3822; Filed, Mar. 26, 1970; 12:42 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 420]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.720 Lemon Regulation 420.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 24, 1970.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period March 29, 1970, through April 4, 1970, are hereby fixed as follows:

(i) District 1: 7,440 cartons;

(ii) District 2: 155,310 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: March 26, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-3878; Filed, Mar. 27, 1970; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the introductory portion in paragraph (e) is amended to read:

§ 76.2 Notices relating to existence of hog cholera; prohibition of movement of virulent virus; spread of disease through raw garbage; regulations; quarantines; eradication States; and free States.

* * * * *

(e) *Notice of quarantine.* Notice is hereby given that because of the existence of hog cholera in the States of Arizona, Connecticut, Georgia, Illinois, Iowa, Kansas, Maryland, Massachusetts, Mississippi, Missouri, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, and Virginia, and The Commonwealth of Puerto Rico, and the nature and extent of outbreaks of this disease, the following areas are quarantined because of said disease:

* * * * *

2. In § 76.2, subparagraph (e)(2) relating to the State of Arkansas is deleted, and a new subparagraph (e)(2) relating to the State of Connecticut is added to read:

(e) * * *

(2) *Connecticut.* Windham County.

3. In § 76.2, in subparagraph (e)(3) relating to the State of Georgia, a new subdivision (iii) relating to Laurens County is added to read:

(e) * * *

(3) *Georgia.* * * *

(iii) That portion of Laurens County bounded by a line beginning at the junction of the Johnson-Laurens County line and Secondary Road S1473; thence, following Secondary Road S1473 in a generally southwesterly direction to the Blackshear Mill Road; thence, following the Blackshear Mill Road in a generally southwesterly direction to the Oconee River; thence, following the Oconee River in a generally northerly direction to the Johnson-Laurens County line; thence, following the Johnson-Laurens County line in a generally southeasterly direction to its junction with Secondary Road S1473.

4. In § 76.2, in subparagraph (e)(10) relating to the State of Missouri, subdivision (i) relating to Dunklin and Stoddary Counties, is amended to read:

(e) * * *

(10) *Missouri.* (i) The adjacent portions of Dunklin and Stoddard Counties bounded by a line beginning at the junction of State Highway 53 and the St. Francis River at the Butler-Dunklin County line; thence, following the east bank of the St. Francis River in a generally northeasterly direction to State Highway U; thence, following State Highway U in a generally easterly direction to State Highway 25; thence, following State Highway 25 in a generally southerly direction to the junction of State Highway 25 and U.S. Highway 62; thence, following State Highway 25 and U.S. Highway 62 in a southerly direction to the point where State Highway 25 and U.S. Highway 62 diverge; thence, following U.S. Highway 62 in a generally westerly direction to State Highway 53; thence, following State Highway 53 in a generally southeasterly direction to State Highway B; thence, following State Highway B in a generally westerly direction to State Highway BB; thence,

following State Highway BB in a westerly direction to the Arkansas-Missouri State line; thence, following the Arkansas-Missouri State line in a northwesterly and westerly direction to the St. Francis River; thence, following the east bank of the St. Francis River in a generally northeasterly direction to its junction with State Highway 53.

* * * * *

5. In § 76.2, paragraph (f) is amended by deleting the reference to "Connecticut."

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine all of Windham County, Conn.; a portion of Laurens County, Ga.; and portions of Dunklin and Stoddard Counties in Missouri, because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to such county and portions of counties. Further, the amendments delete the State of Connecticut from the list of hog cholera eradication States as set forth in § 76.2(f).

The amendments also exclude a portion of Crawford County, Ark., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

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

Done at Washington, D.C., this 24th day of March 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-3743; Filed, Mar. 27, 1970; 8:47 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the introductory portion in paragraph (e) is amended by adding thereto the name of the State of New Hampshire.

2. In § 76.2, a new subparagraph (e)(22) relating to the State of New Hampshire is added to read:

(e) * * *

(22) *New Hampshire.* That portion of Rockingham County comprised of Brentwood, Epping, and Exeter Townships.

3. In § 76.2, in subparagraph (e)(4) relating to the State of Illinois, a new subdivision (iv) relating to Jefferson County is added to read:

(e) * * *

(4) *Illinois.* * * *

(iv) That portion of Jefferson County comprised of Grand Prairie, Rome, Casner, and Shiloh Townships.

4. In § 76.2, in subparagraph (e)(18) relating to the State of Texas, a new subdivision (xv) relating to Hidalgo County is added to read:

(e) * * *

(18) *Texas.* * * *

(xv) That portion of Hidalgo County bounded by a line beginning at the junction of U.S. Highway 281 and Farm to Market Road 490; thence, following Farm to Market Road 490 in a generally easterly direction to Farm to Market Road 493; thence, following Farm to Market Road 493 in a generally northerly direction to State Highway 186; thence, following State Highway 186 in a generally northwesterly direction to U.S. Highway 281; thence, following U.S. Highway 281 in a generally southerly direction to its junction with Farm to Market Road 490.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Jefferson County in Illinois; portions of Rockingham County in New Hampshire; and a portion of Hidalgo County in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of March 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-3744; Filed, Mar. 27, 1970; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Exemption of Certain State Regulated Transactions; Retention of Access to Federal Civil Remedies

1. Effective March 12, 1970, § 226.12 is amended to read as follows:

§ 226.12 Exemption of certain State regulated transactions.

(a) *Exemption for State regulated transactions.* In accordance with the provisions of Supplement II to Regulation Z (§ 226.12—Supplement), any State may make application to the Board for exemption of any class of transactions within that State from the requirements of chapter 2 of the Act and the corresponding provisions of this part: *Provided,* That

(1) Under the law of that State, that class of transactions is subject to requirements substantially similar to those imposed under Chapter 2 of the Act and the corresponding provisions of this part; and

(2) There is adequate provision for enforcement.

(b) *Procedures and criteria.* The procedures and criteria under which any State may apply for the determination provided for in paragraph (a) of this section are set forth in Supplement II to Regulation Z (§ 226.12—Supplement).

(c) *Civil liability.* In order to assure that the concurrent jurisdiction of Federal and State courts created in section 130(e) of the Act shall continue to have substantive provisions to which such jurisdiction shall apply, and generally to aid in implementing the Act with respect to any class of transactions exempted pursuant to paragraph (a) of this section, the Board pursuant to sections 105 and 123 hereby prescribes that:

(1) No such exemption shall be deemed to extend to the civil liability provisions of sections 130 and 131; and

(2) After an exemption has been granted, the disclosure requirements of the applicable State law shall constitute the disclosure requirements of this Act, except to the extent that such State law imposes disclosure requirements not imposed by this Act. Information required under such State law with the exception of those provisions which impose disclosure requirements not imposed by this Act shall, accordingly, constitute the "information required under this chapter" (chapter 2 of the Act) for the purpose of section 130(a).

(d) *Exemptions granted.* Exemptions granted by the Board to particular classes of credit transactions within specified States are set forth in Supplement III to Regulation Z.

2. Effective March 12, 1970, Supplement III to Part 226 is added, as set forth below.

3a. This amendment and Supplement III are promulgated pursuant to section 105 of the Truth in Lending Act (15 U.S.C. 1604).

b. As indicated in the notice of proposed rule making (34 F.R. 20065), the purpose of the addition of paragraph (c) to § 226.12 is designed to preserve the right of a consumer to maintain an action under sections 130 and 131 of the Act (15 U.S.C. 1640–41) for violations of disclosure provisions after the board of governors has exempted the class of transactions as being subject to State regulation. After an exemption has been granted, criminal and administrative responsibility would be under State control with respect to such exempted transactions.

c. Sections 130 and 131 provide civil remedies for violations of the disclosure requirements of the Act. After an exemption based upon State law has been granted, that law will provide the applicable disclosure requirements, except to the extent that it imposes disclosure requirements not imposed by the Act, and violations of such requirements would be actionable under sections 130 and 131. The customer would, therefore, retain the right granted by subsection (e) of section 130 to seek redress for violations of such State law in either Federal or State court and to avail himself of the respective State or Federal court procedural rules.

d. Paragraph (b) of § 226.12 is amended to reflect the fact that Supplement II (§ 226.12—Supplement) has been published, and to eliminate an obsolete reference to the date of the proposed publication.

e. After consideration of all relevant matter by interested persons, a change was made in the proposed addition of paragraph (c) to § 226.12 to clarify the intent of the Board that any disclosure requirements which may be imposed by State law and which are in addition to the disclosures required under the Federal Act and of Regulation Z would not be the subject of an action in Federal court.

f. Paragraph (d) is added to § 226.12 to provide that any exemption granted by the Board pursuant to section 123 of the Act to any class of credit transactions within any State will be listed in Supplement III to Regulation Z.

g. With the exception of the addition of paragraph (d) to § 226.12, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were followed in connection with these amendments. In the Board's view, the addition of paragraph (d) to § 226.12 is essentially procedural in nature. Accordingly, the Board concluded that the notice and public participation contemplated by section 553 of title 5, United States Code, was unnecessary with respect to such change.

By order of the Board of Governors, March 12, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

SUPPLEMENT III TO REGULATION Z

STATE EXEMPTIONS GRANTED PURSUANT TO § 226.12

(a) *Exemptions and limitations.* The provisions of this supplement are issued by the Board of Governors of the Federal Reserve System pursuant to sections 105 and 123 of the Truth in Lending Act (Title I of the Consumer Credit Protection Act, Public Law 90–321; 82 Stat. 146 et seq.). The purpose of this supplement is to set forth the exemptions granted by the Board to particular classes of credit transactions within any State which has applied for exemptions pursuant to the provisions of Supplement II to Regulation Z. It also sets forth the conditions necessary for the retention of such exemptions. Pursuant to the criteria set forth in paragraph (c) of Supplement II to Regulation Z, the Board has determined that the particular classes of credit transactions within the States specified in the following paragraphs of this supplement are subject to requirements substantially similar to those provided in chapter 2 of the Truth in Lending Act and that there is adequate provision for enforcement of such requirements. The exemptions granted herein shall continue in effect provided that:

(1) Such State law, including regulations and interpretations thereof, upon which the Board's determination under paragraph (c) of Supplement II is based is amended or revised as may be necessary in order to preserve substantial similarity with the Truth in Lending Act and Regulation Z as they may be amended, and with interpretations thereof which may be issued from time to time by the Board;

(2) Administrative and other provisions for enforcement of such State law, including regulations and interpretations thereof, applicable to the exempt classes of credit transactions continue to be adequate; and

(3) Cooperation and appropriate liaison with the Board as specified in paragraph (e) of Supplement II are maintained to assure that the purposes of the Truth in Lending Act are carried out uniformly.

(b) *Maine.* Except as provided in § 226.12 (c), the following classes of credit transactions within the State of Maine except for those transactions in which a federally chartered institution is a creditor, are hereby granted an exemption from the requirements of Chapter 2 of the Truth in Lending Act effective April 1, 1970:

(1) Transactions under open end consumer credit plans which are subject to the requirements of section 127 of the Truth in Lending Act;

(2) Consumer credit sales transactions not under open end credit plans which are subject to the requirements of section 128 of the Act; and

(3) Consumer loan and other nonsale credit transactions not under open end credit plans which are subject to the requirements of section 129 of the Act.

[F.R. Doc. 70–3753; Filed, Mar. 27, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Airworthiness Docket No. 70–WE–2–AD; Amdt. 39–961]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707 and 720 Series Aircraft

Amendment 39–932 (35 F.R. 1159), AD 70–2–12, requires inspection for cracks, and repairs as necessary, of the forward walkway panel area between body stations 344 and 352 on Boeing 707 and 720 series aircraft.

After issuing Amendment 39–932, two operators requested lower threshold initial inspection times to accommodate their maintenance schedules. This request, upon review is acceptable, therefore, a lower starting threshold has been provided. Also, the AD note forecast future revisions providing repeat inspections and a terminating action. The AD is therefore being superseded by a new AD providing the reinspection intervals and terminating action.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

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 adding the following new airworthiness directive:

BOEING. Applies to Model 707 and 720 Series airplanes listed in Boeing Service Bulletin No. 2967, Revision 1, or later FAA approved revisions.

Compliance required within the next 50 hours' time in service after the effective date of this AD on aircraft having 14,000 or more flights, unless already accomplished. Aircraft having less than 14,000 flights on the effective date of this AD must be inspected after they have accrued 13,000 flights but no later than 50 hours' time in service after they have accrued 14,000 flights, unless already accomplished during this specified interval.

For the purpose of compliance with this AD, the number of flights may be determined by dividing the total flight time on an airplane by the operator's fleet average flight time per flight for the type airplane considered.

To prevent walkway panel failures between body stations 344 and 352:

(a) Inspect the left-hand and right-hand walkway panels on all airplanes listed in Boeing Service Bulletin 2961, revision 1, or later FAA approved revisions. Perform inspections in accordance with Accomplishment Instruction, Part II, unless already accomplished in accordance with Service Bulletin 2961, dated January 13, 1970, or an equivalent inspection approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(b) If no cracks are found, perform:

(1) The preventative modification described in part II of Boeing Service Bulletin 2961, revision 1, dated March 11, 1970, or later FAA approved revisions, or

(2) Reinspections at intervals not to exceed 1500 flights in service (for eddy current or dye penetrant inspection) or 500 flights (for visual inspection) in accordance with part II of Boeing Service Bulletin 2961, revision I, or

(3) An equivalent modification or inspection program approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) If cracks are found during any of the inspections, perform the preventative modification in accordance with part II of Boeing Service Bulletin 2961, revision I, March 11, 1970, or later FAA approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region, prior to further flight.

Inspections required by this AD may be discontinued when the approved preventative modification has been accomplished.

This supersedes Amendment 39-932, 35 F.R. 1159, AD 70-2-12.

This amendment becomes effective March 28, 1970.

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

Issued in Los Angeles, Calif., on March 18, 1970.

JOHN H. HILTON,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-3736; Filed, Mar. 27, 1970; 8:46 a.m.]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 69-SO-152]

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

Alteration of Control Zone and Transition Area and Revocation of Transition Area

On March 7, 1970, F.R. Doc. No. 70-2823 was published in the FEDERAL REGISTER (35 F.R. 4259), amending Part 71 of the Federal Aviation Regulations by altering the Columbus, Miss., control zone and transition area and revoking the Monroe County, Miss., transition area.

In the amendment, the longitudinal ordinate for the Columbus-Lowndes County Airport was published as 88°20' 50'' W. in lieu of 88°22'50'' W. It is necessary to amend the Federal Register Document to reflect this change.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, Federal Register Document No. 70-2823 is amended as follows: In line eight of the Columbus, Miss., transition area description "* * * long. 88°20'50'' W. * * *" is deleted and "* * * long. 88°22'50'' W. * * *" is substituted therefor.

(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 March 18, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-3737; Filed, Mar. 27, 1970; 8:46 a.m.]

[Airspace Docket No. 70-WE-2]

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

Designation of Transition Area

On February 6, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 2670) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for Hanford, Calif., Airport.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., May 28, 1970.

(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 March 16, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.181 (35 F.R. 2134) the following transition area is added:

HANFORD, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of the Hanford Municipal Airport (latitude 36°19'04'' N., longitude 119°37'39'' W.), and within 2 miles each side of the Visalia TVOR 214° radial extending from the 3-mile radius area toward the Visalia TVOR to abut the currently designated Visalia 700-foot transition area, excluding that airspace within a 1-mile radius of the Blair (private) Airport (latitude 36°16'31'' N., longitude 119°38'23'' W.).

[F.R. Doc. 70-3738; Filed, Mar. 27, 1970; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 10212; Amdt. 95-191]

PART 95—IFR ALTITUDES

Miscellaneous Changes

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 April 30, 1970, as follows:

1. By amending Subpart C as follows:

Section 95.49 *Green Federal airway 9* is amended to read in part:

From, To, and MEA

Sparrevohn, Alaska, LF/RBN; *Spurr INT, Alaska; **12,000. *8,500—MCA Spurr INT, westbound. **10,100—MOCA.

Section 95.250 *Red Federal airway 50* is amended to read:

Galena, Alaska, LF/RBN; Bear Creek, Alaska, LF/RBN; *6,000. *5,900—MOCA.
Bear Creek, Alaska, LF/RBN; Fairbanks, Alaska, LF/RBN; *5,000. *4,900—MOCA.

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

Panama City, Fla., VOR; Eglin AFB, Fla., VOR; *1,600. *1,500—MOCA.
Smith Reynolds, N.C., LOM; INT 241° M rad, Greensboro VOR and 192° M bearing from Smith Reynolds LOM; *2,500. *2,000—MOCA.
Emory, Ga., YF/RBN; INT 264° M rad, Augusta VOR and 277° M bearing from Emory LF/RBN; 2,000.
Sarasota, Fla., VOR; Egmont Key, Fla., RBN; 1,300.

From, To, and MEA

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

Eglin AFB, Fla., VOR; Panama City, Fla., VOR; *1,600. *1,500—MOCA.
INT, 264° M rad, Augusta VOR and 277° M bearing Emory LF/RBN; Emory, Ga., LF/RBN; 2,000.
Springville INT, Fla.; Anniston, Ala., VOR; *3,300. *2,700—MOCA.
Deep Lake INT, Fla.; Crane INT, Fla.; *2,500. *1,200—MOCA.
Greater Southwest, Tex., VOR; Oklahoma City, Okla., VOR; *6,000. *2,500—MOCA.
Leona, Tex., VOR; Tyler, Tex., RBN; *2,500. *1,900—MOCA.
Leona, Tex., VOR via LOA 035°/Ty 165°; Tyler, Tex., RBN; *2,400. *2,200—MOCA.

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

Alma, Ga., VOR via AMG 332°/ATL 120°; Atlanta, Ga., VOR; 18,000. MAA 45,000.
Hancock, N.Y., VOR; 30 NM 035° M rad, Hancock VOR; *3,900. *3,200—MOCA.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

Alexandria, Minn., VOR; Minneapolis, Minn., VOR; *3,000. *2,900—MOCA.

Section 95.6003 *VOR Federal airway 3* is amended to read in part:

Bunnell INT, Fla.; St. Augustine INT, Fla.; *2,000. *1,500—MOCA.

Section 95.6006 *VOR Federal airway 6* is amended to read in part:

Beech INT, Iowa, via S alter.; Keystone INT, Iowa, via S alter.; *2,500. *2,000—MOCA.
Keystone INT, Iowa, via S alter.; Bussey INT, Iowa, via S alter.; *2,700. *2,000—MOCA.
Youngstown, Ohio, VOR; Mercer INT, Pa.; 2,900.
Mercer INT, Pa.; Clarion, Pa., VOR; 3,600.

Section 95.6010 *VOR Federal airway 10* is amended to read in part:

Youngstown, Ohio, VOR; INT, 121° M rad, Youngstown VOR and 092° M rad, Akron VOR; 2,900.
INT, 121° M rad, Youngstown VOR and 092° M rad, Akron VOR; Templeton INT, Pa.; 3,600.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

Buffalo, N.Y., VOR via N alter.; Rochester, N.Y., VOR via N alter.; *2,500. *2,000—MOCA.

Section 95.6013 *VOR Federal airway 13* is amended to read in part:

Humble, Tex., VOR via W alter.; Sheppard INT, Tex., via W alter.; *1,700. *1,500—MOCA.

Section 95.6014 *VOR Federal airway 14* is amended to read in part:

Erie, Pa., VOR via N alter.; United States-Canadian border via N alter.; *3,500. *2,300—MOCA.
United States-Canadian border via N alter.; Buffalo, N.Y., VOR via N alter.; *2,500. *2,400—MOCA.

Section 95.6015 *VOR Federal airway 15* is amended to read in part:

Ardmore, Okla., VOR; Pharoah INT, Okla.; *3,000. *2,800—MOCA.
Ardmore, Okla, VOR via E alter.; Okmulgee, Okla., VOR via E alter.; *3,000. *2,800—MOCA.

From, To, and MEA

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

Columbus, N. Mex., VOR via N alter.; INT 063° M rad, Columbus VOR and 274° M rad, El Paso VOR via N alter.; 9,000.
INT, 063° M rad, Columbus VOR and 274° M rad, El Paso VOR via N alter.; El Paso, Tex., VOR via N alter.; 9,200.

Section 95.6018 *VOR Federal airway 18* is amended to read in part:

Augusta, Ga., VOR; Sardis INT, Ga.; *2,200. *1,900—MOCA.

Section 95.6019 *VOR Federal airway 19* is amended to read in part:

Cimarron, N. Mex., VOR; Gordon INT, Colo.; *11,000. *10,200—MOCA.

Section 95.6027 *VOR Federal airway 27* is amended to read in part:

Astoria, Oreg., VOR via E alter.; Rochester INT, Wash., via E alter.; 5,000.
Rochester INT, Wash., via E alter.; Olympia, Wash., VOR via E alter.; 4,000.

Section 95.6030 *VOR Federal airway 30* is amended to read in part:

Akron, Ohio, VOR; INT, 121° M rad, Youngstown VOR and 092° M rad, Akron VOR; 3,100.
INT, 121° M rad, Youngstown VOR and 092° M rad, Akron VOR; Templeton INT, Pa.; 3,600.

Section 95.6038 *VOR Federal airway 38* is amended to read in part:

Peotone, Ill., VOR; Lowell INT, Ill.; *2,500. *2,100—MOCA.
Lowell INT, Ill.; Claypool INT, Ind.; *4,000. *2,200—MOCA.

Section 95.6050 *VOR Federal airway 50* is amended to read in part:

Capital, Ill., VOR; Latham INT, Ill.; 3,000.

Section 95.6051 *VOR Federal airway 51* is amended to read in part:

Bunnell INT, Fla.; St. Augustine INT, Fla.; *2,000. *1,500—MOCA.

Section 95.6052 *VOR Federal airway 52* is amended to read in part:

Beech INT, Iowa; Keystone INT, Iowa; *2,500, *2,000—MOCA.
Keystone INT, Iowa; Bussey INT, Iowa; *2,700. *2,200—MOCA.

Section 95.6054 *VOR Federal airway 54* is amended to read in part:

Hot Springs, Ark., VOR via N alter.; Lonsdale INT, Ark.; via N alter.; 2,500.
Lonsdale INT, Ark., via N alter.; Little Rock, Ark., VOR via N alter.; *2,000. *1,800—MOCA.

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

Columbus, N. Mex., VOR via N alter.; INT 063° M rad, Columbus VOR and 274° M rad, El Paso VOR via N alter.; 9,000.
INT, 063° M rad, Columbus VOR and 274° M rad, El Paso VOR via N alter.; El Paso, Tex., VOR via N alter.; 9,200.

Section 95.6071 *VOR Federal airway 71* is amended to read in part:

Ola INT, Ark.; Harrison, Ark., VOR; *4,500. *3,600—MOCA.

From, To, and MEA

Section 95.6082 *VOR Federal airway 82* is amended to read in part:

Rochester, Minn., VOR; Nodine, Minn., VOR; *3,000. *2,700—MOCA.

Section 95.6083 *VOR Federal airway 83* is amended to read in part:

Alamosa, Colo., VOR; #*Gordon INT, Colo.; **14,000. #13,500—MCA Gordon INT, westbound. *MCA—14,000 westbound for aircraft arriving Gordon INT, northbound via V-19. *13,600—MOCA.

Section 95.6089 *VOR Federal airway 89* is amended to read in part:

*Lake George INT, Colo.; **Silo Int, Colo.; ***12,000. *MCA—14,400 northbound for aircraft arriving Lake George INT, southwestbound via V-95. **11,000—Silo INT, southbound. ***11,800—MOCA.

Section 95.6115 *VOR Federal airway 115* is amended to read in part:

Atwood INT, Ohio; Campbell INT, Ohio; *6,000. *3,100—MOCA.

Section 95.6123 *VOR Federal airway 123* is amended to read in part:

Washington, D.C., VOR; INT 231° M rad, Baltimore VOR and 271° M rad, Kenton VOR; 2,000.
INT, 231° M rad, Baltimore VOR and 271° M rad, Kenton VOR; Swan Point INT, Md.; 3,000.

Section 95.6124 *VOR Federal airway 124* is amended to read in part:

Dallas, Tex., VORTAC; Paris, Tex., VOR; *2,400. *1,900—MOCA.
Greeson Lake, Ark., VOR; Hot Springs, Ark., VOR; 2,500.

Section 95.6139 *VOR Federal airway 139* is amended to read in part:

Sea Isle, N.J., VOR; Brigantine INT, N.J.; 2,000.
Harbor INT, N.J.; Driftwood INT, N.J.; *5,000. *2,000—MOCA.
Driftwood INT, N.J.; Manta INT, N.J.; *6,000. *2,000—MOCA.

Section 95.6142 *VOR Federal airway 142* is deleted.

Section 95.6143 *VOR Federal airway 143* is amended to read in part:

Martinsburg, W. Va., VOR; Harney INT, Md.; 5,100.
Harney INT, Md; Delroy INT, Pa.; 4,000.
Martinsburg, W. Va., VOR via N alter.; Hampton INT, Pa., via N alter.; 5,100.

Section 95.6144 *VOR Federal airway 144* is amended to read in part:

Peotone, Ill., VOR; Lowell INT, Ill.; *2,500. *2,100—MOCA.
Lowell INT, Ill.; Claypool INT, Ind.; *4,000. *2,200—MOCA.
Zanesville, Ohio, VOR; Beallsville INT, Ohio; 3,000.

Section 95.6148 *VOR Federal airway 148* is amended to read in part:

Sioux Falls, S. Dak., VOR; Redwood Falls, Minn., VOR; *3,600. *3,100—MOCA.
Sioux Falls, S. Dak., VOR via S alter.; Redwood Falls, Minn., VOR via S alter; *3,600. *3,100—MOCA.

From, To, and MEA

Section 95.6156 *VOR Federal airway 156* is amended to read:

Peotone, Ill., VOR; Lowell INT, Ill.; *2,500. *2,100—MOCA.
Lowell INT, Ill.; INT 096° M rad, Peotone VOR and 237° M rad, Knox VOR; *4,000. *2,200—MOCA.

Section 95.6171 *VOR Federal airway 171* is amended to read in part:

Goodhue INT, Minn.; Farmington, Minn., VOR; *3,000. *2,700—MOCA.

Section 95.6198 *VOR Federal airway 198* is amended to read in part:

Dow INT, Tex.; Fort Stockton, Tex., VOR; *5,000. *4,400—MOCA.

Section 95.6210 *VOR Federal airway 210* is amended to read in part:

Alamosa, Colo., VOR; #*Gordon INT, Colo.; **14,000. #13,500—MCA Gordon INT, westbound. *MCA—14,000 westbound for aircraft arriving Gordon INT, northbound via V–19. **13,600—MOCA.
INT, 048° M rad, Briggs VOR and 092° M rad, Akron VOR; INT, 092° M rad, Akron VOR and 121° M rad, Youngstown VOR; 3,100.
INT, 092° M rad, Akron VOR and 121° M rad, Youngstown VOR; Templeton INT, Pa.; 3,600.

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

Hoban INT, Tex.; Fort Stockton, Tex., VOR; *5,000. *4,400—MOCA.

Section 95.6255 *VOR Federal airway 255* is added to read:

Garden City, Kans., VORTAC; Hays, Kans., VORTAC; *4,600. *4,100—MOCA.

Section 95.6268 *VOR Federal airway 268* is amended to read in part:

Hagerstown, Md., VOR; Keymar INT, Md.; 5,100.
Keymar INT, Md.; Westminster, Md., VOR; 4,000.

Section 95.6276 *VOR Federal airway 276* is amended to read in part:

Cassville INT, N.J.; Manta INT, N.J.; *5,000. *2,000—MOCA.

Section 95.6287 *VOR Federal airway 287* is amended to read in part:

Mayfield INT, Wash.; Tono INT, Wash.; 5,000.
Tono INT, Wash.; Olympia, Wash., VOR; 4,000.

Section 95.6297 *VOR Federal airway 297* is amended to read in part:

East Brady INT, Pa.; INT, 092° M rad, Akron VOR and 121° M rad, Youngstown VOR; 3,600.
INT, 092° M rad, Akron VOR and 121° M rad, Youngstown VOR; Akron, Ohio, VOR; 3,100.

Section 95.6306 *VOR Federal airway 306* is amended to read in part:

Sheppard INT, Tex.; Daisetta, Tex., VOR; *1,700. *1,500—MOCA.

Section 95.6308 *VOR Federal airway 308* is amended to read in part:

Harbor INT, N.J.; Driftwood INT, N.J.; *5,000. *2,000—MOCA.
Driftwood INT, N.J.; Manta INT, N.J., *6,000. *2,000—MOCA.

From, To, and MEA

Section 95.6312 *VOR Federal airway 312* is amended to read in part:

Light House INT, N.J.; Driftwood INT, N.J.; *3,000. *2,000—MOCA.

Section 95.6433 *VOR Federal airway 433* is amended to read in part:

Washington, D.C., VOR; INT, 231° M rad, Baltimore VOR and 271° M rad, Kenton VOR; 2,000.
INT, 231° M rad, Baltimore VOR and 271° M rad, Kenton VOR; Swan Point INT, Md.; 3,000.

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

Cold Bay, Alaska, VOR; Black Hill INT, Alaska; *4,000. *3,400—MOCA.
Black Hill INT, Alaska; King Salmon, Alaska VOR; *14,000. *3,300—MOCA.

Section 95.6467 *VOR Federal airway 467* is amended to read in part:

Millville, N.J., VOR; INT, 047° M rad, Millville VOR and 222° M rad, LaGuardia VOR; 1,900.
INT, 047° M rad, Millville VOR and 222° M rad, LaGuardia VOR; LaGuardia, N.Y., VOR; *4,000. *2,700—MOCA.

Section 95.6477 *VOR Federal airway 477* is amended to read in part:

Humble, Tex., VOR via E alter.; Sheppard INT, Tex., via E alter.; *1,700. *1,500—MOCA.

Section 95.6489 *VOR Federal airway 489* is amended to read in part:

INT, 034° M rad, Sparta VOR and 250° M rad, Kingston VOR; Kingston, N.Y., VOR; 3,000.

Section 95.6536 *VOR Federal airway 536* is amended to read in part:

Heppner INT, Oreg.; Pendleton, Oreg., VOR; northeastbound 6,000; southwestbound 10,000.

Section 95.7042 *Jet Route No. 42* is amended to read in part:

From, To, MEA and MAA

Robbinsville, N.J., VORTAC; Hampton, N.Y., VORTAC; 18,000; 45,000.

Section 95.7134 *Jet Route No. 134* is amended to read in part:

Falmouth, Ky., VORTAC; Leon INT, W. Va.; 18,000; 45,000.
Leon INT, W. Va.; Front Royal, Va., VORTAC; 24,000; 45,000.

Section 95.7152 *Jet Route No. 152* is amended to read in part:

Rosewood, Ohio, VORTAC; Killbuck INT, Ohio; 18,000; 45,000.
Killbuck INT, Ohio; Harrisburg, Pa., VOR TAC; 30,000; 41,000.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

From, To—Changeover point: distance; from

V–54 is amended to read in part:
Hot Springs, Ark., VOR via N alter.; Little Rock, Ark., VOR via N alter.; 14; Hot Springs.

V–210 is amended by adding:
Alamosa, Colo., VORTAC; Lamar, Colo., VORTAC; 60; Alamosa.

From, To—Changeover Point: distance; from

Section 95.8005 *Jet routes changeover points:*

J–511 is amended by adding:
Gulkana, Alaska, VOR; United States-Canadian border; 55; Gulkana.

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

Issued in Washington, D.C., on March 20, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70–3692; Filed, Mar. 27, 1970; 8:45 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R–367; Order 396]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Temporary Service by Producers

MARCH 23, 1970.

Order amending § 157.28, regulations under Natural Gas Act, applications for certificates of public convenience and necessity by independent producers temporary authorization.

1. On September 23, 1969, the Commission issued a notice of proposed rulemaking in this proceeding (34 F.R. 15260, Sept. 30, 1969) proposing to amend § 157.28 of the regulations under the Natural Gas Act by eliminating the time period within which service must be commenced by natural gas producers under a temporary authorization. The Commission also proposed to revise the other provisions of § 157.28 to set them forth more clearly.

2. Comments were invited from interested persons to be submitted by November 7, 1969. In response to the notice, comments were received from six parties[1] including three producing companies and three pipeline companies.

3. Shell, Tennessee, Southern, and Transco generally supported the elimination of the time limitation with respect to the commencement of service under a temporary certificate. However, Mobil and Continental express the view that the proposed amendment would remove the incentive for expeditious construction of facilities by the pipeline purchaser,

[1] Continental Oil Company, Mobil Oil Company, Shell Oil Company, Tennessee Gas Pipeline Company, Southern Natural Gas Company and Transcontinental Gas Pipeline Corporation.

and they therefore recommend some limitation as to the time within which the purchaser must commence to take the gas or the temporary authority will terminate. Continental further recommends that temporary authorization should lapse if the seller or purchaser has not commenced actual construction of the necessary facilities within a given time.

It has been our experience that extensions of time under temporary authorizations have generally been required because of delays in pipeline construction, particularly in the offshore area. We shall, therefore, retain the time period for commencement of deliveries in the onshore areas, but shall provide a time period of 30 days after pipeline construction is completed for the offshore areas within the Federal Domain, including the disputed areas.

The amendment of § 157.28 does not relate to the time within which pipeline construction must be completed. This limitation will continue to be imposed under § 157.20(b) of our regulations. In the event of delay in pipeline construction without due cause, the producer may request the Commission to terminate its temporary authorization.

4. Transcontinental Gas Pipeline Corp. noted that a procedural problem could arise from the wording of paragraph (b), which as proposed would read, in part: "No temporary authorization under this section will be granted until * * * ". Transcontinental states that to "afford more flexibility and to avoid any unrealistic application of the regulation, it would seem preferable to revise the language to provide simply that 'no temporary authorization under this section will be effective until * * *'". We believe Transcontinental's point is well-taken, and will adopt the suggested change.

5. Tennessee Gas Pipeline Co., a division of Tenneco Inc., comments on the omission in the proposed § 157.28 of any reference to § 2.55(d) of the Commission's Statements of General Policy and Interpretations, which deals with the exclusion of line taps from those facilities for which certification is deemed necessary. However, that section stands independently of any reference made to it elsewhere in our rules and regulations, and the former reference to it in § 157.28 is unnecessary.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission, in writing, of data, views, comments, and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553, title 5 of the United States Code. Since the amendments prescribed herein relieve a restriction, compliance with the effective date requirements of 5 U.S.C. 553(d) is unnecessary.

(2) The amendments of § 157.28, regulations under the Natural Gas Act, herein prescribed, are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the amendment prescribed herein which was not included in the notice in this proceeding is of a minor nature, and consistant with the prime purpose of the proposed rulemaking herein, further notice thereof is unnecessary.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f and 717o) orders:

(A) Effective as of the date of issuance of this order, § 157.28, Regulations Under the Natural Gas Act, Subchapter E, Chapter I of Title 18 of the Code of Federal Regulations is amended to read as follows:

§ 157.28 Temporary authorizations.

Upon the filing of an application for a certificate of public convenience and necessity under §§ 157.23 to 157.27, and a rate schedule under §§ 154.91 through 154.102 of this chapter, an independent producer in the event of an emergency may request temporary authorization to initiate the sale or transportation of natural gas in interstate commerce pending final Commission action under sections 4 and 7 of the Natural Gas Act.

(a) As part of its application hereunder, or separately, the applicant independent producer must file, or have on file (1) a statement setting forth the facts constituting the emergency requiring such action, which emergency may include, inter alia: drainage, threatened loss of lease, flaring, economic hardship resulting from payment of shut-in royalties, or similar situations; (2) a statement identifying the contract tendered as the rate schedule intended to be effective for the sale or transportation under this temporary authorization; and (3) a statement describing, generally, the facilities necessary to enable the purchaser to take delivery of the gas proposed to be sold or transported.

(b) Any temporary certificate issued under this section will provide that service must commence within 90 days of the date of issuance thereof, except that for service from an offshore area, within the Federal domain or the disputed offshore area, service must commence within 30 days of the completion by the purchaser or transporter of construction of the facilities required to commence such service.

(c) The applicant may, within 30 days of the date of issuance, file in writing its acceptance or rejection of the temporary certificate. If accepted, the temporary certificate shall be effective upon the date of receipt of the acceptance by the Secretary. If no acceptance or rejection has been filed within said 30 days, the temporary certificate shall be deemed to have been accepted and shall be effective on that date. However, no temporary authorization under this section will be effective until such time as the purchaser or transporter of the natural gas to be sold thereunder is authorized under section 7 of the Natural Gas Act to construct and operate such facilities as may be necessary to receive and transport the gas.

(B) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-3746; Filed, Mar. 27, 1970; 8:47 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 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbofuran

A petition (PP 9F0829) was filed with the Food and Drug Administration by the FMC Corp., Niagara Chemical Division, 100 Niagara Street, Middleport, N.Y. 14105, proposing establishment of tolerances for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl *N*-methylcarbamate) and its metabolite 2,3-dihydro-2,2 - dimethyl - 3 - hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodities potatoes and sugarcane at 0.1 part per million. The petitioner subsequently withdrew the proposed tolerance regarding potatoes.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerance is being established.

Based on consideration given data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Since residues of the subject chemicals are not reasonably expected to occur in meat and milk from the proposed or established uses, tolerances regarding these items are unnecessary. The usage is in the category specified in § 120.6(a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.254 is amended by revising the paragraph "0.1 part per million * * *" to read as follows:

§ 120.254 Carbofuran; tolerances for residues.

* * * * *

0.1 part per million in or on corn grain and sugarcane.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: March 20, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3729; Filed, Mar. 27, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

TYLOSIN

The Commissioner of Food and Drugs, having evaluated data submitted in an application (13-162V) filed by Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe and effective use of tylosin in the feed of laying chickens for improved feed efficiency. Pending recodification of previously established regulations in Part 121 under regulations to be established under the provisions of section 512(i) of the Federal Food, Drug, and Cosmetic Act, this order is in accordance with § 3.517 *New animal drugs; transitional provisions re section 512 of the Act.*

Therefore, pursuant to provisions of the Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), § 121.217(d) is amended by adding a new item to table 3, as follows:

§ 121.217 Tylosin.

* * * * *

(d) * * *

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
8. Tylosin	20-50			For laying chickens	Improving feed efficiency.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: March 20, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3731; Filed, Mar. 27, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES; DEFOAMING AGENTS USED IN THE MANUFACTURE OF PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 0B2434) filed by FHC Corp., 633 Third Avenue, New York, N.Y. 10017, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of tributoxyethyl phosphate as a component of defoaming agents used in the manufacture of paper and paperboard and as a component of food-packaging adhesives. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended:

1. In § 121.2519(d)(3) by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2519 Defoaming agents used in the manufacture of paper and paperboard.

* * * * *

(d) * * *

(3) * * *

Tributoxyethyl phosphate.

* * * * *

2. In § 121.2520(c)(5) by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2520 Adhesives.

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
Tributoxyethyl phosphate	
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: March 18, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3730; Filed, Mar. 27, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Trichlorfon and Atropine

The Commissioner of Food and Drugs has evaluated a new animal drug application (35-650V) filed by Fort Dodge Laboratories, Division of American Home Products Corp., Fort Dodge, Iowa 50501, proposing the safe and effective use of a combination new animal drug containing trichlorfon and atropine for the treatment of *Syphacia obvelata* (pinworm) in laboratory mice. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 135c:

§ 135c.19 Trichlorfon and atropine.

(a) *Chemical name.* (1) For trichlorfon: *O,O*-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate.

(2) For atropine: Atropine N.F.

(b) *Sponsor.* Fort Dodge Laboratories, Division of American Home Products Corp., Fort Dodge, Iowa 50501.

(c) *Conditions of use.* (1) The drug is used for the treatment of *Syphacia obvelata* (pinworm) in laboratory mice.

(2) It is administered in distilled water as sole source of drinking water continuously for 7 to 14 days at 1.67 grams of trichlorfon and 7.7 milligrams of atropine per liter.

(3) Prepare fresh solution every 3 days. Do not use simultaneously with other drugs, insecticides, pesticides, or chemicals having cholinesterase activity, nor within 7 days before or after treatment with any other cholinesterase inhibitor.

(4) Restricted to use by or on the order of a licensed veterinarian.

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

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

Dated: March 20, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3732; Filed, Mar. 27, 1970; 8:46 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STADARDS, UNDERGROUND COAL MINES

Part 75—Mandatory Safety Standards, Underground Coal Mines, reading as set forth below, is added to Subchapter O of Chapter I, Title 30, Code of Federal Regulations. This part includes mandatory safety standards for underground coal mines which are set forth in title III of the Federal Coal Mine Health and Safety Act of 1969, other mandatory safety standards issued pursuant to that title and section 101(j) of the act, and interpretations and supplementary regulations. Because title III of the Federal Coal Mine Health and Safety Act of 1969 becomes effective on March 30, 1970, it is impracticable either to give notice of proposed rulemaking on, or to delay the effective date of, any of the provisions of the part. Part 75 shall become effective on March 30, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

Subpart A—General

Subpart B—Qualified and Certified Persons

Subpart C—Roof Support

Subpart D—Ventilation

AUTHORITY: The mandatory safety standards in this Part 75 either appear in, or are issued pursuant to, Title III of the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173; other sections in this part are issued pursuant to § 101(j) and § 508 of that Act.

NOTE: The provisions of this part marked [statutory Provision] appear in Title III of the Federal Coal Mine Health and Safety Act of 1969.

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 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 of this Part 75 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 "high 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) Until September 30, 1970, 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, 1970, no person shall be a qualified person for testing for methane unless he demonstrates to the satisfaction 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 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 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. Applications for temporary Secretarial qualification 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 2 years 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 2 years 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 2 years 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 2 years 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 September 1, 1970, operators shall submit to the Secretary a program for training and retraining persons whose work assignments require that they be certified or qualified. Such programs shall provide (a) for certified persons, annual training courses in methane measurement and oxygen deficiency testing, roof and rib control, ventilation, first aid, principals of mine rescue, and the provisions of this Part 75, and (b) for qualified persons, annual courses in first aid, in the provisions of this Part 75, and 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 suported 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 support systems. This program shall include a roof control plan, provision for the training of personnel, a history of all unintentional roof falls, and systematic evaluation of the effectiveness of the support systems 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. It is the responsibility of the operator to demonstrate in each case, the effectiveness of the plan based on past history of roof falls and inspections.

§ 75.200–3 Filing of roof control plans.

On or before April 20, 1970, roof control plans shall be filed with the District Manager of the Coal Mine Health and Safety District in which the mine is located to permit approval and institution of such plans before May 29, 1970.

§ 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.

§ 75.200–5 General information required in roof control plans.

A roof control plan shall include the following information:

(1) Name and address of the company.

(2) Name and address of the mine.

(3) Names and addresses of the responsible officials.

(4) Area of the mine covered by the roof control plan.

(5) A columnar section of the mine strata which shall:

(i) Show the name and thickness of the coalbed mined and any persistent partings.

(ii) 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.

(iii) Show the maximum cover over the mining area covered included in the roof control plan.

(6) A description of the sequence of mining and installation of supports including temporary supports. The description shall include:

(i) 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 be 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.

(ii) 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 tested.

§ 75.200–6 Criteria for roof control plans.

Sections 75.200–7 through 75.200–12 set out the criteria by which District Managers will be guided in approving roof control plans. These criteria relate to normal conditions of roof, face, and ribs. Abnormal conditions will require additional measures. Roof control plans which do not conform to these criteria may be approved providing the operator can show that the resultant roof conditions will not pose a hazard to the miner.

§ 75.200–7 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 shall meet the following specifications:

(1) All components of the roof bolt assembly shall 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 shall be of a length that assures adequate anchorage, but in no case shall 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 shall be of a length that permits anchoring at least 12 inches in the stronger strata.

(4) Bearing plates used directly against the mine roof shall 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 shall be limited to short life openings (not to exceed 3 years) unless treated. Bearing plates used in conjunction with wooden materials shall be not less than 4 inches square or of equivalent area.

(6) When washers are used, the shape of such washers shall conform to the shape of roof bolt head and the shape of the bearing plate and such washers shall be of sufficient strength to withstand loads up to the yield point of the roof bolt.

(b) Installation practices:

(1) Finishing bits shall be easily identifiable by sight or feel and the diameter shall 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 shall 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, shall 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 shall outline and describe roof bolt testing procedures to be followed in the roof control plan. The procedures to be followed shall include:

(i) Providing and maintaining an approved, calibrated torque wrench on each roof bolting machine. An approved wrench shall 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 shall 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 shall 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 shall 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 shall 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 shall be installed until a review of the adequacy of the roof control plan is made by an authorized representative of the Secretary.

(4) Devices shall 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 shall not exceed 5 feet.

(2) Roof bolts shall be installed as close as possible to, but not more than 5 feet from, the rib before a sidecut is started.

(3) Roof bolts shall 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 shall not exceed 20 feet in width where roof bolting is the sole means of roof support.

§ 75.200–8 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 shall meet the following specifications:

(1) Posts shall 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 shall not be less than one inch for each 15 inches of length, but in no case shall the diameter be less than 4 inches; split posts shall have a cross-sectional area equal to that required for round posts of equivalent length.

(3) Wooden cap blocks and footers shall have flat paralleled sides and be not less than 2 inches thick, 4 inches wide, and 12 inches long.

(4) Wooden crossbars and planks shall be straight and of solid wood. Crossbars shall have a minimum cross-sectional area of 24 square inches and the minimum thickness shall be 3 inches. Planks shall have a minimum cross-sectional area of 8 square inches and a minimum thickness of 1 inch.

(5) Cribbing material shall be of wood having parallel flat sides. In no case shall the crib be less than 30 inches square.

(b) Installation practices:

(1) No more than two wooden wedges shall be used to install a post.

(2) Posts shall 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 shall be installed tight and on solid footing.

(4) Blocks used for lagging between the roof and wooden crossbars, planks, or metal bars shall be spaced so that the load on the supports will be equally distributed.

(5) Cap blocks shall be used between jacks and the roof.

(c) Conventional support pattern:

(1) Spacing of roadway roof supports shall not exceed 5 feet.

(2) Width of roadways shall not exceed 14 feet on the straight and 16 feet on the curves.

(3) Roof supports shall 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 shall be supported by extending the post line across the opening.

(d) Openings shall not exceed 20 feet in width where the roof is supported solely by conventional means.

§ 75.200–9 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 shall apply with the following modifications:

(a) Any place being driven over 20 feet in width shall be supported by a Combination Roof Control Plan.

(b) The roadway shall 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 shall be set for each 5 feet of space between the roadway posts and the ribs.

(d) Openings shall not exceed 30 feet in width.

§ 75.200–10 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 shall apply. In addition, roof bolts shall be installed in accordance with roof conditions, but in no case shall spacing exceed 4 feet lengthwise and crosswise. Roof bolting shall begin under sound roof and continue for the length of the adverse roof condition until sound roof is again encountered.

§ 75.200–11 Pillar recovery plan.

Any reduction in pillar size during second mining shall be considered pillar recovery. The following criteria are applicable to pillar recovery roof control plans:

(a) Sections 75.200–7, 75.200–8, and 75.200–9 shall 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 shall be dictated by the depth of cover, height of coal and other conditions associated with the coalbed. The smallest dimension of the pillar shall be no less than 20 feet.

(c) Pillar splits and lifts shall not exceed 20 feet in width.

(d) A minimum of two rows of breaker posts or the equivalent shall be installed on not more than 4-foot centers across each opening leading into pillared areas and such posts shall be installed before production is started. Such posts shall be installed near the breakline between the lift being started and the gob.

(e) A row of roadside-radius (turn) posts or the equivalent shall 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) shall not exceed 14 feet. At least two rows of posts or their equivalent shall 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) shall 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 shall be installed. Supplementary supports shall 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 shall 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 shall apply to open end pillaring:

(1) At least two rows of breaker posts or their equivalent shall be installed between the lift being started and the gob on not more than 4-foot centers before the initial cut is made and shall be extended to within 7 feet of the face. The width of the roadway shall not exceed 14 feet.

(2) If the roof in open end pillaring has a tendency to hang, falls shall be made, or cribs installed in addition to the breakline posts between the active lift and the hanging area. The cribs shall 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 Special roof control plan.

A special roof control plan shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 § 75.200–12(a) (2) and (3) shall be considered as having unsupported roof and such roof shall have artificial roof supports installed prior to any other work being performed in the area.

(b) The following criteria shall 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 shall 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 shall 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 shall be supplemented with a wooden plank at least 3 inches thick by 8 inches wide or its equivalent. Roof bolts shall not be installed more than 10 feet apart.

(2) Work in intersections, pillar splits, or other such places shall not be started until additional support has been installed where the roof is supported with only two roof bolts crosswise. Such support shall reduce bolt spacing to maximum of 5 feet.

(3) The maximum opening width where the roof is supported by only two roof bolts crosswise shall be 16 feet.

(4) The distance between the last row of bolts and the face shall 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 shall be demonstrated by experimental installations in areas approved by an authorized representative of the Secretary.

§ 75.200–13 Temporary support.

(a) The following criteria shall apply to the installation of temporary supports in faces:

(1) In areas where permanent artificial support is required temporary support shall be used until such permanent support is installed.

(2) Only those persons engaged in installing temporary support shall be allowed to proceed beyond the last permanent support until such temporary supports are installed.

(3) A minimum of two temporary supports shall 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 shall 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 shall 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 shall be installed and the following criteria shall 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 shall 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 shall not exceed 5 feet.

(2) Tools used to take down loose material shall 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 shall 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 shall be located so as to provide the maximum protection for persons working in the area.

§ 75.200–14 Roof support recovery.

Any operator who intends to recover roof supports shall include a detailed plan for such recovery in the roof control plan. The following criteria shall apply to recovery procedures:

(a) Recovery shall be done only under the direct supervision of a mine foreman, assistant mine foreman, or section foreman.

(b) Only experienced miners shall be assigned to such work.

(c) The person supervising recovery shall make a careful examination and evaluation of the roof and designate each support to be recovered.

(d) Supports shall not be recovered in the following areas:

(1) Where roof fractures are present or there are other indications of the roof being structually 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, shall be set across the place, beginning not more than 4 feet inby the support being recovered. In addition, at least one temporary support shall be provided as close as practicable to the support being recovered.

(f) Temporary supports used shall 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 shall be permitted to enter any area from which supports have been recovered.

(h) Entrances to the areas from which supports are being recovered shall 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 shall 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 and shall meet the criteria set forth in § 75.200.

(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.

The criteria set forth in § 75.200–11 shall apply to pillar recovery methods. In addition:

(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.

All installed roof bolts shall be tested in accordance with the procedures set forth in § 75.200–7(b)(3) (ii) and (iii) to determine that they are properly installed and maintain adequate anchorage.

§ 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. Abnormal conditions will require additional measures. Installation and operating practices not conforming to these criteria may be approved, providing the operator can show that the results of such practices will not pose a hazard to the miners.

§ 75.300–2 Installation of main fans.

(a) Main fans shall 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 shall 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 shall 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 shall 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 connecting entry shall 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 aircourses to the surface. The surface opening of the fan entry shall be no less than 15 feet nor more than 100 feet from the surface opening of the connected mine aircourse (pressure relief entry). The pressure relief entry opening shall 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 shall have a cross-sectional area equal to or greater than the pressure relief entry and cross-sectional area of the pressure relief entry shall not be less than that of the fan entry. The underground intersection of the fan entry and pressure relief entry shall 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 shall, regardless of coalbed 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 shall be provided with a separate power circuit independent of any other mine circuit.

(2) When an internal combustion engine is used the engine shall be installed in a fireproof housing, located so as to be protected from possible fuel supply fire or explosions and the engine and exhaust shall 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 shall 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 shall 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 shall be kept free of flammable material for at least 100 feet in all directions.

§ 75.300–3 Operation of main fan.

(a) All main fans shall 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) Written permission 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 shall be notified immediately and appropriate action or repairs shall be instituted promptly.

(c) Airflow shall be maintained in all intake and return aircourses of a mine. Where multiple fans are used, neutral areas (areas without perceptible air movement) created by pressure equalization between main fans shall 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 for 1 year and such records and charts shall be made available for inspection by interested persons.

§ 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 Methane content in the air.

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 such air shall contain less than 1.0 volume per centum of methane.

§ 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 aircourses. 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 aircourses 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 aircourses 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 construed 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.

§ 75.302 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 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 free of any obstructions such as supplies, equipment or debris, 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 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 § 75.303) shall enter any underground area, except during any shift, unless an examination of such area as prescribed in § 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.

§ 75.304 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 § 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 Tests for methane.

Tests for methane content in the air in all working places shall be made at least 3 times, not less than 2 hours apart, during each coal-producing shift and a record shall be kept of such tests. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 § 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. On and after December 31, 1970 a methane detector approved by the Secretary shall be used for such tests.

§ 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 § 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 § 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 abondoned 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 § 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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.

§ 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.

§ 75.314 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 Approval of ventilation system and methane and dust control plan.

This section sets forth the criteria by which District Managers will be guided in approving a ventilation system and dust control plan. Abnormal conditions will require additional measures. A ventilation system and dust control plan not conforming to these criteria may be approved, providing the operator can show that the resulting ventilation system and dust control plan will not pose a hazard to the miners.

(a) In mines using multiple main fans, the ventilation system shall 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 shall be constructed of solid, substantial, incombustible material, such as concrete, concrete blocks, brick, or tile, or the equivalent. In heavy or caving areas, timbers laid longitudinally "skin to skin" may be used. Such permanent stoppings shall be erected between the intake and return aircourses in entries and shall be maintained to and including the third connecting crosscut outby the faces of the entries. Permanent stoppings shall be used to separate belt haulage entries from entries used as intake and return aircourses.

(c) A crosscut shall 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) shall not exceed 2.0 volume per centum.

(1) Test for methane,. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

(e) Bleeder entries, bleeder systems, or equivalent means shall 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, shall 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 shall 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 shall extend from active pillar line of such gob to the intersecton 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, shall 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 shall 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 shall 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 shall be adequate to indicate that the bleeder system is functioning as specified in § 75.316–2(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 shall be made during idle shifts with power cut off from the affected area. Due precaution shall be taken so as not to endanger any other area of the mine and suitable examinations for methane shall be made at the edges of the pillar line 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 shall at all times be adequate to insure gob gas drainage to the bleeder entries. The pressure differential shall be considered adequate when perceptible airflow 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 shall not exceed 2.0 volume per centum and such concentration shall be representative of the actual concentration of methane in the bleeder split undiluted by another air current leaking or intentionally short circuited to the bleeder entry outby the pillared area.

(i) When the return aircourses form 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 aircourses and the gob shall be considered as bleeder entries and the concentration of methane shall 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.

§ 75.317–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make

tests for methane. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests.

§ 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 an 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 are 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.

§ 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.

"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 aircourses 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 Aircourses 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.

The velocity of the air current in trolley haulage entries shall be limited to not more than 250 feet a minute unless a higher air velocity is required to limit the methane content in such haulage entries to less than 1.0 volume 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 sealed by December 30, 1970, except for those coal mines in which ventilation can be maintained so as to continuously dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from hazards of such methane and other explosive gases, the operator may 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.

All explosion-proof seals or bulkheads required by § 75.329 shall be constructed to withstand an explosion force of 50 pounds per square inch when exerted on either side of such seal or bulkhead.

§ 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 withstand an explosion force of 50 pounds per square inch when exerted on either side of such seal or bulkhead. 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 either a health or 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.

§ 75.404 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.

§ 75.501 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 such other low horsepower electric face equipment designated by the Secretary on or before May 30, 1970, which are 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 PROVISION]

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.

§ 75.504 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 motor-driven mine equipment and accessories which are acquired on or after March 30, 1970, will be permissible electric face equipment only (1) if they are approved under Bureau of Mines Schedule 2G (Part 18 of this chapter) and (2) if they are in permissible condition.

(b) Except as provided in paragraph (c) of this section, electric motor-driven mine equipment and accessories which were acquired before March 30, 1970, will be permissible electric face equipment only (1) if they have been approved under the Bureau of Mines schedule which is listed in this paragraph (b) and which was in force at the time of the acquisition or under a later schedule and (2) if they are in permissible condition. The Bureau of Mines schedules referred to and the dates issued are:

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 motor-driven mine equipment and accessories bearing the Bureau of Mines approval numbers listed in Appendix A to this subpart will be permissible electric face equipment only if they are in 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 for such equipment listed in this paragraph (d) 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 Mine Schedule 8C, October 31, 1935 (Part 22);
Telephones and Signaling Devices, Bureau of Mines Schedule 9B, October 25, 1938 (Part 23);
Single Shot Blasting Units, Bureau of Mines Schedule 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 work day following completion of such changes.

§ 75.509 Electric power circuit and electric equipment; deenergization.

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.

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.

§ 75.517 Power wires and cable; insulation and protection.

[STATUTORY PROVISION]

Power wires and cables, except trolley wires, trolley feeder wires, and bare signal wires, shall be insulated adequately and fully protected.

§ 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 electric equipment and circuits against short circuit and overloads. Three-phase motors an 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.

§ 75.519 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 such lamps are used in places other than track entries or belt entries, each lighting fixture which includes an incandescent lamp must be of substantial construction and be fitted with a glass enclosure. When incandescent lamps are used in a track entry or belt entry, 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.

(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.

§ 75.523–1 Deenergization of battery powered tractors; emergency devices.

On and after September 30, 1970, authorized representatives of the Secretary shall require manually operated emergency stop switches, designed to deenergize the traction motor circuit when the contactors or controller fail to open, to be installed on all battery powered tractors, taken into or used inby the last open crosscut of any entry or room.

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, 2C, 2D, and 2E)

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.

COAL DRILLS AND DRILLING MACHINES—Con.

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.

Track-Mounted Type

127	July 16, 1926.
127A	September 23, 1927.
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 19, 1934.
390A	March 23, 1934.

SHAKER TYPE

247	October 21, 1932.
257A	August 11, 1933.
262A	December 8, 1933.
271	May 20, 1935.

POWER UNITS FOR CONVEYORS—Continued
SHAKER TYPE—Continued

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.

MINING MACHINES, MACHINERY-MOVING EQUIPMENT, MISCELLANEOUS TRUCKS, AND WATER SPRAY SUPPLY UNITS—Continued
MINING MACHINES—Continued

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 29, 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.

STORAGE—BATTERY LOCOMOTIVES AND POWER TRUCKS—Continued
GATHERING LOCOMOTIVES—continued

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.

§ 75.602 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.

§ 75.605 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 water lines 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 water lines 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 110–200-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 ensures 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 offtrack 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 has 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 undervoltage, 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 (AWG) 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 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 aircourses 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 trolly 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 tranformers 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 eact 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 risistor 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 non-compliance.

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 than 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 trolly 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.

Each coal mine shall be provided with suitable firefighting equipment adapted for the size and condition 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) Water lines: Water lines 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: A portable foam-generating machine 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 at least 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 Laboratories, 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 be of the multipurpose dry chemical type.

§ 75.1100–2 Quantity and location of firefighting equipment.

(a) *Working sections.* (1) Each working section in every coal mine shall be provided with two portable fire extinguishers and 240 pounds of bagged rock dust.

(2) In mines producing more than 100 tons of coal per shift, water lines 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.

(b) *Belt conveyors.* Waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with fire hose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry. One hundred and fifty feet of rubber lined fire hose or the equivalent shall be provided at each fire hose outlet.

(c) *Haulage tracks.* 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 1,000 feet of fire hose 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.

(d) *Transportation.* Each track or off-track locomotive, self-propelled mantrip car, or personnel carrier shall be equipped with one portable fire extinguisher.

(e) *Electrical installations.* (1) Two portable fire extinguishers 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.* At each mine 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 8d nails.
25 pounds of 10d nails.
25 pounds of 16d 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.

§ 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 six 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. Where sprays or foam generators are used they shall supply a sufficient quantity of water or foam to control fires.

§ 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 water line 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 belt conveyor.

§ 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. 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.

§ 75.1101–4 Branch lines.

As part of the deluge-type water spray system, two branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet. Two nozzles, one in each branch line, shall be so adjusted in height so as to allow a discharge of water on both upper and bottom surfaces of the top belt and to the upper surface of the bottom belt.

§ 75.1101–5 Foam generator system.

A foam generator system may be used as an alternative to the water deluge system.

§ 75.1101–6 Installation of foam generator system.

Foam generator systems shall be located so as to discharge foam to the belt drum and motor within 30 seconds. For a fire-resistant belt installation, the foam generator rate shall be such as to fully cover the 50-feet of conveyor belt and drive unit adjacent to the belt drive in 5 minutes. For a nonfire-resistant belt installation, the foam generation rate shall be such as to fully cover the 150-feet of conveyor belt and drive unit adjacent to the belt drive in 5 minutes.

§ 75.1101–7 Automatic operations.

Deluge-type water sprays or foam generators installed as required under section 75.1101 shall be of a type that shall insure delivery of water or foam within 30 seconds after a temperature of not more than 130° F. above ambient is maintained for 30 seconds. Water, power, and chemicals required shall be adequate to maintain water or foam flow for no less than 25 minutes.

§ 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 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 by persons in the affected area.

§ 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 of 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. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests. 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 2 G) meet the requirements of § 75.1108.

Subpart M—Maps

§ 75.1200 Mine map.

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 pillarded, 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 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) Not less than two entries 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. 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 responsibilities 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.

§ 75.1304 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 by a person riding the top of the cage, elevator or other devices down and up the shaft. The examiner riding the cage shall wear a safety belt or other adequate safety guards shall be provided and the cage, elevator or other conveyance shall be operated at a safe speed.

§ 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 al litems 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 affects 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.

(a) The sections in the § 75.1403 series in this Subpart O describe safeguards that are required to minimize commonly recognized hazards with respect to the transportation of men and materials. Authorized representatives of the Secretary shall be guided by these sections in requiring the provision of safeguards under § 75.1403.

(b) An authorized representative of the Secretary shall in writing advise the operator of a specific safeguard to be provided pursuant to § 75.1403 and shall fix a time within which the safeguard shall be provided. If the safeguard is not provided within the time fixed, a notice shall be issued to the operator pursuant to § 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 Hoists transporting materials; brakes.

Hoists and elevators used to transport materials shall 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 Drum clutch; attachment of ropes; cage construction.

(a) The clutch of free-drums on manhoist shall 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 shall 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 shall have at least three full turns on the drum when extended to its maximum working length and shall 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 shall be constructed with the sides enclosed to a height of at least 6 feet and shall 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 shall have a locking device to prevent tilting when men are transported thereon.

(f) An attendant shall be on duty at the surface when men are being hoisted or lowered at the beginning and end of each operating shift.

(g) Precautions shall be taken to protect persons working in shaft sumps.

(h) Workmen shall wear safety belts while doing work in or over shafts.

§ 75.1403–4 Automatic elevators.

(a) The doors of automatic elevators shall 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 shall 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 shall be used 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 shall be provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

§ 75.1403–5 Belt conveyors.

(a) Positive-acting stop controls shall be installed along all belt conveyors used to transport men, and such controls shall 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 shall be stopped while men are loading or unloading.

(c) All belt conveyors used for the transportation of persons shall have a

minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there shall 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 shall not exceed 300 feet per minute when the vertical clearance is less than 24 inches, and shall not exceed 350 feet per minute when the vertical clearance is 24 inches or more.

(e) Adequate illumination including colored lights or reflective signs shall be installed at all loading and unloading stations. Such colored lights and reflective signs shall 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 shall be examined for unsafe conditions prior to the transportation of men on regularly scheduled mantrips, and belt conveyors shall be clear before men are transported.

(g) A clear travelway at least 24 inches wide shall 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 shall 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 shall be installed at intervals not to exceed 1,000 feet. Such controls shall be properly installed and positioned so as to be readily accessible.

(i) Telephone or other suitable communications shall be provided at points where men or supplies are regularly loaded on or unloaded from the belt conveyors.

(j) Persons shall not cross moving belt conveyors, except where suitable crossing facilities are provided.

§ 75.1403–6 Self-propelled personnel carriers.

Each self-propelled personnel carrier shall:

(a) Be provided with an audible warning device;

(b) Be provided with a sealed-beam headlight, or its equivalent, on each end;

(c) Be provided with a suitable lifting jack and bar, which shall be secured or carried in a tool compartment;

(d) Be equipped with two separate and independent braking systems properly installed and well maintained;

(e) Be equipped with properly installed and well maintained sanding devices, except that personnel carriers (jitneys) which transport not more than five men need not be equipped with such sanding devices;

(f) Be provided with approved-type reflectors on both ends and sides;

(g) 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 Mantrips.

(a) Mantrips shall be operated independently of any loaded trip, empty trip, or supply trip and shall not be operated within 300 feet of any trip, including another mantrip.

(b) A sufficient number of mantrip cars shall be provided to prevent overcrowding of men.

(c) Mantrips shall not be pushed.

(d) Where mantrips are operated by locomotives on slopes such mantrips shall 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 shall be connected by chains, steel ropes, or other effective devices between mantrip cars and the rope.

(e) Safety goggles or eyeshields shall be worn by all persons while being transported in open-type mantrips.

(f) All trips, including trailers and sleds, shall be operated at speeds consistent with conditions and the equipment used, and shall be so controlled that they can be stopped within the limits of visibility.

(g) All mantrips shall be under the direction of a supervisor and the operator of each mantrip shall be familiar with the haulage safety rules and regulations.

(h) Men shall proceed in an orderly manner to and from mantrips and no person shall be permitted to get on or off a moving mantrip.

(i) Explosives and detonators shall not be permitted on any mantrip or hauled within 5 minutes before or after any mantrip.

(j) Mantrips shall 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, shall not be transported with men.

(l) At places where men enter or leave mantrip conveyances, ample clearance shall be provided and provisions made to prevent persons from coming in contact with energized electric circuits.

(m) The mine car next to the locomotive shall 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 shall have the bottoms secured with an additional locking device.

(o) Extraneous materials or supplies shall 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 Track haulage roads.

(a) The speed at which haulage equipment is operated shall 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 shall 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 shall be provided on both sides for a distance of not less than 100 feet and warning signs shall be posted at such locations.

(c) Track haulage roads developed after March 30, 1970, shall have clearance on the "type" side of at least 12 inches from the farthest projection of normal traffic. A minimum clearance of 6 inches shall 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 shall be kept free of loose rock, supplies, and other loose materials.

(e) Positive stopblocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines.

§ 75.1403–9 Shelter holes.

(a) Shelter holes shall 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 shall be readily accessible and shall 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 shall be kept free of refuse and other obstructions. Crosscuts used as shelter holes shall be kept free of refuse or other materials to a depth of at least 15 feet.

(d) Shelter holes shall 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 shall be provided.

§ 75.1403–10 Haulage; general.

(a) A permissible trip light or other approved device such as reflectors, approved by the Coal Mine Safety District Manager(s), shall 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 shall not be pushed, except where necessary to push cars from sidetracks 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 shall 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, shall ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. No person shall ride on any loaded car on 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 shall be used where necessary to protect persons from danger of runaway haulage equipment.

(f) An audible warning shall 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 shall 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 shall be provided for all rubber-tired haulage equipment where such equipment is used.

(i) Off-track haulage roadways shall 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 shall face in the direction of travel.

(k) Mechanical steering and control devices shall be maintained so as to provide positive control at all times.

(l) All self-propelled rubber-tired haulage equipment shall 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 shall be designed to provide automatic return to the stop or off position when released.

§ 75.1403–11 Entrances to shafts and slopes.

All open entrances to shafts shall be equipped with safety gates at the top and at each landing. Such gates shall be self-closing and shall 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.

§ 75.1405 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 haulage cars.

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 that 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°. 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 flood water. 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 Coal Mine Safety 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 show 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 coal bed is less than 5 feet, escapeways shall be maintained at a height of at least 5 feet (excluding necessary roof support) and the travelway in such escapeway shall be maintained at a width of at least 6 feet. In those situations where the height of the coal bed is less than 5 feet the ecapeway shall be maintained to the height of the coal bed (excluding any necessary roof support) and the travelway in such escapeways shall 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.

(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° 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° 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 tesed 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.

§ 75.1709 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.

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 Bath houses 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.

§ 75.1713 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 Emergency medical assistance; first aid; minimum requirements.

(a) On or before May 30, 1970, each operator shall have agreements with a physician or a medical service, and an ambulance service to insure assistance when required. Where the location of a mine or the condition of roads may prevent a commercial ambulance from reaching the mine portal, the operator shall have at the mine at least one properly constructed stretcher for each active working section and at other strategic locations underground.

(b) The telephone numbers of available physicians and ambulance services shall be posted at appropriate places.

(c) On or before May 30, 1970, each operator shall file with the Coal Mine Safety District Manager in the District in which the mine is located a plan which shows the manner in which the requirements of §§ 75.1713 and 75.1713–1 have been met.

§ 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.

(a) 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 than 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.

Subpart S—Approved Books and Records [Reserved]

NOTE: The following sections of Part 75 require that records of examinations or inspections be kept in books approved by the Secretary:

Sections 75.300, 75.300–4, daily and monthly examinations of ventilation equipment,

Section 75.200–7(b)(3)(iii) spot checks of roof bolts,

Sections 75.303, 75.304, 75.304–2, 75.309, 75.309–4, 75.324, preshift, on shift and daily examinations for hazardous conditions,

Sections 75.305, 75.306, 75.316–2(f), weekly examinations for methane and hazardous conditions,

Sections 75.313–1, 75.512, 75.512–2, 75.703–3(d)(11), 75.812, 75.812–2, 75.900, 75.900–3, 75.900–4, examinations of electrical equipment,

Sections 75.800, 75.800–3, 75.800–4, monthly examinations of surface high-voltage circuit breakers,

Sections 75.1400, 75.1400–2, 75.1400–3, 75.1400–4, 75.1401–3, 75.1402–2, inspections of hoisting equipment,

Sections 75.1702, 75.1704, 75.1708, examinations for smokers' articles, emergency escapeways and facilities, firedoors.

Regulations on approved record books will be issued shortly. Such books will be available from commercial sources, and sample copies will be available at the headquarters office of the Bureau of Mines in Washington, D.C., and at District and Subdistrict offices of the Coal Mine Safety Districts.

Until such books are available, records may be kept in any book which meets the approval of an authorized representative of the Secretary.

[F.R. Doc. 70–3839; Filed, Mar. 27, 1970; 8:50 a.m.]

Chapter III—Board of Mine Operations Appeals, Department of the Interior

COAL MINE HEALTH AND SAFETY—APPEALS

Chapter III, Board of Mine Operations Appeals, Department of the Interior, is established in Title 30, Code of Federal Regulations, and Parts 300 and 301, reading as set forth below, are added thereto. Parts 300 and 301 describe the organization, function, and procedures of the Board of Mine Operations Appeals in the Department of the Interior, which will perform the review functions provided in the Federal Coal Mine Health and Safety Act of 1969. As title III of this Act becomes effective on March 30, 1970, it is necessary that these parts become effective upon their publication in the FEDERAL REGISTER.

MITCHELL MELICH,
Acting Secretary of the Interior.

MARCH 25, 1970.

PART 300—ORGANIZATION

Sec.
300.1 Jurisdiction.
300.2 Power of Secretary.
300.3 Constituency of Board.

AUTHORITY: The provisions of this Part 300 issued under sec. 508, Public Law 91–173; 83 Stat. 803.

§ 300.1 Jurisdiction.

There is delegated to the Board of Mine Operations Appeals the authority of the Secretary of the Interior to hear, consider and determine under the Federal Coal Mine Health and Safety Act of 1969:

(a) Applications for review of (1) orders prohibiting entry into mines; (2) notices fixing a time for abatement of violations of mandatory health or safety standards; (3) discharge or acts of discrimination for invoking rights under the Act;

(b) Assessment of civil penalties for violation of mandatory health or safety standards or other provisions of the Act;

(c) Applications for temporary relief in appropriate cases;

(d) Petitions for modification of mandatory safety standards; and

(e) Such other matters within the provisions of the Act which may be subject to review by the Secretary.

§ 300.2 Power of Secretary.

Nothing in this part shall be construed to deprive the Secretary of any power conferred upon him by the Act or by other law.

§ 300.3 Constituency of Board.

The Board shall consist of three or more members appointed by the Secretary, one of whom shall be designated Chairman. The Chairman may direct that an appeal be decided by a panel of any two members of the Board, but if they are unable to agree upon a decision, the Chairman may assign one additional member to the panel to consider the appeal. When an appeal is considered by three members of the Board, the concurrence of a majority shall be conclusive. All decisions will be signed by at least two members.

PART 301—PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Subpart A—General

Sec.
301.1 Construction of rules.
301.2 Definitions.
301.3 Parties—practice before the Board.
301.4 Documents.
301.5 Computation of time.
301.6 Service generally.
301.7 Standards of conduct.
301.8 Motions.

Subpart B—Application for Review of Orders and Notices

301.10 Who may file.
301.11 When to file.
301.12 Form of application.
301.13 Service.
301.14 Answer.
301.15 Application for temporary relief.

Subpart C—Review of Notices Under Section 104(b)

301.20 How initiated.
301.21 Answer.

Subpart D—Petition for Modification of Mandatory Safety Standards

301.30 Who may file.
301.31 Form of petition.
301.32 Service.
301.33 Answer.

Subpart E—Application for Compensation or for Review of Discharge or Acts of Discrimination

301.40 Who may file.
301.41 When to file.
301.42 Form of application.
301.43 Service.
301.44 Answer.

Subpart F—Assessment of Penalties

301.50 How initiated; schedule of payments.
301.51 Notice to mine operator or miner.
301.52 Answer.
301.53 Penalties.

Subpart G—Hearings

301.60 Hearings to be conducted by Examiners.
301.61 Assignment of Examiners.
301.62 Powers of Hearing Examiners.
301.63 Depositions.
301.64 Interrogatories to parties; production of documents; admission of facts.
301.65 Prehearing conference.
301.66 Notice of hearing.
301.67 Subpoenas; witness fees.
301.68 Burden of proof.
301.69 Evidence.
301.70 Record.
301.71 Copies of papers.
301.72 Proposed findings, conclusions and orders.
301.73 Initial decisions.
301.74 Effect of initial decision.

Subpart H—Appeals to the Board

301.80 Notice of appeal.
301.81 Briefs.
301.82 Oral argument.
301.83 Decisions.
301.84 Interlocutory appeals.

AUTHORITY: The provisions of this Part 301 issued under sec. 508, Public Law 91–173; 83 Stat. 803.

Subpart A—General

§ 301.1 Construction of rules.

The rules in this part shall be construed to secure the just, prompt and inexpensive determination of all proceedings.

§ 301.2 Definitions.

As used in this part:

(a) The term "Act" means the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173.

(b) The terms "Secretary," "operator," "person," "agent," "miner," "coal mine," "imminent danger," and "mandatory health or safety standard," have the meanings set forth in section 3 of the Act.

(c) The term "order" means an order issued under section 104 of the Act which requires an operator of a mine or his agent to cause immediately all persons, except those referred to in subsection (d) of section 104, to be withdrawn from and to be prohibited from entering the area of the mine throughout which an imminent danger exists.

(d) The term "notice" means a notice issued under subsection (b) of section 104 of the Act which requires an operator of a mine or his agent to abate a violation of any mandatory health or safety standard which has not created an imminent danger.

(e) The term "Bureau" means the Bureau of Mines.

(f) The term "Board" means the Board of Mine Operations Appeals of the Department of the Interior.

(g) The term "Examiner" means a hearing examiner appointed under section 3105 of title 5 of the United States Code who is authorized to hold hearings.

(h) The term "Solicitor" means the Solicitor of the Department of the Interior or his delegate.

§ 301.3 Parties—practice before the Board.

(a) An individual may represent himself in proceedings before the Board or the Examiner. A partnership, corporation or association may be represented by a member or officer thereof.

(b) A party may be represented by an attorney who is admitted to practice before any Federal court or the highest court of any State or territory of the

United States. Each attorney representing a party shall enter his appearance with the Board or the Examiner.

(c) Any person appearing in a representative capacity may be required to establish his authority to act in such capacity.

(d) Every individual who wishes to practice before the Board or an Examiner must comply with the rules of practice before the Department of the Interior set Forth in Part 1, Subtitle A of Title 43, Code of Federal Regulations.

§ 301.4 Documents.

(a) *Filing of documents.* A document is filed in the office where the filing is required only when the document is received in that office during the office hours when filing is permitted and the document is received by a person authorized to receive it.

(b) *Where to file.* Each application, petition, or other document to be filed with the Board shall be filed at its offices at the Department of the Interior, Washington, D.C. 20240.

§ 301.5 Computation of time.

(a) *Computation.* Except as otherwise provided by law, in computing any period of time prescribed or allowed by any rule, regulation, notice, or order of the Board or Examiner, or by any applicable statute, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When a period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays and other nonbusiness days shall be excluded in the computation.

(b) *Enlargement.* When by the rules in this part or by notice given thereof, an act is required or allowed to be done at or within a specified time, the Board (or the Examiner), for causes shown, may at any time in its discretion order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order. In no event may the time prescribed in the Act be enlarged except to the extent and under the conditions stated in the Act.

(c) *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

§ 301.6 Service generally.

(a) Copies of all initial applications and petitions shall be served personally or by registered mail or certified mail, return receipt requested, on the persons specified in the rules in this part.

(b) Copies of all subsequent papers filed with the Board or the Examiner shall be served personally or by mail on all other parties to the proceedings. Whenever a party is represented by an attorney, service shall be made upon the attorney.

(c) A certificate of service shall accompany each document filed.

(d) Service by mail is complete upon mailing.

§ 301.7 Standards of conduct.

(a) There shall be no communication between any party and a Board member or Examiner concerning the merits of a proceeding, unless such communication (if written) is also furnished to the other party, or (if oral) is made in the presence of the other party.

(b) An Examiner or Board member shall withdraw from a case if he deems himself disqualified under the recognized canons of judicial ethics. If, prior to the initial decision, there is filed in good faith an affidavit of personal bias or disqualification with substantiating facts and the Examiner does not withdraw, the Board will determine the matter. The Board will not otherwise consider any claim of bias or disqualification. The Board, in its discretion, may order a hearing on a charge of bias or disqualification.

§ 301.8 Motions.

Each motion filed with the Board or Examiner during the pendency of any proceeding shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A statement in opposition to the motion may be filed by any party within 10 days after the date of service. Unless requested by the Board or the Examiner, oral argument on motions will not be permitted.

Subpart B—Application for Review of Orders and Notices

§ 301.10 Who may file.

An application for review of orders and notices may be initiated by the operator of the mine, the miner, or any representative of miners of the affected mine.

§ 301.11 When to file.

An application to review a notice or order or modification or termination thereof shall be filed with the Board within 30 days of receipt thereof.

§ 301.12 Form of application.

An application to review an order or notice shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A copy of the notice or order complained of shall be attached to the application.

§ 301.13 Service.

A copy of an application shall be served on the appropriate Bureau of Mines District Office and upon the Solicitor, Department of the Interior, Washington, D.C. 20240.

§ 301.14 Answer.

(a) Within 30 days after the date of service of an application for review of orders and notices, the Bureau and any other party adversely affected shall file an answer with the Examiner assigned to the case setting forth in short and plain terms his position.

(b) Within 5 days after the date of service of an application for temporary relief, the Bureau and any other party adversely affected shall file an answer with the Examiner assigned to the case, setting forth in short and plain terms his position.

§ 301.15 Application for temporary relief.

An application for temporary relief filed under section 105(d) of the Act shall be in writing and shall contain a detailed statement of the grounds upon which it is based. No temporary relief shall be granted in the case of a notice issued under section 104(h) or section 104(i) of the Act.

Subpart C—Review of Notices Under Section 104(h)

§ 301.20 How initiated.

Review under section 104(h) of the Act shall be initiated upon the filing by the Bureau of a copy of such notice with the Board. Notice of such filing shall be given by the Board to the operator of the mine and any representative of miners in the affected mine.

§ 301.21 Answer.

Within 20 days after the date of service of notice of filing, the operator of the mine and the representative of the miners shall file an answer with the Examiner assigned to the case, setting forth in short and plain terms his position.

Subpart D—Petition for Modification of Mandatory Safety Standards

§ 301.30 Who may file.

A petition under section 301(c) of the Act for modification or termination may be filed with the Board by the operator of the mine or any miner or representative of miners of the affected mine.

§ 301.31 Form of petition.

A petition for modification shall be in writing and shall contain a detailed statement showing that an alternative method exists of achieving the result of such standard which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition, the Board shall publish notice thereof in the FEDERAL REGISTER.

§ 301.32 Service.

A copy of the petition shall be served upon the operator or the representative of the miners, as appropriate, the Bureau and the Solicitor, Department of the Interior, Washington, D.C. 20240.

§ 301.33 Answer.

Within 20 days after the date of service of such petition, the Bureau and any other party affected shall file an answer with the Examiner assigned to the case, setting forth in short and plain terms his position.

Subpart E—Application for Compensation or for Review of Discharge or Acts of Discrimination

§ 301.40 Who may file.

An application for compensation or for review of an alleged discharge or act of discrimination may be initiated by the miner or representative of such miner who is idled by an order of withdrawal or who believes that he has been discharged or otherwise discriminated against by reasons of invoking his rights, testifying, or awaiting to testify under the Act.

§ 301.41 When to file.

An application to review a discharge or act of discrimination shall be filed with the Board within 30 days after such discrimination occurs. An application for compensation shall be filed with the Board within 30 days after the date of issuance of an order of withdrawal.

§ 301.42 Form of application.

(a) An application under this subpart shall be in writing and shall contain a short and plain statement of the grounds upon which it is based.

(b) The operator of the mine shall be designated the respondent.

§ 301.43 Service.

Copies of the application shall be served upon respondent, the Bureau and the Solicitor, Department of the Interior, Washington, D.C. 20240.

§ 301.44 Answer.

Within 20 days after the date of service of such application, respondent shall file an answer with the Examiner assigned to the case, setting forth in short and plain terms his position.

Subpart F—Assessment of Penalties

§ 301.50 How initiated; schedule of payments.

Proceedings for the assessment of penalties shall be initiated upon the filing by the Bureau of a copy of the notice of violation with the Board, unless within 30 days after receipt of the notice of violation by the mine operator or miner, payment to the Bureau by the mine operator or miner has been made in accordance with the following schedule:

Nature of violation	1st violation in the mine within preceding 12 months	2d violation in the mine within preceding 12 months	3d and each additional violation in the mine within preceding 12 months
Mine Operators:			
Violation or violations resulting in imminent danger	$500.00	$1,500.00	$3,000.00
Violation caused by unwarrantable failure	100.00	200.00	400.00
All other violations	25.00	50.00	100.00
Miners:			
Smoking or carrying of smoking materials, matches, or lighters	5.00	25.00	50.00

§ 301.51 Notice to mine operator or miner.

Upon the filing of the notice of violation with the Board, notice of such filing and of the assignment of an Examiner to the case shall be given by the Board to the operator of the mine or miner or representative of miners, as appropriate.

§ 301.52 Answer.

Within 20 days after date of service of such notice, the operator of the mine or miner or representative of miners as appropriate shall file an answer with the Examiner assigned to the case, setting forth in short and plain terms his position.

§ 301.53 Penalties.

(a) The Examiner (or the Board) shall assess a civil penalty against (1) the operator of a mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of the Act, except the provisions of title IV and (2) any miner who willfully violates a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters.

(b) The penalty assessed against an operator shall not be more than $10,000 for each violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense. In determining the amount of the penalty assessed against an operator, the Examiner (or the Board) shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(c) The penalty assessed against a miner shall not be more than $250 for each occurrence of such violation. In determining the amount of the penalty assessed against a miner, the Examiner (or the Board) shall consider whether the violation was willful, and if so the degree thereof.

(d) In determining the amount of any penalty, the Examiner (or the Board) shall disregard the schedule of payments contained in § 301.50.

(e) Where the Examiner (or the Board) has found that a violation of a mandatory health or safety standard or any other provision in the Act has occurred, he shall determine the amount of penalty which is warranted and incorporate in the decision concerning the violation an order requiring that the penalty be paid.

Subpart G—Hearings

§ 301.60 Hearings to be conducted by Examiners.

All hearings shall be presided over by an Examiner appointed under section 3105 of title 5 of the United States Code.

§ 301.61 Assignment of Examiners.

Promptly upon the initiation of any proceeding, an Examiner will be assigned to the case and all parties entitled to notice shall be so notified by the Board. Thereafter, all motions, applications and other papers shall be filed with the Examiner.

§ 301.62 Powers of Hearing Examiners.

(a) An Examiner shall have the following powers, in addition to any others specified in this part:

(1) To hold prehearing conferences;

(2) To administer oaths and affirmations;

(3) To examine witnesses;

(4) To issue subpoenas authorized by the Act and to take or cause depositions to be taken;

(5) To rule upon offers of proof and receive evidence;

(6) To regulate the course and conduct of the hearing;

(7) To hold conferences, before or during the hearing, for the settlement or simplification of issues;

(8) To rule on motions and to dispose of procedural requests or similar matters;

(9) To assess civil penalties as authorized by the Act;

(10) To make initial or recommended decisions;

(11) To take any other action authorized by this part, by section 556 of title 5 of the United States Code, or by the Act.

(b) The Examiner's authority in each case will terminate either upon the filing of an appeal to the initial decision, or upon the expiration of the period within which an appeal to the Board from his initial decision may be filed. However, after an order has been issued under section 104(h) of the Act, jurisdiction shall revert to the Examiner over the question of abatement.

§ 301.63 Depositions.

(a) *When permitted.* The Examiner may, for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories for use as evidence or for purpose of discovery. The application for such order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(b) *Orders on depositions.* Unless otherwise stipulated by the parties, the time, place and manner of taking depositions shall be governed by the order of the Examiner.

(c) *Use of depositions.* Depositions, so far as admissible under the rules of evidence applicable in U.S. District Courts

in non-jury cases, may be used to the extent provided for under the Federal Rules of Civil Procedure.

§ 301.64 Interrogatories to parties; production of documents; admission of facts.

For good cause shown, the Examiner may permit a party to serve written interrogatories upon the opposing party, order an opposing party to produce and permit inspection and copying or photographing of designated documents relevant to the proceeding or permit the serving on the opposing party of a request for admission of facts.

§ 301.65 Prehearing conference.

(a) The Examiner may direct the parties to appear for a prehearing conference to consider:

(1) The simplification of the issues;

(2) The possibility of obtaining stipulations, admissions of fact and of documents which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses;

(4) The possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the case.

(b) The Examiner shall make an order which recites the action taken at the conference.

§ 301.66 Notice of hearing.

(a) The Examiner shall give the parties at least 5 days' written notice of the time, place, and nature of the hearing. In scheduling hearings due regard will be had for the convenience of the parties and the minimizing of delay and expenses.

(b) Wherever possible the Examiner shall consolidate proceedings under Subpart F of this part to assess a penalty with other proceedings under the Act.

§ 301.67 Subpoenas; witness fees.

(a) On written application of a party or on his own motion, the Examiner may issue subpoenas requiring the attendance of witnesses and the production of relevant papers, books and documents in their possession and under their control. A subpoena may be served by any person who is not a party and is not less than 18 years of age and the original subpoena bearing a certificate of service shall be filed with the Examiner. A witness may be required to attend a deposition or hearing at a place not more than 100 miles from the place of service.

(b) Witnesses subpoenaed by any party shall be paid the same fees and mileage as are paid for like service in the District Courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the witness appears.

§ 301.68 Burden of proof.

In proceedings under Subparts B, C, and F of this part, the burden of proof shall be on the Bureau of Mines. In all other proceedings, the burden of proof shall be on the moving party.

§ 301.69 Evidence.

(a) Any oral or documentary evidence which is not irrelevant, immaterial, or unduly repetitious may be received on the discretion of the Examiner.

(b) A party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full disclosure of the facts.

§ 301.70 Record.

Hearings shall be recorded stenographically by an official reporter. The transcript of testimony and exhibits together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Copies of the transcript may be obtained by any party from the official reporter upon payment of the fees fixed therefor.

§ 301.71 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor during the hearing or at the conclusion thereof.

§ 301.72 Proposed findings, conclusions and orders.

The Examiner may require the submission of proposed findings of fact, conclusions of law, and orders, together with a supporting brief. Such proposals shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

§ 301.73 Initial decisions.

As soon as practicable after conclusion of the hearing, the Examiner shall render an initial or recommended decision. The initial or recommended decision shall be in writing and shall include a statement of (a) findings and conclusions and the reasons or basis therefor, on the material issues of fact, law or discretion presented on the record and (b) the appropriate ruling, order, or denial thereof with the effective date.

§ 301.74 Effect of initial decision.

The initial decision shall become final unless an appeal to the Board is filed within the time allowed. The timely filing of such appeal shall stay the effect of the initial decision. However, when the public interest requires, the Board may provide that a decision or any part of it shall be in full force and effect immediately.

Subpart H—Appeals to the Board

§ 301.80 Notice of appeal.

Any party may appeal from an Examiner's order or from the initial decision by filing with the Board a notice of appeal within 20 days after filing of the decision. Exceptions are not required. Upon good cause shown, the Board may extend the time for filing a notice of appeal.

§ 301.81 Briefs.

(a) *Appellant's brief.* Within 20 days after filing the notice of appeal, appellant shall file his brief. When a party who has filed a notice of appeal fails to file a timely brief, or if the notice of appeal and the brief are not served upon adverse parties named in the decision appealed from within the time required, the appeal will be subject to summary dismissal. Appellant's brief shall set forth in detail the objections to the initial decision, the reasons for such objections and the relief requested. Any error contained in the initial decision that is not objected to may be deemed by the Board to have been waived. Where any objection is based upon evidence of the record, such objections need not be considered by the Board if specific record citations to the pertinent evidence are not contained in appellant's brief.

(b) *Appellee's reply brief.* Within 20 days after service of appellant's brief, the appellee may file a brief in reply thereto.

(c) *Number of copies.* Five copies of each brief shall be filed with the Board and two copies served on each party. Copies of briefs shall be legibly typewritten, printed or duplicated.

(d) *Length of brief.* Except by permission of the Board, appellant's brief may not exceed 50 pages and appellee's brief may not exceed 25 pages.

§ 301.82 Oral argument.

Upon request and a showing of need therefor, the Board may permit oral argument.

§ 301.83 Decisions.

Decisions of the Board shall be rendered as promptly as practicable consistent with adequate consideration of the issues involved, and shall include a statement of findings and conclusions and the reasons or basis therefor, on the material issues of fact, law, or discretion presented on the record, and the appropriate ruling, order, or denial thereof with the effective date. The Board may adopt, modify or set aside the findings, conclusions and orders of the Examiner. No appeal will lie in the Department of the Interior from a decision of the Board.

§ 301.84 Interlocutory appeals.

(a) *Request for permission.* Interlocutory appeals from rulings of an Examiner may be filed only after permission is first obtained from the Board. Any request for such permission shall be in writing, not to exceed 10 pages in length, and shall be filed within 3 days after notice of the ruling complained of. Permission will not be granted except upon a showing that the ruling complained of involves substantial rights and will materially advance the final decision.

(b) *Form of appeal.* Interlocutory appeals shall be in the form of a brief and shall be filed within 5 days after notice of permission to file. Appellee's brief shall be filed within 5 days after service of appellant's brief.

(c) *Effect.* An interlocutory appeal shall not operate to suspend the hearing unless otherwise ordered by the Board.

[F.R. Doc. 70-3789; Filed, Mar. 27, 1970; 8:50 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Rev. 5) Amdt. 20]

OI REG. 1—OIL IMPORT REGULATIONS

Canadian Overland Imports; Districts I–IV

This Amendment revises section 23 of Oil Import Regulation 1.

The purpose of the revision is to provide for allocation of Canadian overland imports into Districts I–IV for the period March 1, 1970 through June 30, 1970. Under the revised section 23, allocation of such imports will be made to persons having a facility or facilities for processing Canadian overland imports or pipeline facilities using crude oil as fuel.

Following notice and an opportunity to comment, definitive regulations will be issued for the period July 1, 1970 through December 31, 1970. The definitive regulations will allocate 395,000 average daily barrels for the period March 1 through December 31, 1970. All Canadian imports subject to restriction under Proclamation 3969 from March 1 through December 31, 1970, shall be charged against the allocation made pursuant to the regulation to be issued no later than June 10, 1970. The interim regulations announced today are not expected to bring the average daily barrels of Canadian imports within the required level of 395,000 by June 30; but, importers are advised to plan their imports for the balance of the year in the knowledge that the final allocations may not exceed the average level prescribed by the Proclamation.

Full consideration was given to all comments received following the notice of proposed rule making published by the Administrator, Oil Import Administration in the FEDERAL REGISTER for March 11, 1970 (35 F.R. 4335). Twenty-six timely comments on the proposals were received. There were objections by eleven commentators to the use of the period October 1, 1968 through September 30, 1969, as a base period for computing allocations. None of the suggested alternative methods of allocation was considered acceptable for the short term.

Some comments indicated that proposed expansions of facilities or existing operations might be curtailed because the allocations of Canadian crude might be too small and domestic crude unavailable. In response to these comments, the Oil Import Appeals Board has been given the capability to alleviate exceptional hardships.

The maximum of 95 percent of capacity in paragraph (e) of the proposed regulation has been changed to 40 percent, and its application has been restricted to those allocations granted under paragraph (d) (1). Refinery capacity limitations are not relevant to facilities earning an allocation under paragraph (d) (2) because the processing capability has been demonstrated. The reduction of the refinery capacity limitation for allocations earned under paragraph (d) (1) is necessary to reduce the possibility of abnormally high ratios of allocations to processing capacity in certain instances.

Several of the comments recommended that the time contained in paragraph (k) of the proposal within which imported crude must be run be extended. This suggestion has been adopted and the date has been changed from July 31, 1970 to August 31, 1970.

Paragraph (i) of the proposed regulations prohibited exchanges. This provision has been changed to permit applicants to continue an existing practice of exchanging but limited to 50 percent of his allocation.

A new paragraph (l) has been added to authorize the Administrator, upon written request, to adjust upward a person's allocation not exceeding 20 percent of the allocation for the period March 1, 1970 through June 30, 1970. Any upward adjustment would reduce a person's allocation in a like quantity for the period July 1, 1970 through December 31, 1970.

A number of the suggestions contained in the comments did not conform to the terms of Presidential Proclamation 3969 and, therefore, could not be considered for implementation in the regulations.

As this regulation is urgently needed in order to issue allocations and licenses prior to March 30, 1970, this Amendment shall become effective immediately.

Section 23 of Oil Import Regulation 1 (Revision 5) is revised to read as follows:

Sec. 23 Canadian overland imports—Districts I–IV.

(a) As used in this section the term "Canadian overland imports" means crude oil and unfinished oils (1) which are entered for consumption or withdrawn from warehouse for consumption in Districts I–IV, (2) which, if crude oil, was produced in Canada, and, if unfinished oils, were processed from crude oil or natural gas produced in Canada, and (3) which were or are transported into the United States by pipeline, rail, or other means of overland transportation.

(b) The Administrator shall make allocations of 395,000 average barrels daily of Canadian overland imports into Districts I–IV for the period March 1, 1970, through June 30, 1970, but such allocations shall be reduced as provided in paragraph (h) of this section.

(c) To be eligible for an allocation of imports under this section, a person must have in Districts I–IV a facility or facilities for processing Canadian overland imports or pipeline facilities using crude oil as fuel.

(d) (1) Except as provided in subparagraph (2) of this paragraph, each eligible applicant shall receive an allocation in an equal share of the remainder of the imports that is available for allocation after allocations are made pursuant to subparagraph (2) of this paragraph. However, such allocation shall be reduced, as provided in paragraph (h) of this section, by the amount of Canadian overland imports which such person imported during the period March 1, 1970 through March 29, 1970, or which were imported during that period and which were purchased by such person.

(2) If an eligible applicant processed Canadian overland imports in his facility or facilities during the period October 1, 1968 through September 30, 1969, and if an allocation computed under subparagraph (1) of this paragraph would be less than the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities during the period October 1, 1968 through September 30, 1969, multiplied by 1.05, the applicant shall receive an allocation under this section equal to the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities, multiplied by 1.05, multiplied by 122. However, such allocation shall be reduced, as provided in paragraph (h) of this section, by the amount of Canadian overland imports which such person imported during the period March 1, 1970 through March 29, 1970, or which were imported during that period and which were purchased by such person.

(3) No person shall receive an allocation under subparagraph (1) and subparagraph (2) of this paragraph.

(4) Under an allocation made pursuant to this section, a person may import the full amount of the allocation as unfinished oils.

(e) Except for a person having pipeline facilities using crude oil as fuel, who shall be limited to his operational use requirement, no person shall receive an allocation under subparagraph (1) of paragraph (d) of this section in excess of 40 percent of the operating capacity as of January 1, 1969, of the facility or facilities covered by his application expressed in average barrels daily multiplied by 122. Such operating capacity shall be subject to verification by the Administrator.

(f) Each allocation made under this section shall be subject to adjustment based on revised allocations for the period March 1, 1970 through December 31, 1970.

(g) Licenses issued under allocations made pursuant to this section shall permit only Canadian overland imports to be entered for consumption or withdrawn from warehouse for consumption in Districts I–IV.

(h) (1) A person to whom an allocation is made by the Administrator under this section shall report and certify in writing to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, by April 15, 1970, the total quantity of Canadian overland imports which that person imported during the period March 1, 1970 through March 29, 1970, or which were imported during that period and which were purchased by such person. The amount so reported and certified shall be subject to verification by the Administrator. If a person to whom such an allocation is made fails to file by April 15, 1970, the written report and certification required by this subparagraph (1), the Administrator shall suspend all licenses issued under that

allocation until the written report and certification is received.

(2) The quantity of Canadian overland imports reported and certified by a person as provided in subparagraph (1) of this paragraph shall be charged against, and entered upon, the licenses issued to that person under his allocation and shall serve to reduce his allocation in that amount.

(i) (1) An allocation made pursuant to this section shall not be sold, assigned, or otherwise transferred. Each person who imports Canadian overland imports under an allocation made pursuant to this section shall process or consume such imports only in his own facility or facilities. Such imports shall not be exchanged unless written permission is obtained from the Administrator as provided in subparagraph (2) of this paragraph.

(2) In an instance where an eligible applicant demonstrates to the satisfaction of the Administrator that such applicant during the year 1969 imported Canadian overland imports and exchanged such imports for domestic crude oil which he processed in his own facility, the Administrator may permit the applicant to enter into a similar exchange agreement. No person will be permitted to exchange more than 50 percent of his allocation.

(j) An application for an allocation under this section shall be made by letter or telegram to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240. Applications must be received by the Administrator on or before March 27, 1970. An application must contain the following information, which shall be certified by an officer of the applicant:

(1) The nature of the applicant's facility or facilities,

(2) The location or locations of the facility or facilities,

(3) The average barrels daily of Canadian overland imports processed or consumed in the applicant's facility or facilities during the period October 1, 1968 through September 30, 1969, and

(4) The operating capacity, as of January 1, 1969, expressed in average barrels per calendar day of the facility or facilities in which Canadian imports will be processed.

An officer of an applicant shall also certify in his application that, if an allocation of Canadian overland imports is made to the applicant under this section, the applicant will process or consume all such imports in his facility or facilities before August 31, 1970.

(k) If a person who receives an allocation of Canadian overland imports under this section fails to import the total quantity of such imports specified in the allocation or if he fails to process all such imports in his facility or facilities before August 31, 1970, then any allocation for Districts I–IV to which such person may be entitled under sections 9, 10, or 25 of this regulation for the allocation period beginning January 1, 1971, shall be reduced by the amount of Canadian overland imports which such person has failed to import or which such person has failed to process in his facility or facilities before August 31, 1970, except that the Administrator need not make such a reduction to the extent that (1) such person demonstrates to the satisfaction of the Administrator that such failures were without such person's fault and were beyond his control, or (2) such person on or before April 15, 1970, in writing relinquishes all or part of an allocation made under this section and returns to the Administrator licenses issued thereunder.

(l) The Administrator may, upon written request, increase an allocation made under paragraph (d) of this section by an amount not to exceed 20 percent of that allocation. A person's allocation of Canadian overland imports for the period July 1, 1970 through December 31, 1970, shall be reduced by the amount of any such increase.

(m) The Oil Import Appeals Board may modify or make allocations of Canadian overland imports pursuant to section 21 of this regulation within the quantity of such imports remaining available for allocation for the period July 1, 1970 through December 31, 1970.

WALTER J. HICKEL,
Secretary of the Interior.

MARCH 26, 1970.

I Concur:

G. A. LINCOLN,
Director, Office of Emergency Preparedness

[F.R. Doc. 70-3860; Filed, Mar. 26, 1970; 3:54 p.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A–73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A–73.1—Production and Maintenance

REVISED MAXIMUM ORDER LIMITATION CLAUSE

Paragraph (d) and the clause in paragraph (f) of § 5A–73.112 are revised to read as follows:

§ 5A–73.112 Maximum order limitations.

* * * * *

(d) When it appears advantageous to alter or eliminate existing limitations, or to establish new limitations, an appropriate recommendation and statement of justification therefor shall be forwarded to the Director, Procurement Operations Division or the Director, ADP Procurement Division, as appropriate, for prior approval.

* * * * *

(f) * * *

MAXIMUM ORDER LIMITATION

(All dollar amounts are exclusive of any discount for prompt payment.) The total dollar value of any order placed under this contract shall not exceed $_____; *Provided*, That the dollar value of any single item ordered, whether ordered separately or in combination with other items, shall not exceed $_____. The Contractor agrees not to accept or fulfill any orders in violation of this provision. Violation may result in termination of the contract pursuant to the clause of the General Provisions entitled Default.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: March 23, 1970.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[F.R. Doc. 70-3724; Filed, Mar. 27, 1970; 8:45 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Identification of Unneeded Federal Real Property

Part 101–47 is amended by the addition of new Subpart 101–47.8 which provides for the implementation of section 2 of Executive Order 11508. Section 101–47.4914 is added to illustrate Executive Order 11508.

The table of contents for Part 101–47 is amended to provide for the following new entries:

Subpart 101–47.8—Identification of Unneeded Federal Real Property

Subparts 101–47.9—101–47.48 (Reserved)

Subpart 101–47.8—Identification of Unneeded Federal Real Property

§ 101–47.800 Scope of subpart.

This subpart is designed to implement section 2 of Executive Order 11508 (see § 101–47.4914) which provides that the Administrator of General Services shall (a) establish uniform standards and procedures for the identification of property that is not utilized, is underutilized, or is not being put to its optimum use; (b) survey property holdings of all executive agencies to identify any such properties in those categories; and (c) report any properties so identified which, in the judgment of the Administrator, should be reported as excess property. Section 2 of Executive Order 11508 also provides that the heads of executive agencies shall conform their policies, regulations, and practices to the provisions of the standards and procedures established by the Administrator of General Services. The terms "executive agency," "property," and "excess property" as used in this

subpart are defined in Executive Order 11508. The provisions of this subpart are presently limited to fee-owned properties and supporting leaseholds and lesser interests located within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. The scope of this subpart may be enlarged at a later date to include properties in additional geographical areas and other interests in property.

§ 101–47.301 Standards.

Each executive agency shall use the following standards in identifying unneeded Federal property.

(a) *Definitions.*—(1) *Not utilized.* "Not utilized" means an entire property or portion thereof, with or without improvements, not occupied for current program purposes of the accountable executive agency, or occupied in caretaker status only.

(2) *Underutilized.* "Underutilized" means an entire property or portion thereof, with or without improvements:

(i) Which is used only at irregular periods or intermittently by the accountable executive agency for current program purposes of that agency; or

(ii) Which is used for current program purposes that can be satisfied with only a portion of the property.

(3) *Not being put to optimum use.* "Not being put to optimum use" means an entire property or portion thereof, with or without improvements, which:

(i) Even though utilized for current program purposes of the accountable executive agency is of such nature or value, or is in such a location that it could be utilized for a different significantly higher and better purpose; or

(ii) The costs of occupying are substantially higher than would be applicable for other suitable properties that could be made available to the accountable executive agency through transfer, purchase, or lease with total net savings to the Government after consideration of property values as well as costs of moving, occupancy, and efficiency of operations.

(b) *Guidelines.* The following general guidelines shall be considered by each executive agency in its annual review (see § 101–47.802):

(1) Is the property being put to its highest and best use?

(i) Consider such aspects as surrounding neighborhood, zoning, and other environmental factors; and

(ii) Is present use compatible with State, regional, or local development plans and programs?

(2) Are operating and maintenance costs excessive?

(3) Will contemplated program changes alter property requirements?

(4) Is all of the property absolutely essential for program requirements?

(5) Will local zoning provide sufficient protection for buffer zones thereby enabling the release of a portion of the property?

(6) Are buffer zones kept to an absolute minimum?

(7) Is the present property inadequate to serve contemplated future programs?

(8) Can net savings be realized through relocation considering property values, costs of moving, occupancy, and increased efficiency of operations?

(9) Have developments on adjoining nonfederally owned land or public access or road rights-of-way granted across the Government-owned land rendered the property or any portion thereof unsuitable or unnecessary for program requirements?

(10) If Federal employees are housed in Government-owned residential property, can the local market provide the necessary housing and other related services, thereby enabling the Government-owned housing area to be released?

(11) Can the land be disposed of and program requirements satisfied through reserving rights and interests to the Government in the property released?

(12) Is a portion of any property being retained primarily because the present boundaries are marked by the existence of fences, hedges, roads, and utility systems?

(13) Is any land being retained merely because it is considered undesirable property due to topographical features or encumberances for rights-of-way?

(14) Is land being retained merely because it is landlocked?

(15) Is there land, or space in Government-owned buildings, which can be made available for utilization by others on a temporary basis?

§ 101–47.302 Procedures.

(a) *Executive agency annual review.* Commencing with fiscal year 1971, each executive agency shall make an annual review of its property holdings, which review, to the extent of the properties covered by the review, also shall constitute compliance with the annual review requirements of BOB Circular No. A–2, revised (see § 101–47.4908).

(1) In making such annual reviews, each executive agency shall use the standards set forth in § 101–47.801 in identifying property that is not utilized, is underutilized, or is not being put to its optimum use.

(2) A written record of the review of each individual facility shall be prepared, and a copy of the review record shall be made available to the GSA survey representative at the time of the survey of each individual facility. The written review record shall contain comments relative to each of the above guidelines.

(3) Each executive agency shall, as a result of its annual review, determine, in its opinion, whether any portion of its property is not utilized, is underutilized, or is not being put to optimum use. With regard to each property, the following actions shall be taken:

(i) When the property or a portion thereof is determined to be not utilized, the executive agency shall:

(*a*) Initiate action to release the property; or

(*b*) Hold for a foreseeable future program use upon determination by the head of the executive agency. Such determination shall be fully and completely documented and the determination and documentation kept available for GSA review (see § 101–47.802(b)(3)(ii)(B)). If property of this type which is being held for future use can be made available for temporary use by others, the executive agency shall notify the appropriate regional office of GSA before any permit or license for the use is issued to another Federal agency or before any out-lease is granted by the executive agency. GSA will advise the executive agency whether the property should be permitted to another Federal agency for temporary use and will advise the executive agency the name of the Federal agency to whom the permit shall be granted.

(ii) When the property is determined to be underutilized, the executive agency shall:

(*a*) Limit the existing program to a reduced area and initiate action to release the remainder; or

(*b*) Shift present use imposed on the property to another property so that release action may be initiated for the property under review.

(iii) When, based on an indepth study and evaluation, it is determined that the property is not being put to its optimum use, the executive agency shall relocate the current program whenever a suitable alternate site, necessary funding, and legislative authority are available to accomplish that purpose. When the site, funding, or legislative authority are not available, a special report shall be made to the appropriate regional office of GSA for its consideration in obtaining possible assistance in accomplishing relocation.

(b) *GSA survey.* Pursuant to section 2(2) of Executive Order 11508, GSA will conduct, on a continuing basis, a survey of real property holdings of all executive agencies to identify properties which, in the judgment of the Administrator of General Services, are not utilized, underutilized, or not being put to their optimum use.

(1) Surveys by GSA of the real property holdings of all excutive agencies will be conducted by officials of the regional offices of GSA for the property within the geographical area of each region.

(i) The head of the field office of the agency having accountability for the facility will be notified in advance of a scheduled GSA survey and furnished at that time with copies of these regulations.

(ii) The head of that field office shall arrange for an appropriate official of the executive agency having necessary authority, and who is sufficiently knowledgeable concerning the property and current and future program uses of the property, to be available to assist the GSA representative in his survey.

(2) Upon completion of the survey by the GSA representative, preliminary findings will be discussed with the executive agency official designated pursuant to § 101–47.802(b)(1). When completed, a copy of the GSA survey report will be provided to that official.

(3) To facilitate the GSA survey, executive agencies shall:

(i) Cooperate fully with GSA in its conduct of the surveys; and

(ii) Make available to the GSA survey representatives records and information pertinent to the description and to the current and proposed use of the property such as:

(*a*) Brief description of facilities (number of acres, buildings, and supporting facilities);

(*b*) The most recent utilization report or analysis made of the property including the written record of the annual review made by the agency, pursuant to § 101–47.802(a), together with any supporting documents;

(*c*) Maps, drawings, and lay-out plans;

(*d*) Plans of use; and

(*e*) Agency use criteria.

(4) Upon receipt of notification of the pending GSA survey, the executive agency shall initiate action immediately to provide the GSA representative with an escort into classified or sensitive areas or to inform that representative of steps that must be taken to obtain necessary special security clearances or both.

(5) A copy of the completed GSA survey report will be forwarded by the GSA regional office to the GSA Central Office. If the GSA survey report contains a finding that the property is not utilized or is underutilized, or is not being put to its optimum use, and if the Administrator of General Services agrees with such findings, he will solicit the comments and recommendations of the head of the executive agency in an attempt to reach an accord as to whether the property should be retained or reported as excess by the executive agency. When the Administrator of General Services concludes that the property should be reported as excess for disposition by GSA under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and fails to obtain the concurrence of the head of the executive agency to such action, the Administrator of General Services will make a report to the President through the Property Review Board as prescribed in sections 2(3) and 3 of Executive Order 11508.

Subpart 101–47.49—Illustrations

Section 101–47.4914 is added as follows:

§ 101–47.4914 Executive Order 11508.

NOTE: A copy of Executive Order 11508 was filed with the Office of the Federal Register as part of the Original Document. Executive Order 11508 appears in full text at 35 F.R. 2855.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective April 10, 1970.

Dated: March 26, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–3908; Filed, Mar. 27, 1970; 10:55 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 71]

FOREIGN QUARANTINE

Importation of Psittacine Birds

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, proposes to amend Subpart J–1 of Part 71 of Title 42, Code of Federal Regulations. The amendments would eliminate certain requirements in the processing of entry documents for, and in the treatment of, psittacine birds, authorize the issuance of import permits generally under proper safeguards, and clarify and simplify various provisions of § 71.164. It is proposed also amend the definitions in § 71.1 to reflect organizational changes in the Public Health Service.

Inquiries may be addressed, and data, views, and arguments may be submitted in writing, in triplicate, to the Director, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga., 30333. All relevant material received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

It is proposed to make any amendments that are adopted effective upon publication in the FEDERAL REGISTER.

1. Section 71.1 is amended by deleting paragraph (z) and by redesignating paragraphs (a)–(y) as paragraphs (b)–(z) respectively.

2. Section 71.1 is amended by inserting a new paragraph (a) to read as follows:

(a) *Administrator.* The Administrator, Health Services and Mental Health Administration, and any other officer or employee to whom the authority involved may be delegated.

3. All references to the term "Surgeon General" in Part 71 are deleted and the term "Administrator" inserted in lieu thereof.

4. Section 71.164 is revised to read as follows:

§ 71.164 Entry restrictions.

(a) *General provisions.*—(1) *Prohibition on importation.* Psittacine birds may not be brought into the United States except as provided in this Subpart.

(2) *Disease-free appearance.* Except for birds admitted pursuant to the provisions of subparagraph (4) of this paragraph, a psittacine bird shall not be admitted into the United States unless all birds in the shipment appear to the quarantine officer to be free from communicable diseases.

(3) *Samples, specimens, information, conditions.* Notwithstanding any other provision of this subpart, upon arrival at a port of entry of a shipment of psittacine birds, the quarantine officer may take samples of psittacine birds and specimens of psittacine bird blood, food, feces, medication, and related material from such shipment that may be necessary for examination or study. The owner or representative shall furnish such information and comply with other conditions that the quarantine officer shall require or impose to prevent the introduction, transmission, or spread of communicable diseases. If the owner or representative refuses permission for the taking of such samples or specimens, to furnish such information, or to comply with such conditions, the shipment shall be denied entry.

(4) *Admission of birds not appearing to be disease-free and of exposed birds.* When a bird, upon arrival at a United States port of entry, shows symptoms suggestive of communicable disease (but other entry requirements are met), the medical officer in charge may authorize its admission and admission of healthy appearing birds in the shipment if he is satisfied that adequate protection against introduction of communicable disease will be provided by measures arranged and paid for by the owner. Such measures may include immediate isolation of the birds and immediate care by a specified licensed veterinarian who shall provide necessary treatment with approved medication and report the birds' condition to the medical officer in charge before the birds are released from isolation.

(b) *Birds from treatment centers.* Psittacine birds may be imported from an approved treatment center subject to the following conditions:

(1) *Entry document.* Each shipment of birds must be accompanied by an entry document prescribed by the Administrator. The document must show the treatment center certificate of approval number; identify the birds by quantity and kind; show the name and address of the consignee; bear a stamp of a design and size approved by the Administrator; and contain the certifications specified in subparagraph (4).

(2) *Confinement and treatment.* Birds must be confined in such treatment center for a minimum of 45 consecutive days immediately before shipment to the United States and treated with chlortetracycline, or other approved medication, prepared and administered in accordance with procedures approved by the Administrator for psittacosis control.

(3) *Confinement and treatment during shipment to the United States.* Cages and any outer containers used to confine birds during shipment to the United States must be constructed to permit easy observation of the birds. Provision must be made for confinement of birds, during shipment, separate from any other birds, and for continuation of treatment during shipment.

(4) *Certificate.* Each shipment of birds must be accompanied by a certificate of compliance with the provisions of this paragraph (b) executed by the director of the treatment center.

(c) *Medical research.* Psittacine birds intended for use in medical research may be permitted entry into the United States without prior confinement and treatment if the following conditions are met:

(1) *Permit.* They are accompanied by a permit issued by the Administrator. Application for the permit shall be submitted by the person seeking to import the birds for medical research purposes, and shall contain such information and assurances as the Administrator may require concerning use of the birds in the proposed research.

(2) *Scientific use.* The scientific basis for the use of untreated birds is established to the satisfaction of the Administrator.

(d) *Zoological parks.* Psittacine birds which, in the opinion of the Administrator, cannot be treated satisfactorily as specified in paragraph (b) of this section at an approved treatment center outside the United States, may be imported by a zoological park without prior confinement and medication if the following conditions are met:

(1) *Permit.* They are accompanied by a special permit issued by the Administrator pursuant to an application made therefor.

(2) *Restriction on disposition of birds.* Assurance is given that the birds will not be sold or given, either directly or indirectly, to any private individual or dealer in birds.

(3) *Treatment facilities and staff.* The zoological park has a staff veterinarian and facilities for isolating psittacine birds as provided in subparagraph (4), and has been approved by the Administrator.

(4) *Isolation and treatment.* On arrival at the zoological park the birds will be isolated for at least 45 days, and throughout that period will be treated with approved medication under conditions satisfactory to the Administrator.

(e) *Birds imported as pets.* Psittacine birds may be imported as pets subject to the following conditions:

(1) *Number—maximum.* No person may import more than two birds during any 12-month period.

(2) *Custody.* No person may import a bird as a pet unless the bird has been in the owner's personal custody prior to entry into the United States.

(3) *Certification.* No bird shall be permitted entry unless the owner submits a certification of compliance with the provisions of subparagraphs (1) and (2) of this paragraph (e).

(f) *Birds being returned to the United States.* The Administrator may issue permits for the return of birds to the United

States. Application for permits must be filed prior to departure from the United States, must show the number and contain a description of the birds, and reflect such other information as the Administrator may require.

(g) *Importation; restriction; exceptions.* The Administrator may issue permits for the importation of birds for purposes other than those specified in this subpart and otherwise than as specified herein, subject to conditions he finds necessary to assure protection against the introduction, transmission, or spread of communicable diseases.

(h) *Permits.* Permits issued under this Subpart may contain such conditions as the Administrator may deem necessary to assure protection against introduction, transmission, or spread of communicable diseases. Permits shall be subject to cancellation for procurement or use inconsistent with the application or permit or for violation or failure to comply with any condition issued pursuant to the provisions of this Subpart.

(Sec. 361, 58 Stat. 703; 42 U.S.C. 264)

Dated January 2, 1970.

ALAN W. DONALDSON,
Acting Administrator, Health Services and Mental Health Administration.

Approved: March 24, 1970.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 70-3780; Filed, Mar. 27, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-WE-7]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would revise the floors of segments of VOR Federal airway Nos. V-26, V-101, and V-187W in the vicinity of Vernal, Utah.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. 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 amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The floors of the above mentioned airways as presently designated in the vicinity of Vernal, Utah, do not provide controlled airspace required by existing criteria. Therefore, the following changes in airway floors near Vernal, Utah, are proposed:

1. V-26 northeast of the Vernal VOR; the extent of the 1,200-foot AGL portion would be changed from 19 to 25 miles.

2. V-101 west of the Vernal VOR; the extent of the 1,200-foot AGL portion would be changed from 22 to 25 miles; a 12,000-foot MSL portion would be designated from 25 to 50 miles; the extent of the 14,500-foot MSL portion would be changed from 50 to 22 miles.

3. V-187W north of the Vernal VOR; the extent of the 1,200-foot AGL portion would be changed from 15 to 20 miles.

The above proposed changes are required for the following reasons:

1. On V-26 northeastbound aircraft cross the Vernal VOR at 8,000 feet and require 25 miles to reach 10,500 feet.

2. On V-101 westbound aircraft cross the Neola Intersection at 12,000 feet and require an additional 25 miles to reach 14,500 feet.

3. On V-187W northbound aircraft cross the Vernal VOR at 9,000 feet and require 20 miles to reach 11,000 feet.

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

Issued in Washington, D.C., on March 23, 1970.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-3734; Filed, Mar. 27, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-14]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at De Ridder, La.

Interested persons may submit such written data, views, or arguments as they may desire. Communication should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. 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 public 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 Division. 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 Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

DE RIDDER, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Beauregard Parish Airport (lat. 30°50'00" N., long. 93°20'00" W.), and within 3.5 miles each side of the 347° bearing from the De Ridder RBN (lat. 30°50'00" N., long. 93°20'00"W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed to serve the Beauregard Parish Airport, De Ridder, La.

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

Issued in Fort Worth, Tex., on March 16, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-3735; Filed, Mar. 27, 1970; 8:46 a.m.]

[14 CFR Part 91]

[Docket No. 10228; Notice 70-15]

AIRCRAFT ENGINE EMISSIONS

Advance Notice of Proposed Rule Making

The Federal Aviation Administration is considering rule making to establish standards for the control of aircraft engine emissions. Such standards would apply to all aircraft, large and small, except different standards may ultimately be adopted for the different categories and classes as may be required in the national interest. This action would involve amending Part 91 of the Federal Aviation Regulations.

This advance notice of proposed rule making is being issued in accordance with the FAA's policy for early institution of public proceedings in actions related to rule making. An "advance" notice is issued when it is found that the resources of the FAA and reasonable inquiry outside the FAA do not yield a

sufficient basis to identify and select tentative or alternate courses of action upon which a rule making procedure might be undertaken, or when it would otherwise be helpful to invite early public participation in the identification and selection of such tenative or alternate courses of action. The subject matter of this advance notice has been found to involve the situation contemplated by this policy.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the notice or docket number, and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. Communications should be received on or before July 1, 1970, to assure proper consideration. All comments submitted will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. If it is determined to proceed further, after consideration of the available data and the comments received in response to this notice, a notice of proposed rule making will be issued.

The Congress, in enacting the Air Quality Act of 1967 (Public Law 90-148), recognized or assigned responsibilities in the field of air pollution control across a spectrum of Federal and non-Federal Agencies. While the FAA was not specifically assigned responsibilities in the field, the Act does state that "* * *, this Act shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of * * * any other Federal officer, department, or agency." Cooperative activities by all Federal Departments and Agencies having functions relating to the prevention and control of air pollution were also directed, "so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government."

Section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348), in pertinent part, authorizes the Administrator to prescribe rules governing the flight of aircraft for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace. This section also authorizes the Administrator to assign by rule or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary to insure the safety of aircraft and the efficient utilization of that airspace. The FAA considers this statutory authority adequate to prescribe rules restricting the pollution of the airspace by aircraft engines when that pollution has an adverse effect upon persons or property on the ground, or may affect the safety of aircraft or the efficient utilization of the navigable airspace. If rules are needed that require additional statutory authority to properly cope with the problem, the necessary legislation will be requested.

On January 1, 1970, the President of the United States stated that the fight against air pollution is a now or never task. In this connection, he stated that, "A major goal * * * for the next 10 years for this country must be to restore the cleanliness of the air, * * * that, of course, means moving also on the broader problems * * * transport and the like."

The Secretary of Transportation has stated that "although aircraft are a very small contributor on a percentage basis to our total air pollution problem, we would very much like to see this percentage reduced even further." Studies conducted by the FAA, HEW, and others for the purpose of determining what percentage of the atmosphere may be polluted by aircraft engines have resulted in the conclusion that approximately 1% of the total air pollution in this country may be the result of aircraft engine emissions. A December 1968 HEW report on the Nature and Control of Aircraft Engine Exhaust Emissions states that "(i)n light of the relatively small contribution of aircraft to community air pollution in all places for which adequate data are available and in view of the practical problems that would result from State and local regulatory action in this field, it is the Department's conclusion that adoption and enforcement of State or local emission control regulations pertaining to aircraft cannot be adequately justified at this time." The situation has intensified in the ensuing year, and remedial regulatory action is now indicated. It is the position of the Department of Transportation that even a known minimal percentage of pollution should be reduced, if possible, in a manner compatible with national air commerce requirements.

Aside from multiple studies that have been conducted by the States, public and private institutions, and government agencies, the FAA has received opinions from pilots who complain that aircraft engine smoke reduces visibility so that it has an effect on safety in flight and while maneuvering on airport surfaces. However, visibility of smoke trails has been cited as a collision avoidance factor by others.

Recent technological advances have not solved the problem. Evaluation tests are being conducted to develop methods to reduce smoke emission from turbojet powered aircraft. While there is indication of a reduction in the degree of emission from conventional turbine engines after devices to reduce smoke emission have been incorporated, the state-of-the-art is not sufficiently advanced so that the manufacturers of these devices can, with complete assurance, guarantee the public that undesirable emissions have been reduced to their minimum. The FAA is participating in a cooperative Government-industry effort to establish a standard smoke measurement technique. This technique has been coordinated throughout Government and industry and will be released shortly by the Society for Automotive Engineers as an Aerospace Recommended Practice. Further, the FAA has initiated research to reduce the emission of other pollutants from turbine engines. These research efforts will assist in providing the basis for the FAA to establish standards to assure a minimal contribution from aircraft to the overall air pollution problem.

For several years, the aircraft industry, in cooperation with the airlines and the Government, has been working to reduce the principal jet engine emission regarded as objectionable; i.e., smoke consisting of unburned carbon particles. Since this smoke is highly visible, it has been the basis of considerable public complaint.

The aircraft most obviously associated with smoke emission are the Boeing 727 and 737 and the Douglas DC-9. The manufacturer of the engines for these aircraft has, over the past 5 years, developed a combustor for installation on such engines to improve the extent of burning, thereby substantially eliminating the smoke emitted. Following extensive testing, the FAA certificated these combustors and several were installed on evaluation engines where they are currently undergoing service testing. In January 1970, with operation time on the evaluation engines approaching 4,000 hours, only relatively minor discrepancies had been encountered in the new combustors. Therefore, the FAA, DOT, and HEW met with executives of most of the U.S. airlines to discuss expeditious retrofit of all domestic aircraft with the new combustor. The airlines agreed to commence installation of the new combustors during the normal overhaul of the aircraft rather than on an attrition basis. It is estimated that all of the offending aircraft can be converted by December 1972, 2 years ahead of a schedule based on attrition. Those airlines agreeing to the retrofit own 2,900 of the 3,000 engines in domestic service. This program should eliminate much of the public complaint.

While the emission from aircraft engines may be a minor percentage of total air pollution, in localized areas there may be higher concentrations of pollution attributable mainly to aircraft engine exhaust. Also, while aircraft engine manufacturers are developing devices that may, in the future, prevent smoke emissions from aircraft engines, this result has not yet been achieved but, perhaps, will be achieved sooner if some positive action to stimulate efforts is undertaken by the FAA under the existing authority of the Federal Aviation Act of 1958.

There has been an increasing demand for the FAA to take action to control undesirable aircraft engine emissions, to establish uniform standards for control and to provide public relief, where appropriate.

The FAA considers that the state-of-the-art is sufficiently developed so that aircraft exhaust emission standards can be established. The FAA believes that additional information may be available from other interested persons, and desires to review the entire situation before proposing the establishment of technical and economically feasible aircraft engine emission standards for all types of aircraft. To this end, the FAA will

welcome the participation of manufacturers, Government Agencies, and other interested persons and, by means of this advance notice of proposed rule making, solicits the views of all interested persons on the following questions:

1. Can the magnitude of the aircraft exhaust emission problem be identified and quantified on a local, regional, and national basis?

2. Are there test methods that can correctly and consistently measure the emission characteristics of aircraft engines?

3. What methods are available that can appreciably reduce undesirable emissions of aircraft engines?

4. Is it feasible to use standard specific methods of measurement and evaluation of aircraft engine emissions, of sufficient accuracy to determine compliance with standards?

5. What maximum level of engine emission performance should be established as a regulatory standard?

6. Can the potential impact on the total operational efficiency of individual and fleets of aircraft be established in terms of appropriate parameters and, if so, what is that impact?

This advance notice of proposed rule making is issued under the authority of sections 103, 307 (a) and (c), and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348(a), (c), and 1354), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 24, 1970.

JOHN O. POWERS,
Acting Director,
Office of Noise Abatement.

[F.R. Doc. 70-3739; Filed, Mar. 27, 1970; 8:46 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 201, 204, 260]

[Docket No. R-384]

UNIFORM SYSTEMS OF ACCOUNTS FOR CLASS A, CLASS B, AND CLASS C NATURAL GAS COMPANIES AND ACCOUNTING FOR NATURAL GAS UNDERGROUND STORAGE AND TO ACCOMMODATE LIQUEFIED NATURAL GAS STORAGE FACILITIES

Notice of Proposed Rulemaking

MARCH 20, 1970.

Pursuant to 5 U.S.C. 553, the Administrative Procedure Act, the Commission gives notice that it proposes to amend, effective for the reporting year 1970:

A. Certain accounts in the Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

B. Certain accounts in the Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter I, Title 18, CFR.

C. Certain schedules in the FPC Form 2, Annual Report for Natural Gas Companies, Class A and Class B, prescribed by § 260.1, Chapter I, Title 18, CFR.

Because of inconsistencies in the classification of intangibles (gas rights, storage rights, etc.) when storage properties are acquired by natural gas companies, a review of the underground storage accounting practices was instituted by the Commission. Discussions with industry representatives concerning the aforementioned inconsistencies in accounting practices prompted the Commission to expand its original review to include all aspects of accounting for underground storage for natural gas.

The Commission recognizes that a portion of gas stored underground is needed as a pressure base and will not be recovered. Based on the premise that this nonrecoverable natural gas which is used to maintain pressure is a fixed asset, the Commission believes that it should be classified under gas plant rather than as an inventory item. The cost of nonrecoverable gas would then be subject to depreciation on the same basis as the related physical plant and such gas devoted to storage purposes would be permanently priced at the cost when first devoted to such purposes.

Since gas losses sometimes occur without knowledge and through no fault of the companies the Commission proposes to provide for amortization of substantial gas losses or adjustments as operating expenses over future operating periods subject to Commission approval and determination that the recovery of the loss in operating expenses is justified.

It is proposed that Account 350.2, Leaseholds, 350.3, Storage Rights, and 350.5, Gas Rights, be deleted from the Uniform System of Accounts and that the costs formerly contained in those accounts be grouped in one account, proposed new Account 352.1, Storage Leaseholds and Rights, because the provisions contained in leaseholds and rights are similar in nature to the extent that it is difficult if not impossible to distinguish between them.

In order to distinguish the natural gas storage facilities from those used for the storage of products extracted from natural gas we are proposing that Storage Plant be designated as Natural Gas Storage Plant, be identified as a separate function, and be applicable to both transmission and distribution companies.

It is further proposed that Local Storage Plant be redesignated as "Other Storage Plant." The accounts may then be used to accommodate liquefied natural gas storage facilities for both transmission and distribution companies. In addition, new accounts are proposed for major items of equipment utilized in connection with liquefied natural gas storage and changes are proposed in the related expense accounts to accommodate expenses related to liquefied natural gas storage.

The proposed changes to FPC Form 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by section 260.1 of this chapter, include modifications to reflect the changes in the Uniform System of Accounts and to show the inventory of natural gas in Other Storage. These modifications, as set forth below, involve the following schedules: Comparative Balance Sheet, Assets and Other Debits; Gas Stored Underground; Gas Plant in Service; Gas Operation and Maintenance Expenses; Underground Gas Storage.

The proposed amendments to the Commission's Uniform System of Accounts and to FPC Form 2 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 16 U.S.C. 717g, 717i, 717o).

Accordingly, it is proposed to amend Part 201, Uniform System of Accounts for Class A and Class B Natural Gas Companies, Part 204, Uniform System of Accounts for Class C Natural Gas Companies, and FPC Form 2, Annual Report for Natural Gas Companies, Class A and Class B, prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations in the manner set forth below.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than May 4, 1970, data, views, comments, and suggestions, in writing, concerning the proposed revised report form and regulations. An original and 14 conformed copies should be filed with the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report form under the provisions of the Federal Reports Act of 1942 may at the same time submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Standards, Bureau of the Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the proposal should be addressed, and whether the person filing them requests a conference at the Federal Power Commission to discuss the proposed revision in the report form and regulations. The Commission will consider all such written submissions before acting on the matters herein proposed.

A. The following are proposed amendments and revisions to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Title 18 of the Code of Federal Regulations:

1. In the chart of accounts of Balance Sheet Accounts, redesignate account "164 Gas stored underground—Current" as account "164.1". Insert immediately following redesignated account 164.1, new account "164.2 Liquefied natural gas stored". As so revised, these account titles in the chart of accounts of Balance Sheet Accounts will read:

Balance Sheet Accounts
(Chart of Accounts)

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

Materials and supplies.

* * * * *

164.1 Gas stored underground—Current.
164.2 Liquefied natural gas stored.

2. In account "108 Accumulated provisions for depreciation of gas plant in service", amend the second sentence in paragraph C by deleting "(5) Local storage," and substituting therefor "(5) Other storage,".

3. In account "117 Gas stored underground—Noncurrent", amend paragraphs A and G as follows: In the first sentence of paragraph A, insert "recoverable" between "of" and "gas". In paragraph G, delete the second sentence and its surrounding parentheses. In the second paragraph in paragraph G change "164" to read "164.1". Delete the note at the end of paragraph G. As revised paragraphs A and G will read:

117 Gas stored underground—Noncurrent.

A. This account shall include the cost of recoverable gas purchased or produced by the utility which is stored in depleted or partially depleted gas or oil fields, or other underground reservoirs, and held for use in meeting service requirements of the utility's customers.

* * * * *

G. Adjustments for inventory losses due to cumulative inaccuracies of gas measurements, or from other causes, shall be charged to account 823, Gas Losses. In the operation of storage projects the utility shall maintain such procedures of verification as will disclose and result in prompt accounting recognition of significant losses.

This account shall be credited with an amount equal to that debited to account 164.1, Gas Stored Underground—Current, to classify for balance sheet purposes such portion of the total inventory of gas stored underground as constitutes a current asset according to conventional rules for classification of current assets. (See account 164.1.)

NOTE: [Deleted.]

4. Redesignate account "164 Gas stored underground—Current" as account "164.1 Gas stored underground—Current".

5. Immediately following redesignated account 164.1, insert new account 164.2 which will read as follows:

164.2 Liquefied natural gas stored.

A. This account shall include the cost of liquefied natural gas stored in above or below ground facilities.

B. Natural gas purchased in a liquefied form shall be priced at the cost of such gas to the utility. Natural gas liquefied by the utility shall be priced according to generally accepted methods of cost determination consistently applied from year to year and shall include the cost of the liquefaction process. Transmission expenses for facilities of the utility used in moving the gas to the storage facilities shall not be included in the inventory of gas except as may be authorized by the Commission.

C. Amounts debited to this account for natural gas placed in storage shall be credited to account 809, Gas Delivered to Storage—Credit. Amounts credited to this account for gas withdrawn from storage shall be debited to account 808, Gas Withdrawn from Storage—Debit.

D. Withdrawals of gas may be priced according to the first-in-first-out, last-in-first-out, or weighted average cost method provided the method adopted by the utility is used consistently from year to year and inventory records are maintained in accordance therewith. Commission approval must be obtained for any other pricing method or for any change in the pricing method adopted by the utility. Separate records shall be maintained for each storage project of the Mcf of gas delivered to storage and remaining in storage.

E. Adjustments for inventory losses shall be charged to account 842.3, Gas Losses.

6. In the chart of accounts of Gas Plant Accounts, revise heading "3. Storage Plant", subheading "B. Local Storage Plant", and the list of accounts so that as revised they will read as follows:

GAS PLANT ACCOUNTS

(Chart of Accounts)

* * * * *

3. NATURAL GAS STORAGE PLANT

A. UNDERGROUND STORAGE PLANT

350.1 Land.
350.2 Rights-of-way.
351 Structures and improvements.
352 Wells.
352.1 Storage leaseholds and rights.
352.2 Reservoirs.
352.3 Nonrecoverable natural gas.
353 Lines.
354 Compressor station equipment.
355 Measuring and regulating equipment.
356 Purification equipment.
357 Other equipment.

B. OTHER STORAGE PLANT

360 Land and land rights.
361 Structures and improvements.
362 Gas holders.
363 Purification equipment.
363.1 Liquefaction equipment.
363.2 Vaporizing equipment.
363.3 Compressor equipment.
363.4 Measuring and regulating equipment.
363.5 Other equipment.

7. In the text of Gas Plant Accounts, amend the heading "3. Storage Plant" by inserting the words "Natural Gas" before the word "Storage". Following this revised heading and preceding subheading "A. Underground Storage Plant", insert a new prefatory paragraph. As revised, the section heading, preface, and subheading will read:

3. NATURAL GAS STORAGE PLANT

These accounts are to be used by both transmission and distribution companies for natural gas storage facilities. If the utility operates both transmission and distribution systems, subaccounts shall be maintained classifying the storage facilities to the transmission or distribution function.

A. UNDERGROUND STORAGE PLANT

8. Delete the following accounts:

350.2 Leaseholds.
350.3 Storage rights.
350.5 Gas rights.

9. Redesignate account "350.4 Rights-of-way." as "350.2 Rights-of-way".

10. Immediately following account "352 Wells", add new accounts 352.1, 352.2 and 352.3 which will read as follows:

352.1 Storage leaseholds and rights.

A. This account shall include the cost of leaseholds, storage rights, mineral deeds, etc. on lands for the purpose of utilizing subsurface reservoirs for underground gas storage operations. (See gas plant instruction 7–G.)

B. Exclude from this account rents or other charges paid periodically for use of subsurface reservoirs for underground gas storage purposes.

NOTE: Items such as buildings, wells, lines, equipment and recoverable gas used in storage operations acquired with land or storage leaseholds and rights are to be classified in the appropriate accounts.

352.2 Reservoirs.

This account shall include costs to prepare underground reservoirs for the storage of natural gas.

ITEMS

1. Geological, geophysical and seismic costs.
2. Plugging abandoned wells.
3. Fuel and power.
4. Drilling and equipping fresh water wells, disposal wells, and solution wells.
5. Leaching of salt dome caverns.
6. Other rehabilitation work.

352.3 Nonrecoverable natural gas.

A. This account shall include the cost of gas in underground reservoirs, including depleted gas or oil fields and other underground caverns or reservoirs used for the storage of gas which will not be recoverable.

B. Such nonrecoverable gas shall be priced at the acquisition cost of native gas or, when acquired for storage by purchase or presumed to be supplied from the utility's own production, priced as outlined in paragraph B of account 117, Gas Stored Underground—Noncurrent. After devotion to storage, the gas shall not be restated to effect subsequent price changes in purchased gas or changes in the cost of gas produced by the utility. When the utility has followed the practice of adjusting nonrecoverable gas to the weighted-average cost of gas purchased or supplied from its own production, cost shall be the weighted-average cost of such gas at the effective date of this instruction.

11. In the text of Gas Plant Accounts following revised heading "3. Natural Gas Storage Plant", revise subheading "B. Local Storage Plant" by deleting the word "Local" and substituting "Other" therefor. As revised, subheading B will read:

B. OTHER STORAGE PLANT

12. In account "360 Land and land rights", amend the first sentence by deleting the word "local" between the words "with" and "storage" and substituting the word "the" therefor, and by placing a period after the word "holders" and deleting the remainder of the sentence. As revised, account 360 will read:

360 Land and land rights.

This account shall include the cost of land and land rights used in connection with the storage of gas in holders. (See gas plant instruction 7.)

13. In account "361 Structures and improvements", amend the first sentence by deleting the word "local" between the words "with" and "storage" and substituting the word "the" therefor, and by inserting the words "in holders." immediately following the word "gas" and deleting the remainder of the sentence. As revised, account 361 will read:

361 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with the storage of gas in holders. (See gas plant instruction 8.)

14. In account "362 Gas holders", amend the first sentence by placing a period after the word "receptacles" and deleting the remainder of the sentence. Following the list of items, delete Note A and redesignate Note B at "NOTE:". The amended portions of account 362 will read:

362 Gas holders.

This account shall include the cost installed of holders and associated appliances used in the storage of gas above ground, or in underground receptacles.

ITEMS

* * * * *

NOTE: Relief holders used in connection with manufactured gas operations shall be included in account 305, Structures and Improvements.

15a. Account "363 Other equipment", is amended as follows: Redesignate account 363 as "363.5 Other equipment." Amend the first sentence by inserting the words "in holders." immediately following the word "gas", and by deleting the remainder of the sentence. In the list of items, delete "2. Compressor." and renumber items 3, 4, and 5 as items "2.", "3.", and "4."

b. Immediately before redesignated account "363.5 Other equipment", insert the following new accounts: "363 Purification equipment", "363.1 Liquefaction equipment", "363.2 Vaporizing equipment", "363.3 Compressor equipment", and "363.4 Measuring and regulating equipment".

c. As revised, accounts 363–363.5 will read:

363 Purification equipment.

This account shall include the cost installed of apparatus used for the removal of impurities from gas and apparatus for conditioning gas.

ITEMS

1. Condensers and washer coolers.
2. Dehydrators.
3. Foundations and settings, specially constructed for and not intended to outlast the equipment for which provided.
4. Other accessory equipment, such as coolers, spray ponds, pumps, platforms, railings, stairs.
5. Piping from inlet valve of first piece of apparatus to outlet valve of final piece of apparatus (or, in building from entrance to building to exit from building).
6. Scrubbers.
7. Sulphur removal apparatus.
8. Water supply system.

363.1 Liquefaction equipment.

This account shall include the cost installed of equipment used in the liquefaction of natural gas.

ITEMS

1. Cold box.
2. Heat exchanger.
3. Condensers.
4. Pumps.
5. Tanks.

363.2 Vaporizing equipment.

This account shall include the cost installed of vaporizing equipment used in connection with liquefied natural gas storage.

363.3 Compressor equipment.

This account shall include the cost installed of compressor equipment and associated appliances used in connection with other storage plant.

363.4 Measuring and regulating equipment.

This account shall include the cost installed of equipment used to measure deliveries of gas to other storage and withdrawals of gas from other storage.

ITEMS

1. Automatic control equipment.
2. Boilers, heaters, etc.
3. Foundations, pits, etc.
4. Gas cleaners, scrubbers, separators, dehydrators, etc.
5. Gauges and instruments, including piping, fittings, wiring, etc., and panel boards.
6. Headers.
7. Meters, orifice or positive, including piping and connections.
8. Oil fogging equipment.
9. Odorizing equipment.
10. Regulators or governors, including controls and instruments.
11. Structures of a minor nature or portable type.

363.5 Other equipment.

This account shall include the cost installed of other equipment used in connection with the storage of gas in holders.

ITEMS

1. Complete inlet and outlet connections.
2. Foundation.
3. Gauges and instruments.
4. Regulating apparatus.

16. The chart of accounts of Operation and Maintenance Expense Accounts is amended as follows: Amend the titles of accounts 808 and 809 by deleting the word "underground". Amend heading "2. Underground Storage Expenses" by deleting the word "Underground" and substituting the words "Natural Gas" therefor. Immediately following this revised heading, insert a new subheading which will read "A. Underground Storage Expenses". Amend heading "3. Local Storage Expenses" by deleting "3. Local" and substituting "B. Other" therefor. Immediately following account "842 Rents." add the following new account titles: "842.1 Fuel.", "842.2 Power." and "842.3 Gas losses". Redesignate account title "846 Maintenance of other equipment." as "848.3". Immediately following account title "845 Maintenance of gas in holders." and the following new account titles: "846 Maintenance of purification equipment.", "847 Maintenance of liquefaction equipment.", "848 Maintenance of vaporizing equipment.", "848.1 Maintenance of compressor equipment.", "848.2 Maintenance of measuring and regulating equipment.", and "843.3 Maintenance of other equipment." Redesignate numbered headings 4. through 8. as headings 3. through 7. The amended portions of the chart of accounts of Operation and Maintenance Expense Accounts will read:

Operation and Maintenance Expense Accounts

(Chart of Accounts)

1. PRODUCTION EXPENSES

* * * * *

D. OTHER GAS SUPPLY EXPENSES

Operation

* * * * *

808 Gas withdrawn from storage—Debit.
809 Gas delivered to storage—Credit.

* * * * *

2. NATURAL GAS STORAGE EXPENSES

A. UNDERGROUND STORAGE EXPENSES

* * * * *

B. OTHER STORAGE EXPENSES

Operation

* * * * *

842.1 Fuel.
842.2 Power.
842.3 Gas losses.

Maintenance

* * * * *

846 Maintenance of purification equipment.
847 Maintenance of liquefaction equipment.
848 Maintenance of vaporizing equipment.
848.1 Maintenance of compressor equipment.
848.2 Maintenance of measuring and regulating equipment.
848.3 Maintenance of other equipment.

3. TRANSMISSION EXPENSES

* * * * *

4. DISTRIBUTION EXPENSES

* * * * *

5. CUSTOMER ACCOUNTS EXPENSES

* * * * *

6. SALES EXPENSES

* * * * *

7. ADMINISTRATIVE AND GENERAL EXPENSES

* * * * *

17. Account "808 Gas withdrawn from underground storage—Debit", is amended as follows: Delete the word "underground" from the account title. In the first sentence in paragraph A., delete the word "underground" between the words "from" and "storage". In the second sentence in paragraph A., immediately before the number "117" change the word "account" to read "accounts"; delete the period after the word "Noncurrent" and add the following: "and

164.2 Liquefied Natural Gas Stored." Amend the last two sentences in the Note by deleting everything after the word "substantial" and substituting the following: "the utility may, with approval of the Commission, amortize the amount of the adjustment to account 823 over future operating periods." As amended, the account title, paragraph A and the note following paragraph B in account 808 will read:

808 Gas withdrawn from storage—Debit.

A. This account shall include debits for the cost of gas withdrawn from storage during the year. Contra credits for entries to this account shall be made to accounts 117, Gas Stored Underground—Noncurrent and 164.2, Liquefied Natural Gas Stored.

* * * * *

NOTE: Adjustments for gas inventory losses due to cumulative inaccuracies in gas measurement, or from other causes, shall be entered in account 823, Gas Losses. If, however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to account 823 over future operating periods.

18. Account "809 Gas delivered to underground storage—Credit", is amended as follows: Delete the word "underground" from the account title. In the first sentence in paragraph A, delete the word "underground" between the words "to" and "storage". In the second sentence in paragraph A, immediately before the number "117", change the word "account" to read "accounts"; delete the period after the word "Noncurrent" and add the following: "and 164.2, Liquefied Natural Gas Stored." As amended, the account title and paragraph A in account 809 will read:

809 Gas delivered to storage—Credit.

A. This account shall include credits for the cost of gas delivered to storage during the year. Contra debits for entries to this account shall be made to accounts 117, Gas Stored Underground—Noncurrent and 164.2, Liquefied Natural Gas Stored.

* * * * *

19. In the text of Operation and Maintenance Expense Accounts, amend the heading "2. Underground Storage Expenses" by deleting the word "Underground" and substituting the words "Natural Gas" therefor. Following this revised heading and preceding the subheading "Operation", insert a new prefatory paragraph and a new subheading A. As revised, the section heading, preface and subheadings will read:

2. NATURAL GAS STORAGE EXPENSES

These accounts are to be used by both transmission and distribution companies to account for natural gas storage expenses. If the utility operates both transmission and distribution systems, subaccounts shall be maintained classifying the expenses to the transmission or distribution function.

A. UNDERGROUND STORAGE EXPENSES

Operation

20. In account "823 Gas losses", amend the last two sentences by deleting everything following the word "substantial" and substituting the following therefor: "the utility may, with approval of the Commission, amortize the amount of the adjustment to this account over future operating periods." As amended, account 823 will read:

823 Gas losses.

This account shall include the amounts of inventory adjustments representing the cost of gas lost or unaccounted for in underground storage operations due to cumulative inaccuracies of gas measurements or other causes. (See paragraph G of account 117, Gas Stored Underground—Noncurrent.) If, however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to this account over future operating periods.

21. In the text of Operation and Maintenance Expense Accounts, amend heading "3. Local Storage Expenses" by deleting "3. Local" and substituting "B. Other". As revised, this heading will read:

B. OTHER STORAGE EXPENSES

22. In account "840, Operation supervision and engineering", amend the first sentence by deleting the word "local" between the words "of" and "storage" and substituting the word "other" therefor. As revised, this sentence will read:

840 Operation supervision and engineering.

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of other storage facilities. * * *

23. Account "841 Operation and labor expenses", is amended as follows: In the first sentence delete the word "local" between the words "other" and "storage". In the list of items, delete "15. Steam for holder caps, including fuel to produce such steam." and "16. Variation of gas in holders." and substitute therefor "15. Chemicals." and "16. Refrigerants." The amended portions of account 841 will read:

841 Operation labor and expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating storage holders and other storage equipment.

ITEMS

* * * * *

Materials and expenses:

* * * * *

15. Chemicals.
16. Refrigerants.

24. In account "842 Rents", amend the first sentence by deleting the word "local" between the words "with" and "storage" and substituting the word "other" therefor. As amended, account 842 will read:

842 Rents.

This account shall include rents for property of others used or operated in connection with other storage operations. (See operating expense instruction 3.)

25. Immediately following account "842 Rents.", insert new accounts 842.1, 842.2 and 842.3 which will read as follows:

842.1 Fuel.

A. This account shall include the cost of natural gas or other fuel used in the operation of other storage plant.

B. Concurrent credits offsetting charges to this account for natural gas used for fuel shall be made to account 812, Gas Used for Other Utility Operations—Credit.

842.2 Power.

This account shall include the cost of electricity purchased for operation of facilities used in the operation of other storage plant.

842.3 Gas Losses.

This account shall include the amounts of inventory adjustments representing the cost of gas lost or unaccounted for in other storage operations due to shrinkage or other causes.

26. In account "843, Maintenance supervision and engineering", amend the first sentence by deleting the word "local" between the words "of" and "storage" and substituting the word "other" therefor. As revised, this sentence will read:

843 Maintenance supervision and engineering.

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of other storage facilities. * * *

27. Redesignate account "846 Maintenance of other equipment." as "848.3 Maintenance of other equipment." Add new accounts "846 Maintenance of purification equipment", "847 Maintenance of liquefaction equipment", "848 Maintenance of vaporizing equipment", "848.1 Maintenance of compressor equipment", and "848.2 Maintenance of measuring and regulating equipment". These new accounts and redesignated account "848.3 Maintenance of other equipment" will read as follows:

846 Maintenance of purification equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of purification equipment, the book cost of which is includible in account 363, Purification Equipment. (See operating expense instruction 2.)

847 Maintenance of liquefaction equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of liquefaction equipment, the book cost of which

is includible in account 363.1, Liquefaction Equipment. (See operating expense instruction 2.)

848 Maintenance of vaporizing equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of vaporizing equipment, the book cost of which is includible in account 363.2 Vaporizing Equipment. (See operating expense instruction 2.)

848.1 Maintenance of compressor equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of compressor equipment, the book cost of which is includible in account 363.3, Compressor Equipment. (See operating expense instruction 2.)

848.2 Maintenance of measuring and regulating equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of measuring and regulating equipment, the book cost of which is includible in account 363.4, Measuring and Regulating Equipment. (See operating expense instruction 2.)

848.3 Maintenance of other equipment.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of equipment, the book cost of which is includible in account 363.5, Other Equipment. (See operating expense instruction 2.)

28. In the text of Operation and Maintenance Expense Accounts, redesignate headings 4. through 8. as 3. through 7. As redesignated, these headings will read:

OPERATIONS AND MAINTENANCE EXPENSE ACCOUNTS

* * * * *

3. TRANSMISSION EXPENSES

4. DISTRIBUTION EXPENSES

* * * * *

5. CUSTOMER ACCOUNTS EXPENSES

* * * * *

6. SALES EXPENSES

* * * * *

7. ADMINISTRATIVE AND GENERAL EXPENSES

* * * * *

B. The following are proposed amendments and revisions to the Uniform System of Accounts for Class C Natural Gas Companies in Part 204, Title 18 of the Code of Federal Regulations:

1. In the chart of accounts of Balance Sheet Accounts, redsignate account "164 Gas stored underground", as account "164.1". Insert immediately following redesignated account 164.1, new account "164.2 Liquefied natural gas stored". As revised, these account titles in the chart of accounts of Balance Sheet Accounts will read:

Balance Sheet Accounts

(Chart of Accounts)

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

164.1 Gas stored underground.
164.2 Liquefied natural gas stored.

2. Account "164 Gas stored underground", is amended as follows: Redesignate this account as "164.1 Gas stored underground." In paragraph A, insert the word "recoverable" between the words "of" and "gas". In paragraph D, delete the word "Underground" between the words "to" and "Storage" and between the words "from" and "Storage". Delete Note B. The amended portions of account 164 will read:

164.1 Gas stored underground.

A. This account shall include the cost of recoverable gas purchased or produced by the utility which is stored in depleted or partially depleted gas or oil fields, or other underground reservoirs, and held for use in meeting service requirements of the utility's customers.

* * * * *

D. Amounts debited to this account for gas placed in storage shall be credited to account 734, Gas Delivered to Storage—Credit. Amounts credited to this account for gas withdrawn from storage shall be debited to account 733, Gas Withdrawn from Storage—Debit.

* * * * *

NOTE B: [Deleted.]

3. Immediately following redesignated account 164.1, add new account 164.2 which will read as follows:

164.2 Liquefied natural gas stored.

A. This account shall include the cost of liquefied natural gas stored in above or below ground facilities.

B. Natural gas purchased in a liquefied form shall be priced at the cost of such gas to the utility. Natural gas liquefied by the utility shall be priced according to generally accepted methods of cost determination consistently applied from year to year and shall include the cost of the liquefaction process. Transmission expenses for facilities of the utility used in moving the gas to the storage facilities shall not be included in the inventory of gas except as may be authorized by the Commission.

C. Amounts debited to this account for natural gas placed in storage shall be credited to account 734, Gas Delivered to Storage—Credit. Amounts credited to this account for gas withdrawn from storage shall be debited to account 733, Gas Withdrawn from Storage—Debit.

D. Withdrawals of gas may be priced according to the first-in-first-out, last-in-first-out, or weighted average cost method provided the method adopted by the utility is used consistently from year to year and the inventory records are maintained in accordance therewith. Commission approval must be obtained for any other pricing method or for any change in the pricing method adopted by the utility. Separate records shall be maintained for each storage project of the Mcf of gas delivered to storage, and remaining in storage.

E. Adjustments for inventory losses shall be charged to account 741, Gas Losses.

4. In the chart of accounts of Gas Plant Accounts, revise the heading "3. Storage Plant", the list of account titles under subheading "A. Underground Storage Plant" and subheading "B. Local Storage Plant. The amended portions of the chart of accounts of Gas Plant Accounts will read:

Gas Plant Accounts

(Chart of Accounts)

* * * * *

3. NATURAL GAS STORAGE PLANT

A. UNDERGROUND STORAGE PLANT

350.1 Land.
350.2 Rights-of-way.
351 Structures and improvements.
352 Wells.
352.1 Storage leaseholds and rights.
352.2 Reservoirs.
352.3 Nonrecoverable natural gas.
353 Lines.
354 Compressor station equipment.
355 Measuring and regulating equipment.
356 Purification equipment.
357 Other equipment.

B. OTHER STORAGE PLANT

5. In the text of Gas Plant Accounts amend the heading "3. Storage Plant" by inserting the words "Natural Gas" immediately before the word "Storage". Following this revised heading and preceding subheading "A. Underground Storage Plant", insert a new prefatory paragraph. As revised, the section heading, preface, and subheading A. will read:

3. NATURAL GAS STORAGE PLANT

These accounts are to be used by both transmission and distribution companies for natural gas storage facilities. If the utility operates both transmission and distribution systems, subaccounts shall be maintained classifying the storage facilities to the transmission or distribution function.

A. UNDERGROUND STORAGE PLANT

6. Delete the following accounts:

350.2 Leaseholds.
350.3 Storage rights.
350.5 Gas rights.

7. Redesignate account "350.4 Rights-of-way." as "350.2 Rights-of-way."

8. Immediately following account "352 Wells", add new accounts 352.1, 352.2 and 352.3 which will read as follows:

352.1 Storage leaseholds and rights.

A. This account shall include the cost of leaseholds, storage rights, mineral deeds, etc. on lands for the purpose of utilizing subsurface reservoirs for underground gas storage operations. (See gas plant instruction 6–G.)

B. Exclude from this account rents or other charges paid periodically for use of subsurface reservoirs for underground gas storage purposes.

NOTE: Items such as buildings, wells, lines, equipment and recoverable gas used in storage operations acquired with land or storage leaseholds and rights are to be classified in the appropriate accounts.

352.2 Reservoirs.

This account shall include costs to prepare underground reservoirs for the storage of natural gas.

ITEMS

1. Geological, geophysical and seismic costs.
2. Plugging abandoned wells.
3. Fuel and power.
4. Drilling and equipping fresh water wells, disposal wells and solution wells.
5. Leaching of salt dome caverns.
6. Other rehabilitation work.

352.3 Non-recoverable natural gas.

A. This account shall include the cost of gas in underground reservoirs, including depleted gas or oil fields and other underground caverns or reservoirs used for the storage of gas which will not be recoverable.

B. Such nonrecoverable gas shall be priced at the acquisition cost of native gas or, when acquired for storage by purchase or presumed to be supplied from the utility's own production, priced as outlined in Paragraph B of account 164.1, Gas Stored Underground. After devotion to storage, the gas shall not be restated to effect subsequent price changes in purchased gas or changes in the cost of gas produced by the utility. When the utility has followed the practice of adjusting nonrecoverable gas to the weighted-average cost of gas purchased or supplied from its own production, cost shall be the weighted-average cost of such gas at the effective date of this instruction.

9. In the text of Gas Plant Accounts following revised heading "3. Natural Gas Storage Plant", amend subheading "B. Local Storage Plant" by deleting the word "Local" and substituting "Other" therefor. As revised, this subheading will read:

B. OTHER STORAGE PLANT

10. In account "360 Land and land rights", amend the first sentence by deleting the word "local" between the words "with" and "storage" and substituting the word "the" therefor, and by placing a period after the word "holders" and deleting the remainder of the sentence. As revised, account 360 will read:

360 Land and land rights.

This account shall include the cost of land and land rights used in connection with the storage of gas in holders. (See gas plant instruction 6.)

11. In account "361 Structure and improvements", amend the first sentence by deleting the word "local" between the words "with" and "storage" and substituting the word "the" therefor, and by deleting the words "within or adjacent to distribution areas." and substituting therefor the words "in holders". As revised, account 361 will read:

361 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with the storage of gas in holders. (See gas plant instruction 7.)

12. In account "362 Gas holders", amend the first sentence by placing a period after the word "receptacles" and deleting the words "installed for local storage purposes". As revised, the first paragraph in account 362 will read:

362 Gas holders.

This account shall include the cost installed of holders and associated appliances used in the storage of gas above ground, or in underground receptacles.

13. In account "363 Other equipment", amend the first sentence by deleting the words "within or adjacent to distribution areas." and substituting the words "in holders." therefor. As revised, the first paragraph in account 363 will read:

363 Other equipment.

This account shall include the cost installed of other equipment used in connection with the storage of gas in holders.

14. In the chart of accounts of Operation and Maintenance Expense Accounts, delete the word "underground" from account titles 733 and 734. In account title 747, delete the word "local" and substitute the word "other" therefor. As revised, these account titles will read:

Operation and Maintenance Expense Accounts

(Chart of Accounts)

* * * * *

4. OTHER GAS SUPPLY EXPENSES

OPERATION

* * * * *

733 Gas withdrawn from storage—Dr.
734 Gas delivered to storage—Cr.

* * * * *

5. STORAGE EXPENSES

* * * * *

MAINTENANCE

* * * * *

747 Maintenance of other storage plant.

15. Account "733, Gas withdrawn from underground storage—Debit", is amended as follows: Delete the word "underground" from the account title. In the first sentence of paragraph A., delete the word "underground" between the words "from" and "storage". In the second sentence in paragraph A, change account "164, Gas Stored Underground." to read accounts "164.1, Gas Stored Underground and 164.2, Liquefied Natural Gas Stored". In the second sentence in the Note, delete the words "and related predominantly to prior years, it shall be charged to account 435, Miscellaneous Debits to Surplus." and substitute the following therefor ", the utility may, with approval of the Commission, amortize the amount of the adjustment to account 741, Gas Losses over future operations periods." The amended portions of account 733 will read:

733 Gas withdrawn from storage—Debit.

A. This account shall include debits for the cost of gas withdrawn from storage during the year. Contra credits for entries to this account shall be made to accounts 164.1, Gas Stored Underground and 164.2, Liquefied Natural Gas Stored.

* * * * *

NOTE: Adjustments for gas inventory losses due to cumulative inaccuracies in gas measurement, or from other causes, shall be entered in account 741, Gas Losses. If, however, any adjustment is substantial, the utility may, with approval of the Commission, amortize the amount of the adjustment to account 741, Gas Losses over future operations periods.

16. Account "734 Gas delivered to underground storage—Credit", is amended as follows: Delete the word "underground" from the account title. In the first sentence of paragraph A., delete the word "underground" between the words "from" and "storage". In the second sentence in paragraph A, change account "164, Gas Stored Underground". to read accounts "164.1, Gas Stored Underground and 164.2, Liquefied Natural Gas Stored". The amended portions of account 734 will read:

734 Gas delivered to storage—Credit.

A. This account shall include credits for the cost of gas delivered to storage during the year. Contra debits for entries to this account shall be made to accounts 164.1, Gas Stored Underground and 164.2, Liquefied Natural Gas Stored.

* * * * *

17. In the text of Operation and Maintenance Expense Accounts, immediately following the heading "5. Storage Expenses" insert a new prefatory paragraph which will read:

5. STORAGE EXPENSES

These accounts are to be used by both transmission and distribution companies to account for natural gas storage expenses. If the utility operates both transmission and distribution systems, subaccounts shall be maintained classifying the expenses to the transmission or distribution function.

18. In account "740, Operation supervision and labor", amend Item 1. by deleting the word "local" between the words "of" and "storage" and substituting the word "other" therefor. As revised, Item 1. will read:

740 Operation supervision and labor.

* * * * *

ITEMS

1. Operation of other storage facilities.

* * * * *

19. In account "741 Gas losses", amend the last sentence by deleting the words "and relates predominantly to prior years, it shall be charged to account 435, Miscellaneous Debits to Surplus." and substituting therefor "the utility may, with the approval of the Commission, amortize the amount of the adjustment to this account over future operating periods." As revised, account 741 will read:

741 Gas losses.

This account shall include the amounts of inventory adjustments representing the cost of gas lost or unaccounted for in underground storage operations due to cumulative inaccuracies of gas measurements or other causes. If, however, any adjustment is substantial, the utility

may, with the approval of the Commission, amortize the amount of the adjustment to this account over future operating periods.

20. In account "742 Operation supplies and expense", amend Item 1. by deleting the word "local" between the words "of" and "storage" and substituting the word "other" therefor. As revised, Item 1. will read:

742 Operation supplies and expenses.

* * * * *

ITEMS

1. Supplies used in operation of other storage facilities.

* * * * *

21. Account title "747 Maintenance of local storage plant." will be revised to read:

747 Maintenance of other storage plant.

C. The following changes, to be effective for the reporting year 1970, are proposed to FPC Form 2,[1] Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Title 18 of the Code of Federal Regulations.

1. *Comparative Balance Sheet, Assets and Other Debits.* In column (a) of this schedule redesignate account title "Gas Stored Underground—Current (164)" as "164.1" and add new account title "Liquefied Natural Gas Stored (164.2)." Attachment A.

2. *Gas Stored Underground.* Revise schedule title to read "Gas Stored (Accounts 117, 164.1 and 164.2)". Change account reference in Column (c) to read: "(Account 164.1)". Add new Column (d) headed "LNG (Account 164.2)". Delete the world "underground" from instruction 1. and the schedule form. Attachment B.

3. *Gas Plant In Service.* In this schedule revise the following line items and account titles in Account column (a): Revise heading "3. Storage Plant" to read "3. Natural Gas Storage Plant"; revise subheading "Local Storage Plant" to read "Other Storage Plant"; revise "Total Local Storage Plant" to read "Total Other Storage Plant"; revise "Total Storage Plant" to read "Total Nat. Gas Storage Plant". Delete account titles "350.2 Leaseholds", "350.3 Storage rights" and "350.5 Gas rights". Redesignate account title "350.4 Rights-of-way" as "350.2 Rights-of-way." Add new account titles "352.1 Storage leaseholds and rights", "352.2 Reservoirs" and "352.3 Non-recoverable natural gas". Redesignate account title "363 Other equipment" as "363.5 Other equipment". Add new account titles "363 Purification equipment", "363.1 Liquefaction equipment", "363.2 Vaporization equipment", "363.3 Compressor equipment", and "363.4 Meas. and reg. equipment". Attachment C.

4. *Gas Operation and Maintenance Expenses.* In this schedule, revise the following line items and account titles in Account column (a): Add new heading "2. Natural Gas Storage Expenses". Redesignate heading "2. Underground Storage Expenses" as "2A. Underground Storage Expenses". Revise heading "3. Local Storage Expenses" to read "2B. Other Storage Expenses". Redesignate headings 4. through 8. as headings 3. through 7. Revise "Total local storage expenses" to read "Total other storage expenses". Add new account titles "842.1 Fuel", "842.2 Power" and "842.3 Gas losses". Redesignate account "846 Maintenance of other equipment" as account "848.3 Maintenance of other equipment." Add new account titles "846 Maintenance of purification equipment", "847 Maintenance of liquefaction equipment", "848 Maintenance of vaporization equipment", "848.1 Maintenance of compressor equipment" and "848.2 Maintenance of measuring and regulating equipment". Attachment D.

5. *Underground Gas Storage.* Revise schedule title to read "Gas Storage". Revise instruction 2. to read "2. Total storage plant should agree with amounts reported by the respondent in Accounts 350.1 to 363.5, inclusive." Revise instruction 4. to read "4. Designate each storage field or project by type of reservoir i.e., UE, underground expansion; UW, underground waterdrive; UA, underground aquifer; L, liquefied natural gas; O, all other storage. O, all other storage may be reported lumped in one vertical column." In column (a) revise heading "Storage Plant" to read "Natural Gas Storage Plant", and item "Storage wells" to read "Storage wells and holders". Attachment E.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-3776; Filed, Mar. 27, 1970; 8:49 a.m.]

[1] Filed as part of original document.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 231]

[Release No. 33-5051]

INTEREST OF COUNSEL AND EXPERTS IN THE REGISTRANT [1]

Proposed Guide

It has come to the attention of the Division of Corporation Finance that persons who are named in the prospectus as counsel for the issuer or underwriter with respect to a registration statement, as well as counsel who pass upon the legality of the securities being registered, are in some cases owners of securities of the registrant or are to receive such securities or rights to subscribe thereto or are associated with owners of such securities or rights. In such case it would appear appropriate to disclose the interest of these persons in the registrant and the offering so that any conflict of interest that may arise therefrom will be known to potential investors.

Of course, where such securities are given as compensation for services in connection with the registration statement, appropriate disclosure thereof as an expense of the offering should also be made.

Moreover, counsel may overlook the fact that his interest in the issuer or his participation in its affairs may constitute him a promoter, finder, or executive officer (although nor carrying the customary official title). Specific disclosures with respect to such relationship are required by the forms.

The foregoing, of course, may also have application to persons named as experts in the prospectus.

The Commission has therefore authorized publication of this proposed guide in order to bring the above matters to the attention of registrants. Comments and suggestions on the proposed guide should be submitted to Charles E. Sherve, Director, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 20, 1970, so that the Division may have the benefit of the views of those interested before the guide is published in definitive form.

The text of the proposed guide follows:

56. *Interests of Counsel and Experts in the Registrant.* Where persons are identified in the prospectus as counsel for the issuer or underwriter or as counsel who passed upon the legality of the securities being registered, the interest of such counsel in the registrant or the offering should be disclosed. Such disclosure should include all security interests in the registrant, or rights to subscribe, received or to be received by such counsel of their associates. Where such securities or rights are given by the registrant or selling security holders for services in connection with the offering, appropriate disclosure thereof should also be included in response to Items 1 and 23 of Form S-1 (17 CFR 239.11), or corresponding items of other forms.

Moreover, careful consideration should be given to whether the interest of such counsel in the registrant, or his activities in organizing, managing or promoting the venture may not constitute him a "promoter," "finder" or "executive officer" of the registrant, as those terms are used in the forms. Where such relationships exist, the required disclosures should be made notwithstanding the absence of an official title.

Similar disclosure and consideration should be given to the interests of all experts named in the prospectus.

[See also Guides No. 9 and No. 11 (33 F.R. 18619)].

By the Commission, March 16, 1970.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-3756; Filed, Mar. 27, 1970; 8:50 a.m.]

[1] For other guides, see Securities Act Release No. 4936 published Dec. 9, 1968 (33 F.R. 18617); Release No. 5005 published Sept. 17, 1969 (34 F.R. 15245); and Release No. 5036 published Jan. 19, 1970 (35 F.R. 1233).

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority 87]

ASSISTANT ADMINISTRATOR FOR PRIVATE RESOURCES

Delegation of Authority Relating to Personnel

Pursuant to the authority contained in section 239(b) of the Foreign Assistance Act of 1961, as amended (hereinafter the "Act"), the Presidential Determination, dated December 30, 1969 (35 F.R. 43), section 302 of title 5, United States Code, and the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State dated November 13, 1961 (26 F.R. 10608), I hereby delegate to the Assistant Administrator for Private Resources the following authorities with respect to personnel of the Overseas Private Investment Corporation (hereinafter referred to as the "OPIC") as follows:

1. To employ, appoint, detail, or assign personnel to carry out functions of the OPIC, pursuant to sections 233(d), 626(a), 626(c), 627, and 628 of the Act, and to authorize the renewal of the employment by the OPIC of persons as experts and consultants pursuant to sec. 626(a) of the Act;

2. In accordance with section 233(d) of the Act, to appoint, compensate or remove without regard to the provisions of any law not exceeding at any one time 20 persons of whom not to exceed eight may be compensated at rates higher than those provided for Grade 15 of the general schedule established by section 5332 of title 5, United States Code, but not in excess of Grade 18 of such general schedule;

3. To authorize or establish rates of compensation for personnel employed pursuant to section 233(d) of the Act;

4. To place positions in the appropriate class and grade in accordance with chapter 51 of title 5, United States Code, for positions so subject, and to promote and grant step increases, including quality increases, for personnel serving in such positions in accordance with regulations prescribed by the Civil Service Commission;

5. To authorize and approve leave as provided for in chapter 62 of title 5, United States Code, and in implementing regulations of the Civil Service Commission, including authority to approve leave without pay;

6. To authorize, as appropriate, and to approve travel and transportation of effects, including related expenses for eligible domestic employees, in accordance with regulations including those of other agencies, where appropriate.

7. To administer oaths of office to all employees, except those appointed by the President with the advice and consent of the Senate;

8. To authorize preemployment invitational travel for non-U.S. Government personnel;

9. To exercise custody over, and to provide for the control and maintenance of official personnel folders of all employees in accordance with Civil Service Regulations;

10. To terminate, to separate, or to reduce in force any employee in accordance with applicable law and implementing regulations prescribed by Executive order or the Civil Service Commission.

11. The authorities delegated herein shall be exercised in accordance with applicable law, directives, or instructions, and regulations or instructions of other agencies, where applicable.

12. To the extent permitted by law or by regulations of competent authority, there is hereby delegated to the Assistant Administrator for Private Resources with respect to personnel of the OPIC the authority vested in the Administrator as "head of agency" by statute or regulations, including those of other agencies, relating to any aspect of personnel authority or administration, including authority to prescribe regulations and to establish policy and procedures relating thereto.

13. The officer to whom authority has been delegated by this delegation may, to the extent consistent with law, delegate or assign any of the functions delegated or assigned by this delegation of authority, and may authorize the subordinates to whom functions are delegated or assigned successively to redelegate or reassign any of such functions.

14. Reference to statutes, directives, orders, delegations of authority, and regulations shall be deemed to be references to such statutes, Executive orders, delegations of authority, regulations, and directives as amended from time to time.

15. This delegation of authority shall be effective immediately and shall continue in effect until such time as it is modified or revoked by me.

Dated: March 9, 1970.

JOHN A. HANNAH,
Administrator.

[F.R. Doc. 70-3757, Filed, Mar. 27, 1970; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

CATHOLIC UNIVERSITY OF AMERICA

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. 70-00178-65-46040. Applicant: The Catholic University of America, Washington, D.C. 20017. Article: Electron microscope, Model EM-802. Manufacturer: Associated Electrical Industries, United Kingdom.

Intended use of article: The article will be used for both instructional and research purposes in the field of materials science. The research projects include the following:

(a) Investigation of the occurrence of phase separation and the determination of phase boundaries in vitreous materials.

(b) Studies of the mechanism and kinetics of phase separation;

(c) Measurement of thermodynamic parameters of phase decomposition such as the spinodal wave length, and interface thickness;

(d) Crystallographic study of the martensite transformation in ferrous alloys;

(e) Growth studies of bainite in beta brass;

(f) Explorative studies to use the electron microscope as a high resolution electron scattering device with scanning and counter detection techniques.

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 equipped with a ±5 degree tilt and 360 degree rotation stage and the capability of a grid heater stage which operate to 1,200° centigrade (° C.). The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU-4B electron microscope which was then being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope can be equipped with a tilt stage which does not provide 360 degrees rotation and a grid heater stage which operates to 1,000° C. We are advised by the National Bureau of Standards (NBS) in its memorandum dated December 9, 1969, that the difference in 1,000° C. and 1,200° C. grid stage operation and the tilt-rotation of the foreign article are pertinent to the purposes for which the article is intended to be used.

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.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3717; Filed, Mar. 27, 1970; 8:45 a.m.]

EASTERN MICHIGAN 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. 70–00176–33–46040. Applicant: Eastern Michigan University, Department of Biology, Ypsilanti, Mich. 48197. Article: Electron microscope, Model EM–9A. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used to teach biology majors the applications and use of the electron microscope, in biological research with specific uses in plant anatomy, bacteriology and virology, mycology, protozoology, histology, and cytology. Master's degree candidates will have the opportunity to use the article in thesis work in these and other fields, as well as to train specifically in the techniques of use of the electron microscope. Students in the medical technology program will be given some exposure to electron microscopy as a medical tool.

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: (1) 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 programming. The most closely comparable domestic instrument available at the time the applicant ordered the foreign article was the EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is currently being manufactured by 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 (HEW), in its memorandum dated January 22, 1970, that the foreign article is easier to operate than the EMU–4B and is, therefore, superior to the domestic instrument for educational purposes. We, therefore, find that the greater ease of operation of the foreign article is pertinent to the purposes for which this article is intended to be used.

For this reason, we 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 was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3722; Filed, Mar. 27, 1970; 8:45 a.m.]

MARQUETTE SCHOOL OF MEDICINE

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. 70–00133–33–46040. Applicant: Marquette School of Medicine, Inc., 561 North 15th Street, Milwaukee, Wis. 53233. Article: Electron microscope, Model EM 6B and accessories. Manufacturer: Associated Electrical Industries, United Kingdom.

Intended use of article: The article will be used for biological research and student training. Research includes several different areas involving various aspects of cellular physiology pertaining to ultrastructure of membranes or viruses. Investigations include ultrastructural organization and conformation of subunits of bacterial cell wall layers, changes in membranes and organelles during inapparent viral infection with RNA viruses in animal cells grown in cell culture, viral-induced hyperlipemia in embryos involving studies on mitochondrial and other lipid-rich cellular membranes, mutagen induced bacteriophage mutants, and mechanisms of genetic transformation in bacterial cells, especially the visualization of how molecules of transforming DNA invade bacterial cell walls and membranes and how they attach to bacterial cytoplasmic membranes.

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 cathode-anode spacing which is externally adjustable providing optimum illumination at the lower accelerating voltages. The most closely comparable domestic electron microscope available at the time the application was received was the Model EMU–4B which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The EMU–4B does not provide for external adjustment of cathode-anode spacing for optimum illumination at the lower accelerating voltages. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 3, 1970, that external adjustment of cathode-anode spacing for optimum illumination at the lower accelerating voltages is a pertinent characteristic of the foreign article.

For this reason, we find that the Model EMU–4B electron microscope is not of equivalent scientific value to the foreign article, for the purposes for which the 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 was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3723; Filed, Mar. 27, 1970; 8:45 a.m.]

MASONIC MEDICAL RESEARCH LABORATORY

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. 70-00180-33-80200. Applicant: Masonic Medical Research Laboratory, Bleeker Street, Utica, N.Y. 13500. Article: Cardiac output thermistor and integrator. Manufacturer: Lars Stage, Department of Physiology, Sweden.

Intended use of article: The article will be used for measuring cardiac output in cats.

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 fast response thermistor sensors, miniature size, built-in calibrator and is compatible with the recording system of the cardiovascular apparatus with which the article is intended to be used. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum of January 16, 1970, that these characteristics of the foreign article are pertinent to the purposes for which the article is intended to be used.

HEW further advises that it knows of no similar apparatus being manufactured in the United States, which provides the above-cited pertinent characteristics.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3720; Filed, Mar. 27, 1970; 8:45 a.m.]

NEW YORK 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. 70-00119-33-43780. Applicant: New York University, Department of Prosthetics and Orthotics, 317 East 34th Street, New York, N.Y. 10016. Article: Component parts for prosthetic devices. Manufacturer: Siemonsen Mechanical Products Ltd., Canada.

Intended use of article: The component parts will be used in the fabrication of recently designed experimental prosthetic arms for children.

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 institution serves as the national center for prosthetic evaluation activities. (See letter dated Mar. 4, 1970.) In this capacity, the applicant has a continuing program centered around the evaluation of newly developed concepts in prosthesis. The application relates to components for upper extremity prosthetic devices, which were recently developed in conjunction with the Ontario (Canada) Crippled Children's Commission, by the foreign manufacturer thereof. These will be used by the applicant in constructing test prosthesis for the purpose of evaluating the practicability of the newly developed principle.

The Department of Commerce knows of no similar components being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3718; Filed, Mar. 27, 1970; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

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. 70-00177-33-46040. Applicant: University of California, Irvine, California College of Medicine, Irvine, Calif. 92664. Article: Electron microscope, Model EM-9A. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for the training of resident physicians, medical students and graduate students in the use of electron microscopes. Examples of research projects in progress are as follows:

(a) The evolution of glomerulosclerosis in human and experimental diabetes;

(b) The induction and progress of spermatogenesis with exogenous hormones;

(c) The passive transfer of diabetes;

(d) The study of virus induced diabetes.

The article will also be used to study selected clinical materials which are problem cases.

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: (1) 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 available at the time the applicant ordered the foreign article was the EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America (RCA), and which is currently being manufactured by 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 (HEW) in its memorandum dated January 22, 1970, that the foreign article is easier to operate than the EMU-4B, and is, therefore, superior to the domestic instrument for educational purposes.

We, therefore, find that the greater ease of operation of the foreign article is pertinent to the purposes for which this article is intended to be used.

For this reason, we 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 the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3715; Filed, Mar. 27, 1970; 8:45 a.m.]

UNIVERSITY OF PITTSBURGH HEALTH 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. 70-00173-33-46040. Applicant: Magee-Women's Hospital, University of Pittsburgh Health Center,

Pittsburgh, Pa. 15213. Article: Electron microscope, Model EM 300 and accessories. Manufacturer: Philips Electronic Instruments, The Netherlands.

Intended use of article: The article will be used for medical research and teaching in the Pathology Department. Current research projects include the following:

(1) Ultrastructural studies of normal and abnormal mammalian muscle spindles;

(2) Other studies of normal and diseased skeletal and heart muscle;

(3) Autoradiographic, immunohistochemical and histochemical techniques applied to various endocrine cells and smooth muscle cells necessitate the use of unstained specimens;

(4) Studies on the applicability of ultrastructural techniques as an aid in the diagnosis of certain surgical pathology specimens.

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 the purposes for which such article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous range of 220 to 500,000 magnifications (X) without changing the pole piece or breaking the vacuum of the specimen chamber. The most closely comparable domestic electron microscope available at the time the application was received was the Model EMU-4B which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The EMU-4B provides 500 to 240,000 X but requires opening the column to change the pole piece. We are advised by the Department of Health, Education, and Welfare in a memorandum dated February 3, 1970, that the capability to provide a magnification range of 220 to 500,000X without opening the column to the atmosphere is a pertinent characteristic of the foreign article.

For this reason, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article, for the purposes for which such 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 was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3719; Filed, Mar. 27, 1970; 8:45 a.m.]

UNIVERSITY OF TENNESSEE 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, Business and Defense Services Administration, 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. 70-00524-89-43000. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Portable magnetometer, Model GM-102. Manufacturer: Barringer Research Ltd., Canada. Intended use of article: The article will be used for instructing students in the Geography Department in geophysical surveys. Students will use this instrument in the field for locating anomalies in the earth's magnetic field. Application received by Commissioner of Customs: March 6, 1970.

Docket No. 70-00525-01-77040. Applicant: Montana State University, Department of Chemistry, Bozeman, Mont. 59715. Article: Mass spectrometer, Model MAT CH-5. Manufacturer: Varian MAT, West Germany. Intended use of article: The research work using the article will cover many areas. One project is the study of reaction mechanisms. Deuterium will be used as a tracer element. The inter- and intra-molecular migration of hydrogen brought about by heat alone will be studied. Deuterium will be used as a tracer atom and analysis of thermally sensitive molecules containing varying numbers of deuterium atoms will be carried out in the mass spectrometer. This work is intended to relate the experimental behavior of vibrationally excited molecules to the prediction of conservation of orbital symmetry. Application received by Commissioner of Customs: March 6, 1970.

Docket No. 70-00526-33-46070. Applicant: University of California, Davis, Calif. 95616. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., U.K. Intended use of article: The article will become a part of the facility for advanced instrumentation. As a research tool, it will be used by a large number of investigators from the College of Agriculture, the College of Engineering and the School of Veterinary Medicine. Studies concern the surfaces of plant pathogenic fungal spores and bacteria; the surface topography of nucleating thin films, diagnostics of integrated circuits, and emulsion studies of hologram plates; and the mucosa of the respiratory system, relating to ultrastructural studies concerning the reaction of the respiratory system to injury, especially that produced by air pollutants. Application received by Commissioner of Customs: March 9, 1970.

Docket No. 70-00527-07-46100. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Milko tester, Model MK-111. Manufacturer: A/S N. Foss Electric, Denmark. Intended use of article: The article will be used for automated measurement of fat in milk (lipid fraction), as well as measurements such as protein and cell counts. Besides research purposes, the article will be used in courses designed to give the student broad training in the principles of animal and food science. Application received by Commissioner of Customs: March 9, 1970.

Docket No. 70-00528-33-46040. Applicant: Cornell University Medical College, New York, N.Y. 10021. Article: Electron microscope, Model EM6B. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used primarily for research and also for teaching purposes to demonstrate the ultrastructure of normal and virus-infected tissues, and to illustrate the principles of virus fine-structure. The research, aimed at elucidating various basic aspects of the nature of arthropod-borne viruses (arboviruses), and the possible means by which they induce disease in man and lower animals, is being conducted in the applicant's laboratories. Application received by Commissioner of Customs: March 9, 1970.

Docket No. 70-00529-80-64000. Applicant: Clarkson College of Technology, Main Street, Potsdam, N.Y. 13676. Article: Polariscope, coupling device and model kit. Manufacturer: Sharples Photomechanics Ltd., United Kingdom. Intended use of article: The article will be used for research on pressure vessels, machine and structural components, and other solid parts will be investigated; for experiments to be conducted commonly carried out by photoelastic methods; and the objective will be to determine the stresses associated with the observed fringes. For educational purposes, the equipment will be used in a new course in experimental stress analysis and for student research. Application received by Commissioner of Customs: March 9, 1970.

Docket No. 70-00530-65-46040. Applicant: Cornell University, Ithaca, N.Y. 14850. Article: Electron Microscope, Model JEM-200, and accessories. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used for materials science research involving the study of:

(1) Void formation in Aluminum.

(2) The interaction of dislocations with grain boundaries in Gold.

(3) The formation of a second phase in Titanium and Zirconium alloys.

(4) The interaction of radiation damage with precipitate particles in Copper alloys.

(5) The nature of dislocations in polymers.

Application received by Commissioner of Customs: March 9, 1970.

Docket No. 70-00531-00-86500. Applicant: Newark College of Engineering, Chemical Engineering Department, 240 High Street, Newark, N.J. 07102. Article: Accessories for Model R-18 rheogoniometer. Manufacturer: Sangamo Controls, Ltd., U.K. Intended use of article: The articles will be used for the Model R-18 Weissenberg rheogoniometer already in the possession of the applicant. Application received by Commissioner of Customs: March 10, 1970.

Docket No. 70-00532-33-46500. Applicant: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 8B14, Bethesda, Md. 20014. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for the study of biological specimens of tumor and animal origin, virus particles, and membrane structures. The development of viruses in mammalian tissues and the development of tumor cells will also be studied. Since the applicant's research deals with tissue cultures and surgical materials, section thickness of 50-100 angstroms and a wide range of cutting speeds are important. Application received by Commissioner of Customs: March 10, 1970.

Docket No. 70-00533-99-46040. Applicant: University of Massachusetts/Boston, Biology Department, 100 Arlington Street, Boston, Mass. 02116. Article: Electron microscope, Model JEM-50B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for the training of students in the senior course in Cell Structure and Function (Bio 371-373), to elucidate the chemical basis of life, energy transformation, biosynthesis, the molecular basis of inheritance, control mechanisms in cell function, the specialization of cells and their integration in tissues. The cytology section of the course serves to relate cell ultrastructure to known function of tissues. Students will learn the techniques for handling tissue to prepare it for electron microscopy and will then be taught the techniques, use and function of the electron microscope. Application received by Commissioner of Customs: March 10, 1970.

Docket No. 70-00534-55-83500. Applicant: University of Hawaii, Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, Hawaii 96822. Article: Two (2) sea bottom thermogradmeters and parts. Manufacturer: Sokkisha Co., Ltd., Japan. Intended use of article: The article will be used for measurement of ocean heat flow from research vessels for the Hawaii Institute of Geophysics that are part of a world-wide oceanographic research program. Application received by Commissioner of Customs: March 10, 1970.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3721; Filed, Mar. 27, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9984]

CERTAIN STEROID COMBINATION PREPARATIONS FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Pabalate-HC Tablets, containing 0.3 gram potassium salicylate, 0.3 gram potassium aminobenzoate, 50 milligrams ascorbic acid, and 2.5 milligrams hydrocortisone per tablet; A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Va. 23220 (NDA 9984).

2. Pabicortal Tablets, containing 0.3 gram potassium salicylate, 0.3 gram potassium aminobenzoate, 50 milligrams ascorbic acid, and 2.5 milligrams hydrocortisone per enteric coated tablet; Nysco Laboratories, 34-24 Vernon Boulevard, Long Island City, N.Y. 11100 (NDA 10-342).

3. Buffered Pabirin AC Tablets, containing 2.5 milligrams hydrocortisone, 300 milligrams aspirin, 300 milligrams aminobenzoic acid, 50 milligrams ascorbic acid, and 100 milligrams dried aluminum hydroxide gel per tablet; Dorsey Laboratories, Division of The Wander Co., N.E., U.S. 6 and Interstate 80, Lincoln, Nebr. 68501 (NDA 10-387).

4. Pabirin AC Capsules, containing 2.5 milligrams hydrocortisone, 300 milligrams aspirin, 300 milligrams aminobenzoic acid, 50 milligrams ascorbic acid per capsule; Dorsey Laboratories, Division of The Wander Co. (NDA 10-387).

5. Artamide-HC Capsules, containing 0.25 gram salicylamide, 0.25 gram aminobenzoic acid, 20 milligrams ascorbic acid, and 2.5 milligrams hydrocortisone per capsule; Wampole Laboratories, 35 Commerce Road, Stamford, Conn. 06902 (NDA 10-510).

6. Salcort-Delta Tablets, containing 1 milligram prednisone, 0.3 gram potassium salicylate, 5 milligrams calcium pantothenate, 30 milligrams calcium ascorbate, 60 milligrams calcium carbonate, and 0.12 gram dried aluminum hydroxide gel per tablet; The S. E. Massengill Co., 527 Fifth Street, Bristol, Tenn. 37620 (NDA 11-023).

7. Mephosal with Hydrocortisone Tablets, containing 250 milligrams mephenesin, 250 milligrams sodium salicylate, 2.5 milligrams homatropine methylbromide, and 5 milligrams hydrocortisone acetate; Crookes-Barnes Laboratories, Inc., Fairfield Road, Wayne, N.J. 07470 (NDA 11-027).

8. Neocylone Tablets, containing 2 milligrams prednisolone, 20 milligrams ascorbic acid, 0.28 gram potassium salicylate, and 0.30 gram potassium aminobenzoate per tablet; The Central Pharmacal Co., 116-128 East Third Street, Seymour, Ind. 47274 (NDA 11-274).

9. Predniscorb Tablets, containing 0.75 milligram prednisone, 5 grains salicylamide, 20 milligrams ascorbic acid, and 75 milligrams aluminum hydroxide per tablet; Nysco Laboratories Inc. (NDA 11-550).

10. Aristogesic Steroid-Analgesic Compound Capsules, containing 0.5 milligram triamcinolone, 325 milligrams salicylamide, and 20 milligrams ascorbic acid per capsule, Lederle Laboratories, Division American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 11-684).

The Food and Drug Administration concludes there is a lack of substantial evidence (1) that these drugs are effective for use in the treatment of rheumatoid arthritis, osteoarthritis, and all other labeled uses and indications and (2) that each component of the combination drugs contributes to the total effects claimed for such drugs.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug applications for such drugs.

Prior to initiating such action, however, the Commissioner invites the holders of new-drug applications for these drugs and any interested person who may be adversely affected by their removal from the market to submit any pertinent data bearing on the proposal within 30 days after publication of this notice in the FEDERAL REGISTER. The only material which will be considered acceptable for review must be well-organized and consist of adequate and well-controlled studies not previously submitted.

This announcement of the proposed action and implementation of the NAS-NRC reports for these drugs is made to give notice to persons who might be adversely affected by their removal from the market. Promulgation of an order withdrawing approval of the new-drug applications will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

A copy of the NAS-NRC report has been furnished to each firm referred to above, and any interested person may obtain a copy on request from the office named below.

Communications forwarded in response to this announcement should be

identified with the reference number DESI 9984, and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for NAS-NRC report: Press Relations Office (CE-300).
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-16), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: March 13, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3727; Filed, Mar. 27, 1970; 8:45 a.m.]

[DESI 11498]

DOMIPHEN BROMIDE—BENZOCAINE LOZENGES

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Bradosol Lozenges; containing domiphen bromide 1.5 milligrams and benzocaine 2.5 milligrams per lozenge, marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 11-498).

The Food and Drug Administration concludes there is a lack of substantial evidence that the drug will have the effects it purports or is represented to have under the conditions of use recommended in its labeling. Accordingly, the Commissioner intends to initiate proceedings to withdraw approval of the new-drug application for this product.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug and any interested person who may be adversely affected by the removal of such article from the market to submit any pertinent data bearing on the proposal within 30 days after publication of this notice in the FEDERAL REGISTER. The only material which will be considered acceptable for review must be well-organized and consist of adequate and well-controlled studies not previously submitted.

This announcement is made to give notice to persons who might be adversely affected by withdrawal of the listed drug from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy on request from the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11498 and be directed to the following appropriate office and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Requests for NAS-NRC report: Press Relations Office (CE-300).
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-16), Bureau of Drugs.

This announcement is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: March 13, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3728; Filed, Mar. 27, 1970; 8:45 a.m.]

FEHMERLING ASSOCIATES

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0A2507) has been filed by Fehmerling Associates, Post Office Box 236, 577 Shiloh Pike, Bridgeton, N.J. 08302, proposing issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of a carbohydrase and cellulase enzyme preparation, derived from the Aspergillus niger group, for removal of visceral mass (bellies) in clam processing.

Dated: March 18, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3725; Filed, Mar. 27, 1970; 8:45 a.m.]

HAZLETON LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, Va. 22046, has withdrawn its petition (FAP 9B2397), notice of which was published in the FEDERAL REGISTER of March 21, 1969 (34 F.R. 5514), proposing that § 121.2527 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 121.2527) be amended in paragraph (b), list of substances, to change the item "*N,N*-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{14}-C_{18}) are derived from tallow" to read "*N,N*-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{12}-C_{18}) are derived from tallow or cocoamine."

Dated: March 18, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-3726; Filed, Mar. 27, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT STANDARDS DISTRICT OFFICE

Notice of Consolidation

General Aviation and Air Carrier District Offices at Flight Standards Building, Willow Run Airport, Ypsilanti, Mich. 48197.

Notice is hereby given that on or about March 22, 1970, the General Aviation and Air Carrier District Offices, located at the above address, will be consolidated into one office called a Flight Standards District Office No. 63. There will be no change in address or services offered to the public. This information will be reflected in the appropriate FAA Organizational Statement the next time it is reissued.

(Section 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Mo., on March 17, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-3733; Filed, Mar. 27, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-352 and 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses

Philadelphia Electric Co., 1000 Chestnut Street, Philadelphia, Pa. 19105, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application dated February 26, 1970, for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors on the applicant's site of approximately 587 acres located on the Schuylkill River about 1.7 miles southeast of Pottstown, in Limerick Township, Montgomery County, Pa.

The proposed nuclear reactors, designated by the applicant as the Limerick Generating Station Units 1 and 2, are each designed for initial operation at approximately 3,293 megawatts (thermal) with a net electrical output of approximately 1,100 megawatts per unit.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 24th day of March 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-3745; Filed, Mar. 27, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 70-3-125]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Charges at U.S. Airports

Issued under delegated authority March 24, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2-3 of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted pursuant to the provisions of Resolution 512(b)—"Air Cargo Rates—Airport-to-Airport." With respect to the charges encompassed in the agreement, these were established by the Traffic Director of IATA, pursuant to the provisions of the same resolution which provide that, in the absence of carrier unanimity, charges to be applied for ancillary services at airports will be so determined.

The agreement relates to terminal charges to apply at U.S. airports. It would retain, for a further period of effectiveness, the current import service charge of $2.50, which has been previously approved by the Board.[1] This charge is imposed for Customs-clearance services performed at the carriers' facilities. The agreement would also impose the same charge "when a carrier provides an employee to assist in Customs release of goods at points other than at the carriers' normal cargo clearance facilities."

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 21685 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-3778; Filed, Mar. 27, 1970; 8:49 a.m.]

[1] This charge was approved by the Board in Order 68-12-156, dated Dec. 31, 1968, which finalized tentative conclusions set forth in Order 68-11-136.

[Docket No. 21546]

YUSEN AIR & SEA SERVICE CO., LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on April 9, 1970, at 10 a.m., e.s.t., in Room 630, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., March 24, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-3779; Filed, Mar. 27, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18820; FCC 70-290]

REVIEW OF COMMISSION PROCEDURES

Notice of Inquiry

1. On January 22, 1970, the Commission named a Procedure Review Committee, composed of five Commission staff members, to conduct an overall review of the Commission's procedural processes, to determine if they were fair, efficient and effective. The committee was instructed to establish coordination with the Administrative Conference of the United States and to consult with a panel to be named by the Federal Communications Bar Association.

2. Since the committee was named, the Commission has received inquiries from various groups and individual citizens concerning the opportunities available for their participation in the work of the committee. The Commission welcomes this interest, and by this notice of inquiry, is inviting comment by any interested group or individual concerning changes in the procedures under which the Commission conducts its affairs. Such comments should be addressed to Mr. James O. Juntilla, Chariman of the Committee; and, if the resources of the group or individual permit, an original and four (4) copies should be submitted. The committee will, in addition, be pleased to meet informally with individuals or with representatives of interested groups to discuss the changes they have proposed in written comments. Such meetings may be scheduled by telephoning Mr. Juntilla (202-632-6460).

3. We would stress that the function of the committee is to make recommendations to the Commission regarding specific changes in its procedure. It cannot deal simultaneously with all problems but must of necessity assign priorities, devise solutions, and make its recommendations to the Commission on a project-by-project basis.

4. We would also stress that the committee's work is limited to matters of procedure and, to the extent necessary, standards incident to such procedure and that the comments submitted should also be limited to such matters. Within the procedural sphere, there is no limit on the matters which are of concern to the committee. No purpose will be served, however, by commenting to the committee concerning procedural matters currently under consideration in formal proceedings. Comments concerning such matters should be directed to the particular proceeding. Those who submit comments are, in addition, cautioned to avoid the discussion of particular cases pending before the Commission. Since certain of the committee members serve in a decisionmaking capacity in cases of adjudication, ex parte communication with the committee concerning the matters at issue (whether procedural or substantive) is barred by the Commission's rules. The committee, moreover, is barred from considering such communications.

Adopted: March 18, 1970.

Released: March 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-3769; Filed, Mar. 27, 1970; 8:49 a.m.]

[1] Commissioner Johnson absent.

[Docket No. 18714; FCC 70R-106]

MARVIN C. HANZ

Memorandum Opinion and Order Enlarging Issues

In regard application of Marvin C. Hanz, Las Cruces, N. Mex., for construction permit, Docket No. 18714, File No. BP-17044.

1. The application of Marvin C. Hanz (Hanz) for a new standard broadcast station on 1280 kHz at Las Cruces, N. Mex., was designated for hearing by order, FCC 69-1184, 34 F.R. 18196, published on November 13, 1969; Las Cruces Broadcasting Co. (Las Cruces) was named a party. Presently before the Review Board are a petition and a supplemental petition to enlarge issues, filed

by Las Cruces on November 28, and December 17, 1969, respectively, requesting the addition of issues relating to site availability, misrepresentation, failure of service, ex parte communications, "undisclosed understanding," real party-in-interest, and §§ 1.594(a) and 1.526.[1]

SITE AVAILABILITY; MISREPRESENTATION (REQUESTED ISSUES (a)–(d))

2. Las Cruces points out that, in its "Petition to Deny" of January 27, 1969, it argued, inter alia, that Hanz had not shown that his proposed transmitter site was "in fact within his possession or that he had reasonable assurance of being able to secure the proposed antenna site should a construction permit eventually be granted". Las Cruces notes that, in Hanz's February 24, 1969, answer to the petition to deny, the applicant represented that he did control the land to be used for the transmitter site; and that by an amendment, filed April 10, 1969, Hanz submitted a lease agreement, executed on February 6, 1969, between himself and the Marjan Trust, reciting that the Trust has control of the transmitter site, and that Marvin C. Hanz is given a 10-year lease for the tract, renewable for 10 additional years with an option to purchase on the basis of the representation and lease agreement.[2] On this basis, Las Cruces comments, the Commission denied its request for a site availability issue. However, petitioner contends that information which has now come to light indicates "that the applicant does not in fact have reasonable assurance of the availability of his proposed transmitter site." Pointing to official land records,[3] Las Cruces asserts that the transmitter site is located on land owned and controlled, not by Marjan Trust or Marvin C. Hanz, but by Mr. and Mrs. James R. Patton. Petitioner insists that Hanz entered into an option agreement with the Pattons to purchase the property, but that the option expired on April 8, 1969, the same day the applicant executed the amendment which was filed on April 10, 1969; and that the option was neither exercised nor extended, and there is no present contractual agreement between Hanz and Patton. Thus, Las Cruces contends, there is a serious question as to whether Hanz can obtain the specified site, and "to the extent that the applicant represented in his April 10, 1969, amendment that he had a 10-year lease on the property involved, that representation was clearly untrue" and "a flagrant attempt * * * to deceive this Commission." Thus, petitioner concludes, site availability and misrepresentation and related character qualifications issues are warranted.

3. In opposition, Hanz contends that on December 2, 1969, he held discussions with Patton, the record owner of the site, who stated that the applicant has a continuing option on the site. Following the filing of his opposition, Hanz submitted a letter dated December 11, 1969, from the owner of the land in question stating that "[t]he land described in the option that expired April 8th is still available for the lease or purchase and I will give you a new option to purchase or lease this land." Indeed, Hanz claims that the option "was oral after it expired", and that the option will be renewed. The arrangement, Hanz insists, is the same as that reflected in the April 10 amendment; the property will be purchased by Marjan Trust which will construct the transmitter building and lease it to Hanz. Thus, Hanz urges that there has been no attempt to deceive the Commission; that he made no representations to the Commission in his answer to the petition to deny; and that the only deception is on the part of the petitioner "who has attempted to sabotage this site in every conceivable way by contacting the owner, attempting to lease or burden, the property in any way that they could, and have delayed and prolonged this matter in many ways." The Broadcast Bureau, in its comments, states that, while the April 10th amendment suggests that the land is presently owned by Marjan Trust, the requested issues are not warranted. The Bureau grounds its position on the fact that the Commission has held that only a showing of reasonable assurance of site availability is necessary. It argues that "an oral promise by the landowner to sell or lease property is sufficient" to meet this test and, therefore, the Bureau concludes that there is no showing that Hanz has lost his reasonable assurance of obtaining the Patton land.

4. In reply, Las Cruces argues that the filing of the April 1969, lease agreement "is relevant not only to the matter of site availability but to the applicant's candor as well". Petitioner notes that the Bureau, in its comments, concedes that the purported lease agreement would lead to an inference that Hanz has leased the tract from the Marjan Trust. This, Las Cruces insists, is the basis of its requested misrepresentation issue: the lease agreement erroneously conveys the impression that Hanz has control over the site, whereas the option had, in fact, expired 2 days before the amendment was filed and Marjan had never owned the site. Dismissing Hanz' claim that there has been no representation to the Commission as to site availability as undeserving of response, Las Cruces maintains that its requested misrepresentation issue is warranted.

5. Both the site availability and misrepresentation issues will be added. In Marvin C. Hanz, FCC 70R–42, released February 6, 1970, _____ FCC 2d _____, we declined to add a site availability issue against this applicant, but facts which have been brought forward here for the first time require a reassessment of that determination. As we said in Hanz, supra, an applicant is required only to show reasonable assurance that his site is available; and, in ordinary circumstances, as we indicated in Hanz, the letter from Patton, indicating a willingness to negotiate an extension of the option, would suffice to meet this test. The facts now brought to our attention indicate that these are no longer ordinary circumstances. We are shown for the first time by official land records, that the proposed site is owned by Mr. and Mrs. Patton jointly; there is, however, no indication as to whether Mrs. Patton's consent to a transfer of the property is required by State law or would be forthcoming, since the letter of December 11, 1969, was signed by Mr. Patton only.[4] This fact, standing alone, might not warrant an issue. However, in addition, the option, such as it is, runs to Hanz; but Hanz in his opposition now indicates his intention to effect acquisition of the site through Marjan Trust. The composition of Marjan Trust is nowhere indicated nor has Hanz shown the mechanics of this proposed transaction.[5] There are thus presented for the first time serious questions as to whether the present record owners can and will convey the property as stated and whether the applicant can effect the transfer as he proposes. In view of these disclosures, we are no longer able to conclude that Hanz has reasonable assurances of site availability and an appropriate issue will be added. We also agree with petitioner that Hanz's submission of the purported lease arrangement by its amendment of April 10, 1969, raises a serious question of whether

[1] Also before the Review Board are: (1) Applicant's reply to petition to enlarge issues, filed Dec. 8, 1969, by Hanz; (2) reply to opposition to petition to enlarge issues, filed Dec. 17, 1969, by Las Cruces; (3) answer to supplemental petition to enlarge issues, filed Dec. 29, 1969, by Hanz; (4) comments on petition to enlarge issues and supplemental petition, filed Dec. 31, 1969, by the Broadcast Bureau; (5) letter, filed Dec. 31, 1969, by Hanz; (6) further reply, filed Jan. 6, 1970, by Las Cruces; (7) affidavit, filed Jan. 19, 1970, by Las Cruces. The supplemental petition was filed after the 15-day period specified in § 1.229(b). However, the facts on which it is based occurred after the expiration of the 15-day period and the supplemental petition was filed within a reasonable period of time after their occurrence. Therefore, good cause has been established for the late filing and the pleading and the responses thereto have been considered on their merits.

[2] The agreement states "Marvin C. Hanz has control of the property and by this instrument leases to Marvin C. Hanz * * *." However, since "Marjan Trust" is earlier referred to as "lessor" and since the document is executed by "Marjan Trust", petitioner assumes that the document intended to state that control of the property is in the "Marjan Trust."

[3] A certified copy of such records is submitted.

[4] We also note that this letter is signed by Patton in a corporate capacity as Secretary-Treasurer of Paper Mill, Inc. Because the issue is now being added, we would anticipate that this circumstance will be explained in hearing.

[5] The so-called April 1969, lease agreement is signed for Marjan Trust by Winnie Hanz, but whether she is sole trustee is not indicated; moreover, as petitioner points out, while the Trust is identified as Lessor, the conveyance clause describes a conveyance from Hanz to Hanz. It is thus unclear whether Hanz can control Marjan Trust and whether he contemplates a sale-leaseback arrangement or a substitution of Marjan Trust for himself as optionee. It is also unclear whether Mr. and Mrs. Patton will accept any arrangement whereby Marjan Trust takes title to the land.

the applicant has misrepresented material facts to the Commission. The unmistakable import of Hanz's answer to the petition to deny and, more particularly, the April, 1969 amendment, is that Marjan Trust had title or control of the site and was willing to convey it to Hanz.[6] The facts now suggest that Marjan Trust never had title to the site and, in fact, may not even have had control over it since the option ran to Hanz personally; and that, in any event, the option had expired 2 days before the lease agreement was filed. Hanz offered no meaningful explanation of these discrepancies. His claim that no representation was made regarding the availability of the site is simply erroneous;[7] indeed, in his opposition, Hanz effectively concedes the inaccuracy of the amendment, saying "* * * the property is going to be purchased by Marjan Trust; the building is going to be constructed by Marjan Trust and leased to Marvin C. Hanz." Therefore, a substantial question is raised concerning whether the applicant misrepresented the facts concerning ownership and control of the proposed transmitter site and an issue will be added.

"UNDISCLOSED UNDERSTANDING" ISSUES (REQUESTED ISSUES (h)-(k))

6. Las Cruces seeks an "undisclosed understanding" and related real party-in-interest, misrepresentation and character issues on the basis of an alleged interrelation between the applicant here and principals of Desert Radio, an applicant for a standard broadcast station on 1090 kHz at Las Cruces, N. Mex. Petitioner notes that it previously brought to the Commission's attention the facts that two of the principals of Desert Radio are partners of Hanz in other broadcast ventures; that one of the Desert Radio principals is also relied on by Hanz to furnish and finance the equipment necessary for the instant application; that one of Hanz's partners in broadcast ventures prepared engineering exhibits for both the instant application and Desert Radio's application; and that Desert Radio's proposed site is the same site initially proposed by Hanz here. Petitioner points out that, prior to designation, it urged the Commission to order an inquiry into the relationship between the Desert Radio application and the instant proposal, "particularly with respect to the possibility of real party in interest and duopoly problems;" and that the Commission found it "reasonable to infer that there is some understanding, as yet undisclosed, concerning the operation of the proposed Las Cruces station." Las Cruces acknowledges that the Commission declined to add the requested duopoly issue, stating that the processing of the Desert Radio application has not been completed and that "appropriate consideration will be given to this matter in the light of whatever develops in the meantime." However, as Las Cruces reads the designation order, it holds only that consideration of the duopoly question would be premature. The Commission, Las Cruces insists, "never passed on any other aspect of the matter": The requests for real party-in-interest and misrepresentation issues. Therefore, it is claimed, the Review Board is not precluded from adding such issues under Atlantic Broadcasting Co., 5 FCC 2d 717, 8 RR 2d 991 (1966). In light of the obvious interrelationship between Hanz and the Desert Radio principals, Las Cruces concludes that "it is unthinkable" that there is no understanding between them, and, therefore, the requested issues are warranted.

7. In opposition, the applicant contends that the Commission has already thoroughly considered the matter raised by the requested issues; that there is no duopoly problem because no license has yet been granted to a competing station in Las Cruces; and that the applicant has made a complete disclosure to the Commission concerning the operation of the proposed station. There are, Hanz insists, no other persons involved in the ownership and operation of the facility. The Broadcast Bureau, in its comments, argues that the designation order makes clear the Commission's awareness of the potential undisclosed principal problem, as well as the duopoly problems. However, the Bureau argues, the Commission concluded that consideration of both questions "would be premature at this time." Therefore, the Bureau concludes that the request for such issues "should be denied without prejudice to Las Cruces' rights to file at a later, more appropriate time."

8. In reply, petitioner states that, regardless of the status of the Desert Radio application, an understanding of the type involved here should have been disclosed in the instant application; thus, Las Cruces claims, the applicant has not adequately refuted the charge made. In response to the Broadcast Bureau's comments, Las Cruces contends that now is the proper time to consider the requested issues because "[t]he matters relate to this applicant's qualifications to operate this proposed facility."[8] Arguing that the applicant has effectively conceded the existence of an undisclosed arrangement, petitioner insists its requested issues are warranted.

9. In the Board's view, the request for the "undisclosed understanding" and related real party-in-interest, misrepresentation and character issues must be denied at this time. We agree with the Bureau that the designation order evinces the Commission's awareness of both the real party-in-interest[9] and duopoly problems, arising from the apparent relationship betwen Hanz and the Desert Radio principals. We think it equally clear that, for sound reasons, the Commission elected to defer both questions until the processing of the Desert Radio proposal: It is established Commission practice to deal with duopoly questions when the latter of the possibly conflicting applications is before it; here, however, the undisclosed understanding and real party-in-interest questions are inseparably related to the duopoly question because, in the absence of some relationship between Hanz and the Desert Radio principals, there is no duopoly question. Thus, in accordance with its established practice, and to avoid the waste of duplicative hearings, and possible inconsistent results, the Commission concluded in the designation order that all of the questions arising from the seeming relationship between Hanz and the Desert Radio principals should be taken up when the Desert application is reached. Given this reasoned analysis by the Commission, we cannot and will not upset its determination, Atlantic Broadcasting, supra; the requested issues therefore will be denied, see Marvin C. Hanz, supra.[10]

FAILURE OF SERVICE ISSUES (REQUESTED ISSUES (e)-(g))

10. Las Cruces contends that Hanz violated § 1.522(a)[11] of the Commission's rules by failing to serve it or its legal counsel with five amendments, filed at various times all after Las Cruces filed its petition to deny in this proceeding. Similarly, petitioner contends that the applicant violated § 1.1201(g) and § 1.1223[12] of the rules by failing to serve it or its general counsel with copies of

[6] It was on the basis of the April 10th amendment that the Commission denied Las Cruces' original request for an issue.

[7] Similarly, Hanz's claim of "sabotage" by Las Cruces, even if substantiated, would not explain or justify the manifest discrepancies.

[8] To reinforce its claim that an undisclosed understanding exists, Las Cruces points to a petition for leave to amend, dated Dec. 13, 1969, in which the applicant disclosed that he has 15 percent interest in the application of Inter-American Television Corp., Inc. for a new television station at Del Rio, Tex., and that two principals of Desert Radio, Dan Renault, and J. B. Shahan, hold 57 percent and 19 percent interests, respectively, in that corporation.

[9] The requests for misrepresentation and character issues are no more than logical corollaries of the real party-in-interest problem.

[10] Our determination is, of course, without prejudice to whatever relief may be appropriate after the Commission has acted on the Desert Radio proposal.

[11] Section 1.522(a) provides in relevant part:

* * * any application may be amended as a matter of right prior to the adoption date of an order designating such application for hearing, merely by filing the appropriate number of copies of the amendments in question duly executed * * *. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner.

[12] Section 1.1201(g)(1) of the rules defines a written ex parte presentation as

Any written presentation, made to decision-making personnel by any other person, which is not served on the parties to the proceeding.

Section 1.1223 of the rules provides, in pertinent part, as follows:

* * * certain application proceedings are "restricted" following the submission of a petition to deny * * * no interested person shall, directly or indirectly, make or attempt to make any oral or written ex parte presentation to decision-making Commission personnel concerning such a proceeding.

two pleadings related to Las Cruces' petition to deny: a letter to the Commission dated February 7, 1969, requesting additional time within which to respond to the Petition; and "Answer and Exceptions to Petition to Deny," filed February 24, 1969. Petitioner insists that these alleged failures of service were not simply inadvertent, as evidenced by the fact that Las Cruces, in its pleading, repeatedly noted the failure of service but these warnings were ignored. Therefore, petitioner concludes, issues inquiring into the alleged violations and the effect thereof on Hanz' qualifications to be a licensee are warranted. The Broadcast Bureau supports petitioner's request for these issues.

11. In opposition, Hanz answers that no "amendments to enlarge the application have ever been filed, nor has any circumstances to alter the application making it less tenable occurred, in that the application is filed substantially the same * * *"; and that he "was advised that it was not necessary to notify persons not properly before the Commission, and until he was advised otherwise by this Commission, this was not done". Hanz also claims that, in any case, the petitioner was not prejudiced by the failure of service, since Las Cruces' pleadings indicate that it had notice of the contents of the amendments and pleadings referred to in its request for issues.

12. Hanz has clearly and concededly failed to comply with § 1.522(a) of the rules. Under the terms of that rule, Las Cruces was entitled to service of copies of the five amendments in question and Hanz admits that such service was not made. Similarly, Hanz' failure to serve petitioner with its letter of February 24, 1969, is in violation of the language of § 1.1223 of the rules; and this violation is also admitted. The Board agrees with petitioner that neither failure can be excused as mere inadvertence. Hanz claims that he thought it unnecessary to serve Las Cruces because, in his view, the latter was "not properly before the Commission"; but that argument is unconvincing since both rules in question refer, not to parties, but to petitions to deny, and Las Cruces' predesignation pleading was clearly labeled as such. Further, Hanz had notice of his failures to properly effect service through the repeated references to that fact in Las Cruces' predesignation pleadings. Therefore, we will require inquiry into these matters. However, we note that Las Cruces has evidently not been prejudiced by the failure of Hanz to serve it with its amendment and pleadings, and there is no suggestion that the applicant has engaged in the type of contact with Commission decision-making personnel which is used for improper advantage and which is usually linked with the term "ex parte presentation". These are factors which may go toward mitigation of the violations.

SECTIONS 1.594(a) AND 1.526(a) (REQUESTED ISSUES (l)–(m))

13. In support of its requested § 1.594 (a)[12] issue, petitioner asserts that while the Chief Hearing Examiner's order specifying the time and place of the hearing in this proceeding was released on November 12, 1969, publication, in the Las Cruces Sun-News, did not occur until December 4, 5, 8, and 9, 1969, or 22 days after the time and place for the hearing was set. As for the § 1.526(a)[14] issue, Las Cruces states that the notices published by Hanz, on December 4, 5, 8, and 9, specified the office of the Dona Ana County clerk, in Las Cruces, as the location of the applicant's public inspection file. However, petitioner claims that, in fact, no copy of the application was available for inspection at the specified location; with its reply, Las Cruces submits an affidavit by its President who states that he was advised by the county clerk of Dona Ana County that a copy of Hanz's application was "received by the office on December 29, 1969, and that it had not been available for public inspection there prior to that time." Thus, Las Cruces claims, both issues are warranted.

14. In opposition, Hanz notes that by an order of December 17, 1969, a new hearing date has been set for February 16, 1970, and asserts that it had instructed the Las Cruces Sun-News to publish notice on December 24, 26, and 31, 1969, and January 2, 1970. Hanz contends that the first notice "was not properly completed because of the legal holidays involved at Thanksgiving and the fact that this paper is not published on Saturdays * * *." With regard to the requirement that the application must be kept available for public inspection, Hanz explains "that Cooper-Trent failed to file the copy of the application and file as ordered and promised and that the same had just been furnished * * *." Finally, the applicant argues that the "rules have changed so substantially since the original filing that the applicant has now performed the changes of the rules as required, which has just come to his attention * * *."

15. In its comments, the Broadcast Bureau supports the addition of a § 1.526(a) issue, but opposes the addition of a § 1.594(a) issue. With regard to the publication requirements, the Bureau notes that a letter attached to its notice of publication and filed with the Commission show that Hanz had requested the paper to publish his notice on Friday and Saturday, November 28 and 29, and December 1 and 2, or alternatively, on Friday, December 5, Saturday, December 6, Monday, December 8, and Tuesday, December 9. The Bureau further notes that by a letter dated December 1, 1969, the classified advertising manager of the newspaper stated that the notice had been scheduled to run December 4, 5, 8, and 9 because the paper is published daily, except Saturday. Thus, the Bureau argues, the applicant's requested dates were sufficient to comply with § 1.594(a) of the rules, but that the later publication "was apparently the result of a decision made solely by the Sun-News."

16. In reply, Las Cruces contends that Hanz's excuse for late publication is patently insufficient since, even if Thanksgiving and all Saturdays are eliminated, there is no reason why publication could not have been accomplished within the required period; and argues that, contrary to the Bureau's position, the "requested" dates of publication would not have resulted in publication 2 days each during 2 of the 3 weeks following the pertinent November 12th order, as required by the rules. In regard to the applicant's explanation for its failure to maintain a public inspection file, Las Cruces responds that "the obligation to make the application available for public inspection * * * is the applicant's, not Cooper-Trent's." Moreover, petitioner takes note of applicant's assertion, in its opposition pleading, that a copy of the application is now in the hands of the county clerk of Dona Ana County. When the assertion was made, Las Cruces claims, it was simply untrue: the opposition was sworn to by Hanz on December 23, 1969; yet, Las Cruces points out, the county clerk states that no materials were received from Hanz until December 29, 1969, 6 days later. Petitioner concludes that the applicant's response in this regard reinforces the need for an evidentiary inquiry on the requested issues.

17. Substantial questions have been raised as to whether Hanz violated § 1.594(a)[15] and § 1.526(a). Hanz has

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[12] Section 1.594(a) provides in relevant part:

* * * when an application * * * is designated for hearing, the applicant shall cause to be published a notice of such designation as follows: Notice shall be published at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the Commission's order specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is * * * proposed to be located * * *.

[14] Section 1.526(a) reads inter alia:

Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) * * *.

(1) A copy of every application tendered for filing by the applicant * * * and all exhibits, letters, and other documents tendered for filing as a part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the Commission and the applicant pertaining to the application after it has been tendered for filing, and copies of initial decisions and final decisions in hearing cases pertaining thereto * * *.

[15] Under § 1.594(f), failure to timely publish constitutes cause for dismissal; we note, however, that no request for such relief has been sought before the Hearing Examiner by Las Cruces. In these circumstances, we have addressed ourselves solely to the request for an issue.

provided no acceptable explanation for either the late publication or his failure to maintain a copy of his application for public inspection at the location indicated in his late notice of publication. The applicant's attempt to explain away his evident failure to maintain a public inspection file under § 1.529(a) is fatuous, the short answer being that he cannot attempt to delegate his responsibility to maintain such a file to Cooper-Trent. The matter is compounded by the question, raised by Las Cruces' reply, as to when Hanz's application was finally placed on file. There is also, in our view, a substantial question as to whether Hanz violated § 1.594(a). That rule requires publication twice within each of 2 consecutive weeks of the 3 weeks immediately following release of the order specifying the time and place of hearing. Section 1.4(b) provides that, for purposes of computation, the first day to be counted is the day after the release of the order in question. Because the pertinent order here was released on November 12, 1969, Hanz was required to publish consecutively in two of the following 3 weeks: November 13–November 19, November 20–26, November 27–December 3. It thus appears that, even if Hanz's original requested dates—November 28, 29, December 1 and 2—had been honored, publication would have occurred entirely in the last week of the permissible period and thus would not have complied with the rule; his alternate requested dates are clearly beyond such period. In these circumstances, the fact that the Sun-News ran the notice on December 4, 5, 8, and 9, does not vitiate the apparent violation. Further, Hanz's claim that publication was delayed by intervening holidays defies comprehension, for even if holidays and Saturdays and Sundays were excluded, there remain ample business days in each of the weeks in question within which to complete publication as required.[16] Least of all is the violation explained by the fact that the hearing was subsequently rescheduled: There is no indication that Hanz sought to have the rule tolled pending the rescheduling; and, in fact, it was not Hanz who requested that the hearing be reset. In the circumstances, then, further inquiry is warranted. As indicated herein, substantial questions have been raised with respect to Hanz's compliance with several of the Commission's procedural rules; this raises a question as to whether he may reasonably be expected to diligently carry out his responsibilities as a Commission licensee. An appropriate issue will be added.

18. *Accordingly, it is ordered,* That the supplemental petition to enlarge issues, filed December 28, 1969, by Las Cruces Broadcasting Co. (NSL), is accepted; that petition to enlarge issues, filed November 28, 1969, and the supplemental petition to enlarge issues, filed December 17, 1969, by Las Cruces Broadcasting Co. (NSL), are granted to the extent indicated herein, and are denied in all other respects;

19. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether there is reasonable assurance of the availability of the applicant's antenna site.

(b) To determine the facts and circumstances surrounding the filing of the applicant's April 10, 1969, amendment, and any and all other representations made regarding the applicant's proposed antenna site, to determine, in light of the evidence adduced pursuant to this issue, whether the applicant has made misrepresentations to the Commission or has, in any manner attempted to deceive or mislead the Commission, and, if so, to determine the effect of this conduct on the applicant's requisite qualifications to be a Commission licensee.

(c) To determine:

(i) whether the applicant failed to serve copies of amendments to his application as required by § 1.522(a) of the Commission's rules;

(ii) whether the applicant failed to serve copies of his pleadings as required by § 1.1223 of the Commission's rules;

(iii) whether the applicant failed to timely publish a notice of the designation of the captioned application for hearing as required by § 1.594(a) of the Commission's rules;

(iv) whether the applicant failed to maintain a copy of the captioned application, as amended, for public inspection as required by § 1.526(a) of the Commission's rules; and

(v) whether, in light of the evidence adduced pursuant to subissues (i)–(iv) above, the applicant may reasonably be expected to exercise diligently that degree of responsibility required of a Commission licensee.

20. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof under issue (a) added herein shall be upon Marvin C. Hanz; and that the burden of proceeding under issues (b) and (c) added herein shall be on Las Cruces Broadcasting Co. (NSL), and the burden of proof under such issues (b) and (c) shall be on Marvin C. Hanz.

Adopted: March 19, 1970.

Released: March 25, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[17]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-3766; Filed, Mar. 27, 1970; 8:48 a.m.]

[Dockets Nos. 18815, 18816; FCC 70-283]

NIAGARA COMMUNICATIONS, INC., AND MARINE TELEPHONE CO., INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In the matter of application of Niagara Communications, Inc., for a construction permit for a new public coast (Class III–B) radio station at Miami, Fla., Docket No. 18815, File No. 5103–M–P–68; and application of Marine Telephone Co., Inc., for extension of construction permit for a new public coast (Class III–B) station at Homestead, Fla., Docket No. 18816, File No. 5140–M–P–68.

1. On June 17, 1968, Niagara Communications, Inc., Buffalo, N.Y., hereinafter referred to as Niagara, filed an application, later amended, for a construction permit for a new Public Coast station at Miami, Fla., to operate on the working frequency 161.85 Mc/s. The proposed station would provide a common carrier communications service to commercial and recreational vessels operating in the vicinity of that port city. The applicant, except for the issues hereinafter specified, is otherwise qualified.

2. Two petitions to deny Niagara's application have been filed. On July 23, 1968, Gabriel Communications Corp., doing business as Lauderdale Marine, hereinafter referred to as Lauderdale, licensee of Public Coast Station KEW–823, operating on the working frequency 161.9 Mc/s, approximately 32 miles north of Miami at Fort Lauderdale, Fla., filed a petition to deny the application of Niagara. The parties did not thereafter file an opposition or reply.[1] On July 24, 1969, a petition to deny the Niagara application was filed by Marine Telephone Co., Inc., hereinafter referred to as Marine, followed by the filing of an opposition and a reply. A construction permit KLU–791 was granted on April 4, 1969, to Marine on the basis of an application filed June 25, 1968, for a Public Coast station on working frequencies 161.95 and 162.0 Mc/s located about 30 miles southwest of Miami at Homestead, Fla. In addition to these formal filings as provided for in our rules, Niagara and Marine have corresponded with the Commission and each other in regard to the pending application, and other matters. This correspondence has been noted and copies are included in the application files. On July 7, 1969, Marine requested permission to identify its proposed Homestead station with the call "Miami VHF Marine Operator", and was informed that action on that request would be withheld pending final action on Niagara's application for a station at Miami. On November 14, 1969 Marine applied for *extension of its construction permit.*

3. The arguments advanced by Niagara for the grant of its application consist essentially of the following:

a. There is an unfilled need for a station in the port city of Miami to serve promptly and properly the boating community locally and in the Keys to the south;

b. The planned location of the antenna of the proposed station is in the southwest of Miami and will provide proper coverage without interfering with the stations of petitioners;

c. The proposed station will provide additional safety facilities for ships; and

[16] And Hanz, in fact, made no move to begin publication until it was too late, since his letter to the Sun-News is dated Nov. 26, 1969.

[17] By the Review Board, member Slone absent.

[1] On Jan. 21, 1969, Niagara made a filing entitled "Opposition to Petition to Deny applications." This filing was not accepted as a formal opposition since it did not meet the requirements of §§ 1.962(h) and 1.45(a) of the rules. Its contents have been noted, however, and it is included in the Commission file in this matter.

d. The Miami local area is not now adequately served by the Fort Lauderdale station, nor will it be so served by the proposed Homestead station.

4. In its petition to deny, Lauderdale represents essentially as follows:

a. The pending application for a station at Miami should not be granted because petitioner's station has an effective service area extending not less than 70 miles from the transmitter site which includes all of Miami and the Biscayne Bay area;

b. Petitioner has the capacity and intends to provide all the maritime mobile public correspondence service required insofar as the range of its station, and the available frequencies will permit;

c. The proposed station will cause substantial harmful electrical interference to petitioner's station.[2]

d. There will be substantial overlap of service areas of the existing and the proposed stations;

e. The proposed station at Miami will seriously and adversely affect and divert present and potential revenue from petitioner's station and will thereby cause economic injury to the extent that petitioner will be unable to continue operation of its Fort Lauderdale station;

f. Applicant has made insufficient showing of the need for a new station at Miami; and

g. The grant of the applications would be prima facie inconsistent with the provisions of section 309(a) of the Communications Act.

5. In its filings, Marine opposes the grant of the Niagara application on the following grounds:

a. There is no need for a VHF station at Miami since the area will be adequately and completely served by Marine's proposed station at Homestead, and the existing station at Fort Lauderdale;

b. The establishment of a station at Miami would cause serious economic injury to Marine; and

c. There is a question of whether the law or the Commission's rules have been violated concerning the truth and correctness of statements made by the applicant in filings sworn to by the president of applicant corporation.

6. The pleadings directed to Niagara's application present the following substantial and material questions of fact:

a. Whether, or to what extent, there is an unfilled need for a station at Miami, and Homestead, Fla., to serve the needs of the local boating community and whether the need, if any, can best be served by stations at each of these two locations or by only one station located at one of these two locations;

b. The coverage area of the proposed Miami and Homestead stations in relation to each other and to the existing station at Fort Lauderdale and whether there would be harmful or undesirable overlap of these coverage areas; and

c. The economic impact of the proposed stations on each other, and on the existing Fort Lauderdale station.

7. With respect to Marine's assertion that certain statutes and the Commission's rules may have been violated concerning the truth and correctness of statements made by Niagara in its filings, we believe this is a matter than can best be resolved by the hearing examiner when evaluating evidence introduced by the parties and can be considered when reaching a decision on the public interest and comparative issues hereinafter specified.

8. There is a fundamental question of whether a boating community, especially a major one such as Miami, Fla., with an area population over half a million, should be entitled to local service notwithstanding the fact that it may be within an area in which satisfactory communications can ordinarily be exchanged with a public coast station located elsewhere, if the other station were established primarily to serve another local area. Accordingly, in view of the above substantial and material questions of fact the Commission is unable to make a determination that it would serve the public interest to grant the pending Niagara application. Therefore, an evidentiary hearing is required on the grounds, and reasons herein set forth.

9. Additionally, there is a question of whether there are circumstances that have come to the attention of the Commission since the grant of the construction permit to Marine for the Homestead station, that may "make the operation of that station against the public interest", as stated in section 319(c) of the Communications Act. A station license or further authorization should not be issued until this question is satisfactorily resolved. The construction permit was granted, following a review of all the information available including that furnished in the application, for a station located in the boating and marina area of Homestead to serve primarily that locality as contemplated by § 81.3(j) of our rules.[3] Marine stated in its application "This station will service lower Biscayne Bay, the outer perimeter of the Florida Keys, Florida Bay and contiguous waters". Included with the application were maps indicating coverage areas, which did not include the immediate Miami area located on upper Biscayne Bay. Subsequent representations by the permittee, Marine, that it can serve all the Miami area, coupled with its request for authority to identify its proposed Homestead station with the identification call "Miami VHF Marine Operator", indicates that the intention of the applicant is not primarily to serve the Homestead area but, rather, the Miami area. Had the Commission known this when reviewing the application for the construction permit it would not have made the grant since there was already on file an application by Niagara for a station to serve the Miami area, thereby, raising the question of possible duplication of service. In the normal course of processing, the two applications would have been designated for a comparative hearing to determine which, if either, application should be granted or whether both could be granted. Thus there is a need for resolving the question of the intended and appropriate primary service area of the proposed Homestead station before any further authorizations are granted for this type of service in the subject area. On January 27, 1970, a letter was sent to Marine so that Marine would have an opportunity to review its position in view of the developments subsequent to the grant of the CP for the Homestead station, as described above. In the letter we pointed out that the Marine application for additional time to construct the Homestead station could be designated for hearing along with the Niagara application for the Miami station because of the information in Marine's filings that had come to our attention after the CP grant. Marine replied to this letter on February 9, 1970, and did not deny that it intended to serve the Miami area but asserted that the Commission should have known this on the basis of filings prior to the grant of its CP for the Homestead station. Marine stated further that transmitter equipment had not yet been delivered, but could be delivered with 6 weeks notice upon the grant of its pending application for additional time to construct.

10. In view of the foregoing, *It is ordered*, That the petitions to deny filed by Lauderdale and Marine are granted to the extent that the application of Niagara is designated for evidentiary hearing hereinafter ordered on the issues specified, and the petitions in all other respects are denied.

11. *It is further ordered*, That the above-entitled applications of Niagara and Marine are designated for hearing at a time and place to be specified in a subsequent order on the following issues:

a. To determine the extent of need in the local Miami, Fla., area for VHF public maritime radiocommunications service;

b. To determine the extent, if any, to which the need for such service is not now being met by Public Coast Station KEW–823 at Fort Lauderdale, Fla., and would not be met by the proposed Station KLU–791 at Homestead, Fla.;

c. To determine the coverage area of the proposed station at Miami;

d. To determine the coverage area of Station KEW–823, and whether this area includes the Miami area;

e. To determine the extent, if any, that the coverage area of Station KEW–823 will overlap with that of the proposed Miami station, and whether any such overlap will be contrary to the public interest;

f. To determine whether a public coast station to provide service primarily of a local character should be established at Miami, Fla., even if the general Miami harbor and immediate vicinity lies within an area in which satisfactory martime radiocommunications can ordinarily be exchanged with a public coast station that may have been established or may be established to provide service primarily to another locality;

g. To determine the extent of the economic impact of the proposed Miami station on Station KEW–823;

[2] This problem was eliminated by an amendment to Niagara's application specifying a different working frequency.

[3] Section 81.3(j) of our rules defines a Class-III coast station as one "* * * licensed to provide a maritime mobile service primarily of a local character * * *." in contradistinction from Class-I stations that provide service "* * * up to several thousand miles * * *." and Class-II stations that "* * * provide service primarily of a regional character * * *." as defined in §§ 81.3 (h) and (i) of our rules.

h. To determine the coverage area of the proposed Station KLU–791 at Homestead, Fla.;

i. To determine the extent, if any, that the coverage area of the proposed station at Miami will overlap with that of the proposed station at Homestead, and whether any such overlap will be contrary to the public interest;

j. To determine the extent of the economic impact of the proposed Miami station on the proposed Homestead station;

k. To determine, in the light of the evidence adduced on all the foregoing issues, whether the public interest convenience and necessity will be served by the grant of both of the subject applications, or, if there is no, or insufficient, need for two stations, then to determine comparatively which application should be granted on the basis of which applicant would provide the public with better public coast station service on the following considerations:

(1) Coverage area and its relation to the greatest number of potential users;

(2) Hours of operations;

(3) Rates and charges;

(4) Qualifications of management, operators, and other personnel;

(5) Interconnection with landline facilities; and

(6) Reliability and efficiency of service.

12. *It is further ordered,* That the burden of proceeding with the introduction of evidence on issues (a), (b), (c), and (f) is placed on Niagara; on issues (h) and (j) upon Marine; and on issues (d) and (q) upon Lauderdale. Issues (e), (i), and (k) are conclusory; *Provided, however,* That the burden of proceeding with the introduction of evidence on items (1) through (5) under issue (k) is placed on Marine and Niagara insofar as the items pertain to each of these parties.

13. *It is further ordered,* That the guide and reference source for preparing exhibits showing the geographical area in which satisfactory ship-shore maritime communications can technically be exchanged will be limited to Appendix F, "The Propagation Characteristics of the Frequency Band 152–162 Mc Which is Available for Marine Radio Communications", to the report entitled "Study of a Reliable Short Range Radiotelephone System", dated February 21, 1956, prepared by Special Committee No. 19 of the Radio Technical Commission for Marine Services (RTCM), or such other authorities or standards as may be agreed upon by all the parties.

14. *It is further ordered,* That to avail themselves of an opportunity to be heard, Niagara, Marine, and Lauderdale, pursuant to § 1.221(c) of the rules, shall within 20 days of the mailing of this order file with the Commission in triplicate a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Pursuant to § 1.21(b), the Chiefs of the Safety and Special Radio Services Bureau and the Common Carrier Bureau are deemed parties in this proceeding.

Adopted: March 18, 1970.

Released: March 25, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–3767; Filed, Mar. 27, 1970; 8:48 a.m.]

[Docket No. 18823; FCC 70–304]

RCA ALASKA COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting a Hearing

In regard applications of RCA Alaska Communications, Inc., for licenses in the Domestic Public Radio Services for 61 radio stations now operated by the Alaska Communication System in the State of Alaska, Files Nos. 2005 through 2040–C1–P/L–70, 2043 through 2062–C1–P/L–70, 3796 through 3800–C1–P/L–70; for certificate to acquire, lease and operate facilities under section 214 of the Communications Act insofar as necessary to provide services now being furnished by the Alaska Communication System, File No. P–C–7587; for licenses in the Telephone Maintenance Service for four radio stations now operated by the Alaska Communications System at Fairbanks, Alaska, Files Nos. 4759 through 4762–IT–100; for licenses in the Fixed and Maritime Mobile Services for 14 radio stations now operated by the Alaska Communications System in the State of Alaska, Files Nos. 851 through 864–MK–L–99; and in regard matter of interconnection of common carrier facilities of Anchorage Telephone Utility with those facilities to be acquired by RCA Alaska Communications, Inc., at Anchorage, Alaska, Docket No. 18823.

1. The Commission has before it the above-captioned applications filed by RCA Alaska Communications, Inc. (RCAA or applicant), relating to the acquisition and operation of the communications facilities of the Alaska Communication System (ACS) by RCAA. The sale of ACS to RCAA was approved in accordance with the Alaska Communications Disposal Act (40 U.S.C. 771–792) by President Nixon on June 25, 1969, subject to RCAA receiving appropriate authorization from the FCC and the State of Alaska. The captioned applications are for the necessary authorizations pursuant to sections 214 and 309 of the Communications Act of 1934, as amended, to acquire and operate interstate channels of communications and various radio facilities in Alaska.

2. The facilities to be acquired by RCAA are too numerous to list in detail, but in general terms they include a multiplicity of cable, wire, radio, and other equipment used primarily for the provision of long lines communications. The sale price of the ACS facilities[1] is some $28½ million, and RCAA has agreed to invest approximately $27½ million in improvements over a 3-year period and make immediate rate reductions averaging about 29 percent and 40 percent in interstate and intrastate services, respectively. The purchase price is allocated as follows: (1) ACS station equipment and real estate, $15.8 million; (2) ACS cable and open wire systems, $5.7 million; (3) FAA equipment and real estate, $0.5 million; (4) ACS planned projects,[2] $4.7 million; and (5) adjustments to transfer date, $1.8 million. In addition, RCAA will lease lines of communication from the Department of Defense, the Alaskan Railroad, the Canadian National Telegraphs, American Telephone & Telegraph Co., and General Telephone and Electronics Co. In the case of the last three companies, the circuits involved extend from Alaska to Canada and to the lower 48 States. A total of approximately 90,000 circuit miles are to be purchased and some 480,000 circuit miles leased. RCAA indicates it will offer to the public throughout the State of Alaska the following services:

Domestic Public Commercial Telegraph Service.
Press Messages.
Coastal Radiotelegrams.
Money Transfers.
International Messages.
Flat-Rate Personal Opinion Messages.
Alaska-Canada Telegraph Messages.
Alaska-Mexico Telegraph Messages.
Intra-Alaska Message Toll Telephone Service.
Interstate Message Toll Telephone Service.
Alaska-Canada Message Toll Telephone Service.
International Telephone Service.
Charges to Connecting Lines, Aircraft, and Ships at Sea.
Message Toll Conference Service.
News Picture Service Calls.
Rural Telephone Exchange Service.
Program Transmission Service.
Toll Station Service.
Interexchange Receiving Service.
Telex Service.
Private Line Service.
Rural Radio Telephone Service.

3. RCAA is a subsidiary of RCA Global Communications, Inc. (RCAG), an international common carrier, which is in turn a subsidiary of the RCA Corp. (RCA). RCA has committed itself to provide to RCAG and RCAA the funds required to meet the commitments of this

[4] Commissioner Johnson absent.

[1] As we understand it, this includes all facilities now being operated by ACS with the exception of one telephone exchange at Healy which is to be sold to Matanuska Telephone Association, Inc. Also, some of the radio facilities involved in the sale will be acquired from the Federal Aviation Administration (FAA).

[2] "ACS planned projects" include facilities currently being constructed under ACS auspices and are not included in the captioned applications. RCAA states that it will file appropriate applications for such facilities prior to the takeover.

proposal (including system improvement and any operating losses). Prior to July 1, 1970, RCAG will purchase 1,050,000 shares of RCAA stock for $21 million and RCA will advance RCAA $14 million. Therefore, RCAA will have initial cash assets of $35 million. It is indicated that RCAA will have its principal office in Alaska and that its principal operating officers will be Alaskan residents. RCAA is required by the sales contract to give first preference for available positions to qualified incumbent employees of ACS. According to RCAA its Engineering Department is currently staffed with 16 engineers which, it is expected, will be increased by six or eight by fall of 1970, and its General Plant Department currently has a skilled 10 man staff which will be increased by the addition of 130 technicians now employed by ACS.

4. The following pleadings have been filed with reference to certain of the captioned applications: (a) A "Petition to Deny and Request for Other Relief" by the city of Anchorage (City) and responsive pleadings thereto; (b) a petition to deny by Western Union Telegraph Co. (Western Union) and responsive pleadings thereto; (c) a petition to deny by Communications Engineering, Inc. (CEI), and responsive pleadings thereto; and (d) comments by Western Union International, Inc. (WUI), and response thereto by RCAA. In brief, Western Union and WUI express concern over various aspects of the proposed operation of the ACS facilities by RCAA;[3] the City seeks resolution of a controversy with RCAA involving toll center operation in Anchorage; and CEI contests several of the radio applications which it claims are mutually exclusive with pending CEI applications.

GENERAL POLICY CONSIDERATIONS

5. Since applicant's parent corporation, RCAG, is an international carrier, Western Union and WUI raise the question of separation of domestic and international carriers. Western Union appears to argue that the acquisition would be contrary to section 222 of the Communications Act which prohibits the consolidation or merger of international and domestic telegraph carriers. RCAA contends that section 222 is not applicable to this situation because ACS is not a domestic telegraph carrier since only about 4 percent of its revenue is derived from telegraph operations.[4] Even though RCAG is an international telegraph carrier within the meaning of section 222, it is obvious that applicant, upon acquisition of the ACS facilities, would not be classified as a domestic telegraph carrier within the meaning of the Act. Therefore, we conclude that the proposed acquisition would not be proscribed by section 222.

6. However, having reached this conclusion, we haven't detremined whether such affiliation between domestic and international carriers would be in the public interest. Western Union's prime concern appears to relate to the exchange of international and domestic traffic. It states:

> If RCAA were allowed to transfer international telegraph traffic other than by interconnection with Western Union not only would Western Union's revenues from the handling of such traffic be jeopardized, but RCAA would be under compelling pressures to favor RCAG to the detriment of the international telegraph carriers and contrary to the intent and purposes of the Formula for the distribution of outbound international traffic.[5]

RCAA states that "there is pending no application by RCA Alascom looking toward the providing of international telegraph communications which do not involve interconnection with Western Union" and further that "Western Union will have ample opportunity to express its views if there develops different routing requirements."

7. While it appears that some questionable practices could possibly develop with respect to the exchange of international traffic, there is no evidence to indicate that RCAA is contemplating direct interconnection with RCAG. We would expect that any interconnection arrangements which may be developed would be consistent with existing standards and practices found acceptable by the Commission. Furthermore, since such arrangements are subject to Commission scrutiny and authorization, we will have ample opportunity to control any practices that may in the future be subject to possible abuse. And of course Western Union and any other interested party will have an opportunity to comment on such proposals before we act. Under these circumstances, we anticipate no problem with regard to the common ownership of applicant and RCAG.

8. WUI does not seek outright denial of these applications but requests (a) that the Commission withhold action until copies of the ACS sales agreement and related instruments are filed and (b) that any ultimate grant be of nonexclusive nature consistent with the antitrust laws, the basic communications statutes and Commission policy. WUI contends that RCAA has taken a stance in this and other related proceedings that it (RCAA) is entitled to an exclusive franchise in Alaska. WUI states:

> It is difficult to imagine an arrangement less compatible or consistent with the antitrust laws than one grounded upon absolute monopoly, which appears to be RCA's view of the ACS transaction. Moreover, since RCA is a developer, manufacturer, and supplier of equipment, instruments and devices for the communications industry, any monopoly arrangement also raises the very real danger of a vertical foreclosure of RCA's competitors from the Alaska market.

9. Subsequent to WUI's comments, RCAA did furnish on January 19, 1970, copies of the ACS sales contract to the Commission and the parties to this proceeding. We have been informally advised by the Department of Justice that it has approved the contract which contains various restrictions included at its suggestion. Section XIII of the contract contains a number of antitrust provisions. Relevant to our consideration here are provisions that would:

> (a) Restrict the sale of goods and services between RCAA and any affiliated company or between RCAA and another company with an understanding of reciprocal benefit to a RCAA affiliated company;
>
> (b) Prohibit RCAA or an affiliated company from providing a computer utility service or operating a CATV system or commercial broadcast station in the State of Alaska for 10 years after the sale without the consent of the Department of Justice;
>
> (c) Prohibit RCAA from using its position as a long distance carrier as a means of inducing any local exchange or other person to purchase equipment or services (other than communications) from RCA or an affiliated company;
>
> (d) Prohibit RCAA from restricting the attachment of customer provided equipment with its communications facilities, except as necessary to protect the technical operation of the facilities; and
>
> (e) Prohibit RCAA from using its communications facilities to favor any affiliated entity or to disadvantage competitiors of RCAA or affiliated company.

10. RCAA has generally taken the position in this and other related proceedings that the long distance facilities in Alaska should not be fragmented and that its commitment to reduce rates and spend substantial sums on the improvement of service is predicated upon its operation of the entire Alaska long lines facilities as successor to ACS. Of course, neither this Commission nor the Alaska Public Service Commission can fragment the facilities being sold. As we interpret the terms of the Disposal Act, we can consider as an applicant only the winning bidder (or bidders) and selected by the President. If the ACS facilities are to be transferred at this time from operation by the Government to operation by private enterprise, we are limited to approval or disapproval of RCAA as the prospective operator. Therefore, the question as to whether these existing facilities should be operated by more than one carrier is for all practical purposes moot. While the situation with respect to initial licensing of these facilities is unique, we do not intend, once these facilities are operated by private ownership, to perpetuate this unique status. This Commission does not grant franchise or exclusive service areas as do many State Commissions. Each application of RCAA or other entities for new facilities will therefore be considered on its own merits pursuant to the requirements of the Communications Act. Therefore, RCAA's views on fragmentation of long distance facilities are not particularly

[3] Western Union also raises questions concerning the point and terms of its interconnection with RCAA. Such questions will be considered in connection with RCAA's application to provide channel service to the lower 48 States via satellite (File No. P-C-7585).

[4] Section 222(a)(2) defines "domestic telegraph carrier" as "any common carrier by wire or radio, the major portion of whose traffic and revenues is derived from domestic telegraph operations * * *"

[5] Western Union uses the same rationale in regard to any other international carrier getting rights in Alaska. It has opposed the application of WUI (File No. P-C-2275) for authorization to provide service between Alaska and the lower 48 States.

germane beyond consideration of the specific facilities involved in this proceeding.

11. Accordingly, we conclude that the acquisition of ACS by RCAA does not pose any antitrust or anticompetitive problem. Nor do we believe that said operation would otherwise be contrary to the public interest. RCAA will be subject to regulation by this Commission and the Alaska Commission, and therefore if questionable practices do develop in the future, such regulation will be sufficient to treat any such problems. On the positive side, it is undeniable that the commitment of RCAA to reduce rates and to spend substantial sums to improve service are in the public interest. Furthermore, we believe that the rendition of common carrier service in Alaska by a nongovernmental entity subject to appropriate government regulation will have a salutary effect on the development of communications in the State. Accordingly, we have concluded that the proposed acquisition of facilities should be approved in principle.[6] However, the pleadings of the City and CEI raise important peripheral issues which we will proceed to consider.

THE ANCHORAGE TOLL CENTER

12. Both RCAA and the City (which owns and operates the Anchorage Telephone Utility) are currently proceeding with plans to install direct distance dialing (DDD) equipment for use in connection with toll center operations in Anchorage. There is little doubt that these plans are mutually exclusive to a substantial degree. The controversy has been brought to the attention of the Commission in several related proceedings. In Communications Satellite Corp. et al., 20 FCC 2d 405, released November 6, 1969, we commented briefly on the problem and indicated that if it was not subsequently settled between the parties or at State level, it could be more appropriately considered in connection with this proceeding. In reference to this proceeding the City takes the position that the section 214 certificate and the radio licenses should be conditioned to require RCAA to "forego its plans to own and operate a toll center for the Anchorage area and to install DDD equipment there."

13. The City argues that RCAA's DDD and toll center operation would be wasteful and duplicative; that such toll centers have historically been a function of the local carrier in other communities; that it would be a more efficient operator; and that its DDD plans were made known before the closing date for bids on the ACS facilities. In response RCAA contends that the Disposal Act forecloses the City's position because the Commission cannot consider competing proposals; that it has an obligation under the Contract For Sale of ACS to install DDD equipment in Anchorage; and the facilities planned by the City are inferior and not capable of meeting various requirements.

14. The Anchorage toll center is indisputably part of the ACS package that is being sold to RCAA. Since we are unable to consider competing proposals for any facilities involved in the transfer, it appears that RCAA is correct to the extent that the City (or any other party) cannot compete for the existing toll center. However, we are of the opinion that the Disposal Act does not restrict the normal licensing and regulatory functions of the Commission with respect to new facilities to be built to implement the improvements that RCAA has committed itself to make over the next 3 years. Inasmuch as the DDD equipment is being contracted for and installed by RCAA, it appears not to be part of the existing ACS facilities being transferred but part of RCAA's program for improvement. Therefore, we conclude, as a legal matter, that the DDD equipment is a cannot compete for the existing toll cenproper subject for inquiry.

15. However, we view the contest between RCAA and the City as one which essentially raises issues under section 201(a) of the Communications Act, namely the establishment of interconnection between carriers and the terms, conditions and point of such interconnection. Once such issues are resolved, the type of equipment needed to implement the interconnected facilities is not likely to be a problem. Such interconnection obviously involves both intrastate and interstate communications. Therefore, both this Commission and the Alaska Commission have a substantial, though perhaps not identical, interest in the matter. The Alaska Commission has in fact designated certain questions relating to interconnection between the various local carriers and the long distance facilities of RCAA, including the Anchorage dispute, for hearing.[7] However, since it appears that the Alaska Commission does not have jurisdiction over municipally owned utilities, it (by its own admission) may not be able to implement any determination with respect to the Anchorage dispute.[8] In view of this uncertainty and the obvious need to resolve the controversy as soon as possible, it does not appear that the public interest would be served by our delaying consideration of the questions posed. Therefore, we, on our own motion, will designate the matter for hearing to determine the point, terms and conditions of interconnection, including the associated matter of DDD equipment, as they relate to interstate service. Although the State of Alaska has not thus far made an appearance in this proceeding, we will designate it as a party due to its obvious interest.

16. Until the matter is resolved we shall require both the City and RCAA to halt further construction and commitment of funds, in order to maintain the status quo pending a decision on the hearing. While the early provision of DDD service is certainly desirable, reckless and possibly wasteful construction of mutually exclusive facilities pending resolution of the controversy can hardly be considered as beneficial to the public interest. Since both the City and RCAA have long been aware of the competing plans of each other but have nonetheless proceeded with the obligation of funds, our final decision will not be affected by the degree of investment made thus far.[9]

OBJECTIONS OF CEI

17. CEI objects to several of the applications which represent facilities of the Cook Inlet area near Nikishka some 60 miles southwest of Anchorage which CEI contends are competitive with its pending applications.[10] Before proceeding to consider the merits of the dispute, it will be helpful to understand the background of the matter. CEI is a licensed mobile carrier operating in the Anchorage area. On May 24 and December 15, 1966, it filed applications (Files Nos. 7160 through 7164–C1–P–66 and 2852–C1–P–67, respectively) which propose point to point microwave facilities between Anchorage and a number of oil drilling platforms in Cook Inlet. Subsequent to these filings, ACS submitted requests to the Interdepartment Radio Advisory Committee (IRAC) for the use of nongovernment common carrier frequencies to provide service to the same area. The Commission, pursuant to established policy, published the details of ACS's proposed frequency usage[11] and CEI objected on grounds of mutual exclusivity.[12] By order of December 27, 1968, Communications Engineering, Inc., 15 FCC 2d 644, we designated the CEI applications for hearing, with ACS as a party, to determine the comparative merits of each proposal. Commission comments on the ACS proposal before IRAC were withheld pending a determination in the hearing.[13] While to our knowledge IRAC never approved of ACS's frequency requests, it became clear upon the filing of these applications by RCAA that ACS had indeed

[6] As hereinafter specified, we are delegating authority to the respective Chiefs of our Common Carrier Bureau and Special and Safety Radio Services Bureau to act upon the subject applications in accordance with this opinion and order.

[7] See order of the Alaska Commission dated Jan. 23, 1970, Docket U–69–24.

[8] Id., page 29, issues (C)1 (c) and (d).

[9] We are aware of the clause in RCAA's contract which calls for the provision of DDD service for the Anchorage area by late 1970. For contractual purposes, RCAA should consider the Anchorage DDD improvement program altered by the FCC pursuant to section VII A1 of the contract. Therefore, delay beyond the specified contractual date should not be considered in violation of the contract.

[10] The RCAA applications objected to are Files Nos. 2018 through 2023–C1–P/L–70 and 2057 through 2062–C1P/L–70.

[11] The substance of the ACS frequency requests appeared on the Commission's Common Carrier public notices of Nov. 14, 1966; Dec. 20, 1966; Feb. 12, 1968; May 6, 1968; and Aug. 26, 1968.

[12] ACS later agreed, in a pleading, that the CEI proposal was mutually exclusive with its plans.

[13] The hearing was subsequently terminated and the CEI applications remanded to processing status pending a ruling by the Alaska Commission (which has yet to be finalized).

constructed and placed into operation most of the proposed facilities in question.

18. In this proceeding CEI contends that the various RCAA applications were filed beyond the cutoff date for mutually exclusive applications as provided for by § 21.26(b) of the Commission's rules; that RCAA does not have a State certificate as required by § 21.15(c)(4); and that at the very least the CEI applications should be considered comparatively with the RCAA applications as required by Ashbacker Radio Corp. v. FCC, 326 U.S. 327. RCAA argues that its applications are not for new facilities but for the transfer of existing facilities and that the Disposal Act does not permit the Commission to consider competing applicants. Furthermore, RCAA points out that CEI's applications are also not in compliance with § 21.15(c)(4) since its franchise authority has not been settled by the Alaska Commission.

19. The question concerning § 21.15(c)(4) can be readily resolved. In the exceptional circumstances presented by the CEI applications we previously waived the requirements of the rule to permit their retention on file (see Communications Engineering, Inc., supra). Without going into detail we think the situation surrounding the RCAA applications is unusual and that a waiver is obviously justified for the purpose of maintaining the continuity of communications service in Alaska. As to the provisions of § 21.26(b), we rule that it is not applicable in this instance. Although RCAA's common carrier radio applications are filed on FCC Form 401, Application for Construction Permit, they represent only the transfer of existing facilities. Form 401 was specified only because the facilities to be transferred were not previously licensed by the Commission.

20. However, notwithstanding this technical interpretation, we do not believe that the mere existence of these facilities should dispose of CEI's Ashbacker rights. The facilities in question appear to have been built by ACS despite: (1) Its unsuccessful efforts to obtain frequencies through normal Government clearance procedures; and (2) the CEI proceeding before the Commission. While RCAA is an innocent party in this matter, it can hardly lay claim to a right to use these frequencies that is stronger than ACS's. Therefore, considering the circumstances of this case, which speak for themselves, we cannot in fairness consider RCAA's applications without the comparative consideration of the CEI applications. However, our action on both RCAA's and CEI's applications must await a determination by the Alaska Commission on the question of certification.[14] Pending resolution of the matter, we will authorize the issuance of an interim authority to RCAA so that necessary public service can be maintained. Of course, such interim authorization will be without prejudice to our final determination on the matter.

WAIVER REQUESTS

21. RCAA has requested in connection with a number of its radio applications waiver of various Commission rules relating to frequency usage, type of equipment, and other operational requirements. Most of these waiver requests are necessitated by equipment which was originally installed by ACS to operate in the Government portion of the radio spectrum. In general, we think such requests do not raise any major policy questions and can be resolved at the bureau level. However, we believe it is desirable to comment on several of the requested waivers at this time.

22. In connection with its applications for public coast and Alaska public fixed stations RCAA has requested waivers of certain rules which will enable them to use the equipment which is to be acquired from ACS. First, measurement data has not been submitted showing the performance of the single-sideband radiotelephone transmitters. Accordingly, the transmitters are not type accepted as required by §§ 81.317[15] and 85.156 of the rules. The second waiver request is for use of power in excess of that specified in § 85.153 of the rules. We are convinced that the orderly change to non-Government operation requires use of the ACS equipment. Accordingly, §§ 81.137 and 85.153 and 85.156 will be waived in regard to transmitters used by ACS in the public coast and Alaska public fixed stations and acquired by RCAA for use in the same stations. RCAA will be expected to comply with the rules with respect to any other transmitters acquired for use in these stations. RCAA also requests waiver of § 85.104 which pertains to the ability of a public coast station to transmit and receive on the frequency 2182 Kc/s. In support of this request, RCAA states that ACS did not have the capability in the stations and that numerous Coast Guard stations monitor 2182 Kc/s. A list of Coast Guard stations which monitor was submitted by RCAA and the following note appears on the list:

NOTE: This schedule is provided for purposes of general information only. Actual hours of operation of the station is not a matter of record.

Such a disclaimer and the fact that U.S. Government stations are not under the Commission's jurisdiction, place some doubt on the reliability of Coast Guard monitoring as an alternative to transmitting and receiving capability by Commission licensed stations. Further, the Radio Regulations of the ITU, which have treaty status, require that medium frequency coast stations, which are open to public correspondence, have the ability to monitor and transmit on 2182 Kc/s. We are not convinced that the Radio Regulations should be derogated. Accordingly, RCAA's request for waiver of § 85.104 will be denied.

CONCLUSIONS

23. In general terms, as stated previously in paragraph 11, we believe that the proposed acquisition of ACS facilities by RCAA will serve the public interest. We further conclude that RCAA is legally, technically, financially, and otherwise qualified to acquire and operate the facilities in question. However, since the acquisition must also be approved by the Alaska Commission, we will delay final action on the applications for necessary authorizations until after that Commission has acted. We will delegate to the appropriate bureau chiefs authority to act on the applications (including any related waiver requests).[16] Once RCAA obtains the necessary certificates and authorization from the State of Alaska, the Section 214 and the radio applications (subject to the restrictions indicated in paragraph 20) will be granted. Should RCAA fail to receive requisite state authority, its applications will be dismissed. Although it is not anticipated that final action will be taken before RCAA receives state authorization, we intend to give the bureau chiefs some latitude in acting on the applications. If it appears that the public interest demands that construction of a critical project begin prior to final State approval, the bureau chiefs may, at their discretion, issue appropriately conditioned authorizations.

24. *Accordingly, it is hereby ordered,* That the acquisition of the facilities as represented by the captioned applications filed by RCAA, with the exception of radio facilities covered by application Files Nos. 2018 through 2023–C1–P/L–70 and 2057 through 2062–C1–P/L–70, is approved in principle.

25. *It is further ordered,* That the Chief, Common Carrier Bureau and the Chief, Safety and Special Radio Services Bureau are delegated authority to act on the captioned applications (as normally administered by each bureau), in a manner consistent with our intent stated herein, upon receipt of appropriate State certification or at such other time as they may determine is necessary in the public interest.

26. *It is further ordered,* That the Chief, Common Carrier Bureau, consistent with the above instruction, is delegated authority to grant RCAA interim operating authorization for facilities represented by application Files Nos. 2018 through 2023–C1–P/L–70 and 2057 through 2062–C1–P/L–70 pending, and without prejudice to, final Commission action on said applications.

27. *It is further ordered,* That pursuant to section 201(a) of the Communications Act of 1934, as amended, That a

[14] RCAA's application to serve the Cook Inlet area was consolidated with the pending CEI application by the Alaska Commission's order of Jan. 23, 1970.

[15] By cross reference, this section is applicable to coast stations in Alaska.

[16] Since many of the waiver requests involve the operation of nonconforming facilities for a period of time sufficient to provide reasonable cost amortization of equipment, we intend that the bureau chiefs have sufficient authority to act on the waiver requests notwithstanding the normal time limitations of the various rules, e.g. §§ 0.303(f) and 0.331(b)(7).

hearing is designated at the Commission's offices in Washington, D.C., before an examiner and on a date to be hereafter specified by separate order to determine whether interconnection should be ordered between the facilities of the Anchorage Telephone Utility and those facilities to be acquired by RCA Alaska Communications, Inc., and, if so, to determine what connections, routes, charges, facilities, and regulation should be established.[17]

28. *It is further ordered,* That the hearing shall be held on an expedited basis, and the record shall be certified to the Commission by the hearing examiner without preparation of an initial decision, but the Chief, Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its final decision as provided in 47 CFR 1.282.

29. *It is further ordered,* That RCAA and the city of Anchorage are made parties to the proceeding.

30. *It is further ordered,* Pursuant to sections 4 (i) and (j) of the Communications Act, that pending a decision on the issues designated for hearing, RCAA and the city of Anchorage shall maintain the status quo with respect to the interconnection arrangements involved in the hearing and shall cease construction of, and further commitment of funds for, any facilities affecting such arrangements.

31. *It is further ordered,* That the Alaska Public Service Commission and the State of Alaska are hereby given leave to intervene and participate as a party in this proceeding upon filing a written notice of their intention to do so within 20 days from the release date of this order.

32. *It is further ordered,* That the parties desiring to participate herein shall file their appearances in accordance with 47 CFR 1.221.

33. *It is further ordered,* That the petitions of the city of Anchorage, Western Union, CEI, and the requests of WUI, to the extent they are not granted herein, are otherwise denied.

Adopted: March 18, 1970.

Released: March 24, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[18]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-3765; Filed, Mar. 27, 1970; 8:48 a.m.]

[17] We received on Mar. 9, 1970, a belated pleading in reference to the section 214 application from the State of Alaska (filed more than 6 months after a copy of the application was forwarded to the Governor of Alaska) which requests intervention in the proceeding, a stay of the proceeding, or, alternatively, a formal hearing on the application the State notes a parallelism between its proceeding and our consideration of the matter, and it requests postponement of our consideration until it has acted so as to eliminate what it fears may be confusion and uncertainty caused by diverse awards granted by the two agencies. In view of our action here we believe the State's fears are ungrounded. From a procedural point of view, we would prefer to consider the matter after the State Commission has acted. However, because of the delay necessitated by the hearing in Alaska, we do not believe it would be in the public interest to further substantially delay resolution of the important matters within our jurisdiction. We have attempted to resolve these matters so that the action of the State Commission is not prejudiced. As to the requested hearing, we are of the opinion that the State has not adequately supported the need for such a hearing nor do we otherwise consider a hearing necessary except for the Anchorage interconnection dispute, and there we have made provisions for the State to participate. Contrary to the State's argument, section 221 of the Communications Act does not require a hearing in this case since that section is not applicable. (Section 221 is applicable only where request is made for approval of a merger or acquisition pursuant to its provision. No such application was made in this proceeding.) Nor does section 214(b) impose a legal requirement for a hearing as the State argues. Accordingly, to the extent the State's request is inconsistent with our action here, it is denied.

[18] Commissioner Johnson absent.

[Docket No. 18821; FCC 70-299]

RKO GENERAL, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of RKO General, Inc. for a construction permit to make changes in existing Station WHCT, Hartford, Conn., Docket No. 18821, File No. BPCT-4139.

1. The Commission has before it: (a) The application (BPCT-4139) of RKO General, Inc. (RKO), licensee of television broadcast station WHCT, Channel 18, Hartford, Conn., filed June 21, 1968; (b) a petition to deny filed on August 13, 1968, by Connecticut Television, Inc. (Connecticut), licensee of television broadcast station WHNB-TV, Channel 30, New Britain, Conn.; (c) RKO's opposition filed September 27, 1968; and (d) Connecticut's reply to opposition, filed October 21, 1968.

2. RKO proposes to increase WHCT's effective radiated power (ERP) from 158 kw. to 655 kw. and to increase antenna heights from 650 feet above average terrain to 950 feet above average terrain. These changes would increase its service area by more than 50 percent and, therefore, constitute a major change as defined by § 1.572 of the Commission's rules. In addition, the existing proposed change would result in a substantial increase of overlap with RKO's commonly owned Stations WNAC-TV, Boston, and WOR-TV, New York, City.

3. WHCT and WHNB-TV are two of five commercial television stations in the Hartford-New Britain-New Haven-Waterbury market (Hartford-New Haven). WHCT is the only independent station in the market, while WHNB-TV is one of two UHF stations with an NBC affiliation.[1] Hartford, located near the center of Connecticut, is the State capital and has a population of 162,178 (1960 U.S. Census). New Britain is located approximately 8 miles southwest of Hartford with a population of 82,201 (1960 U.S. Census), while New Haven is located 30 miles south of Hartford and has a population of 152,048 (1960 U.S. Census).

4. Connecticut filed its petition to deny 40 days after the Commission issued its public notice that RKO's application had been accepted for filing. Recognizing the 30-day time limit, as established by § 1.580(i) of the rules, Connecticut requested a waiver of that section. The Commission finds that, in light of the facts and circumstances concerning this case, a waiver of § 1.580(i) of the rules is warranted.

5. Connecticut alleges that the application should be designated for hearing on questions relating to: (a) Concentration of control; (b) increased overlap; (c) UHF impact; (d) anticompetitive behavior; and (e) extension of pay television.

6. RKO owns six television stations, seven AM stations and six FM stations in major markets, as well as 24 CATV systems, 125 motion picture theaters and a Schenectady, N.Y. newspaper.[2] Although WHCT's present Grade B signal overlaps the Grade B signals of WOR-TV, Channel 9, New York City, and WNAC-TV, Channel 7, Boston, that fact alone does not constitute a violation of § 73.636(a) of the rules, since special provisions of that rule exempt commonly owned stations which were in existence on September 30, 1964. Note 7 to the above rule does, however, provide for a case by case determination to ascertain whether major changes in the facilities of UHF stations which result in Grade B overlap with commonly owned stations would be in the public interest.

7. Connecticut argues that RKO maintains a dominant economic and political position in the broadcast industry which threatens the important objective of maximum diversification in the ownership of mass communications media and violates § 73.636(a) of the rules. Connecticut claims that an increase in WHCT's height and power would only strengthen RKO's solid blanket of television coverage that stretches from Trenton, N.J., to York Harbor, Maine, and thus increase the concentration of control over the

[1] The other UHF station sharing the NBC affiliation with New Britain is WATR-TV, Channel 20 in Waterbury. Two other stations (WTIC-TV, Channel 3 in Hartford, and WHNC-TV, Channel 8 in New Haven, are located in the area.

[2] RKO General, Inc., operates WNAC-TV, WRKO-AM, WROR-FM in Boston; KHJ-TV-AM-FM in Los Angeles; WHBQ-TV-AM in Memphis; WHCT in Hartford; WOR-TV-AM-FM in New York; WGMS(AM), Bethesda, Md.; WGMS-FM, Washington, D.C., and Stations KFRC-AM and KFMS-FM, San Francisco. Although the Canadian Government has recently advised RKO that all broadcast facilities in Canada must be controlled by Canadian citizens, RKO presently operates CKLW-TV-AM-FM in Windsor/Detroit.

media of mass communications in this area. In this respect, RKO contends that the Commission excluded preexisting UHF stations from the duopoly provisions of § 73.636 because it wanted to prevent these stations from being locked into relatively inferior competitive positions and because the number of UHF stations then authorized was not large enough to substantially impinge on overall diversity of programing and the opportunity for competition, Multiple Ownership Rules, 3 R.R. 2d 1554, FCC 64-904. RKO states that the proposed WOR-TV overlap area is currently receiving Grade B signals from nine television stations, while the proposed WNAC-TV overlap area is served by seven to twelve Grade B signals. Furthermore, RKO claims it will continue its policy of separate staffing, that there will not be substantial duplication in programing between its New York, Hartford, and Boston outlets, and that the public interest is best served in this instance by an increased utilization of WHCT's facilities. The Commission, however, is of the opinion that a substantial and material issue of fact has been presented as to whether a grant of RKO's application will be consistent with the public interest under note 7 to § 73.636 and, therefore, the application must be designated for hearing on the media concentration issue. The examiner shall consider RKO's media interests in the New England area under this issue (Issue No. 1).

8. Connecticut alleges that WHCT's proposed contours should be determined on the basis of maximum ERP rather than on the basis of ERP in the horizontal plane. It contends that use of the former method will show 768,568 persons in the WOR-TV area (RKO estimates 274,804 persons), and 613,005 persons in the WNAC-TV overlap area rather than the 140,335 estimated by RKO. The Commission's rules require that the Grade A and Grade B contours of a television broadcast station be computed based on the visual effective radiated power (ERP) in the horizontal plane. We recognize that our present method of contour prediction, consisting of the use of the ERP in the horizontal plane, in combination with other factors, may yield results that are somewhat unrealistic. However, we are of the opinion that more realistic coverage data cannot be obtained simply by computing these contours on the basis of the maximum lobe ERP. Any new or modified method of television coverage predictions is likely to require that computation be based on the ERP at "pertinent" vertical angles which are functions of distances to the areas of concern relative to the television transmitting antenna. The resulting vertical angles will not necessarily be those which would reflect the maximum lobe ERP. The matter of estimating the extent of television coverage in a manner which will yield greater reliability is presently the subject of proposed rule making in Docket No. 17253 (RM-1060). In any event, until such time as a system of prediction of coverage is devised which will yield greater accuracy when compared with actual coverage, we are of the opinion that sound and orderly administration requires that we utilize the current methods of signal computation. Consequently, Connecticut's request to submit a supplemental showing based on the maximum lobe ERP, will be denied.

9. Connecticut alleges that the proposed changes will disturb the balance of television station allocations in the Hartford-New Haven market, as prohibited by Triangle Broadcasting, 17 R.R. 624, 29 FCC 315, affirmed 291 F. 2d 342 (1961), by changing the pattern of advertising revenues, hindering the development of assigned, but inactive, UHF stations on Channel 61, Hartford, and Channel 59, New Haven, and by jeopardizing WHNB-TV's network affiliation to the general detriment of UHF broadcasting in the area. Unlike Triangle, where a VHF station attempted to withdraw service by moving its tower site away from its principal community, in the direction of an outlying area served solely by a UHF station, the instant proposal is a request from a UHF broadcaster to improve its own local service by proposing to increase its authorized power and antenna height, and does not involve any relocation of the transmitter site. Since this proposal is not a VHF vis-a-vis UHF situation, a factually supported showing rather than a bare allegation of UHF impact, must be made before an impact issue will be included. Truth Publishing Co., Inc., et al. 20 FCC 2d 850 (1969) Connecticut has not met this test and its request for a UHF impact issue will be denied.

10. Connecticut has requested that an anticompetitive issue be specified against RKO. In support of that request, it has submitted depositions from a pending antitrust suit against RKO's parent company, General Tire and Rubber, as evidence that General Tire has attempted to coerce its suppliers into buying advertising space on RKO stations.[3] The allegations submitted by Connecticut are now before the Commission in FCC Docket No. 16679, regarding the renewal of Station KHJ-TV, Los Angeles. When that proceeding is completed, the Commission will appropriately relate its conclusions concerning the reciprocal trade agreements to the other broadcast licenses held by RKO. If further inquiries or proceedings involving other RKO stations are required, they will be instituted at that time. Accordingly, where grants of RKO's station licenses have been made, they have been made subject to whatever action the Commission deems appropriate either as a result of developments and findings arising in any proceeding involving Docket No. 16679, or the pending civil action, in U.S. v. General Tire and Rubber et al. We believe that the foregoing is the most effective administrative handling of this issue, and, therefore, we do not believe that it is appropriate to engraft the same issue in a proceeding regarding a construction permit to modify existing facilities.

11. Connecticut also claims that RKO's group buying practices (a method of purchasing the same program for all six RKO stations simultaneously) have deprived WHNB-TV of an opportunity to bid for syndicated film programing. Connecticut does not suggest that RKO has violated the antitrust laws in this regard, but merely complains that RKO's group buying practice has improperly prevented the programing in question from being offered to other stations. In response, RKO contends that its group buying is not improper and further, that any grievance WHNB-TV might have in this regard should be addressed to the film syndicators and not to RKO. Additionally, it is argued that these syndicated programs were originally carried on the NBC network, and since WHNB-TV is an NBC affiliate, it could have obtained re-run rights directly through the network. Connecticut's allegations regarding RKO's buying practices, are sufficient to justify the submission of evidence under the concentration of control issue. (Issue No. 1)

12. WHCT was authorized to conduct pay television operations in the Hartford-New Haven market on an experimental basis and at the time this application was filed, this service was operational. Connecticut's objection to possible improper extension of this service is now moot, as RKO has discontinued its subscription service.

13. *Accordingly, it is ordered,* That, to the extent indicated above, the petition to deny filed by Connecticut Television, Inc., is granted and in all other respects is denied; and that the application of RKO General, Inc., is designated for hearing, at a time and place to be specified in a subsequent order, on the following issues:

(1) To determine whether a grant of the application would create an undue concentration of control over the media of mass communications.

(2) To determine whether a grant of the application would serve the public interest, convenience and necessity.

14. *It is further ordered,* That § 1.580 (i) of the rules is waived and that Connecticut Television, Inc., licensee of Station WHNB-TV, New Britain, Conn., is made a party to the proceedings.

15. *It is further ordered,* That the burden of proceeding with the introduction of evidence with respect to Issue No. 1 shall be upon the petitioner, and the burden of proceeding with the introduction of evidence with respect to Issue No. 2 and the burden of proof with respect to both issues shall be upon the applicant.

16. *It is further ordered,* That in the event of a grant of this application that grant shall be subject to whatever action the Commission may deem appropriate as a result of developments and findings arising in the pending civil action of United States of America v. The General Tire and Rubber Co., Aerojet General Corp., A. M. Byers Co., and RKO General, Inc. (No. 6-67-155) filed March 2, 1967, in the U.S. District Court for the Northern District of Ohio and, further,

[3] U.S. v. The General Tire and Rubber Co., Aerojet General Corp., A.M. Byers and Co., and RKO General, Inc., filed Mar. 2, 1967, U.S. District Court, Northern District of Ohio (No. 6-67-135).

is subject to whatever action the Commission may deem appropriate as a result of developments and findings arising in the pending FCC proceeding in Docket No. 16679.

17. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and petitioner herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: March 18, 1970.

Released: March 25, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-3768; Filed, Mar. 27, 1970; 8:49 a.m.]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 64]

NEW MEXICO EDUCATORS INVESTMENT CORP.

Notice of Receipt of Application for Permission To Acquire Control of Southwest Savings and Loan Association

MARCH 25, 1970.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the New Mexico Educators Investment Corp., Albuquerque, N. Mex., for approval of acquisition of control of the Southwest Savings and Loan Association, Santa Fe, N. Mex., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase by the applicant of a majority of stock of the Southwest Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this Notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[F.R. Doc. 70-3763; Filed, Mar. 27, 1970; 8:48 a.m.]

[4] Commissioners Robert E. Lee and Wells dissenting; Commissioner Johnson absent.

FEDERAL POWER COMMISSION

NEVADA

Order Vacating Withdrawals

MARCH 20, 1970.

Application has been filed by the Bureau of Land Management, Department of the Interior requesting that the land withdrawals for transmission line Projects Nos. 743, 938, 959, 1191, 1262, 1353, 1446, and 1552 be vacated in their entirety. The lands affected by the withdrawals lie in western Nevada and are listed in the attachment below.

The Commission accepted the surrender of the licenses for Projects Nos. 743, 938, 959, 1191, 1262, 1353, and 1446 after finding that the transmission lines which constituted these projects were distribution lines, not primary lines or parts of a "project" as defined in section 3(11) of the Federal Power Act. The Sierra Pacific Power Co. now owns the lines which were covered by these licenses and has obtained authorization from the appropriate Federal agencies for continued occupancy of Federal lands by the distribution lines.

The Commission accepted the surrender of the license for transmission line Project No. 1552 after the mine supplied by the line was closed. The line was removed and the Federal lands which were occupied by the line were restored to a condition satisfactory to the Department of the Interior.

The Commission finds: The withdrawals for Projects Nos. 743, 938, 959, 1191, 1262, 1353, 1446, and 1552 serve no useful purpose and should be vacated in their entirety.

The Commission orders: The withdrawals of the subject lands pursuant to the applications for Projects Nos. 743, 938, 959, 1191, 1262, 1353, 1446, and 1552 are hereby vacated.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

MOUNT DIABLO MERIDIAN, NEVADA

1. Portions (totaling about 161 acres) of the following described sections were withdrawn pursuant to the filing on September 22, 1926, as supplemented July 22, 1929, of an application for license for Project No. 743 for which the Commission gave notices of land withdrawal to the General Land Office (now Bureau of Land Management) by letters dated September 29, 1926, and October 8, 1929.

T. 17 N., R. 22 E.,
Secs. 22, 24, 28, 30.
T. 17 N., R. 23 E.,
Secs. 2, 8, 10, 18.
T. 18 N., R. 23 E.,
Sec. 36.
T. 18 N., R. 24 E.,
Secs 22, 24, 28, 32.
T. 18 N., R. 25 E.,
Secs. 10, 12, 16, 18.
T. 18 N., R. 26 E.,
Sec. 6.
T. 19 N., R. 26 E.,
Sec. 32.

2. Portions (totaling about 133 acres) of the following described sections were withdrawn pursuant to the filing on December 1, 1928, of an applicatin for license and on October 8, 1929, and February 24, 1931, of applications for amendment of license for Project No. 938 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated December 12, 1928, October 28, 1929, March 20, 1931, and March 31, 1931.

T. 26 N., R. 34 E.,
Secs. 4, 8, 16, 28, 32.
T. 27 N., R. 34 E.,
Secs. 8, 18, 20, 32.
T. 28 N., R. 34 E.,
Secs. 18, 19, 29, 30, 32.

3. Portions (totaling about 10 acres) of the following described sections were withdrawn pursuant to the filing on January 28, 1929, of an application for license for Project No. 959 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated February 4, 1929.

T. 19 N., R. 20 E.,
Sec. 12.
T. 19 N., R. 21 E.,
Sec. 8.

4. Portions (totaling about 359.10 acres) of the following described sections were withdrawn pursuant to the filing on January 12, 1932, of an application for license and on December 3, 1936, and August 13, 1937, of applications for amendment of license for Project No. 1191 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated January 15, 1932, January 5, 1937, and January 3, 1938.

T. 19 N., R. 18 E.,
Secs. 26, 29.
T. 17 N., R. 19 E.,
Sec. 4.
T. 18 N., R. 19 E.,
Secs. 11, 24, 26, 34.
T. 19 N., R. 19 E.,
Secs. 28, 29.
T. 13 N., R. 20 E.,
Secs. 26, 36.
T. 15 N., R. 20 E.,
Secs. 1, 2.
T. 16 N., R. 20 E.,
Sec. 36.
T. 17 N., R. 20 E.,
Secs. 1, 2.
T. 18 N., R. 20 E.,
Secs. 28, 30, 33, 34.
T. 12 N., R. 21 E.,
Secs. 9, 10, 14, 23, 24, 25.
T. 13 N., R. 21 E.,
Sec. 31.
T. 16 N., R. 21 E.,
Secs. 4, 5, 9, 17, 20, 21, 22, 24, 25.
T. 17 N., R. 21 E.,
Secs. 6, 8, 17, 20, 29, 32.
T. 18 N., R. 21 E.,
Secs. 20, 30.
T. 15 N., R. 22 E.,
Secs. 4, 5, 6, 9, 10, 11, 14, 15.
T. 16 N., R. 22 E.,
Secs. 30, 31.

5. Portions (totaling about 64 acres) of the following described sections were withdrawn pursuant to the filing on December 3, 1936, of an application for license for Project No. 1262 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated January 7, 1937.

T. 15 N., R. 20 E.,
Secs. 1, 2.
T. 16 N., R. 20 E.,
Secs. 25, 36.
T. 16 N., R. 21 E.,
Secs. 4, 5, 9, 20, 21, 30.
T. 17 N., R. 21 E.,
Secs. 29, 32.

6. Portions (totaling about 139.13 acres) of the following described sections were withdrawn pursuant to the filing on March 19, 1937, of an application for license for Project No. 1353 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated June 18, 1937.

T. 1 N., R. 39 E.,
Secs. 3, 4, 5, 10, 11, 12, 13.
T. 1 N., R. 40 E.,
Secs. 17, 18.
T. 8 N., R. 44 E.,
Secs. 19, 20, 29, 32.
T. 10 N., R. 44 E.,
Secs. 19, 20.

7. Portions (totaling about 206.43 acres) of the following described sections were withdrawn pursuant to the filing on July 13, 1937, of an application for license and on August 16, 1940, of an application for amendment of license for Project No. 1446 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated October 19, 1937, and September 30, 1940.

T. 33 N., R. 34 E.,
Sec. 2.
T. 34 N., R. 35 E.,
Secs. 24, 32.
T. 34 N., R. 36 E.,
Secs. 4, 8, 18.
T. 35 N., R. 36 E.,
Secs. 26, 34.
T. 35 N., R. 37 E.,
Secs. 10, 12, 16, 20.
T. 35 N., R. 38 E.,
Sec. 6.
T. 36 N., R. 38 E.,
Secs. 12, 14, 22, 28, 32.
T. 34 N., R. 39 E.,
Secs. 12, 13.
T. 36 N., R. 39 E.,
Secs. 4, 8, 10, 12, 14, 26, 36.
T. 34 N., R. 40 E.,
Sec. 18.
T. 35 N., R. 40 E.,
Secs. 6, 8, 18, 30.
T. 36 N., R. 40 E.,
Sec. 14.
T. 36 N., R. 41 E.,
Secs. 4, 8, 18.
T. 37 N., R. 41 E.,
Secs. 24, 26, 34.
T. 37 N., R. 42 E.,
Secs. 4, 8, 18.
T. 38 N., R. 42 E.,
Secs. 4, 10, 22, 28.

8. Portions (totaling about 6.5 acres) of the following described sections were withdrawn pursuant to the filing on February 21, 1939, of an application for license for Project No. 1552 for which the Commission gave notice of land withdrawal to the General Land Office by letter dated April 10, 1939.

T. 29 N., R. 33 E.,
Secs. 10, 22, 28.

[F.R. Doc. 70-3747; Filed, Mar. 27, 1970; 8:47 a.m.]

WASHINGTON

Order Vacating Withdrawal

MARCH 20, 1970.

Application has been filed by the Forest Service (applicant), U.S. Department of Agriculture, for vacation of the power withdrawal for minor Project No. 1409 pertaining to the following described land of the United States located within the Mount Baker National Forest:

WILLAMETTE MERIDIAN, WASHINGTON

T. 39 N., R. 9 E. (unsurveyed).
Approximately 0.11 acre.
All lands in sec. 17, as protracted, which lie within the project boundary consisting of a line parallel to and 10 feet distant on either side of the centerline of the 320-foot pipeline and the 150-foot transmission line locations on and adjacent to lands now under lease to Mount Baker Ski Club from the U.S. Forest Service—all as shown o na map designated "Exhibit F" and entitled "Proposed Hydro-Electric Project of Mount Baker Ski Club, Mount Baker National Forest, Proposed Diversion from Galena Creek on Mount Baker Highway near Austin Pass," and filed in the Office of the Federal Power Commission on November 30, 1936.

The land lies within the Mount Baker National Forest and is located on Galena Creek, a tributary of Bagley Creek which in turn drains into the Nooksack River in Whatcom County, Wash.

Project No. 1409 consisted of a low diversion dam, a 6-inch diameter wood-stave pipeline about 320 feet long, a timber powerhouse about 6 by 8 feet containing generating equipment of about 2 kilowatts installed capacity, and an underground transmission line about 150 feet long to applicant's ski cabin. The last of two 10-year licenses for the project expired on October 13, 1958. Applicant has reported that operation of the project ceased several years before the license expired and the area has since been restored to a satisfactory condition.

The U.S. Bureau of Reclamation has reported that the application by the Forest Service would have no adverse affect on existing or proposed Bureau of Reclamation projects and it has no objection to the vacation of the withdrawal for Project No. 1409.

The U.S. Geological Survey has reported that although a potential reservoir site exists on the Nooksack River below Project No. 1409, its maximum pool elevation would be less than 2,300 feet above sea level or about 1,300 feet in elevation below the withdrawn land. The Geological Survey further reports that the power value of the withdrawn land is negligible and therefore recommends that the withdrawal for Project No. 1409 be vacated.

The Commission finds: The withdrawal for Project No. 1409 serves no useful purpose and should be vacated in its entirety.

The Commission orders: The withdrawal of the subject land pursuant to the application for Project No. 1409 is hereby vacated.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-3748; Filed, Mar. 27, 1970; 8:47 a.m.]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEES ON GENERATION, TRANSMISSION, DISTRIBUTION, AND LOAD FORECASTING METHODOLOGY

Continuance for 1 Year

MARCH 23, 1970.

Pursuant to section 8 of Executive Order No. 11007, issued February 26, 1962 (27 F.R. 1875, 3 CFR 1959–1963 Comp., p. 573) and paragraph 8 of the Commission's Order Establishing the National Power Survey Technical Advisory Committees on Generation, Transmission, Distribution, and Load Forecasting Methodology, issued April 11, 1968 (33 F.R. 5969, Apr. 18, 1968), the Commission hereby determines that the continued existence of these four National Power Survey Technical Advisory Committees for an additional 1-year period, from April 11, 1970, through April 10, 1971, is in the public interest.

The Secretary shall cause prompt publication of this determination to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-3752; Filed, Mar. 27, 1970; 8:47 a.m.]

[Project No. 2362]

BLANDIN PAPER CO.

Notice of Application for Approval for Constructed Project

MARCH 19, 1970.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Blandin Paper Co. (correspondence to: George W. Geolz, Vice President and Chief Engineer, Blandin Paper Co., 115 First Street SW., Grand Rapids, Minn. 55744) as part of the license for the Blandin Project No. 2362, located on the Mississippi River in the village of Grand Rapids, Itasco County, Minn.

According to the Exhibit R, access to the entire project area is available through village streets and public roads and during the summer months the licensee provides guided tours of its paper manufacturing facilities and invites the public to visit Blandin Garden which consists of a flower garden, rock garden, pond, goldfish pond, and foot paths. There are many public recreation facilities, such as picnic, camping, and river bank fishing areas, boat landings, a trap shooting area, and sanitary facilities, adjacent to the project boundary and owned and operated by others.

Any person desiring to be heard or to make any protest with reference to said

application should on or before May 12, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-3770; Filed, Mar. 27, 1970; 8:49 a.m.]

[Project No. 2610]

LAKE SUPERIOR DISTRICT POWER CO.

Notice of Application for Approval for Constructed Project

MARCH 19, 1970.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Lake Superior District Power Co. (correspondence to: M. H. Kirby, Vice President—Operations, Lake Superior District Power Co., 101 West Second Street, Ashland, Wis. 54806) as part of the license for the constructed Saxon Falls Project No. 2610, located on Montreal River in the region northwest of Ironwood, Mich., near Hurley and Saxon.

According to the Exhibit R, the existing recreation facilities at the project consist of an access road, a five-car parking area, a boat landing site and a trash container. The licensee proposes construction of an approach to the boat landing site, has added a directional sign to the parking and turnaround area, and proposes to add a sign on the county road pointing out access to the project.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-3771; Filed, Mar. 27, 1970; 8:49 a.m.]

[Docket No. CP70-219]

LONE STAR GAS CO.

Notice of Application

MARCH 19, 1970.

Take notice that on March 13, 1970, Lone Star Gas Co. (applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in Docket No. CP70-219 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon two 880 horsepower compressor engines and related facilities at its Fox Compressor Station No. 2 in Carter County, Okla. Applicant states that it will continue to operate the one remaining compressor engine, which has sufficient capacity to handle the available supplies of natural gas for this area. Applicant further states that the facilities it proposes to abandon have not been in operation for 3 years and that there will be no diminution of natural gas service to any city, town, or customer as a result of said abandonment.

The total estimated cost for the proposed removal is $15,000, which will be paid from working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 13, 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 permission and approval for the proposed abandonment 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. 70-3772; Filed, Mar. 27, 1970; 8:49 a.m.]

[Docket No. CP70-217]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

MARCH 19, 1970.

Take notice that on March 11, 1970, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP70-217 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a sales meter station and appurtenant facilities to be used as an additional point of delivery for natural gas service to an existing customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate an additional point of delivery for natural gas to Alexander City, Ala., for service to an interruptible industrial customer in the area, and applicant states that the volumes of gas to be purchased by Alexander City will be from presently authorized allocations.

The total estimated cost of the proposed facilities is $22,500, which will be reimbursed in full to applicant by Alexander City.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 13, 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. 70-3774; Filed, Mar. 27, 1970; 8:49 a.m.]

[Docket No. CP70-221]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MARCH 20, 1970.

Take notice that on March 13, 1970, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP70-221 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission permitting and approving the abandonment of the transportation of natural gas in interstate commerce to an existing customer and certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By order issued on May 29, 1969, in Docket No. CP69-241, applicant was authorized to construct and operate facilities and to transport natural gas for a short-term direct industrial sale to Cabot Corp. in accordance with a contract dated February 10, 1969. Said contract provided for a delivery term of 1 year commencing with the date of initial delivery. The first delivery of gas under said contract occurred on May 30, 1969, and applicant proposes to discontinue the transportation of gas for the sale on June 1, 1970.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 13, 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 the 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 permission and approval for the proposed abandonment 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. 70-3773; Filed, Mar. 27, 1970; 8:49 a.m.]

[Docket No. CP70-208]

TEXAS EASTERN TRANSMISSION CORP.

Order Fixing Date of Prehearing Conference and Permitting Intervention

MARCH 26, 1970.

On March 6, 1970, as supplemented March 9, 1970, Texas Eastern Transmission Corp. (Texas Eastern) filed an application[1] pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing the importation of up to 750,000 barrels of liquefied natural gas (LNG), the equivalent of approximately 2,600,000 Mcf of natural gas, from Arzew, Algeria, North Africa, all as more fully set forth in the application.

On March 16, 1970, the Commission issued an order granting Texas Eastern's request for temporary authorization to the extent that it was permitted to import the first shipment of approximately 240,000 barrels of LNG which was scheduled to arrive at Texas Eastern's Staten Island LNG facilities on or about March 25, 1970. However, the Commission deferred action on Texas Eastern's request to import during the month of April 1970 a second and third shipment of either 160,000 or 240,000 barrels of LNG each, with the amount at the option of the seller, British Methane, Ltd.

On March 18, 1970, Consolidated Edison Company of New York, Inc. (Con Ed), filed a petition for leave to intervene alleging that it is a customer of Texas Eastern and that the cost paid by Texas Eastern for LNG will be reflected in the rates it pays for gas. Con Ed's petition does not request a formal hearing but states that it wishes to participate in any hearing which might be held because its interests will not be represented by any other party to the proceeding.

On March 20, 1970, the Philadelphia Gas Works Division of UGI corporation (UGI) filed a petition for permission to intervene averring that it purchases from Texas Eastern a substantial part of the natural gas which it distributes and sells to its customers and that the cost to Texas Eastern of purchasing LNG will be refleced in the prices it pays for gas. While UGI does not request a formal hearing, it asks that it be treated as a party to any formal proceedings which may be held concerning Texas Eastern's application because it might be adversely affected by any action taken by the Commission in such a proceeding.

On March 20, 1970, as supplemented on March 23, 1970, The Superior Oil Co. (Superior) filed a petition for leave to intervene alleging that it is one of the largest producers and sellers of natural gas in the United States and that its gas is sold to 16 different pipeline companies which transport and sell gas directly or indirectly to customers in the New York City area. Superior contends that a proposal to supply a part of consumer demand in all or any part of the New York City area directly affects its interest because (1) the demands of Superior's pipeline purchasers are lessened to the extent that consumer requirements are met by imported foreign gas, (2) displacement of the market for domestic gas will aggravate the existing deficiency in the domestic gas exploratory programs of independent producers, and (3) the payment of higher prices for imported gas, instead of awarding such higher prices to domestic producers, discourages domestic exploratory efforts. Superior also claims that Texas Eastern has failed to support its application by filing an executed contract with British Methane as required by § 153.8 of the Commission's regulations under the Natural Gas Act and that Texas Eastern does not appear to have requested permission, pursuant to section 7(c), to construct facilities which are, or will be, required to transport the LNG which is to be imported.

The supplement to Superior's petition to intervene specifically requests that a formal hearing be held because Superior claims that only at a public hearing can the necessary evidence be elicited to assess the issues raised by Superior and serve as a basis for proper findings as to whether the granting of Texas Eastern's application will be in the public interest.

The Commission finds:

(1) It is appropriate in the administration of the Natural Gas Act that a prompt prehearing conference be held in this proceeding.

(2) The public interest requires that a shorter notice period be given than is normally provided pursuant to § 1.19(b) of the Commission's rules of practice and procedure.

(3) It is desirable to allow the companies which have filed petitions to intervene to become interveners in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) Pursuant to the provisions of section 1.18 of the Commission's rules of

[1] Notice of application was issued Mar. 9, 1970, and published in the FEDERAL REGISTER on Mar. 10, 1970 (35 F.R. 4311), fixing Mar. 20, 1970, as the last date for the filing of protests or petitions to intervene.

practice and procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10 a.m., e.s.t., on April 1, 1970, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, for the purpose of considering all issues raised by Texas Eastern's application filed in Docket No. CP70–208.

(B) Texas Eastern, on or before April 1, 1970, may serve the direct testimony constituting its case in chief upon the Commission's staff and all parties to the proceeding.

(C) The above-named petitioners are hereby permitted to become interveners in these procedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And, provided further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70–3851; Filed, Mar. 27, 1970; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70–4849]

MIDDLE SOUTH UTILITIES, INC.

Notice of Proposed Issue and Sale by Holding Company of Common Stock at Competitive Bidding

MARCH 24, 1970.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 280 Park Avenue, New York, N.Y. 10017, a registered holding company, has filed a declaration and an amendment thereto with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 3,100,000 shares of its authorized but unissued common stock, par value $5 per share. Middle South proposes to use the proceeds of the sale of the common stock primarily to repay bank loans due June 30, 1970 of $41 million and to make investments in additional common stock of two of its public-utility subsidiary companies aggregating $19,500,000. At December 31, 1969, Middle South and 35,356,634 shares of common stock outstanding.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses incident to the proposed transaction are estimated to be $87,000 including counsel fees of $26,500. The fees of counsel for the purchasers in the amount of $15,000 plus out-of-pocket expenses will be paid by the purchasers.

Notice is further given that any interested person may, not later than April 14, 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 declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (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 amended or as it may be further 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.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70–3754; Filed, Mar. 27, 1970; 8:47 a.m.]

[812–2676]

SELECTED AMERICAN SHARES, INC., ET AL.

Notice of Filing of Application for Order of Exemption

MARCH 24, 1970.

Notice is hereby given that Selected American Shares, Inc. ("Selected American"), Selected Special Shares, Inc. ("Selected Special"), and Selected Opportunity Fund, Inc. ("Selected Opportunity"), 135 South La Salle Street, Chicago, Ill. 60603, Delaware corporations and open-end investment companies registered under the Investment Company Act of 1940 ("Act"), and Security Supervisors, Inc. ("Security"), an Illinois corporation, a registered broker-dealer and investment adviser, and the Funds' principal underwriter and manager, have filed an application pursuant to section 6(c) of the Act for an order exempting the applicants from the provisions of section 22(d) of the Act to permit the shares of Selected American, Selected Special, and Selected Opportunity to be sold without the usual sales charge to approximately 50 persons who are officers and directors of International Industries, Inc. ("International") or presidents of International's majority-owned subsidiaries and divisions. International owns approximately 80 percent of the outstanding stock of Security. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Shares of the registered investment companies are ordinarily offered to the general public at a public offering price which is the net asset value per share at the time of purchase plus a maximum sales charge which may vary. The sales charge in the case of Selected American is 7½ percent of the public offering price and in the case of Selected Special 8½ percent of the public offering price, reduced on a graduated scale for sale involving larger amounts. The registration statement under the Securities Act of 1933 for Selected Opportunity is presently pending before the Commission. Selected Opportunity proposes to sell its securities with a sales load of 8½ percent of the public offering price, reduced on a graduated scale for sales involving larger amounts.

Section 22(d) of the Act, in relevant part, provides that registered investment companies issuing redeemable securities, or principal underwriter for such company, must sell the investment company shares only at a current offering price described in the prospectus.

Section 6(c) permits the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that pursuant to regulatory exemption, sales of shares of Selected American, Selected Special, and Selected Opportunity are made at net asset value to officers and directors of Selected American, Selected Special, Selected Opportunity, and Security, as well as to their full-time employees or salesmen who have been such for at least 90 days and to any trust, pension, profit sharing or other benefit plan for such persons. It further states that announcement of the availability of shares pursuant to the granting of the application will be made by announcement delivered to each offeree by International together with the applicable current prospectus of the Fund involved and sales will be made only where written assurance is received that the securities will not be resold except through redemption or repurchase by or on behalf of the issuer. Investments will be delivered or mailed directly to the home office of Security and handled in the same manner

as investments in such shares are now handled for those who purchase shares at net asset value pursuant to the above regulatory exemption so that no selling effort or servicing will be required or used in the proposed offer to the subject group of principals of the parent of Security.

Applicants all have agreed that if in the future the Commission amends Rule 22(d) under the Investment Company Act of 1940 to change the circumstances under which the sales charges may be reduced or eliminated in a manner more restricted than the Commission permitted by its order, then on the effective date of such amendment the exemption granted by the order should be automatically terminated and the rule as amended shall apply.

Notice is further given that any interested person may, not later than April 13, 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 should 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 the applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. 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 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 (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70–3755; Filed, Mar. 27, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 25, 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. 41925—*Crude tar and coal from Youngstown, Ohio.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2973), for and on behalf of Erie Lackawanna Railway Co. Rates on tar, coal, crude, in tank carloads, as described in the application, from Youngstown, Ohio, to Seaboard, N.J.

Grounds for relief—Destination rate relationship. Tariff—Supplement 33 to Traffic Executive Association-Eastern Railroads, agent, tariff I.C.C. C–766.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–3760; Filed, Mar. 27, 1970; 8:48 a.m.]

GEORGIA INTRASTATE FREIGHT RATES, 1969; SAND, GRAVEL, CRUSHED STONE AND RELATED ARTICLES

In the Matter of the Assignment for Hearing and Directing Special Procedure

Present: Laurence K. Walrath, Commissioner, to whom the matters which are the subject of this order have been referred for action thereon.

It appearing, That by order dated December 9, 1969, the Commission, Division 2, instituted investigations, pursuant to section 13 of the Interstate Commerce Act into the matters and things presented in the petitions filed November 14, 1969, by the common carriers by railroad operating within the State of Georgia wherein it is alleged that the Georgia Public Service Commission has refused to authorize or to permit increases in rates and charges on commodities moving in intrastate commerce as set forth in the rail carriers' petitions corresponding to those authorized by this Commission in ex parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 590 and 714;

It further appearing, that by order dated March 6, 1970, the Commission amended its order of December 9, 1969, to clarify the issues as follows:

Docket No. 35190 relates only to the intrastate scale or scales of rates on sand, gravel, crushed stone, and related commodities resulting from past hold-downs of increases imposed by the Georgia Public Service Commission, wherein the rail carriers allege that if the full ex parte 259, Increased Freight Rates, 1968, 332 I.C.C. 590 and 714, increases had been applied, such rates would be lower than the corresponding interstate scales thus casting a burden on interstate commerce;

In Docket No. 35191 the issues relate to increases in intrastate rates and charges denied the rail carriers corresponding to the increases permitted on interstate rates and charges in ex parte 259, as follows:

(1) Line-haul rates on sand, gravel, crushed stone and related articles, lightweight aggregates and agricultural limestone limited to 5 percent increase as published in Table No. 5 of tariff X–259–B;

(2) Line-haul rates on carload shipments of sand from Junction City and Rollo Sand Pit No. 1 to the Atlanta group;

(3) Line-haul rates on carload shipments of shale from Bone to Milledgeville limited to 5 percent increases as published in Table No. 5 of tariff X–259–B;

(4) Line-haul rates on carload shipments of cement to 5 percent increase subject to a minimum increase of 1 percent per 100 pounds; and

(5) Line-haul rates on sugar from Port Wentworth to Atlanta and Columbus, subject to carload minimum weight of 180,000 pounds, limited to a rate of 19 cents per 100 pounds.

And it further appearing, that upon consideration of the record in the above-entitled proceedings, these matters are ones which should be referred to a hearing examiner for hearing and require the adoption of special procedure for the purpose of expediting the hearing; and for good cause showing:

It is ordered, That the above-entitled proceedings be, and they are hereby, referred to Hearing Examiner George P. Morin for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That on or before April 6, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceedings and at the same time, serve a copy of such prepared material upon all persons listed in Appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceedings on or before April 3, 1970.

It is further ordered, That on or before May 8, 1970, protestants shall file with the Commission three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in Appendix A hereto and any additional persons who make known their desire to actively participate on or before April 3, 1970. Attached hereto as Appendix A is a list of all known persons who have indicated their desire to actively participate in the proceedings. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before April 3, 1970, as well as all persons listed in Appendix A attached hereto. Otherwise, any interested person desiring to participate in these proceedings may make his appearance at the hearing.

It is further ordered, That on or before May 18, 1970, the respondents and any

persons in support thereof shall file with the Commission three copies of rebuttal verified statements of their witnesses, in writing, and at the same time, serve a copy of said statements upon all persons listed in Appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceedings on or before April 3, 1970.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before June 1, 1970, a copy of such notice to be filed simultaneously with the Commission together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That a hearing will be held commencing on June 22, 1970, 9:30 o'clock a.m. d.s.t. (or 9:30 o'clock a.m. s.t., if that time is observed), in Room 305, 1252 West Peachtree Street, N.W., Atlanta, Ga., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

And it is further ordered, That a copy of this order be served upon all respondents and protestants; that the State of Georgia be notified by sending a copy of this order by certified mail to the Governor of Georgia, Atlanta, Ga., and a copy to the Georgia Public Service Commission, Atlanta, Ga.; and that further notice be given to the public by depositing a copy of this order in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 20th day of March 1970.

By the Commission, Commissioner Walrath.

[SEAL] H. NEIL GARSON, *Secretary.*

APPENDIX A

RESPONDENTS

Phil C. Beverly, 500 Water Street, Jacksonville, Fla. 32202.
Bates B. Bowers, Transportation Building, 151 Ellis Street NE., Atlanta, Ga. 30303.
Eugene W. Burroughs, Suite 600, 1920 L Street NW., Washington, D.C. 20036.
James L. Howe, III, Post Office Box 1808, Washington, D.C. 20013.
John F. Smith, 908 West Broadway, Louisville, Ky. 40201.
William H. Teasley, Post Office Box 8426, Savannah, Ga. 31402.

PROTESTANTS

David O. Benson, Director of Transportation, Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga. 30334.
James E. Bilbo, Coco-Cola, U.S.A., Post Office Drawer 1734, Atlanta, Ga. 30301.
Carl Brown, Brown Brothers Sand Co., Howard, Ga. 31039.
Harold S. Brown, Howard Sand Co., Howard, Ga. 31039.
Willis S. Brunson, 279 Ottley Drive NE., Post Office Box 13064 Station K, Atlanta, Ga. 30324.
Theodore M. Forbes, Jr., Gambrell, Russell, Moye & Killorin (Attorney for: LBI Quarries, Inc.), 4000 First National Bank Tower, Atlanta, Ga. 30303.
J. C. Harper, Southern Cement Co., 900 22d Street South, Post Office Box 3332-A, Birmingham, Ala. 35205.
Pyott Jamison, Atlanta Sand & Supply Co., 605 Forsyth Building, Atlanta, Ga. 30303.
R. E. Knudson, Director of Transportation, Owens-Illinois, Inc., Post Office Box 1035, Toledo, Ohio 43601.
Hugh F. Little, T.M., Georgia Marble Co., 11 Pryor Street SW., Atlanta, Ga. 30303.
Richard W. Remmert, Asst. Director Transportation, Vulcan Materials Co., Post Office Box 7497, Birmingham, Ala. 35223.
Jack C. Sanford, Traffic Manager, Savannah Sugar Refining Corp., Post Office Box 339, Savannah, Ga. 31402.

[F.R. Doc. 70-3762; Filed, Mar. 27, 1970; 8:48 a.m.]

[Notice 48]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 24, 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 4883 (Sub-No. 40 TA), filed March 19, 1970. Applicant: THE GUYOTT COMPANY, 166-176 Forbes Avenue, New Haven, Conn. 06512. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, by tanktruck, or hopper type vehicle, from North Haven, Conn., to Chicopee, Mass., for 180 days. Supporting shipper: Hercules Division, American Cement Corp., 555 City Line Avenue, Bala-Cynwyd, Pa. 19004. Send protests to: District Supervisor David J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 13002 (Sub-No. 6 TA), filed March 19, 1970. Applicant: FREMONT SMITH TRUCK LINES, INC., 5500 Military Road, Sioux City, Iowa 51109. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Sioux-Preme Packing Co., at or near Sioux Center, Iowa, to points in Colorado, Illinois, Indiana, Iowa, and Nebraska, for 180 days. Supporting shipper: Sioux-Preme Packing Co., Post Office Box 177, Sioux Center, Iowa 51250. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51151.

No. MC 109689 (Sub-No. 215 TA), filed March 19, 1970. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, Utah 84087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluoric acid*, in bulk, from Nichols, Calif. (Port Chicago), to Silver Peak, Nev., for 150 days. Supporting shipper: Allied Chemical Corp., 40 Rector Street, New York, N.Y. 10006 (Raymond T. Martin, Distribution Analyst). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 123061 (Sub-No. 51 TA), filed March 19, 1970. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from points in Idaho to points in Wyoming and Colorado, for 180 days. Supporting shippers: O. W. "Red" Nelson, 46 Hillside Drive, Denver, Colo.; Lumber-Jack Wholesale Building Materials Co., Post Office Box 1376, Englewood, Colo. 80110; General Building Service and Supply, Inc., 1736 Boulder Street, Denver, Colo.; North Pacific Lumber Co., Post Office Box 3915, Portland, Oreg. 97208. Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 124796 (Sub-No. 58 TA), filed March 17, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned or packaged food stuffs, toilet*

preparations, toilet articles, germicides; buffing, polishing, cleaning, scouring, and washing compounds, solvents, starch, sponges; sweetening compounds, drugs and janitorial supplies, from Sparks, Nev., to points in San Diego, Los Angeles, Orange, San Francisco, San Mateo, Alameda, and Contra Costa Counties, Calif.; Multnomah County, Oreg.; King County, Wash., and Maricopa County, Ariz., and (2) *empty aerosol cans and corrugated cartons,* knocked down, from Los Angeles, San Francisco, and Alameda Counties, Calif., to Sparks, Nev.; all restricted against commodities in bulk, and restricted to traffic originating or terminating at the plantsite or warehouse facilities of Alberto-Culver Co. at Sparks, Nev., for 150 days. Supporting shipper: Alberto-Culver Co., 2525 Armitage Avenue, Melrose Park, Ill. 60160. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 134416 (Sub-No. 1 TA), filed March 19, 1970. Applicant: TRANSPORTES UNIDOS DE MEXICALI, S.A., Calle Industria No. 108, Mexicali, Republic of Mexico. Applicant's representative: Milton W. Flack, Suite 400, 1813 Wilshire Boulevard, Los Angeles, Calif. 90057. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Tin plate, and hardware store materials,* such as *conduit electrical equipment, hardware, iron or steel, metals, paint, plumber's goods, roofing material and tools,* from Los Angeles, Orange, Riverside and San Bernardino Counties, Calif., to Port of Entry at or near Calexico, Calif., on the international boundary line between the United States and Mexico, for 180 days. Supporting shipper: Comercio Azteca S. A. de C. V., Mexicali, Baja, Calif. Send protests to: Robert G. Harrison, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 134423 TA, filed March 19, 1970. Applicant: DAVID T. HENCELY, Rural Route 3, Box 32A, Forsyth, Ga. 31029. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Synthetic fibres, or yarns,* in bales or cartons; density not more than 7 pounds per cubic foot, between the plantsite of Twistex, Inc., at or near Forsyth, Ga., and the plantsite of Peachtree Products Division; American Enka Corp., at or near Murphy, N.C., for 180 days. Supporting shipper: Twistex, Inc., Post Office Box 230, Forsyth, Ga. 31029. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-3759; Filed, Mar. 27, 1970; 8:48 a.m.]

[Notice 515]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 25, 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–71869. By order of March 19, 1970, the Motor Carrier Board approved the transfer to Dial Motor Lines, Inc., Philadelphia, Pa., of the operating rights in certificate No. MC–36897 issued March 16, 1959, to Trenton Transport, Inc., Morrisville, Pa., authorizing the transportation of general commodities, with exceptions, over regular routes, between Trenton, N.J., and Philadelphia, Pa., serving the intermediate points of Camden, N.J. Francis McInerny, 1000 16th Street NW., Washington, D.C. 20036, attorney for applicants.

No. MC–FC–72005. By order of March 20, 1970, the Motor Carrier Board approved the transfer to Virgil Ness, doing business as Ness Trucking, Deer Park, Wis., of the operating rights in certificate No. MC–1571 issued April 29, 1966, to Magnus A. Stensvold, doing business as Stensvold Trucking, Deer Park, Wis., authorizing the transportation, over irregular routes, of livestock between points (1) in the towns of Cylon, Forest, and Stanton, in St. Croix County, Wis., and (2) in the towns of Black Brook and Alden, in Polk County, Wis., on the one hand, and, on the other, St. Paul, South St. Paul, Minneapolis, Newport, and Stillwater, Minn., and groceries, feed, farm machinery, farm supplies, household goods, hardware, oil, and grease, and fertilizer from St. Paul, South St. Paul, Minneapolis, Newport, and Stillwater, Minn., to points in the above-specified towns in St. Croix and Polk Counties, Wis. A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114, representative for applicants.

No. MC–FC–72008. By order of March 20, 1970, the Motor Carrier Board approved the transfer to Howard Kaylor and Kenneth L. Stuart, a partnership, doing business as K & S Tankline, Copperhill, Tenn., of the operating rights in certificates Nos. MC–119557 and MC–119557 (Sub-No. 1) issued October 19, 1960, to Fred A. Shelton, Copperhill, Tenn., authorizing the transportation, over irregular routes, of sulphur dioxide, in bulk, in tank vehicles, from Copperhill, Tenn., to Bastrop and Bogalusa, La., Cantonment and Foley, Fla., Canton and Sylva, N.C., Lugoff, S.C., Moss Point and Natchez, Miss., Dry Branch and Jessup, Ga., and Fox, Ala. J. W. Mills, Post Office Box 39, Knoxville, Tenn. 37901, attorney for applicants.

No. MC–FC–72030. By order of March 19, 1970, the Motor Carrier Board approved the transfer to Transport Dallaire Ltd., Ltee, Montmagny, Quebec, Canada, of Corrected Permit No. MC–126882 issued to Fernand Poulin, St. Martin, Quebec, Canada, authorizing the transportation of: Lumber and wood fencing, from specified points in Maine, Vermont, and New York, to points in Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, and New York. Francis E. Barrett, Jr., attorney at law, 536 Granite Street, Braintree, Mass. 02184.

No. MC–FC–72014. By order of March 20, 1970, the Motor Carrier Board approved the transfer to Maureen V. Biddle, doing business as Ranger Transport, Post Office Box 836, Manor Branch, New Castle, Del. 19720, of the operating rights in Permits Nos. MC–119488, and MC–119488 (Sub-No. 3) issued August 29, 1966, and March 27, 1961, respectively, to Hygrade Products, Inc., Post Office Box 334, Pennsville, N.J. 08070, authorizing the transportation of bakery goods from Phoenixville, Pa., to points in Maryland, Delaware, Virginia, and specified counties in New Jersey; potato chips, pretzels, salted nuts and bakery goods, from the site of the Food Fair Stores' baking plant and warehouse in Philadelphia, Pa., to specified counties in New Jersey; from Philadelphia, Pa., to points in Maryland, Delaware, and Virginia, and from the plant and warehouse of Food Fair Stores, Inc., in Pennsville, N.J., to points in Delaware, Maryland, Pennsylvania, Virginia, and the District of Columbia.

No. MC–FC–72029. By order of March 20, 1970, the Motor Carrier Board approved the transfer to Alexandria Trucking Co., Inc., a corporation, Alexandria, Va., of that portion of the operating rights in Certificate No. MC–111676 (Sub-No. 1) issued April 8, 1958, to Crowder's Transfer & Storage Co., Inc., Alexandria, Va., authorizing the transportation of building materials, coal, coke, wood, fitch, tar, paint, machinery, and contractors' tools and equipment, between Alexandria, Va., and points in Virginia within 10 miles of Alexandria, on the one hand, and, on

the other, Washington, D.C., and points in Maryland within 40 miles of Washington, D.C.; cement, from Washington, D.C., to points in Maryland and Virginia within 25 miles of Washington, D.C., and structural steel, from Phoenixville, Pa., to Alexandria, Va. Richard R. Sigmon, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004, attorney for applicants.

No. MC–FC–72036. By order of March 20, 1970, the Motor Carrier Board approved the transfer to Vernon Reha and Dennis Reha, a partnership, doing business as Reha Trucking, Adair, Iowa, of the operating rights in Certificate No. MC–4928 issued July 30, 1956, to Vernon Reha and Delmar Reha, a partnership, doing business as Wm. Reha & Sons, as amended by order dated June 24, 1960, to reflect carrier's name and trade name as Vernon Reha and Delmar Reha, a partnership, doing business as Reha Bros., Adair, Iowa, authorizing the transportation of livestock, from Adair, Iowa, to Omaha, Nebr., serving intermediate and off-route points within 10 miles of Adair, restricted to pick-up only, over U.S. Highway 6; and livestock, feed, farm machinery, and lumber, from Omaha, Nebr., to Adair, Iowa, serving intermediate and off-route points within 10 miles of Adair, restricted to delivery only, over U.S. Highway 6. A. R. Fowler, registered practitioner, 2288 University Avenue, St. Paul, Minn. 55114, representative for applicants.

No. MC–FC–72039. By order of March 20, 1970, the Motor Carrier Board approved the transfer to C & J Moving & Storage, Inc., Rockville, Conn., of the operating rights in Certificate No. MC–69300 issued March 18, 1968, to James Fleming Trucking, Inc., Suffield, Conn., authorizing the transportation of household goods as defined by the Commission, between points in the Townships of Enfield, Suffield, East Granby, Windsor Locks, Windsor, East Windsor, and Somers, Conn., on the one hand, and, on the other, points in New York, Massachusetts, and Rhode Island. Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–3761; Filed, Mar. 27, 1970; 8:48 a.m.]

[Notice 514]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 24 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–71975. By order of March 18, 1970, the Motor Carrier Board approved the transfer to Robert Case, doing business as Ebb Vans, Jamaica, N.Y., of certificate No. MC–74674, issued to Arthur A. Cregan, doing business as Bayside Moving & Storage Co., Bayside, Long Island, N.Y., authorizing the transportation of: Household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in New York, Connecticut, New Jersey, and Pennsylvania. Arthur J. Piken, Attorney at Law, 160 Jamaica Avenue, Jamaica, N.Y. 11432.

No. MC–FC–72018. By order of March 19, 1970, the Motor Carrier Board approved the transfer to Strohm Warehouse of Indianapolis, Inc., 4001 East Raymond Street, Indianapolis, Ind., of the operating rights in certificate No. MC–62660 issued February 27, 1942, to Strohm Warehouse & Cartage Co., a corporation, name changed to The Strohm Corp., Indianapolis, Ind., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and other specified commodities, between points within 8 miles of Indianapolis, Ind., including Indianapolis.

No. MC–FC–72034. By order of March 19, 1970, the Motor Carrier Board approved the transfer to Larry Dardio, doing business as Dardio Trucking, Wapakoneta, Ohio, of certificate No. MC–111957, issued July 10, 1967, to W. H. Dardio and M. J. Steinke, a partnership, doing business as D & S Trucking, Wapakoneta, Ohio, authorizing the transportation of: Petroleum products, in containers, from St. Marys, W. Va., to St. Marys, Ohio; empty containers for petroleum products, from St. Marys, Ohio, to St. Marys, W. Va.; creosoted wood products, from points in Bath Township, Allen County, Ohio, to points in Indiana and the Lower Peninsula of Michigan; and returned shipments of creosoted wood products, from points in Indiana and the Lower Peninsula of Michigan, to points in Bath Township, Allen County, Ohio. Richard H. Brandon, 79 East State St., Columbus, Ohio 43215, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–3686; Filed, Mar. 26, 1970; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MARCH

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during March.

1 CFR

Page

12 ---- 4249
Appendix B ---- 4249

3 CFR

PROCLAMATIONS:

2761A (see Proc. 3967) ---- 3975
2929 (see Proc. 3967) ---- 3975
3140 (see Proc. 3967) ---- 3975
3279 (modified by Proc. 3969) ---- 4321
3455 (see Proc. 3967) ---- 3975
3458 (see Proc. 3967) ---- 3975
3548 (see Proc. 3967) ---- 3975
3762 (see Proc. 3967) ---- 3975
3816 (see Proc. 3967) ---- 3975
3951 (see Proc. 3967) ---- 3975
3967 ---- 3975
3968 ---- 4245
3969 ---- 4321
3970 ---- 4387
3971 ---- 4999
3972 ---- 5001
3973 ---- 5079
3974 ---- 5211

EXECUTIVE ORDERS:

July 2, 1910 (revoked in part by PLO 4776) ---- 4516
July 7, 1910 (revoked in part by PLO 4775) ---- 4403
May 11, 1911 (revoked in part by PLO 4775) ---- 4403
April 17, 1926 (revoked in part by PLO 4764) ---- 4400
1919½ (revoked in part by PLO 4771) ---- 4401
2216 (revoked in part by PLO 4771) ---- 4401
3672 (revoked in part by PLO 4771) ---- 4401
5237 (revoked in part by PLO 4765) ---- 4400
5327 (see PLO 4776) ---- 4516
9586 (amended by EO 11515) ---- 4543
10347 (amended by EO 11517) ---- 4937
10898 (revoked by EO 11515) ---- 4543
10986 (revoked by EO 11515) ---- 4543
11035 (superseded by EO 11512) ---- 3979
11117 (revoked by EO 11515) ---- 4543
11152 (revoked by EO 11515) ---- 4543
11174 (see EO 11520) ---- 5171
11248 (amended by EO 11516) ---- 4935
11354 (see EO 11517) ---- 4937
11382 (amended by EO 11515) ---- 4543
11407 (amended by EO 11520) ---- 5171
11472 (amended by EO 11514) ---- 4247
11512 ---- 3979
11513 ---- 4113
11514 ---- 4247
11515 ---- 4543
11516 ---- 4935
11517 ---- 4937
11518 ---- 4939
11519 ---- 5003
11520 ---- 5171

3 CFR—Continued

Page

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDER:

Letter of Dec. 9, 1969 ---- 4193

5 CFR

12 ---- 5173
213 ---- 4249, 4389, 4609, 4705, 4813, 4945, 5011
230 ---- 5173

7 CFR

52 ---- 3981, 5031
301 ---- 4691, 4692
319 ---- 5031
401 ---- 4389, 4390
407 ---- 4390
411 ---- 4390
601 ---- 4041
722 ---- 4323
724 ---- 4945, 5173
728 ---- 4323
729 ---- 4391, 5031
775 ---- 5082
813 ---- 4693
842 ---- 4250
891 ---- 4609
895 ---- 4545
907 ---- 4132, 4251, 4391, 4610, 4745, 5107
908 ---- 4132, 4392, 4745, 4746, 5107
909 ---- 4041
910 ---- 3982, 4251, 4545, 4946, 5213
912 ---- 4252, 4545, 5032
913 ---- 4252, 4546
945 ---- 4195
946 ---- 4252
947 ---- 4253, 5107
948 ---- 4254, 4255
966 ---- 4546
980 ---- 4547
987 ---- 4324
993 ---- 5108
1034 ---- 4042
1041 ---- 4043
1098 ---- 4392
1099 ---- 4392
1131 ---- 4285
1443 ---- 4132
1602 ---- 4325, 4610

PROPOSED RULES:

81 ---- 4865
201 ---- 4734
202 ---- 4734
971 ---- 5044
728 ---- 4733
965 ---- 4638
991 ---- 4411
993 ---- 4216
1001 ---- 4056, 5180
1002 ---- 5180
1003 ---- 4902, 5180
1004 ---- 4902, 5180
1007 ---- 4295
1015 ---- 4056, 5180
1016 ---- 4902, 5180
1030 ---- 4064, 4412, 4866
1065 ---- 4262
1103 ---- 4295
1121 ---- 4866

7 CFR—Continued

Page

PROPOSED RULES—Continued

1124 ---- 4706
1126 ---- 4866
1133 ---- 5181

8 CFR

235 ---- 4325
238 ---- 4325
248 ---- 4325
316a ---- 4326

PROPOSED RULES:

103 ---- 4135
214 ---- 4135

9 CFR

74 ---- 4195
76 ---- 4043, 4115, 4196, 4285, 4286, 4302, 4393, 4547, 4694, 4699, 4746, 4813, 4946, 5005, 5032, 5110, 5213, 5214
78 ---- 4196, 4746

10 CFR

20 ---- 5033
30 ---- 3982
31 ---- 3982
70 ---- 4700
161 ---- 4255

PROPOSED RULES:

3 ---- 4056

12 CFR

1 ---- 4197
204 ---- 5081
211 ---- 4394
217 ---- 4286, 5081
220 ---- 5173
224 ---- 5005
226 ---- 5214
265 ---- 4044
269 ---- 4610
329 ---- 4287, 5005
526 ---- 4394
544 ---- 4044
556 ---- 4287
563 ---- 4044
571 ---- 4289
582b ---- 4290

PROPOSED RULES:

204 ---- 4080, 4307
217 ---- 4080, 4307
290 ---- 4644
292 ---- 4644

13 CFR

107 ---- 4596

14 CFR

Ch. I ---- 4292
39 ---- 4198, 4199, 4326, 4395, 4396, 4547, 4747, 4814, 4947, 5110, 5111, 5216
71 ---- 4116, 4199, 4200, 4256–4259, 4291, 4396, 4397, 4548, 4612, 4613, 4700, 4947, 4948, 5007, 5034, 5174, 5216
73 ---- 4053, 4259, 5006, 5007

14 CFR—Continued

Page

75 ... 4291, 5007
91 ... 4116
95 ... 3982, 5216
97 ... 3988, 4461, 4815
99 ... 4292
151 ... 5112
233 ... 5112
241 ... 4613
288 ... 5113
1221 ... 4700

PROPOSED RULES:

1 ... 4262, 4519, 4966
39 ... 4263
4333, 4412, 4638, 4708, 4709, 4862
65 ... 4862
71 ... 4216–4218, 4263–4266, 430¢, 4412, 4519, 4521–4522, 4638, 4639, 4709, 4765, 4966, 5012, 5044, 5045, 5264
75 ... 4413
77 ... 4554
91 ... 4262, 4266, 4519, 4966, 4967, 5264
121 ... 5045
123 ... 5045
127 ... 5045
135 ... 5045
145 ... 4523
151 ... 4864
208 ... 4967
214 ... 4967
295 ... 4967

15 CFR

30 ... 4948
372 ... 4949
373 ... 4949
377 ... 4949
386 ... 4951

PROPOSED RULES:

1000 ... 4368, 4377

16 CFR

3 ... 5007
13 ... 3993, 4116–4120, 4397, 4398, 4748–4750, 5081
15 ... 3993, 5174
421 ... 4614

17 CFR

200 ... 4121
211 ... 4121
231 ... 4121
239 ... 4122
249 ... 4122

PROPOSED RULES:

231 ... 5272
240 ... 4649
274 ... 4650

18 CFR

2 ... 3993, 4133
157 ... 4133, 5218
260 ... 4751

PROPOSED RULES:

101 ... 4416
104 ... 4416
105 ... 4416
141 ... 4080
154 ... 4008, 4080, 4141
157 ... 4080
201 ... 4008, 4080, 4141, 4416, 5266
204 ... 4416, 5266
205 ... 4416
260 ... 4008, 4080, 4141, 5266

19 CFR

Page

10 ... 4292
53 ... 4326, 5009

PROPOSED RULES:

10 ... 4632
18 ... 4632
21 ... 4632
25 ... 4632
33 ... 4632

21 CFR

3 ... 4702
53 ... 4548
120 ... 4501, 4952, 5219
121 ... 4502, 5034, 5220
130 ... 5008
135b ... 4133
135c ... 5220
141c ... 5174
146c ... 5174

PROPOSED RULES:

120 ... 4518
191 ... 4001, 4638
320 ... 4305

22 CFR

41 ... 5175
42 ... 4751
601 ... 4621

23 CFR

PROPOSED RULES:

255 ... 4080

24 CFR

0 ... 4622
1909 ... 4201
1910 ... 4202
1911 ... 4204
1912 ... 4206
1914 ... 4207, 4331, 5009, 5175
1915 ... 4208, 4332, 5009, 5176

PROPOSED RULES:

1665 ... 5181

25 CFR

PROPOSED RULES:

221 ... 4215
252 ... 5043

26 CFR

1 ... 4293, 4703
13 ... 3995, 4330, 4622
143 ... 4293, 4703
240 ... 4502
301 ... 4293

PROPOSED RULES:

1 ... 4054
201 ... 5179
211 ... 4404
213 ... 4404

28 CFR

0 ... 3994, 4210
44 ... 5034

29 CFR

613 ... 4548
616 ... 4549
688 ... 4549
901 ... 4752

PROPOSED RULES:

204 ... 3996
526 ... 5044
1425 ... 4007

30 CFR

Page

55 ... 4515
56 ... 4515
57 ... 4515
74 ... 4326
75 ... 5221
300 ... 5255
301 ... 5255

PROPOSED RULES:

501 ... 4238, 4307

31 CFR

203 ... 4399
270 ... 5113
500 ... 4045, 5114

PROPOSED RULES:

360 ... 4965

32 CFR

591 ... 4123
592 ... 4126
593 ... 4127
594 ... 4130
596 ... 4130
599 ... 4131
600 ... 4131
601 ... 4131
807a ... 4210
852 ... 4515
882 ... 4622, 5035
888a ... 4550
907 ... 4211
1001 ... 4846
1003 ... 4849
1006 ... 4849
1007 ... 4851
1009 ... 5035
1011 ... 4857
1012 ... 4859
1013 ... 5176
1016 ... 4859
1017 ... 4860
1018 ... 4860
1030 ... 5036
1474 ... 4329
1475 ... 4329
1499 ... 4329

32A CFR

OI Reg. 1 ... 5259
BDSA (Ch. VI):
Reg. 2, Dir. 12 ... 4211
Reg. 2, Dir. 13 ... 4211

PROPOSED RULES:

Ch. X ... 4335, 4710

33 CFR

1 ... 5117
25 ... 4045
74 ... 4045
207 ... 4551

PROPOSED RULES:

110 ... 4136, 4518
117 ... 4412, 5012

36 CFR

7 ... 4753, 5108
231 ... 4399, 4704
311 ... 5036

PROPOSED RULES:

2 ... 5180
4 ... 5180
7 ... 4215, 4554, 5125

37 CFR

1 ... 4259

38 CFR

39 CFR

PROPOSED RULES:

41 CFR

42 CFR

PROPOSED RULES:

43 CFR

PUBLIC LAND ORDERS:

43 CFR—Continued

PUBLIC LAND ORDERS—Continued

45 CFR

PROPOSED RULES:

46 CFR

PROPOSED RULES:

47 CFR

47 CFR—Continued

PROPOSED RULES:

49 CFR

PROPOSED RULES:

50 CFR

PROPOSED RULES: