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Part I

(Part II begins on page 12977)

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Agricultural Stabilization and Conservation Service
Business and Defense Services Administration
Consumer and Marketing Service
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Federal Aviation Administration
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Title 3—THE PRESIDENT

Executive Order 11551

AMENDING EXECUTIVE ORDER NO. 11399 WITH RESPECT TO THE MEMBERSHIP OF THE NATIONAL COUNCIL ON INDIAN OPPORTUNITY

By virtue of the authority vested in me as President of the United States, Executive Order No. 11399 [1] of March 6, 1968, "Establishing the National Council on Indian Opportunity," is hereby amended by substituting the following for section 1:

"SECTION 1. *Establishment of Council.* There is hereby established The National Council on Indian Opportunity (hereinafter referred to as the "Council"). The Council shall have membership as follows: The Vice President of the United States who shall be the chairman of the Council, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Director of the Office of Economic Opportunity, and eight Indian leaders appointed by the President of the United States for terms of two years."

Richard Nixon

THE WHITE HOUSE,
August 11, 1970.

[F.R. Doc. 70-10726; Filed, Aug. 13, 1970; 9:05 a.m.]

[1] 33 F.R. 4245; 3 CFR 1968 Comp., p. 105.

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER I—DETERMINATION OF PRICES

PART 876—SUGARCANE; HAWAII

Fair and Reasonable Prices for 1970 Crop

Correction

In F.R. Doc. 70-10371, appearing at page 12640 in the issue of Saturday, August 8, 1970, the street address for the Hawaii State ASCS office in the penultimate line of § 876.29 now reading "183 Kalakaua Avenue" should read "1833 Kalakaua Avenue."

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

[948.264]

PART 948—IRISH POTATOES GROWN IN COLORADO

Approval of Expenses and Rate of Assessment

Notice of rule making regarding proposed expenses and rate of assessment for Area No. 2 (San Luis Valley), to be effective under Marketing Agreement No. 97 and Order No. 948 (7 CFR Part 948), both as amended, was published in the July 25, 1970, issue of the FEDERAL REGISTER (35 F.R. 12002).

The notice afforded interested persons an opportunity to submit written data, views, or arguments, pertaining thereto not later than 15 days following publication in the FEDERAL REGISTER. None was received.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the Area Committee for Area No. 2, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 948.264 **Expenses and rate of assessment.**

(a) The reasonable expenses that are likely to be incurred by the Area Committee for Area No. 2 to enable such committee to perform its functions, pursuant to the provisions of Marketing Agreement No. 97, as amended, and this part, during the fiscal period ending June 30, 1971, will amount to $12,492.50.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 97, as amended, and this part, shall be $0.0025 per hundredweight of potatoes grown in Area No. 2 handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1971, may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such period, and (2) the current fiscal period began July 1, 1970, and the rate of assessment herein will automatically apply to all assessable potatoes beginning with such date.

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

Dated: August 10, 1970.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-10651; Filed, Aug. 13, 1970; 8:48 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-239]

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, in paragraph (e) (17) relating to the State of Virginia, a new subdivision (vii) relating to City of Virginia Beach County is added to read:

(17) *Virginia.* * * *

(vii) That portion of City of Virginia Beach County comprised of Princess Anne Borough.

2. In § 76.2, the reference to the State of Tennessee in the introductory portion of paragraph (e) and paragraph (e) (16) relating to the State of Tennessee are deleted; and paragraph (f) as amended by adding thereto the name of the State of Tennessee.

(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 a portion of City of Virginia Beach County, Va., 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.

The amendments also exclude a portion of Weakley County, Tenn., from the areas 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 of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

The foregoing amendments also add the State of Tennessee to the list of hog cholera eradication States as set forth in § 76.2(f).

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 10th day of August 1970.

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

[F.R. Doc. 70-10650; Filed, Aug. 13, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70–CE–23]

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

Alteration of Transition Area

On page 7186 of the FEDERAL REGISTER dated May 7, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Plymouth, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., October 15, 1970.

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

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

PLYMOUTH, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Plymouth Municipal Airport (latitude 41°22'00" N., longitude 86°18'10" W.); within 2½ miles each side of the Knox, Ind. VOR 080° radial, extending from the 5-mile radius area to 12 miles east of the VOR; and within 2½ miles each side of the Knox VOR 081° radial, extending from the 5-mile radius area to 25½ miles east of the VOR.

[F.R. Doc. 70–10637; Filed, Aug. 13, 1970; 8:47 a.m.]

[Airspace Docket No. 70–CE–27]

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

Alteration of Transition Area

On pages 7186 and 7187 of the FEDERAL REGISTER dated May 7, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Cloquet, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., October 15, 1970.

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

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

CLOQUET, MINN.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the Duluth, Minn., VORTAC 244° radial, extending from 18½ to 41 miles southwest of the VORTAC, excluding the portion which overlies the Duluth, Minn. 1,200-foot floor transition area.

[F.R. Doc. 70–10638; Filed, Aug. 13, 1970; 8:47 a.m.]

[Airspace Docket No. 70–CE–31]

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

Alteration of Control Zone and Transition Area

On page 8240 of the FEDERAL REGISTER dated May 26, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Redwood Falls, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., October 15, 1970.

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

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

REDWOOD FALLS, MINN.

Within a 5-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.).

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

REDWOOD FALLS, MINN.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Redwood Falls Municipal Airport (latitude 44°32'45" N., longitude 95°04'45" W.); and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of Redwood Falls VORTAC; within 5 miles each side of the Redwood Falls VOR TAC 023° radial, extending from the 13-mile radius area to 18 miles north of the VOR TAC; and within 4½ miles northwest and 9½ miles southeast of the Redwood Falls VORTAC 196° radial, extending from the 13-mile radius area to 18½ miles southwest of the VORTAC.

[F.R. Doc. 70–10639; Filed, Aug. 13, 1970; 8:47 a.m.]

[Airspace Docket No. 70–CE–43]

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

Alteration of Control Zone and Transition Area

On pages 8666 and 8667 of the FEDERAL REGISTER dated June 4, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Wausau, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., October 15, 1970.

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

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

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

WAUSAU, WIS.

Within a 5-mile radius of the Wausau Municipal Airport (latitude 44°55'35" N., longitude 89°37'35" W.); and within 2½ miles each side of the 142° bearing from the Wausau Municipal Airport extending from the 5-mile radius zone to 6 miles southeast.

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

WAUSAU, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Wausau Municipal Airport (latitude 44°55'35" N., longitude 89°37'35" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the north by a line 6 miles north of and parallel to the Wausau VORTAC 273° radial, the arc of a 15-mile radius circle centered on the

Wausau Municipal Airport and a line 9 miles north of and parallel to the Wausau VORTAC 106° radial, on the east, by an arc of a 35-mile radius circle centered on the Wausau VORTAC on the south by a line 5 miles south of and parallel to the Stevens Point, Wis., 089° radial, the arc of a 15-mile radius circle centered on the Stevens Point VORTAC, the Stevens Point VORTAC 230° radial, the Camp Douglas, Wis., transition area, and V-345, on the west by longitude 90°40'00" W.

[F.R. Doc. 70-10640; Filed, Aug. 13, 1970; 8:47 a.m.]

[Docket No. 10497; Amdt. 716]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (358 F.R. 5610).

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

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

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

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAPs, effective September 10, 1970:

Fallon, Nev.—NAAS Fallon Airport; VOR 1, Amdt. 2; Canceled.
Ontario, Oreg.—Ontario Municipal Airport; NDB (ADF)-1, Amdt. 6; Canceled.

2. Section 97.15 is amended by establishing, revising, or canceling the following VOR/DME SIAPs, effective September 10, 1970:

Charleston, W. Va.—Kanawha Airport; VOR/DME No. 1, Amdt. 2; Canceled.

3. Section 97.17 is amended by establishing, revising, or canceling the following ILS SIAPs, effective September 10, 1970:

Trenton, N.J.—Mercer County Airport; ILS-6, Orig.; Canceled.

4. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective September 10, 1970:

Charleston, W. Va.—Kanawha Airport; VOR-1, Amdt. 5; Revised.
Hanford, Calif.—Hanford Municipal Airport; VOR-A, Orig.; Established.
Hanford, Calif.—Hanford Municipal Airport; VOR-1, Orig.; Canceled.
Jackson, Miss.—Hawkins Field; VOR-A, Amdt. 10; Revised.
Newark, Ohio—Licking County Airport; VOR-1, Amdt. 3; Revised.
Oneonta, N.Y.—Oneonta Municipal Airport; VOR Runway-6, Amdt. 2; Revised.
Trenton, N.J.—Mercer County Airport; VOR-1, Amdt. 5; Revised.

5. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective September 10, 1970:

Miami, Fla.—Miami International Airport; LOC (BC) Runway 9R, Amdt. 4; Revised.
Miami, Fla.—Miami International Airport; Parallel LOC (BC) Runway 9R, Orig.; Established.
Miami, Fla.—Miami International Airport; LOC (BC) Runway 27R, Amdt. 5; Revised.
Miami, Fla.—Miami International Airport; Parallel LOC (BC) Runway 27R, Orig.; Established.
Trenton, N.J.—Mercer County Airport; LOC Runway 6, Orig.; Established.

6. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective September 10, 1970:

Charleston, W. Va.—Kanawha Airport; NDB (ADF) Runway 23, Amdt. 16; Revised.
Florence, S.C.—Florence Municipal Airport; NDB (ADF) Runway 23, Orig.; Established.
Jackson, Miss.—Allen C. Thompson Field; NDB (ADF) Runway 15L, Amdt. 8; Revised.
Jackson, Miss.—Hawkins Field; NDB-A, Amdt. 10; Revised.
Ontario, Oreg.—Ontario Municipal Airport; NDB (ADF) Runway 32, Orig.; Established.
Trenton, N.J.—Mercer County Airport; NDB (ADF) Runway 6, Amdt. 1; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective September 10, 1970:

Charleston, W. Va.—Kanawha Airport; ILS Runway 23, Amdt. 18; Revised.
Jackson, Miss.—Allen C. Thompson Field; ILS Runway 15L, Amdt. 7; Revised.
Miami, Fla.—Miami International Airport; Parallel ILS Runway 9L, Orig.; Established.
Miami, Fla.—Miami International Airport; Parallel ILS Runway 27L, Orig.; Established.

8. Section 97.31 is amended by establishing, revising or canceling the following Radar SIAPs, effective September 10, 1970:

Charleston, W. Va.—Kanawha Airport; RADAR-1, Amdt. 5; Revised.

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

Issued in Washington, D.C., on August 5, 1970.

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

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

[F.R. Doc. 70-10586; Filed, Aug. 13, 1970; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965——)

Composition of Utilization Review Committees in Hospitals and Extended Care Facilities

On October 17, 1969, there was published in the FEDERAL REGISTER (34 F.R. 16628) a notice of proposed rule making with proposed amendments to the Hospital Insurance Benefit regulations which proposed to preclude effective January 1, 1970, physicians who have a financial interest in a hospital or extended care facility or power, directly or indirectly, significantly to influence or direct the actions or policies of the hospital or facility from serving on its utilization review committee. Interested persons were given the opportunity to submit data, views, or arguments with regard to the proposed regulations.

Pursuant to the above notice, a number of comments have been received from interested persons and leading organizations in the health care field, and due consideration has been given to all relevant material presented.

In the light of the comments, the regulations as proposed are hereby adopted, subject to the following changes in paragraph (e)(2)(iii) of § 405.1035 and paragraph (e)(2) of § 405.1137:

1. The reference to "power * * * to influence or direct the actions or policies of the hospital or facility" has been omitted.

2. A provision has been added to permit a physician having a financial interest in an institution to serve on the utilization review committee of that institution if (a) the Secretary determines that the financial interest held by such physician is not significant and presents

no conflict of interest, or (b) the Secretary determines that for an interim period of time utilization review cannot be made in any alternative manner in the hospital or facility because of the nonavailability of other physicians to serve as members of the committee.

(Secs. 1102, 1861, 1863, 1864, 1871, 49 Stat. 647, as amended, 79 Stat. 314; 42 U.S.C. 1302, 1395 et seq.)

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER.

Dated: July 1, 1970.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 6, 1970.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subparts J and K of Regulations No. 5 (20 CFR Part 405) are amended as set forth below:

1. Paragraph (e) (1) and (2)(iii) of § 405.1035 are revised to read as follows:

§ 405.1035 Condition of participation—utilization review plan.

* * * * *

(e) (1) Standard; conduct of function by committees: The utilization review function is conducted by one or a combination of the following:

(i) By a staff committee or committees of the hospital, each of which is composed of two or more physicians, with or without the inclusion of other professional personnel; or

(ii) By a committee(s) or group(s) outside the hospital composed as in subdivision (i) of this subparagraph which is established by the local medical society and some or all of the hospitals and extended care facilities in the locality; or

(iii) Where a committee(s) or group(s) as described in subdivision (i) or (ii) of this subparagraph has not been established to carry out all the utilization review functions prescribed by title XVIII, by a committee(s) or group(s) composed as in subdivision (i) of this subparagraph, and sponsored and organized in such manner as approved by the Secretary of Health, Education, and Welfare.

(2) The factors explaining the standard are as follow: * * *

(iii) The committee(s) is broadly representative of the medical staff. However, no physician with a financial interest, direct or indirect, in a hospital may serve on the utilization review committee of that hospital unless

(*a*) The Secretary determines that the financial interest held by such physician is not significant and presents no conflict of interest, or

(*b*) The Secretary determines that for an interim period of time utilization review cannot be made in any alternative manner in the hospital because of the nonavailability of other physicians to serve as members of the committee.

* * * * *

2. Paragraph (e)(2) of § 405.1137 is amended by revising subdivisions (iii) and (iv) to read as follows:

§ 405.1137 Condition of participation—utilization review plan.

* * * * *

(e) *Standard; conduct of review.* * * *

(2) The factors explaining the standard are as follows:

* * * * *

(iii) No physician with a financial interest, direct or indirect, in an extended care facility may serve on the utilization review committee of that facility unless

(*a*) The Secretary determines that the financial interest held by such physician is not significant and presents no conflict of interest, or

(*b*) The Secretary determines that for an interim period of time utilization review cannot be made in any alternative manner in the facility because of the nonavailability of other physicians to serve as members of the committee.

(iv) Under subparagraph (1)(iii) of this paragraph, any sponsorship of a utilization review committee or group is ordinarily acceptable if it is composed as in subparagraph (1)(i) of this paragraph.

* * * * *

[F.R. Doc. 70-10641; Filed, Aug. 13, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENT OF GENERAL POLICY OR INTERPRETATION

Red Blood Cells (Human)—Frozen

To avoid duplication of review processes by the Food and Drug Administration and the Division of Biologics Standards, National Institutes of Health, regarding red blood cells (human)—frozen, the Commissioner of Food and Drugs in cooperation with the Division of Biologics Standards concludes that the policy statement below should be added to 21 CFR Part 3.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 503, 505, 701(a), 52 Stat. 1050–53, as amended, 1055; 21 U.S.C. 352, 353, 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 3:

§ 3.80 Red blood cells (human)—frozen.

(a) Containers and solutions used as essential elements of a processing procedure for manufacturing red blood cells (human)—frozen, a biologic subject to regulation by the Division of Biologics Standards, National Institutes of Health, as authorized under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), will be reviewed by the Division of Biologics Standards to determine that the safety, purity, and potency of the final product submitted for license is not adversely affected by the use of such containers and solutions. When used for this purpose, such containers and solutions will not require Food and Drug Administration approval prior to their review and licensing by the Division of Biologics Standards.

(b) Such solutions and containers used for drug purposes other than manufacturing red blood cells (human)—frozen and other biologics subject to regulation by the Division of Biologics Standards will be subject to regulation by the Food and Drug Administration under provisions of the Federal Food, Drug, and Cosmetic Act.

(Secs. 502, 503, 505, 701(a), 52 Stat. 1050–53, as amended, 1055; 21 U.S.C. 352, 353, 355, 371(a))

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10621; Filed, Aug. 13, 1970; 8:46 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0B2471) filed by American Cyanamid Co., Wayne, N.J. 07470, and other relevant material, concludes that the food additive regulations should be amended to provide for safe use of two additional substances, as set forth below, in the formulation 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), § 121.2520(c)(5) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2520 Adhesives.

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
4,5-Dihydroxy-2-imidazolidinone.	-----
* * *	* * *
2-Imidazolidinone	-----
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of

publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto 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 its date of publication in the FEDERAL REGISTER.

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

Dated: August 5, 1970.

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

[F.R. Doc. 70-10624; Filed, Aug. 13, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

New Drugs for Investigational Use in Humans; Delay Before Initiating Clinical Studies

In the FEDERAL REGISTER of June 12, 1970 (35 F.R. 9215), the Commissioner of Food and Drugs proposed, for reasons given, that § 130.3 be amended to require an interval of 30 days between the date of acknowledgment of receipt by the Food and Drug Administration of a sponsor's "Notice of Claimed Investigational Exemption for a New Drug" and the initiation of any clinical studies of the drug.

In response, 21 comments were received, mostly from the pharmaceutical industry, which generally approved the proposal and are summarized as follows:

1. The majority of the comments indicated that the 30-day delay period should begin on the date of receipt by the Food and Drug Administration of the sponsor's "Notice of Claimed Investigational Exemption for a New Drug" rather than on date of acknowledgment of such submission. Several firms suggested use of the Post Office "return receipt," which is used in certified or registered mail, to establish the date of receipt and the beginning of the 30-day interval.

2. A number of comments concerned establishing general exemptions or waivers from the 30-day delay period or setting forth specific types of drugs to which the 30-day delay provision would not apply. Several firms expressed concern about possible delay in the procedure for obtaining a waiver.

3. Comments contended that the Food and Drug Administration could request the sponsor to continue to withhold or restrict use of an investigational new drug without the sponsor being furnished specific information as to the reasons for the additional delay. Several firms asked that provision be made for an informal hearing or conference when delays beyond the 30-day interval are necessary.

4. Several comments indicated a concern that preparations for clinical studies, such as preparation of patient, obtaining baseline data, and use of placebos, would be restricted until after the 30-day delay interval or longer had elapsed. They suggested shipment of investigational new drugs to investigators be allowed before elapse of the 30-day delay interval, provided actual administration of the drugs is not made until after such 30 days.

5. Recommendations were made that the amended regulation clearly establish the responsibilities of the Division of Biologics Standards, National Institutes of Health, relative to investigations with biologic drugs.

Having considered the comments received and other relevant information, the Commissioner concludes that:

1. The 30-day delay interval may begin on the date of receipt by the Food and Drug Administration of the "Notice of Claimed Investigational Exemption for a New Drug." Although the sponsor may use any of several methods to determine the receipt date, the Food and Drug Administration will promptly acknowledge and indicate the date of receipt of the submission.

2. Waivers should be obtainable without undue delay and procedures will be established to assure expeditious handling of waivers. Designating particular types of drugs as being exempt from the delay requirement is not desirable at this time.

3. When a sponsor is requested to continue to withhold or restrict use of the drug beyond the 30-day delay interval, the Food and Drug Administration will explain the reasons for the request. The primary purpose of the delay is to assure that patients are not exposed to unwarranted risks by resolving questions that involve safety in advance of clinical trials. It is not intended to delay beyond the 30-day interval all cases in which questions arise that warrant clarification and attention. At the request of the sponsor, a conference will be promptly arranged to discuss problems relating to the Food and Drug Administration's request for delay.

4. The amendments are not intended to regulate whatever preclinical study preparations are deemed appropriate by the sponsor so long as the proposed investigational new drug is not involved. It is in the public interest to withhold shipment of the investigational drug pending the preliminary review by the Food and Drug Administration, except in those cases where a waiver is granted.

5. The proposal having been discussed with the Division of Biologics Standards, National Institutes of Health, and agreement having been reached concerning the handling of the "Notice of Claimed Investigational Exemption for a New Drug," in those cases where the investigational drug is a biologic and the notice is submitted directly to the Division of Biologics Standards (21 CFR 130.3(g)), the Division will continue its responsibilities in monitoring the development of biologics and will provide preliminary screening of these submissions abiding by the same policies stated herein.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505(i), 701(a), 52 Stat. 1053, as amended, 1055; 21 U.S.C. 355(i), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 130.3 *New drugs for investigational use in human beings; exemption from section 505* (a) is amended:

1. In paragraph (a), by revising the introductory text of subparagraph (2) to read as follows:

(2) The person claiming the exemption has filed with the Food and Drug Administration a completed and signed "Notice of Claimed Investigational Exemption for a New Drug" in triplicate, with the information shown below in form FD-1571; and not less than 30 days have elapsed following the date of receipt of the notice by the Food and Drug Administration; and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects. The 30-day delay requirement may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

2. In paragraph (a)(2), by adding to form FD-1571 the following new item:

14. A statement that the sponsor assures that clinical studies in humans will not be initiated prior to 30 days after the date of receipt of the notice by the Food and Drug Administration and that he will continue to withhold or to restrict clinical studies if requested to do so by the Food and Drug Administration prior to the expiration of such 30 days. If such request is made, the sponsor will be provided specific information as to the deficiencies and will be afforded a conference on request. The 30-day delay may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

3. By adding to paragraph (b) the following new subparagraph:

(4) Not less than 30 days have elapsed following the date of receipt of the notice by the Food and Drug Administration; and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects. The 30-day delay requirement may be waived by the Food and Drug Administration upon a showing of good reason for such waiver.

4. By revising paragraph (g) to read as follows:

(g) A "Notice of Claimed Investigational Exemption for a New Drug" which pertains to a product subject to the licensing provisions of the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), should

be submitted initially to the Division of Biologics Standards, National Institutes of Health, Public Health Service, rather than to the Commissioner of Food and Drugs. Also, amendments of or supplements to such notice, and progress reports, consultations, or other communications with regard to the investigation, should be directed to the Division of Biologics Standards, which monitors the development of biological products subject to license under section 351 of the Public Health Service Act. A sponsor for a "Notice of Claimed Investigational Exemption for a New Drug" pertaining to such biologic should substitute in reading this § 130.3 the unit "Division of Biologics Standards" for "Food and Drug Administration" and the person "Director, Division of Biologics Standards" for "Commissioner" or "Commissioner, Food and Drug Administration," wherever they appear.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Secs. 505(i), 701(a), 52 Stat. 1053, as amended, 1055; 21 U.S.C. 355(i), 371(a))

Dated: August 11, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10672; Filed, Aug. 13, 1970; 8:49 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Visual Novelties Containing Perchloroethylene; Exemption From Certain Labeling Requirements

The Commissioner of Food and Drugs has received a request, submitted pursuant to section 3(c) of the Federal Hazardous Substances Act and § 191.62 of the regulations thereunder, to revise the exemption, § 191.63(a)(31), regarding certain visual novelty devices containing perchloroethylene.

The current exemption permits the required cautionary information on devices containing not more than 75 milliliters of perchloroethylene to be placed elsewhere than on the glass face of the device. The petitioner has devised a modified type of device that requires the presence of approximately 105 milliliters of perchloroethylene .

Based on the information submitted in the request and other relevant material, the Commissioner concludes that amending the regulation to provide for the new device and revising the required labeling as set forth below is consistent with adequate protection of the public health and safety.

Therefore, pursuant to provisions of the act (sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262) and under authority delegated to the Commissioner (21 CFR 2.120), § 191.63(a)(31) is revised to read as follows:

§ 191.63 Exemptions for small packages, minor hazards, and special circumstances.

(a) * * *

(31) Visual novelty devices consisting of sealed units, each of which unit is a steel and glass cell containing perchloroethylene, among other things, are exempted from the requirements of § 191.101(a) that would otherwise require a portion of the warning statement to appear on the glass face of the device provided that:

(i) The device contains not more than 105 milliliters of perchloroethylene and contains no other component that contributes substantially to the hazard.

(ii) The following cautionary statement appears on the device (other than on the bottom) in the type size specified in § 191.101 (c) and (d):

CAUTION—IF BROKEN, RESULTANT VAPORS MAY BE HARMFUL

Contains perchloroethylene. Do not expose to extreme heat. If broken indoors, open windows and doors until all odor of chemical is gone.

Keep out of the reach of children.

A practical equivalent may be substituted for the statement "Keep out of the reach of children."

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisites to this promulgation, and I so find, since the Federal Hazardous Substances Act contemplates such modification of labeling requirements under certain conditions.

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

(Sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262)

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10620; Filed, Aug. 13, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18742; FCC 70-863]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

PART 23—INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATION SERVICES

Nondiscrimination in Employment Practices of Communications Common Carriers

Report and order. In the matter of rule making to require communications common carriers to show nondiscrimination in their employment practices.

1. On November 26, 1969, the Commission released a notice of proposed rule making, 34 F.R. 19200 (Dec. 4, 1969), setting forth its view that discriminatory employment practices by a common carrier licensee are incompatible with its operation in the public interest. We found that the Commission has a responsibility to implement the important national policy against discrimination on the basis of race, religion, sex, color, or national origin. The rules that we proposed were aimed at all areas of employment practices by common carrier licensees, including recruitment, selection, training, placement, promotion, pay, working conditions, demotions, layoff, and termination.

2. The comments filed on these issues have been most helpful. The interested parties are essentially unanimous in support of the proposition that there ought not to be discrimination in the employment practices of common carrier licensees.[1] However, certain of the parties felt that there existed several reasons why the Commission should not implement this proposition. Foremost among the objections raised was the contention that if the Commission embarks upon a program of enforcement of equal employment programs, it would unnecessarily be duplicating functions that have been entrusted to other agencies, and therefore, by implication, be exceeding its jurisdiction under the Communications Act of 1934, as amended. Other objections raised by the carriers note the possibility of delays in processing applications due to unsubstantiated complaints of racial discrimination, a lack of precision in the standards which will be applied to the carriers regarding their employment policies, an unwarranted increase in the workload of the Commission, and the creation of various other administrative problems both for the Commission and the carriers. Several of the smaller companies also objected to the increased administrative burden that the proposed reporting requirements would place upon them. They also observed that particular circumstances made many of the requirements in the rules inapplicable to the small companies. Several affirmative comments were also received expressing general support for the proposed rules. Of particular interest in this regard was an observation made in the comment filed by the Department of Labor which noted that in addition to the criteria of race,

[1] For a listing of all parties who filed comments in response to the notice of proposed rule making, see Appendix B.

religion, sex, and national origin, discrimination on the basis of age is likewise prohibited by law.[2]

3. The objections raised by the common carrier licensees are not new. The Commission had had an opportunity to address itself to many of the problems raised in these objections in at least two earlier proceedings involving rule making to require broadcast licensees to show nondiscrimination in their employment practices.[3] In these earlier decisions, we noted that there exists a national policy against discrimination in employment on the basis of race, religion, sex, or national origin, and expressed the opinion that determinations of the public convenience and necessity, as expressed in the Communications Act of 1934, as amended, required that "the Commission should take into account allegations raising substantial questions whether the applicant has violated, or is in violation of, the Civil Rights Act or a pertinent State law in this field." 13 F.C.C. 2d 766, 769 (July 3, 1968). The reasons for Commission action in this area, as stated in our previous considerations of this subject and upon which we determined that the urgency and importance of the equal employment opportunity program warranted its implementation on every front, are just as pressing now as they were during our earlier considerations. Further, as we pointed out in the notice of proposed rule making in this matter, those communications common carriers who provide telephone or telegraph service occupy a privileged status by virtue of their monopoly position in their particular areas, and the public is required to do business with them. This unique public interest role makes it particularly important that they not engage in discriminatory employment practices.

4. Several of the comments filed opposed the proposed rules on the grounds that the Equal Employment Opportunity Commission (EEOC) is the Government agency designated to hear complaints involving violations of equal employment. We agree with this proposition. We do not think, however, that the jurisdiction of the EEOC prohibits other agencies from maintaining programs which would also strengthen the overall effect of equal employment. The scope of EEOC activities, as contained in title VII of the Civil Rights Act, is limited to that agency and does not require that other agencies disregard equal employment practices in companies which are subject to their regulation.[4] We recognize that a duplication of filings with the Commission and the EEOC would pose an additional administrative burden on those carriers who presently file their employment data with the EEOC. We are also aware that in requesting the carriers to submit employment information and data to the Commission which is similar to that filed with the EEOC we must also consider the provisions of the Federal Reports Act which requires that where identical information is sought by several different agencies, it should be coordinated wherever possible, to minimize the cost and burden to the companies from which such information is requested.[5] We feel that our rules are in accord with these provisions. Action by the Commission will complement, rather than conflict with any action by other agencies specially created to enforce the policy of equality in employment. It is also clear, however, that the Commission has an independent responsibility to effectuate the strong national policy against discrimination in employment, and that it need not be dependent upon the judgment of some other forum to maintain its own affirmative program for insuring compliance with this aim.

5. The fear has also been expressed that inconsequential or spurious complaints of discrimination could be used to delay Commission consideration of licenses and applications. We have provided, in the body of our rules, a vehicle whereby compliance with equal employment principles will constitute a part of the total determination of whether a common carrier is qualified to provide the best service to the public. We will exercise care in the use of these procedures to the end that no fear of undue delay need arise. On the other hand, we do not believe that an application should be granted where there are indications of serious violations of the Commission's equal employment regulations. While not every complaint of an isolated violation, even if substantial, will warrant Commission action, where there is a pattern of failure to accord equal employment opportunities as prescribed by the Commission's rules, a question involving the public interest will arise.

6. Certain opponents to this rulemaking have expressed concern that the adoption of the proposed rules requiring the carriers to submit their equal employment programs and report their employment statistics to the Commission would cause serious administrative burdens for the Commission. We have considered this problem and have drafted our rules so as to minimize any additional burden to the Commission. Our annual employment reports are designed to be subdivided into computerized data which can then be programed for retrieval, to provide a variety of "profile" statistics regarding utilization of minority group and female employees within each company or the industry as a whole. Use of this computerized data will relieve the administrative burden which might otherwise result from processing such annual employment reports. It will also provide ready access to the information contained in these forms and allow ease of data storage for cumulative purposes. In this respect, we reemphasize what we stated earlier in our decision regarding the rules requiring broadcast licensees to show nondiscrimination in their employment practices that the data which will be compiled from these reports will serve to provide the Commission with a basis for the examination of industry employment patterns, and will allow us to raise appropriate questions as to the cause of such patterns.

7. We have also provided that every common carrier licensee and permittee, who employs 16 or more full-time employees, submit to the Commission copies of its equal employment program. This information is not regularly filed with any other agency, and we feel the Commission should have copies of these programs available to it to evaluate the implementation of its equal employment rules. Once a licensee or permittee has submitted its program to the Commission, it need not annually file the entire program thereafter. However, all changes which are instituted in a particular program should be submitted by the carrier on April 1 of each year.

8. We have also noted with interest the comments by several of the carriers who employ few employees, objecting to the provisions of the proposed rules as overly burdensome or inapplicable to those small companies which have so few employees that functions between various positions in the company are not defined, and frequently one person performs in several different capacities within the company. We believe that these objections have merit, and have concluded that the benefits of requiring annual employment reports from such companies would not be such as to justify the burden that would result. Various other provisions of the rules also appear not to be applicable to these companies. We have also noted, however, that in its recent enactment of rules requiring broadcast licensees to show nondiscrimination in their employment practices (F.C.C. 70-545, June 3, 1970) the Commission has required that all broadcast licensees with five or more full-time employees submit annual employment reports to the Commission. We feel that this requirement is proper, when examined in light of the impact that a small broadcaster has on the public at large. We feel, however, that employment practices of small common carrier licensees

[2] Our rules are based on the national policy of eliminating discrimination in employment practices as set forth in title VII of the Civil Rights Act. That Act does not deal with discrimination on the basis of age. We have limited our rules to those matters covered by the Civil Rights Act. We are of the opinion that to do otherwise would immeasurably increase the burden on the Commission and would adversely affect our ability to deal with discriminatory employment practices. We recognize, however, that failure to comply with any statutory requirement is contrary to the public interest. To the extent that problems may arise because of discrimination based on age they can be considered on an individual basis with appropriate action taken when and if a pattern of such discrimination become apparent.

[3] Memorandum Opinion and Order and Notice of Proposed Rule Making, 13 F.C.C. 2d 766 (July 3, 1968); Report and Order, 18 F.C.C. 2d 240 (June 4, 1969).

[4] In a letter to the Commission from the Justice Department, Assistant Attorney General Pollack stated: "Title VII was not intended to circumscribe the authority of Federal agencies other than the Equal Employment Opportunity Commission to regulate employment practices." Letter of Assistant Attorney General Pollack, Department of Justice, Mar. 21, 1968 (reproduced in full in 13 F.C.C. 2d 766, App. A).

[5] 44 U.S.C.A. sec. 3501, et seq.

do not directly affect the public to the same extent that do the employment practices of broadcast licensees of similar size. It is upon this basis, and taking into account our aforementioned concern with putting additional burdens on small carriers, that we have raised the minimum employment limit for common carriers who are required to report to the Commission. We have, therefore, provided that all common carrier licensees and permittees who employ fewer than 16 employees will not be required to submit an annual employment report (FCC Form 395) but will be required to submit a statement to the Commission of complaints of violations of equal employment provisions of Federal, State, Territorial, or local law filed before any body having competent jurisdiction.

9. Several of the objections contend that the present rule-making will involve the Commission in labor-management negotiations as regards hiring practices. We do not agree. As we noted previously, the national policy against discrimination in employment on the basis of race, religion, sex, and national origin is of paramount importance. The Commission, under the provisions of the Communications Act of 1934, as amended, is required to grant licenses only when shown to be in the public interest, convenience, and necessity. It is clear to us that discriminatory employment practices by a common carrier licensee or permittee are not compatible with the public interest. It is with this point that the present rule-making is primarily concerned, and not with the fact that it may also collaterally touch upon the collective bargaining techniques of labor or management. As an aside, we note that discriminatory employment practices are never in the public interest, and the fact that such may exist in some unions, with management acquiescence, does not justify our disregard of such improper practices.[6]

10. Several of the comments also suggested that the Commission's rules do not establish specific standards to be followed in the equal employment program. We do not feel that it is our responsibility to dictate to each common carrier licensee or permittee the specific implementation of its equal employment program. Each licensee or permittee is in the best position to know the distribution in employment of the minority population in its particular area, and is thus best able to determine the efforts needed to promote equal employment. We have set down broad guidelines based upon recognized principles of equal employment which will help formulate the needed programs.

11. For the reasons described in the foregoing paragraphs, and the public policy considerations described in prior Commission statements:[7] *It is ordered*, Pursuant to the authority contained in sections 4(i), 214, 303, 307, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, 308, 309, and 310, that effective September 18, 1970 Parts 0 and 1 of the Commission's rules are amended and new §§ 21.307 and 23.49 are added as set forth in Appendix A of this report and order,[8] and that the proceedings in Docket No. 18742 are terminated.

(Secs. 4, 214, 303, 307, 308, 309, 310, 48 Stat., as amended, 1066, 1075, 1082, 1083, 1084, 1085, 1086; 47 U.S.C. 154, 214, 303, 307, 308, 309, 310)

Adopted: August 5, 1970.

Released: August 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[9]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

A. Parts 0 and 1 are amended as follows:

1. In § 0.455(c), subparagraph (15) is added to read as follows:

§ 0.455 Other locations at which records may be inspected.

* * * * *

(c) *Common Carrier Bureau.* * * *

(15) Annual Employment Report filed by common carrier licensees or permittees pursuant to § 1.815 of this chapter.

* * * * *

2. A new § 1.815 is added to read as follows:

§ 1.815 Reports of annual employment.

(a) Each common carrier licensee or permittee with 16 or more full-time employees shall file with the Commission, on or before April 1 of each year, on FCC Form 395 an annual employment report.

(b) A copy of every annual employment report filed by the licensee or permittee pursuant to the provisions herein; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated herein by reference are open for public inspection at the offices of the Commission.

B. In Parts 21 and 23, new §§ 21.307 and 23.49, both to read identically, are added to read as follows:

§ ------ Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded by all common carrier licensees or permittees to all qualified persons, and no personnel shall be discriminated against in employment because of sex, race, color, religion, or national origin.

(b) *Equal employment opportunity program.* Each licensee or permittee shall establish, maintain, and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice. Under the terms of its program, a licensee or permittee shall:

(1) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion, or national origin, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensees' or permittees' personnel policies and practices and working conditions.

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(c) *Additional information to be furnished to the Commission.* (1) Equal Employment Programs to be filed by common carrier licensees or permittees.

(i) All licensees or permittees will file a statement of their equal employment opportunity program not later than December 17, 1970, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religon, or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination.

(*a*) Any changes or amendments to existing programs should be filed with the Commission on April 1 of each year thereafter.

(*b*) If a licensee or permittee has fewer than 16 full-time employees, no such statement need be filed.

(2) The program should reasonably address itself to such specific areas as

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[6] "Unions as well as employers are responsible for much of the racial discrimination which exists in the country today." Guild, "Black Power in the Unions", 79 Yale L.J. 46, 60 (1969). See also: Equal Employment Opportunity Commission, Report No. 1 (1969).

[7] 13 F.C.C. 2d 766 (July 3, 1968); 18 F.C.C. 2d 240 (June 4, 1969); 34 F.R. 19200 (Dec. 4, 1969).

[8] A finalized version of the Annual Report Form (FCC 395) will be published after clearance of the proposed form with the Office of Management and Budget.

[9] Concurring and dissenting statement of Commission Bartley filed as part of original document; Commissioners Robert E. Lee and Wells concurring in the result.

set forth below, to the extent that they are appropriate in terms of licensee size, location, etc.

(i) *To assure nondiscrimination in recruiting.* (*a*) Posting notices in the licensee's or permittees offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans such notice should be posted in Spanish and English.

(*b*) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibted and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission or other appropriate agency if they believe they have been discriminated against.

(*c*) Placing employment advertisements in media which have significant circulation among minority-group people in the recruiting area.

(*d*) Recruiting through schools and colleges with significant minority-group enrollments.

(*e*) Maintaining systematic contacts with minority and human relations organizations, leaders, and spokesmen to encourage referral of qualified minority or female applicants.

(*f*) Encouraging present employees to refer minority or female applicants.

(*g*) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) *To assure nondiscrimination in selection and hiring.* (*a*) Instructing personally those on the staff of the licensee or permittee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(*b*) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(*c*) Avoiding use of selection techniques or tests which have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotion.* (*a*) Instructing personally those of the licensee's or permittee's staff who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(*b*) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(*c*) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(*d*) Avoiding use of selection techniques or tests, which have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (*a*) Examining rates of pay and fringe benefits for present employees with equivalent duties, and adjusting any inequities found.

(*b*) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority group or female employees.

(d) *Report of complaints filed against licensees and permittees.* (1) All licensees or permittees shall submit an annual report to the FCC no later than April 1 of each year indicating whether any complaints regarding violations by the licensee or permittee of equal employment provisions of Federal, State, Territorial, or local law have been filed before any body having competent jurisdiction.

(i) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(ii) Any licensee or permittee who has filed such information with the EEOC need not do so with the Commission, if such previous filing is indicated.

(e) *Complaints of violations of Equal Employment Programs.* (1) Complaints alleging employment discrimination against a common carrier licensee will be considered by the Commission in the following manner:

(i) If a complaint raising an issue of discrimination is received against a licensee or permittee who is within the jurisdiction of the EEOC, it will be submitted to that agency. The Commission will maintain a liaison with that agency which will keep the Commission informed of the disposition of complaints filed against any of the common carrier licensees.

(ii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(iii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC or an appropriate State law, will be accorded appropriate treatment by the FCC.

(iv) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees or permittees with the principles of equal employment as set forth herein.

(2) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee or permittee who is required to file an employment report to the Commission under § 1.815(a) of this chapter, will be investigated by the Commission.

(f) *Records available to public*—(1) *Commission records.* A copy of every annual emloyment report, equal employment opportunity program, and reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(2) *Records to be maintained locally for public inspection by licensees or permittees*—(i) *Records to be maintained.* Each licensee or permittee required to file annual employment reports, equal employment opportunity programs, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain, for public inspection, in the same manner and in the same locations as required for the keeping and posting of tariffs as set forth in § 61.72 of this chapter, a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference.

(ii) *Period of retention.* The documents specified in subdivision (i) of this subparagraph shall be maintained for a period of 2 years.

APPENDIX B

COMPANIES FILING COMMENTS IN DOCKET NO. 18742

1. American Telephone & Telegraph Co.
2. Data Transmission Co.
3. Eastern Oregon Telephone Co.
4. Equal Employment Opportunity Commission.
5. GT&E Service Corp.
6. ITT World Communications Inc.
7. U.S. Department of Labor.
8. National Association of Radiotelephone Systems.
9. Niagara Telephone Co.
10. TelePrompTer Transmission of Kansas, Inc.
11. TelePrompTer Transmission of New Mexico, Inc.
12. TelePrompTer Transmission of Oregon, Inc.
13. United Fruit Co.
14. United States Independent Telephone Association.
15. United Utilities, Inc.
16. United Video, Inc.

[F.R. Doc. 70-10660; Filed, Aug. 13, 1970; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

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

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Dade		E 12 101 0750 01	Department of Community Affairs, 225 West Jefferson St., Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Public Works Department, 1351 Northwest 12th St., Miami, Fla. 33125.	Aug. 14, 1970.
Louisiana	Jefferson	Gretna	E 22 051 0950 01	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 4214, Capitol Station, Baton Rouge, La. 70804.	City Hall, Hughy P. Long Ave. and 2d St., Gretna, La. 70053.	Do.
Mississippi	Jackson	Ocean Springs	E 28 059 1810 01	State of Mississippi, Governor's Emergency Council, 429 Mississippi St., Room 409, Jackson, Miss. 39205. Mississippi Research and Development Center, Information Services Division, Post Office Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., Jackson, Miss. 32905.	City Hall, 1018 Porter Ave., Ocean Springs, Miss. 39564.	Do.
Rhode Island	Washington	Westerly	E 44 009 0240 01	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, R.I. 20903.	Town Clerk's Office, Town Hall, Broad St., Westerly, R.I. 02891.	Do.
Tennessee	Knox		E 47 093 0000 01	Tennessee Office of Urban and Federal Affairs, 321 7th Ave. N., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, R-114 State Office Bldg., Nashville, Tenn. 37219.	Metropolitan Planning Commission, Bldg. A, City Hall Park, Knoxville, Tenn. 37902.	Do.
Do	do	Knoxville	E 47 0931 300 01	do	do	Do.
Texas	Madison	Irving	E 48 113 3420 02 through E 48 113 3420 05	Texas Water Development Board, 301 West 2d St., Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	Office of the City Secretary, City Hall, 835 West Irving Blvd., Irving, Tex. 75060.	Do.
Do	Harris	El Lago	E 48 201 2178 01	do	City Hall, 1122 Cedar Lane, Seabrook, Tex. 77586.	Do.
Do	Cameron	Unincorporated areas.	E 48 331 1100 01	do	Courthouse, Brownsville, Tex. 78520	Do.

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

Effective date: August 14, 1970.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[F.R. Doc. 70-10591; Filed, Aug. 13, 1970; 8:45 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

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

§ 1915.3 **List of flood hazard areas.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Dade		T 12 101 0750 01	Department of Community Affairs, 225 West Jefferson St., Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Public Works Department, 1351 Northwest 12th St., Maimi, Fla. 33125.	Aug. 13, 1970.
Louisiana	Jefferson	Gretna	T 22 051 0950 01	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 4214, Capitol Station, Baton Rouge, La. 70804.	City Hall, Hughy P. Long Ave. and 2d St., Gretna, La. 70053.	Do.
Mississippi	Jackson	Ocean Springs	T 28 059 1810 01	State of Mississippi, Governor's Emergency Council, 429 Mississippi St., Room 409, Jackson, Miss. 39205. Mississippi Research and Development Center, Information Services Division, Post Office Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., Jackson, Miss. 32905.	City Hall, 1018 Porter Ave., Ocean Springs, Miss. 39564.	Do.
Rhode Island	Washington	Westerly	T 44 009 0240 01	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, R.I. 02903.	Town Clerk's Office, Town Hall, Broad St., Westerly, R.I. 02891.	Do.
Tennessee	Knox		T 47 093 0000 01	Tennessee Office of Urban and Federal Affairs, 321 7th Ave. N., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, R-114 State Office Bldg., Nashville, Tenn. 37219.	Metropolitan Planning Commission, Bldg. A, City Hall Park, Knoxville, Tenn. 37902.	Do.
Do	do	Knoxville	T 47 0931 300 01	do	do	Do.
Texas	Madison	Irving	T 48 113 3420 02 through T 48 113 3420 05	Texas Water Development Board, 301 West 2d St., Austin, Tex. 78711. Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	Office of the City Secretary, City Hall, 835 West Irving Blvd., Irving, Tex. 75060.	Do.
Do	Harris	El Lago	T 48 201 2178 01	do	City Hall, 1122 Cedar Lane, Seabrook, Tex. 77586.	Do.
Do	Cameron	Unincorporated areas.	T 48 331 1100 01	do	Courthouse, Brownsville, Tex. 78520.	Do.

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

Effective date: August 14, 1970.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[F.R. Doc. 70–10592; Filed, Aug. 13, 1970; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Order M–1A, as amended, Aug. 14, 1970]

M–1A—IRON AND STEEL

This order is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this order there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

This revised Order M–1A replaces BDSA Order M–1A of May 14, 1953, as amended, and Direction 1 thereto, as amended.

Sec.

1 What this order does.
2 Definitions.
3 Applicability of other BDSA orders and regulations.
4 Directives.
5 Opening of order books.
6 Acceptance of orders.
7 Rejection of authorized controlled material and further converter orders.
8 Priority status of delivery orders.
9 Further converters.
10 Notification.
11 Rules applicable to acceptance of ACM orders by distributors.
12 How a distributor places authorized controlled material orders.
13 Direct shipments.
14 Production requirements of steel producers.
15 Small order exception.
16 Request for adjustment or exceptions.
17 Records and reports.
18 Communications.
19 False statements.
20 Violations.

AUTHORITY: Sections 1 to 20 issued under sec. 704, 64 Stat. 816, as amended, 50 U.S.C. App. 2154; sec. 1, Public Law 91–370; 50 U.S.C. App. 2166. Interpret or apply sec. 101, 64 Stat. 799, as amended, 50 U.S.C. App. 2071; sec. 705, 64 Stat. 816, as amended, 50 U.S.C. App. 2155; sec. 1, 80 Stat. 235, 50 U.S.C. App. 2166; E.O. 10480, as amended, 18 F.R. 4939, 6201, 19 F.R. 3807, 7249, 21 F.R. 1673, 23 F.R. 5061, 6971, 24 F.R. 3779, 27 F.R. 9683, 11447; DMO 8400.1, 28 F.R. 12164, 32A CFR Ch. I; Commerce Department Order No. 40–1A, 35 F.R. 2930.

Section 1 What this order does.

This order supplements DMS Regulation 1, and applies to all producers and distributors of steel mill products. It sets forth the rules governing operations of producers, further converters, and distributors of steel mill products under the Defense Materials System. The order provides for the issuance of production directives to steel producers. It establishes rules for the acceptance or rejection of authorized controlled material orders by producers and distributors, and

prescribes the manner in which steel producers obtain production materials to fill mandatory acceptance orders.

Sec. 2 Definitions.

As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the U.S. Government or any other government.

(b) "BDSA" means the Business and Defense Services Administration of the U.S. Department of Commerce.

(c) "Steel mill product" means a steel product listed in column A of table I of this order. This term includes clad or coated products when clad or coated by a producer.

(d) "Delivery order" means any purchase order, contract, shipping, or other instruction calling for delivery of any material or product, or performance of construction or service, on a particular date or dates or within specified periods of time.

(e) "Authorized controlled material order" means any delivery order for any controlled material (as distinct from a product containing controlled materials) which is placed pursuant to an allotment, or pursuant to self-authorization, as provided in section 10 of DMS Regulation 1, or which is specifically designated to be such an order by any regulation or order of BDSA. The term "ACM order" shall have the same meaning as "authorized controlled material order."

(f) "ACM–DX order" means an authorized controlled material order identified by the suffix DX as provided in section 10(b) of DMS Regulation 1.

(g) "Further converter order" means a delivery order for a steel mill product placed by a further converter with a producer-supplier identified by the symbol "FC". The term "FC order" shall have the same meaning as further converter order.

(h) "FC–DX order" means a further converter order identified by the suffix DX as provided in section 9(d) of this order.

(i) "Mandatory acceptance order" means an ACM order or an FC order. It also includes any other delivery order for a steel mill product which a producer or steel distributor is required to accept pursuant to any regulation or order of BDSA, or pursuant to a specific authorization or directive from BDSA.

(j) "Producer" means a person who produces one or more steel mill products.

(k) "Carbon steel (including wrought iron)" means any steel customarily so classified and also includes: (1) Ingot iron; (2) all grades of electrical sheet and strip; (3) low-alloy, high-strength steels; (4) clad and coated carbon steels not included with alloy steels; e.g., galvanized, tin, terne, copper (excluding copper wire mill products), or aluminum clad and/or coated carbon steels; and (5) leaded carbon steels. "Low-alloy, high-strength steels" means only the proprietary grades promoted and sold for this purpose, and Navy high-tensile steel grade HT Specification MIL–S–16113 (Ships).

(l) "Alloy steel" means steel containing 50 percent or more of iron or steel and any one or more of the following elements in the following amounts: Manganese, maximum of range in excess of 1.65 percent; silicon, maximum of range in excess of 0.60 percent (excepting electrical sheet and strip); copper, maximum of range in excess of 0.60 percent; aluminum, boron, chromium (less than 10 percent), cobalt, columbium, molybdenum, nickel, tantalum, titanium, tungsten, vanadium, zirconium, or any other alloying elements in any amount specified or known to have been added to obtain a desired alloying effect. Clad steels which have an alloy-steel base or carbon steel base for which nickel and/or chromium is contained in the coating or cladding material (e.g., inconel, monel, or stainless) are alloy steels.

(m) "Stainless steel" means heat and corrosion-resisting steel containing 50 percent or more of iron or steel and 10 percent or more of chromium whether with or without nickel, molybdenum, or other elements.

(n) "Production directive" means a standing directive issued by BDSA, from time to time as necessary, directing a producer to accept and fill ACM orders up to the tonnage of each steel mill product indicated therein.

(o) "Set-aside" means the specific tonnage of each steel mill product which a producer is required to reserve for acceptance of ACM orders pursuant to a production directive.

(p) "Further conversion" means the further processing of one steel mill product into another steel mill product for sale.

(q) "Further converter" means a producer who receives a steel mill product from a producer-supplier for further conversion, and who, by further processing, converts such steel mill product into another steel mill product for sale.

(r) "Producer-supplier" means a producer of a steel mill product who ships such product to a further converter for further conversion.

(s) "Steel distributor" means any person (including a warehouseman, steel service center, jobber, dealer, or retailer) engaged in the business of stocking any steel mill product at one or more locations regularly maintained by him for such purpose, for sale or resale, in the form or shape as received by him or after performing the operations described in the following sentence, and who, in connection therewith, maintains facilities and equipment necessary to conduct such business. Operations referred to above are cutting, shearing, burning, or torch-cutting to length, size, or shape; pipe threading; corrugating and forming of roofing and siding; forming of ridge roll, valley, and flashing; sorting and grading; and the like. A person who, in connection with any sale of any steel mill product from his stock, bends, punches, or performs any fabricating or processing operation designed to prepare such material for final use or assembly, or who delivers straight lengths of reinforcing bars as part of a fabricated job or project, shall not be deemed a distributor with respect to such sale; and a person who, in connection with any purchase of any steel mill product for resale, does not take physical delivery of any such steel mill product into his own stock at a location regularly maintained by him for such purpose, shall not be deemed a distributor with respect to such resale.

(t) "Item" means any steel mill product which is different from all other steel mill products by reason of one or more of its specifications, such as width, thickness, temper, alloy, or finish.

(u) "Production material" means, with respect to any producer, any material (including controlled material) or product which will be physically incorporated into steel mill products which he produces, and includes the portion of such material normally consumed or converted into scrap or byproducts in the course of processing. It also includes containers and packaging materials required to make delivery of the materials he produces, and also chemicals used directly in the production of the materials he produces. It does not include production equipment, material for plant improvement, expansion or construction, or material for maintenance, repair or operating supplies.

(v) "Primary nickel" means nickel in the following forms or shapes:

Electrolytic cathodes.
Ingots.
Pigs.
Rondelles.
Cubes and pellets.
Shot.
Oxide (including sintered oxide).
Salts.
Chemicals.
Powder.
Ferronickel.

(w) "Lead time" means the minimum period of time in advance of the first day of month in which shipment is required as specified in column B of table I of this order.

Sec. 3 Applicability of other BDSA orders and regulations.

All provisions of any BDSA regulation or order, including DMS regulations, are superseded to the extent that such provisions are inconsistent with this order, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

Sec. 4 Directives.

Each producer must comply with production and other directives as issued by BDSA, or as such directives may be amended, by BDSA.

Sec. 5 Opening of order books.

(a) Each producer must open his order books for the acceptance of ACM and FC orders for each calendar quarter not later than the number of days prior to the first day of the quarter as shown in the following schedule:

For products with a lead time of (days) (see table I of this order):	*Books opened prior to first day of quarter, not later than (days)*
45	90
60	105
75	120
90	135
105	150
120	165

(b) A producer may open his order books for the purpose of accepting ACM and FC orders for any calendar quarter as long in advance of the periods set forth in paragraph (a) as he may choose, but after his order books are opened he shall accept such orders as provided in section 6 of this order: *Provided*, That acceptance by a producer prior to the date he opens his order books of (1) an ACM order directly from the Department of Defense or the Atomic Energy Commission, or (2) an ACM–DX or FC–DX order, shall not effect an opening of his books so as to require acceptance of other ACM or FC orders.

Sec. 6 Acceptance of orders.

(a) During the period extending from the date of opening his order books until the commencement of lead time for the particular product involved, each producer must accept ACM orders for such tonnages of each such product for each month as BDSA shall direct in its production directives. He must accept all such orders offered him during such period up to the tonnage indicated in his production directive. He must also accept FC orders from his further converter customers placed with him in accordance with the provisions of section 9 of this order: *Provided*, That an ACM–DX or FC–DX order must be accepted without regard to lead time unless it is impracticable for him to make delivery within the required delivery month in which event he must accept such order for the earliest practicable delivery date: *Provided further*, That an ACM–DX order must be accepted even though his set-aside for the particular product has been or will be exceeded by such acceptance.

(b) A producer who receives an ACM or FC order must transmit written notification to the person who tendered such order of its acceptance or rejection within 10 consecutive calendar days after its receipt, except that in the case of ACM–DX or FC–DX orders such notification must be transmitted within five (5) consecutive calendar days after its receipt. Receipt of such an order shall not be deemed to have occurred until its receipt at the place where the producer usually processes such orders.

(c) Each producer shall immediately notify BDSA, Iron and Steel Division, by telegram if, prior to the commencement of the lead time for any particular product in any given month, he has received and accepted ACM orders for that product up to the set-aside tonnages indicated in his production directive for the month involved.

(d) The provisions of paragraph (a) and (c) of this section shall not be applicable to any producer who does not have a production directive. However, such producer may accept and fill ACM and FC orders for any steel mill product for which he does not have a production directive.

(e) Nothing in this order shall prohibit a producer from accepting ACM orders for steel mill products for more than the tonnage indicated in his production directive in any month.

Sec. 7 Rejection of authorized controlled material and further converter orders.

Unless otherwise specifically directed by BDSA, a producer may reject an ACM or FC order in any of the following cases, but he shall not discriminate among customers in rejecting such orders:

(a) If the quantity ordered is less than the minimum mill quantity specified in column C of table I of this order, and has not been combined with another order pursuant to section 10(e) of DMS Regulation 1.

(b) If the person seeking to place the order is unwilling or unable to meet such producer's regularly established prices and terms of sale or payment.

(c) If the order tendered by a steel distributor is not in accordance with section 12 of this order, or if the order tendered by a further converter is not in accordance with section 9 of this order.

(d) If the order calls for delivery of any steel mill product in a particular month and is received after the commencement of lead time for that product. However, an ACM–DX order or FC–DX order must be accepted in accordance with section 6(a) of this order.

(e) If he has, prior to the commencement of lead time, for the product and month involved, accepted ACM orders at least equal to the tonnage specified in his production directive. However, an ACM–DX order or FC–DX order must be accepted in accordance with section 6(a) of this order.

Sec. 8 Priority status of delivery orders.

(a) Except as provided in paragraph (b) of this section ACM and FC orders shall take precedence over all other delivery orders and shall be shipped as close to the requested delivery date as is practicable. All ACM orders and FC orders shall have equal preferential status: *Provided*, That ACM orders carried over from any previous month shall take precedence over ACM orders calling for delivery in the then current month involved: *And provided further, however*, That ACM–DX and FC–DX orders, shall have priority in acceptance and delivery over all other ACM and FC orders, including carryover orders. Such carryover orders shall not be applied against the set-aside for the month in which such carryover orders are rescheduled but shall be in addition thereto.

(b) A delivery order for steel mill products placed pursuant to a directive issued by BDSA (other than a production directive) shall take precedence over any other delivery order previously or subsequently received, unless a contrary instruction appears in such or a subsequent directive.

Sec. 9 Further converters.

(a) A further converter who has a production directive shall obtain sufficient tonnages of steel mill products to enable him to comply with his production directive by placing further converter orders with his regular producer-supplier or suppliers of the steel mill products involved.

(b) Each further converter order placed according to the provisions of paragraph (a) of this section must be identified by the symbol FC and shall be certified as follows: "Certified for National Defense use under DMS Regulation 1" and signed as provided in BDSA Regulation 2. Such FC orders may be placed only for the purpose of obtaining steel mill products to fill ACM orders already accepted at the time of placement thereof, or for the purpose of replacing in inventory steel mill products used within the same calendar quarter or the immediately preceding calendar quarter to fill ACM orders. No further converter shall place FC orders with his producer-supplier for delivery of a greater quantity of any steel mill product than is necessary to enable him to comply with his production directive: *Provided*, That a further converter may place FC–DX orders with his producer-supplier in an amount necessary to fill ACM–DX orders which he has accepted in excess of his production directive. A further converter who has accepted ACM orders in excess of this set-aside may place FC orders in obtaining the steel mill products required to fill such excess over his set-aside or to replace in inventory the steel mill products used by him for such purpose: *Provided*, The excess tonnage has been mutually agreed upon between the producer-supplier and the further converter involved.

(c) A further converter who does not have a production directive and who requires steel mill products to fill ACM orders or to replace in inventory steel mill products used to fill ACM orders must, in obtaining steel mill products for either purpose, affix the program identification symbol D–3 to the delivery order he places with his regular supplier of such products. Such delivery orders are hereby designated as ACM orders and shall be certified and signed as provided in paragraph (b) of this section. In placing such ACM orders, the further converter shall indicate the program identification symbol D–3 and the calendar quarter in which delivery of the steel mill products is required: *Provided*, That ACM orders placed by a further converter pursuant to this paragraph shall call only for the delivery of the quantity of steel mill products such further converter requires to fill ACM orders already accepted or to replace in inventory the steel mill products used to fill ACM orders: *And provided further*, With respect to inventory replacement, the program identification symbol D–3 may be used to place orders for steel mill products pursuant to this paragraph only in the calendar quarter in which they were taken from inventory or in the immediately succeeding calendar quarter.

If acceptance of an ACM order by a further converter who does not have a production directive results in a need for him to acquire steel mill products in any calendar month in excess of the quantities shown in table II of this order, he shall promptly apply to BDSA for authority to use a program identification symbol in obtaining the steel mill products required to fill such excess or to replace in inventory the steel mill products used by him for such purpose. Such application shall be by letter, in duplicate, addressed to the Iron and Steel Division, BDSA, Department of Commerce, Washington, D.C. 20230, and shall contain a full statement of the facts involved: *Provided,* That such further converter may place ACM–DX orders identified with the program identification symbol D–3 in an amount necessary to fill ACM–DX orders which he has accepted, without regard to the quantity limitations provided in table II of this order.

(d) A further converter who requires steel mill products to fill an ACM–DX or to replace in inventory steel mill products used to fill an ACM–DX order must indicate the suffix DX on his delivery orders for such steel mill products; e.g. FC–4Q70–DX or D3–4Q70–DX, as the case may be.

Sec. 10 Notification.

Any person who, on or after the effective date of this order, produces any steel mill product for which he has not received a production directive shall notify BDSA by letter within 10 days after such production has commenced, advising BDSA of the tonnage and products involved.

Sec. 11 Rules applicable to acceptance of ACM orders by distributors.

(a) Each steel distributor must comply with such directives as may be issued from time to time by BDSA and with the provisions of all applicable regulations and orders of BDSA.

(b) A steel distributor may accept an ACM order orally or by telephone provided that the person placing the order shall furnish written confirmation of such order within 5 days. An ACM order placed with a steel distributor shall be considered as calling for immediate delivery unless such order specifically provides otherwise.

(c) Subject to the limitations of paragraph (d), a steel distributor must accept all ACM orders; however, he may reject ACM orders in the following cases, but he shall not discriminate among customers in rejecting such orders:

(1) If the order is not for immediate delivery.

(2) If he does not have the material ordered by his customer in his stock—unless he knows that such material is in transit to him.

(3) If the person seeking to place the order is unwilling or unable to meet such distributor's regularly established prices and terms of sale or payment.

(d) No steel distributor shall be required to make delivery from inventory on ACM orders to any one customer to any one destination during any calendar week of any item of a steel mill product in a quantity in excess of the following:

Any item of carbon steel	8,000 pounds.
Any item of alloy steel	5,000 pounds.
Any item of stainless steel sheet.	2,000 pounds.
Any item of stainless steel bars or plates.	1,000 pounds.
Any item of stainless steel tubing or pipe provided such quantity does not exceed 1,000 feet.	1,000 pounds.

In no case shall a steel distributor be required to make deliveries aggregating 40,000 pounds or more against ACM orders to any one customer during any calendar week unless the deliveries include 10 or more different items: *Provided, however,* That all such deliveries shall be subject to the limitations of the preceding sentence as to each item.

Sec. 12 How a distributor places authorized controlled material orders.

(a) Any steel distributor who requires steel mill products to fill ACM orders or to replace in inventory steel mill products used to fill ACM orders must obtain such products by affixing the program identification symbol D–8 to the delivery order he places with his regular supplier of such products. Such delivery orders are hereby designated as ACM orders and shall be certified by the steel distributor as follows: "Certified for National Defense use under DMS Regulation 1" and signed as provided in BDSA Regulation 2. In placing such ACM orders the distributor shall indicate thereon the program identification symbol D–8 and the calendar quarter in which delivery is required: *Provided, however,* That ACM orders placed by a steel distributor for replacement of inventory shall call only for delivery of the carbon, alloy, or stainless steel mill product of the same form and of substantially the same size in a quantity no greater than the quantity of such product which such distributor delivered from his inventory pursuant to ACM orders: *And provided further,* That the program identification symbol D–8 may be used to place orders for steel mill products pursuant to this paragraph only in the calendar quarter in which they were taken from inventory, or in the immediately succeeding calendar quarter.

(b) A steel distributor who requires steel mill products to fill an ACM–DX order or to replace in inventory steel mill products used to fill an ACM–DX order must, in addition to complying with the provisions of paragraph (a), indicate the suffix DX on his delivery order for such steel mill products which he places with his regular supplier.

Sec. 13 Direct shipments.

(a) Nothing in this order shall be interpreted to prohibit a steel producer from accepting an ACM order from a steel distributor calling for direct shipment to a customer of such steel distributor. A steel producer who accepts such an ACM order may ship the steel mill products called for in such order to the customer specified by the steel distributor who placed the order.

(b) Nothing contained herein shall be construed to require acceptance by a steel producer of an order described in paragraph (a). However, if a steel producer elects to reject such order, he must promptly notify the steel distributor.

Sec. 14 Production requirements of steel producers.

(a) Except as provided in paragraph (b) of this section, a producer must use the program identification symbol D–1 and indicate the calendar quarter in which delivery is required in obtaining production materials consisting of controlled materials (other than steel) needed to fill mandatory acceptance orders or to replace in inventory such production materials which he has used to fill such orders: *Provided,* A producer must not use the program identification symbol D–1 to obtain steel controlled materials but must obtain such production material in accordance with the provisions applicable to further converters in section (9) of this order.

(b) A producer who requires controlled materials (other than steel) to fill an ACM–DX order or to replace in inventory controlled materials used to fill an ACM–DX order must, in addition to complying with the provisions of paragraph (a) of this section, indicate the suffix DX on his delivery orders for such controlled materials.

(c) Except as provided in paragraph (d) of this section, a producer must use the rating DO–D1 in obtaining production materials other than controlled materials needed to fill mandatory acceptance orders or to replace in inventory such production materials used by him to fill such orders: *Provided,* That in obtaining primary nickel as a production material he must use the rating DO followed by the program identification symbol that accompanied his customer's order.

(d) In obtaining primary nickel needed as a production material to fill ACM–DX orders or to replace in inventory primary nickel used to fill ACM–DX orders, a producer must use the rating DX followed by the program identification symbol that accompanied such ACM–DX orders; and in obtaining production materials other than primary nickel or other than controlled materials for such purposes he must use the rating DX–D1.

(e) A producer may combine his requirements of controlled materials needed to fill mandatory acceptance orders in one or more ACM orders. He may also combine his requirements for other production materials needed to fill mandatory acceptance orders in one or more rated orders. In placing such combined orders he must show the amount of production materials to which each program identification symbol applies.

Sec. 15 Small order exception.

The provisions of this order requiring a producer or a steel distributor to use ratings and program identification symbols need not be followed in the case of

any individual delivery order of $500 or less.

Sec. 16 Request for adjustment or exceptions.

Any person subject to any provision of this order may file a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The filing of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

Sec. 17 Records and reports.

(a) Each person participating in any transaction covered by this order shall make, and preserve for at least 3 years thereafter, accurate and complete records of purchases, receipts, inventories, production, use, sales, and deliveries of steel mill products. Records shall be maintained in sufficient detail to permit the determination upon examination or audit as to whether or not each transaction complies with the provisions of this order or any other applicable regulation or order of BDSA. This order does not specify any particular accounting method or system to be used provided that records required herein are maintained. Records may be retained in the form of microfilm or they may be converted to other recordkeeping systems which accurately reproduce or form a durable medium for reproducing the original records of the information contained therein by those persons who, at the time such microfilm or other records are made, maintain such records in the regular and usual course of business.

(b) All records required by this order shall be made available for inspection and audit by duly authorized representatives of the Business and Defense Services Administration, at the usual place of business where maintained.

(c) Each producer of steel mill products who receives a production directive from BDSA shall complete and return form BDSAF–100 to BDSA in accordance with the instructions applicable to that form.

(d) Persons subject to this order shall make such records and submit such reports to BDSA as it shall require, subject to the terms of the Federal Reports Act of 1942 (44 U.S.C. Supp. V 421–427).

Sec. 18 Communication.

All communications concerning this order shall be addressed to the Business and Defense Services Administration, Washington, D.C. 20230, Ref: BDSA Order M–1A.

Sec. 19 False statements.

The furnishing of false information or the concealment of any material fact in the course of operation under this order constitutes a violation of this order.

Sec. 20 Violations.

Violation of any provision of this order may subject any person committing or participating in such violation to administrative action to require compliance with this order and correction of such violation. In addition to such administrative action, an injunction and order may be obtained prohibiting any such violation and enforcing compliance with the provisions hereof. Any person who willfully violates any provision of this order, or who willfully furnishes false information or conceals any material fact in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

NOTE: All reporting and recordkeeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This order shall take effect August 14, 1970.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
WILLIAM D. LEE,
Administrator.

TABLE I OF BDSA ORDER M–1A

Column A	Column B				Column C	
Name of steel mill product	Minimum number of days in advance of first day of month in which shipment is required.				Minimum quantity for each size and grade of any item for mill shipment at any one time to any one destination.[1]	
	Carbon	Low-alloy high-strength	Stainless	Alloy [2]	Carbon	Alloy
Bar, bar shapes (including light shapes):						
Bar, hot-rolled, stock for projectile and shell bodies.	45	75	----------	[3] 75	(4)----------	(4).
Bar, hot-rolled, other (including light shapes) round bars up to and including 3 inches, and squares, hexagons, half rounds, ovals, etc. of approx. equivalent section area.	[3] 45	[3] 75	90	[3] 75	5 net tons----	(4).
Round and square bars over 3 inches to, but not including, 8 inches.	[3] 45	[3] 75	90	[3] 75	15 net tons----	(4).
Bar size shapes (angles, tees, channels, and zees under 3 inches).	[3] 45	[3] 75	90	[3] 75	5 net tons----	(4).
Bar, reinforcing (straight lengths as rolled).	45	----------	----------	75	5 net tons----	(4).
Bars, cold-finished	[3] 75	[3] 105	105	[3] 105	5 net tons----	(4).
Sheet, strip (uncoated and coated):						
Sheet, hot-rolled	45	75	90	75	5 net tons----	(4).
Sheet, cold-rolled	45	75	105	90	5 net tons----	(4).
Sheet, galvanized	45	----------	----------	----------	(4)----------	
Sheet, all other coated	45	----------	----------	----------	5 net tons----	(4).
Sheet, enameling	45	----------	----------	----------	5 net tons----	
Roofing, galvanized, corrugated V-crimpled channel drains.	45	----------	----------	----------	(4)----------	
Ridge roll, valley and flashing	45	----------	----------	----------	(4)----------	
Siding, corrugated and brick	45	----------	----------	----------	(4)----------	
Strip, hot-rolled	45	75	90	75	(4)----------	(4).
Strip, cold-rolled	[3] 45	75	105	90	(4)----------	(4).
Strip, galvanized	45	----------	----------	----------	(4)----------	
Electrical sheet and strip	(5)	----------	----------	----------	5 net tons----	
Tin mill black plate	45	----------	----------	----------	5,000 pounds--	
Tin plate, hot-dipped	45	----------	----------	----------	5,000 pounds--	
Ternes, special coated manufacturing	45	----------	----------	----------	5,000 pounds--	
Tin plate, electrolytic	45	----------	----------	----------	5,000 pounds--	
Plate:						
Rolled armor	(6)	(6)	----------	(6)	(6)----------	(6).
Continuous strip mill	[3] 45	[3] 75	90	[3] 75	10 net tons----	(4).
Sheared mill	[3] 45	[3] 75	90	[3] 75	3 net tons----	(4).
Universal or bar mill	[3] 45	[3] 75	90	[3] 75	3 net tons----	(4).
Structural shapes, piling	45	[6] 75	[6] 150	90	(4)----------	(4).
Pipe, tubing-seamless and welded:						
Standard pipe (including type of couplings furnished by mill).	45	----------	120	----------	(7)----------	(7).
Oil country goods (casing, tubing, and drill pipe, including type of couplings furnished by mill).	45	----------	----------	60	(7)----------	(7).
Line Pipe (including type of couplings furnished by mill.)	45	----------	----------	----------	(7)----------	(7).
Pressure and mechanical tubing:						
Seamless cold drawn (O.D. in inches):						
Up to ¾ inclusive	60	----------	120	120	1,000 feet----	1,000 feet.
Over ¾ to 1½ inclusive	60	----------	120	120	800 feet----	800 feet.
Over 1½ to 3 inclusive	60	----------	120	120	600 feet----	600 feet.
Over 3 to 6 inclusive	60	----------	120	120	400 feet----	400 feet.
Over 6	60	----------	120	120	250 feet----	250 feet.
Seamless hot-rolled	60	----------	120	120	(4)----------	(4).
Welded	75	----------	120	120	(4)----------	(4).
Wire, wire products:						
Wire, drawn	45	75	90	75	(4)----------	(4).
Nails, bright steel wire, steel cut, galvanized, cement-coated, and painted.	45	----------	----------	----------	5 net tons [8]----	(4).

See footnotes at end of table.

TABLE I OF BDSA ORDER M-1A—Continued

Column A	Column B				Column C	
Name of steel mill product	Minimum number of days in advance of first day of month in which shipment is required.				Minimum quantity for each size and grade of any item for mill shipment at any one time to any one destination.[1]	
	Carbon	Low-alloy high-strength	Stainless	Alloy [2]	Carbon	Alloy
Spikes and brads—steel wire galvanized and cement-coated.	45				5 net tons [9]	
Staples, bright and galvanized (farm and poultry).	45				5 net tons [9]	
Wire rope and strand	45		105		(4)	
Welded wire mesh	45				(4)	
Woven wire netting	45				5 net tons [9]	
Barbed and twisted wire	45				5 net tons [9]	
Wire fence, woven and welded (farm and poultry).	45				5 net tons [9]	
Bale ties	45				5 net tons [9]	
Coiled automatic baler wire	45				5 net tons [9]	
Tool steel (all forms including die blocks and tool steel forgings).	[10] 60			[10] 90	500 pounds	500 lbs.
Other mill forms and products (excluding castings and forgings):						
Ingots	45	75	75	75	25 net tons [11]	Product of one heat.
Billets, projectile and shell stock	45	75		75	(4)	(5).
Blooms, slabs, other billets, tube rounds, sheet bars.	45	75	75	75	25 net tons [11]	(5).
Skelp	45				25 net tons	
Wire rod	45	75	90	75	(4)	(4).
Rails	45			90	(4)	(4).
Track accessories (joint bars, tie plates, and track spikes).	45				(4)	
Wheels, rolled or forged (railroad)	45			90	(4)	(4).
Axles (railroad)	45			90	(4)	(4).

[1] All stainless steel products are by negotiation between mill and its customer. If no acceptable arrangements are worked out, BDSA should be notified.
[2] For clad products, add 45 days to lead time indicated.
[3] If annealed or heat-treated, add an additional 15 days.
[4] By negotiation between mill and its customer. If no acceptable arrangements are worked out, BDSA should be notified.
[5] For electrical sheet and strip, use this table:

Grade	Lead time	Definition
Low	45	AISI M50, M43, M36, M32.
Medium	45	AISI M27, M22, M19.
High	60	AISI M17, M15, M14, and oriented.

[6] Applies to special rolled shapes, including angles and channels.
[7] Published carload minimum (mixed sizes and grades).
[8] Cold-rolled high carbon spring steel strip, 75 days.
[9] Quantity refers to any assortment of wire merchant trade products.
[10] If cold-finished, add an additional 15 days.
[11] For forging quality, product of one heat.

TABLE II OF BDSA ORDER M-1A

Name of steel mill product	Maximum quantities for further converters referred to in section 9c		
	Carbon (net tons)	Alloy (net tons)	Stainless steel (net tons)
Ingots	(1)	(1)	(1)
Blooms, slabs, billets (except shell quantity)	100	25	25
Sheet bar	100		25
Tube rounds	100	50	25
Skelp	100		
Wire rods	50	25	10
Plates—sheared and universal mill (except armor and cartridge case)	50	25	25
Plates—strip mill (except armor and cartridge case)	50		25
Bar and bar-size angles, hot-rolled (except projectile and shell quality)	25	20	20
Pipe buttweld	20		
Tubing, seamless	20	20	20
Tubing, welded	20		10
Wire, high and low carbon	50	20	10
Sheet, hot-rolled	75		10
Sheet, cold-rolled	50		10
Strip, hot-rolled	25	20	10
Strip, cold-rolled	50		10

[1] Product of one heat.

[F.R. Doc. 70-10553; Filed, Aug. 13, 1970; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 73—STANDARDS OF CONDUCT

Miscellaneous Amendments

Part 73 is amended as follows: The table of contents is amended to add speechmaking to teaching and lecturing in § 73.735–405, to redesignate Appendix F, Code of Ethics for Government Service, as Appendix H, and to add Appendix F and Appendix G to provide the format to be used in requesting approval for and reporting on outside activity; § 73.735–102 is amended to show clearly that the regulations apply not only to officers and employees in active duty status but also to those who are on detail outside the Department or are in a leave-without-pay status; §73.735–402 is amended to add a new paragraph (c) which would provide that membership on a Board of Directors, Board of Regents, Board of Trustees, Planning Commission, Advisory Council or Committee, or on any other body which provides advice, counsel or consultation, shall be considered outside consultative services for which advance administrative approval is required; § 73.735–405 is amended to add speechmaking to the present heading of teaching and lecturing; § 73.735–607 is amended to include marital status and physical handicap with the other factors for which discrimination against an individual is prohibited; §§ 73.735–902 and 73.735–904 are amended to require that the request for administrative approval of, and annual report on, outside activity be in the format prescribed in Appendix F and Appendix G and to delete the reference in § 73.735–902 to compensation to correspond with previous deletion from other parts of the regulations the requirement for employees to provide compensation information for outside activity; the designation of Subpart L "Special Provisions Relating to Special Government Employees" is amended by adding "and Consultants" to clarify that consultants who work more than 130 days during any period of 365 consecutive days are subject to Subpart L; Appendix C is revised to reflect changes due to the establishment of new positions, and changes in previously identified positions, incumbents of which must submit statements of employment and financial interests.

1. The table of contents is amended as follows:

a. "73.735–405 Teaching and lecturing" is amended to read as follows:

Sec.
73.735–405 Teaching, lecturing, and speechmaking.

b. The designation for Subpart L—Special Provisions Relating to Special

Government Employees is amended to read as follows:

Subpart L—Special Provisions Relating to Special Government Employees and Consultants

c. Appendix F is redesignated as Appendix H and Appendix F and Appendix G are added, making the last three items in the table of contents read as follows:

Appendix F—Request for Approval of Outside Activity.
Appendix G—Annual Report of Outside Activity.
Appendix H—Code of Ethics for Government Service.

Subpart A—General Provisions

2. Section 73.735–102 is revised to read as follows:

§ 73.735–102 Applicability.

The regulations in this part apply to all officers and employees (including those in leave-without-pay status) of the Department, including regular officers of the Public Health Service Commissioned Corps and Reserve Officers of the Corps while on active duty, except that the regulations in this part apply to special Government employees only to the extent stated in Subpart L of this part. A special Government employee is defined by law as "* * * an officer or employee * * * who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties whether on a full-time or intermittent basis * * *."

Subpart D—Outside Employment

3. Section 73.735–402 is revised to add a new paragraph (c) to read as follows:

§ 73.735–402 Professional and consultative services.

* * * * *

(c) Membership on a Board of Directors, Board of Regents, Board of Trustees, Planning Commission, Advisory Council, or Committee, or on any other body which provides advice, counsel, or consultation, shall be considered outside consultative services for which advance administrative approval is required.

4. In § 73.735–405 the heading is amended to read as follows:

§ 73.735–405 Teaching, lecturing, and speechmaking.

* * * * *

Subpart F—Conduct on the Job

5. Section 73.735–607 is amended to read as follows:

§ 73.735–607 Nondiscrimination.

An employee shall not be discriminated against because of race, color, religion, national origin, sex, age, politics, marital status, or on the basis of a physical handicap with respect to any position the duties of which may be efficiently performed by a person with a physical handicap. This prohibition applies to both employment and utilization of Federal employees.

Subpart I—Administrative Approval for Certain Activities

6. In § 73.735–902, paragraph (a) is amended to read as follows:

§ 73.735–902 Requesting approval.

* * * * *

(a) *Outside work.* The request shall follow the format prescribed in Appendix F to this part and shall include the information shown in subparagraphs (1) through (7) of this paragraph. When an employee's approved outside work changes with respect to the nature or scope of his duties or services performed or in the nature of his outside employer's business, he shall promptly submit a revised request. If the outside work is discontinued sooner than anticipated (not merely suspended temporarily), he shall notify the officer who approved the request.

(1) Employee's name, occupational title, grade or rank, and Federal salary;

(2) Nature of the activity, giving full description of specific duties or services for which approval is being requested. In the case of self-employment in a professional capacity, however, it is sufficient to indicate the type of service to be rendered, as medical, legal, etc.

(3) Name and business of person or organization for which work will be done, or statement that work is to be done as self-employment. If self-employment, show whether alone or with partners, giving their names, and, if such self-employment consists of professional services to a large number of clients or patients, estimate the total number rather than listing them individually.

(4) Place where work will be conducted.

(5) Estimated total time that will be devoted to the activity. (If on a continuing basis, show estimated time per year; if not, show total time and anticipated ending date.)

(6) Whether services can be performed entirely outside of usual duty hours; if not, estimated number of hours of absence from work that will be required.

(7) Method or basis of compensation (e.g., whether fee basis, per diem, per annum, or other).

* * * * *

7. Section 73.735–904 is amended to read as follows:

§ 73.735–904 Annual reporting.

On September 5 each year, the approving officer shall require a report from each person for whom outside work has been approved during the past year. The report shall follow the format prescribed in Appendix G to this part and shall show:

(a) *For the 12 months just past (ending August 31).* (1) Whether the anticipated work was actually performed for the person or organization named in the request for approval;

(2) Actual amount of time spent on the activity.

(b) *For the forthcoming 12 months (ending August 31).* (1) Whether it is anticipated that the outside work will continue;

(2) Whether any change is anticipated with respect to information supplied in accordance with the original request on which approval was based.

8. The heading for Subpart L is changed to read as follows:

Subpart L—Special Provisions Relating to Special Government Employees and Consultants

9. Appendix C "Additional Positions the Incumbents of Which Must Complete Employment and Financial Interest Statements" is revised to read as follows:

Appendix C—Additional Positions the Incumbents of Which Must Complete Employment and Financial Interest Statements

OFFICE OF THE SECRETARY

OFFICE OF FIELD COORDINATION

Regional Director.

OFFICE OF ADMINISTRATION

Deputy Assistant Secretary for Administration.

Executive Office

Executive Officer.
Chief, Supply Operations Branch.
Supervisory Contracting Specialist.

Division of Surplus Property Utilization

Director.
Regional Representatives (Surplus Property Utilization).

Office of General Services

Director.
Deputy Director.
Director, Property Management Branch.
Director, Procurement Management Branch.
All positions GS–13 and above in GS–1102 and GS–2003 series.

ASSISTANT SECRETARY FOR HEALTH AND SCIENTIFIC AFFAIRS

Deputy Assistant Secretary for Health and Scientific Affairs.
Deputy Assistant Secretary for Science.
Special Assistant for Patent Policy.
Special Assistant to Assistant Secretary (Medical and Pharmaceutical Research).
Director of Office of Planning and Program Coordination.

OFFICE OF GENERAL COUNSEL

Deputy General Counsel.
Assistant General Counsel, Business and Administrative Law Division.
Deputy Assistant General Counsel, Business and Administrative Law Division.
Assistant General Counsel, Food, Drug and Environmental Health Division.
Deputy Assistant General Counsel, Food, Drug and Environmental Health Division.
Assistant General Counsel, Public Health Grants and Services Division.
Deputy Assistant General Counsel, Public Health Grants and Services Division.
Legal Adviser, National Institutes of Health.
Legal Adviser, National Communicable Disease Center.
Assistant General Counsel, Civil Rights Division.
Deputy Assistant General Counsel, Civil Rights Division.
Assistant General Counsel, Health Insurance Division.
Deputy Assistant General Counsel, Health Insurance Division.

OFFICE OF THE COMPTROLLER

Audit Agency

All Auditors in positions GS–13 and above.

OFFICE OF EDUCATION

IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY/COMMISSIONER

Deputy Assistant Secretary/Commissioner.
Associate Commissioner, Federal-State Relations.
Executive Assistant.

Office of DASPRE

Deputy Assistant Secretary/Commissioner for Planning, Research, and Evaluation.
Deputy to the Deputy Assistant Secretary for Planning, Research, and Evaluation.

NATIONAL CENTER FOR EDUCATIONAL RESEARCH AND DEVELOPMENT

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.
Program Planning and Evaluation Officer.

Arts and Humanities Program

Director.

Division of Educational Laboratories

Director.
Chief, Laboratory Branch.
Chief, Research and Development Centers Branch.
Chief, Operations Staff.

Division of Elementary and Secondary Education Research

Director.
Chief, Basic Studies Branch.
Chief, Instructional Materials and Practices Branch.
Chief, Organization and Administration Studies Branch.

Regional Research Program

Director.

Division of Higher Education Research

Director.
Chief, Instructional Materials and Practices Branch.
Chief, Organization and Administration Studies Branch.
Chief, Research Training Branch.

Division of Comprehensive and Vocational Education Research

Director.
Chief, Basic Studies Branch.
Chief, Instructional Materials and Practices Branch.
Chief, Organization and Administration Studies Branch.
Chief, Career Opportunities Branch.

OFFICE OF PROGRAM PLANNING AND EVALUATION

Assistant Commissioner.
Director, Elementary and Secondary Programs Division.
Director, Post-Secondary and Special Education Programs Division.
Director, Program Support Division.

NATIONAL CENTER FOR EDUCATIONAL STATISTICS

Immediate Office of the Assistant Commissioner

Assistant Commissioner.
Deputy Assistant Commissioner.
Assistant Director for Statistical Standards.
Assistant Director for Research and Development.

Division of Survey Planning and Analysis

Director.
Deputy Director.
Chief, Higher Education Surveys Branch.
Chief, Library Surveys Branch.
Chief, Elementary-Secondary Surveys Branch.
Chief, Adult and Vocational Education Surveys Branch.

Division of Survey Operations

Director.
Deputy Director.
Chief, Forms Management Branch.
Chief, Data Services Branch.
Chief, Statistical Methods Branch.
Chief, Publications and Information Branch.

Division of Statistical Information and Studies

Director.
Chief, Educational Data Standards Branch.
Chief, Statistical Analysis Branch.
Chief, Statistical Systems Branch.
Chief, Reference Estimates and Projections Branch.

NATIONAL CENTER FOR EDUCATIONAL COMMUNICATION

Immediate Office of the Assistant Commissioner

Assistant Commissioner.

Practice Improvement Division

Director.

Information Resources Division

Director.
Chief, Education Resources Information Center.
Chief, Education Reference Center.
Chief, Education Materials Center.

OFFICE OF REGIONAL OFFICE COORDINATION

Associate Commissioner.
Deputy Associate Commissioner.

Regional Offices

Regional Assistant Commissioner.
Director, Urban and Community Education Programs.
Director, Education Research.
Director, Higher Education.
Director, Adult and Vocational Programs.
Manpower Development and Training Officers, GS–14 and above.
Contracts Officer.
Financial Management Officer.
Equal Educational Opportunity Program Officer, GS–14 and above.

OFFICE OF ADMINISTRATION

Assistant Commissioner.
Deputy Assistant Commissioner.
Director, Contracts and Grants Division.
Assistant Director, Contracts and Grants Division.
Contracts and Grants Division, Section Chiefs.

OFFICE OF DEPUTY COMMISSIONER FOR HIGHER AND INTERNATIONAL EDUCATION

Deputy Commissioner.

BUREAU OF HIGHER EDUCATION

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.
Chief, Program Planning and Reports Staff.

Division of University Programs

Director.
Chief, Community Services and Continuing Education Branch.
Chief, Graduate Academic Programs Branch.

Division of College Support

Director.
Assistant Director.
Chief, Developing Institutions Branch.
Chief, Personnel Development Branch.

Division of Student Financial Aid

Director.
Assistant Director.
Chief, Loans Branch.
Chief, Work-Study Branch.
Chief, Insured Loans Branch.
Chief, Educational Opportunity Grants Branch.

Division of Academic Facilities

Director.
Chief, Planning Branch.
Chief, Financing Branch.
Chief, Operations Branch.

Division of Student Special Services

Director.
Chief, Upward Bound Branch.
Chief, Talent Search and Special Services Branch.

INSTITUTE OF INTERNATIONAL STUDIES

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.

Division of International Exchange and Training

Director.
Chief, Educational Exchange Branch.
Chief, Technical and Facilitative Services Branch.

Division of Foreign Studies

Director.
Chief, Fellowships and Overseas Projects Branch.
Chief, Language and Area Centers and Research Branch.

International Services and Research Staff

Director.
Chief, Comparative Education Branch.

OFFICE OF DEPUTY COMMISSIONER FOR SCHOOL SYSTEMS

Deputy Commissioner.

BUREAU OF ELEMENTARY AND SECONDARY EDUCATION

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.
Director, Program Planning and Evaluation.

Division of Compensatory Education

Director.
Assistant Director.
Chief, Operations Branch.
Chief, Technical Assistance Branch.
Chief, Follow Through Branch.

Division of School Assistance in Federally Affected Areas

Director.
Chief, Maintenance and Operations Branch.
Chief, School Construction Branch.
Chief, Field Operations Branch.

Division of Equal Educational Opportunities

Director.
Deputy Director.
Chief, Northern Operations Branch.
Chief, Southern Operations Branch.
Chief, Operations Branch.

Division of State Agency Cooperation

Director.
Assistant Director.

Chief, Program Management Branch.
Chief, Western Program Operations Branch.
Chief, Southeast Program Operations Branch.
Chief, Upper Midwest Program Operations Branch.
Chief, Mid-Continent Program Operations Branch.
Chief, Northeast Program Operations Branch.

Division of Plans and Supplementary Centers

Director.
Assistant Director.
Chief, Bilingual Education Programs Branch.
Chief, Dropout Prevention Programs Branch.
Chief, Program Analysis and Dissemination Branch.
Chief, Grants Management Branch.
Chief, State Plans Branch.
Chief, Pupil Personnel Services Branch.

BUREAU OF EDUCATION FOR HANDICAPPED

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.
Planning and Evaluation Officer.

Division of Educational Services

Director.
Chief, Aid to States Branch.
Chief, Media Services and Captioned Films Branch.
Chief, Project Centers Branch.

Division of Training Programs

Director.
Chief, Mental Retardation Branch.
Chief, Communication Disorders Branch.
Chief, Special Learning Problems Branch.

Division of Research

Director.
Chief, Projects and Program Research Branch.
Chief, Research Laboratories and Demonstration Branch.
Chief, Curriculum and Media Branch.

BUREAU OF ADULT, VOCATIONAL AND TECHNICAL EDUCATION

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.
Program Evaluation Officer.

Division of Manpower Development and Training

Director.
Assistant Director.
Chief, State Programs and Services Branch.
Chief, National Programs and Services Branch.

Division of Adult Education Programs

Director.
Chief, Adult Education Branch.
Chief, Civil Defense Education Branch.

Division of Vocational and Technical Education

Director.
Assistant Director.
Chief, Development Branch.
Chief, Services Branch.
Chief, Planning and Evaluation Branch.
Chief, Pilot and Demonstration Branch.

DEPUTY COMMISSIONER FOR INSTRUCTIONAL RESOURCES

Deputy Commissioner.

BUREAU OF EDUCATIONAL PERSONNEL DEVELOPMENT

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.

Teacher Corps

Director.
Chief, Programs Branch.
Chief, Management Branch.
Chief, Corps Member Services Branch.

Division of College Programs

Director.
Chief, Basic Studies Branch.
Chief, Trainers of Teacher Trainers Branch.
Chief, Teacher Leadership Development Branch.
Chief, Educational Administration Branch.
Chief, Support Personnel Branch.

Division of School Programs

Director.
Deputy Director.
Chief, Vocational Education Personnel Branch.
Chief, Staff Development Branch.
Chief, State Programs Branch.
Chief, Career Opportunities Branch.
Chief, Special Education Training Branch.

Division of Assessment and Coordination

Director.

Division of Program Resources

Director.

BUREAU OF LIBRARIES AND EDUCATIONAL TECHNOLOGY

Immediate Office of the Associate Commissioner

Associate Commissioner.
Deputy Associate Commissioner.

Division of Library Programs

Director.
Chief, Library Program and Facilities Branch.
Chief, Library Training and Resources Branch.
Chief, Library Planning and Development Branch.
Chief, Library and Information Science Branch.

Division of Educational Technology

Director.
Chief, Educational Broadcasting Facilities Program.

ENVIRONMENTAL HEALTH SERVICE

OFFICE OF THE ADMINISTRATOR

Immediate Office

Administrator.

Legislative Affairs

Special Assistant.

DEPUTY ADMINISTRATOR

Immediate Office

Deputy Administrator.

Grants Policy Management

Grants Management Officer.
Grants Management Specialist.

Standards and Compliance

Standards and Compliance Officer.

Regional Offices

All Regional Assistant Administrators.

ASSOCIATE ADMINISTRATOR

Immediate Office

Associate Administrator.

Intergovernmental Affairs

Special Assistant.

ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

Immediate Office

Assistant Administrator.
Deputy Assistant Administrator.

ASSISTANT ADMINISTRATOR FOR PROGRAM DEVELOPMENT

Immediate Office

Assistant Administrator.
Deputy Assistant Administrator.

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Immediate Office

Assistant Administrator.
Deputy Assistant Administrator.

Division of Accounting

Office of the Director:
Director.
Deputy Director.
Cost Advisory Branch:
Cost Accountant.

Division of Administrative Services

Office of the Director:
Director.

Division of Budget

Office of the Director:
Director.
Deputy Director.
Facility Management:
All.

Division of Management Systems

Office of the Director:
Director.

Systems Planning and Management Analysis:

Management Analysis Officer.

Division of Procurement and Supply Management

Office of the Director:
Director.
Deputy Director.
GS–1102–13 and above Procurement Analysts.

Contract Cost Advisory Branch:

GS–13 and above Accountants.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION

Immediate Office

Commissioner.
Special Assistant to the Commissioner.
Special Assistant for Program Operations.
Special Assistant for Legislative Affairs.
Associate Commissioner.

Office of Manpower Development

Director.

Office of Technical Information and Publications

Director.

Office of Research Grants

Director.

Office of Regional Activities

Assistant Commissioner.

Regional Air Pollution Control Offices, Regions I–IX

Directors.

Office of Science and Technology

Assistant Commissioner.

Office of Program Development

Assistant Commissioner.

Office of Standards and Compliance

Assistant Commissioner.

Office of Administration

Director.
Chief, General Services Branch.
Chief, Purchase and Contracts Section.
Chief, Supply and Property Section.
Chief, Facilities Planning and Management Section.
Chief, Negotiated Contracts Branch.

Office of Education and Information

Director.

Bureau of Criteria and Standards

Director.
Deputy Director.
Executive Officer.

Division of Air Quality and Emission Data

Director.

Division of Economic Effects Research

Director.

Division of Health Effects Research

Director.

Bureau of Abatement and Control

Director.
Assistant Director for Field Operations.
Assistant Director for Technical Services.
Assistant to the Director for Procedures and Regulations.
Executive Officer.
Director, Division of Abatement.
Director, Division of Control Agency Development.
Director, Division of Motor Vehicle Pollution Control.
Deputy Director, Division of Motor Vehicle Pollution Control.
Chief, West Coast Field Station.

Bureau of Engineering and Physical Sciences

Director.
Deputy Director.
Executive Officer.
Director, Division of Chemistry and Physics.
Director, Division of Meteorology.
Director, Division of Motor Vehicle Research and Development.
Director, Division of Process Control Engineering.

ENVIRONMENTAL CONTROL ADMINISTRATION

Grant Program Officers.
Contract Project Officers.

Office of the Commissioner

Commissioner.
Deputy Commissioner.
Special Assistant to the Commissioner.
Assistant Commissioner for Training and Manpower Development.
Special Assistant to the Commissioner for Regional Operations.
Assistant Commissioner for Program Development.
Assistant Commissioner for Research and Development.

Appalachian Laboratory for Occupational Respiratory Diseases, Morgantown, W. Va.

Director.

Office of Public Information and Education

Director.
Executive Officer.
Deputy Executive Officer.
Administrative Operations Officer.
Director, Cincinnati Laboratories.
GS–15 and above positions in the GS–1102 series.

Office of Grants Management

Director.
Deputy Director.
Program Coordinator.
Chief, Grants Management Branch.
Chief, Review Branch.
Executive Secretaries, Study Section.

Bureau of Community Environmental Management

Director.
Deputy Bureau Director.
Associate Bureau Director.
Program Officer.
Executive Officer.
Research Development Officer.
Grants Management and Programing Officer.
Special Assistant (Vector Control).
Special Assistant (Injury Control).
Special Assistant (Housing and Urban Planning).
Special Assistant (Ecology Centers).
Chief, Division of Environmental Improvement.
Chief, Community Environmental Health Branch.
Chief, Injury Control Branch.
Chief, Insect and Rodent Control Branch.
Deputy Chief, Insect and Rodent Control Branch.
Program Chief, Arctic Health Field Research Unit.
Associate Chief, Arctic Health Field Research Unit.
Administrative Management Officer, Arctic Health Field Research Unit.
Chief, Division of Planning and Standards.
Deputy Chief, Division of Planning and Standards.
Chief, Injury Control Research Laboratory.
Deputy Chief, Injury Control Research Laboratory.
Chief, Housing and Urban Planning Branch.

Bureau of Radiological Health

Director.
Deputy Director.
Associate Director.
Associate Director (Regional Operations).
Assistant Director (Industry).
Assistant Director (Military).
Assistant Director (Radiology).
Assistant Director (Training).
Executive Officer.
Information Officer.
Chief, Office of Criteria and Standards.
Deputy Chief, Office of Criteria and Standards.
Chief, Division of Biological Effects.
Deputy Chief, Division of Biological Effects.
Branch Chiefs, Division of Biological Effects.
Chief, Division of Electronic Products.
Deputy Chief, Division of Electronic Products.
Associate Chief, Division of Electronic Products.
Branch Chiefs, Division of Electronic Products.
Chief, Division of Medical Radiation Exposure.
Deputy Chief, Division of Medical Radiation Exposure.
Branch Chiefs, Division of Medical Radiation Exposure.
Chief, Program Officer.
Chief, Compliance Officer.
Chief, Division of Environmental Radiation.
Deputy Chief, Division of Environmental Radiation.
Deputy Chiefs, Division of Environmental Radiation.
GS–13 and above Directors, Deputy Directors, and Management Officers of BRH Laboratories.

Bureau of Occupational Safety and Health

Director.
Assistant Director.
Executive Officer.
Chief, Division of Criteria and Standards.
Chief, Division of Occupational Injury and Disease Control.
Chief, Division of Epidemiology and Special Services.

Bureau of Solid Waste Management

Director.
Deputy Director.
Assistant to the Director.
Assistant Bureau Director for Information.
Executive Officer.
Assistant Bureau Director for Program Development.
Assistant Bureau Director for Cincinnati Operations.
Chief, Division of Demonstration Operations.
Chief, Division of Research and Development.
Chief, Division of Technical Operations.
Deputy Chief, Division of Technical Operations.
Deputy Chief, Division of Research and Development.
Deputy Chief, Division of Demonstration Operations.

Bureau of Water Hygiene

Director.
Deputy Director.
Executive Officer.
Program Officer.
Chief, Division of Criteria and Standards.
Chief, Division of Technical Operations.
Chief, Division of Epidemiology and Biometrics.
Director, Cincinnati Laboratory.
Director, Northeastern Water Hygiene Laboratory.
Director, Gulf Coast Water Hygiene Laboratory.
Director, Northwestern Water Hygiene Laboratory.
Administrative Officer, Northeastern Water Hygiene Laboratory.
Grant Program Officer—ECA-wide.
Contract Projects Officers—ECA-wide.

FOOD AND DRUG ADMINISTRATION

OFFICE OF THE COMMISSIONER

Immediate Office of the Commissioner

Deputy Commissioner.
Special Assistant to the Commissioner.
Assistant to the Deputy Commissioner.
Hearing Examiners.
Director, Office of Legislative Services.

Office of the Associate Commissioner for Science

Associate Commissioner.
Deputy Associate Commissioner.
Committee Management Officer.
Director, Office of Research and Training Grants.
Director, Science Information Facility.
Health Scientist Administrators, GS–13 and above.

Office of the Associate Commissioner for Compliance

Associate Commissioner.
Special Assistant to the Associate Commissioner.
Deputy Associate Commissioner.
Food and Drug Officers, GS–13 and above.
Industry Relations Coordinator.
Assistant to the Industry Relations Coordinator.

Office of the Assistant Commissioner for Administration

Assistant Commissioner.
Deputy Assistant Commissioner.
Director, Division of General Services.
Deputy Director, Division of General Services.
GS–13 and above positions in the 1102 Contract and Procurement Series.

Office of the Assistant Commissioner for Program Coordination

Assistant Commissioner.
Deputy Assistant Commissioner.

Director, Program and Policy Coordination Staff Program Analysts, GS–13 and above (PPCS).
Director, Policy Management Staff.
Deputy Director, Policy Management Staff.
Director, Computer Systems and Technology Staff.
Deputy Director, Computer Systems and Technology Staff.

Office of the Assistant Commissioner for Field Coordination

Assistant Commissioner.
Staff Directors, GS–15.
All GS–14 and above Food and Drug Officers.

BUREAU OF VETERINARY MEDICINE

(Excluding Beltsville, Md., Activity)

Supervisory Mathematician-Statistician, GS–15.
Food and Drug Officers, GS–14 and above.
Veterinary Medical Officers, GS–14 and above.
Chemists, GS–14 and above.

BUREAU OF DRUGS

All GS–15 and above positions.
Assistant Director for Drug Advertising.

BUREAU OF FOODS, PESTICIDES AND PRODUCT SAFETY

All GS–15 and above positions.
All Branch Chiefs.
All Food and Drug Officers, GS–14.
All Review Scientists, GS–14.
Chief, Vitamin Analysis Section.

FDA REGIONAL OFFICES

Regional Food and Drug Directors.
Associate Regional Food and Drug Directors.
Food and Drug Officers, GS–13 and above
Public Health Service Advisors.

FDA DISTRICT OFFICES

Director.
Deputy Director.
Food and Drug Officers, GS–13 and above.
GS–13 and above positions in the 1320 series.
GS–13 and above positions in the 626 series.

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Associate Administrator.
Associate Administrator for Operations.
Assistant Administrator for Program Planning and Evaluation.
Assistant Administrator for Legislation.
Assistant Administrator for Management.
Deputy Assistant Administrator for Management.
Administrative Officer.
Regional Health Directors.

Office of Financial Management

Director.
Deputy Director.
Chief, Cost Advisory Branch.
Assistant Chief, Cost Advisory Branch.

Office of Procurement and Materiel Management

Director.
Chief, Materiel Management Branch.
Chief, Procurement Branch.
Officer in Charge, Supply Service Center.
Procurement Agent, Supply Service Center.
Positions in the GS–1102 series at grades 13 and above.

Office of Grants Management

Director.
Chief, Policy Development and Issuance Branch.
Chief, Grants Operations Branch.
Chief, Grants Analysis and Reports Branch.

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

Director.
Deputy Director.
Executive Officer.
Assistant Executive Officer.
Associate Director, Program Development.
Deputy Associate Director, Program Development.
Program Management Officer, Program Development.
Associate Director, Office of Grants and Contracts Review and Management.
Director, Review Branch.
Contract Review Officer.
Director, Management Branch.
All project officers involved in grant and contract activities at grades GS–13 and above.

NATIONAL CENTER FOR HEALTH STATISTICS

Director.
Deputy Director.
Associate Director.
Executive Officer.

REGIONAL MEDICAL PROGRAMS SERVICE

Division of Chronic Disease Programs

Director.
Deputy Director.
Executive Officer.
Assistant Executive Officer.
Chief, Office of Grants Management and Coordination.
Assistant Chief, Office of Grants Management and Coordination.

Division of Regional Medical Programs

Director.
Deputy Director.
Executive Officer.
Financial Management Officer.
Grants Management Officer.
Chief, Grants Review Branch.

COMMUNITY HEALTH SERVICE

Director.
Deputy Director.
Assistant Directors.
Executive Officer.
Director, Division of Health Care Services.
Associate Director, Division of Health Care Services.
Coordinator for Rural and Migrant Health.
Director, Division of Comprehensive Health Planning.
Chief, Grants and Contracts, Division of Analysis and Evaluation.

INDIAN HEALTH SERVICE

Director.
Deputy Director.
Executive Officer.
Assistant Executive Officer.
Indian Health Area Office Directors, Executive Officers, and General Services Officers: Aberdeen, Albuquerque, Anchorage, Mount Edgecombe, Billings, Oklahoma City, Phoenix, Portland.

FEDERAL HEALTH PROGRAMS SERVICE

Director.
Deputy Director.
Executive Officer.
Assistant Executive Officer.
Director, Hospital Administrative Officer, and General Services Officer, USPHS Hospitals: Baltimore, Boston, Carville, Detroit, Galveston, New Orleans, Norfolk, San Francisco, Savannah, Seattle, Staten Island.
Director, Division of Federal Employee Health.
Executive Officer, DFEH.
Medical Director, Prison Medical Services.
Director, Division of Emergency Health Services.
Deputy Director, DEHS.
Assistant Director for Engineering.
Executive Officer, DEHS.
Assistant Executive Officer.
Chief, Training Branch.
Statistician, Health Resources and Research Branch.
Public Health Advisor, Training Branch.
Principal Regional Representatives, DHEW Regional Offices.

HEALTH FACILITIES PLANNING AND CONSTRUCTION SERVICE

Director.
Deputy Director.
Executive Officer.
General Services Officer.
Assistant Director for Plans and Policies.
Education Officer.
Director and Deputy Director, Architectural, Engineering and Equipment Office.
Director and Deputy Director, Office of State Plans.
Medical Officer (Administration), Office of State Plans.
Public Health Advisor, Office of Director of State Plans.
Director and Deputy Director, Office of Program Planning and Analysis.
Health Administration Advisor.
Principal Regional Representatives, DHEW Regional Offices.

NATIONAL COMMUNICABLE DISEASE CENTER

Director.
Deputy Director.
Assistant Director.
Executive Officer.
Assistant Executive Officer.
Chief, Office of Research Grants.
Deputy Chief, Office of Research Grants.
Director, Foreign Quarantine Program.
Deputy Director, Foreign Quarantine Program.
Director, State and Community Services Division.
Chief, Immunization Branch.
Chief, Tuberculosis Branch.
Chief, Venereal Disease Branch.
Director, Laboratory Division.
Deputy Director, Laboratory Division.
Associate Director for Management.
Chief, Licensure and Development Branch.
Deputy Chief, Licensure and Development Branch.
Chief, Laboratory Licensure Section.
Chief, Examination Unit.
Chief, Laboratory Management Consultation Section.
Chief, Laboratory Training Section.
Chief, Scientific Resources Branch.
Chief, Biological Reagents Section.
Chief, Administrative Services Branch.
Deputy Chief, Administrative Services Branch.
Chief, Negotiated Contracts Activity.
Contract Administrator.
Contract Specialist.
Chief, Contracts and Purchases Section.

NATIONAL INSTITUTE OF MENTAL HEALTH

Director and Deputy Director.
Associate Directors.
Executive Officer and Deputy Executive Officer.
Division and Office Directors and Deputy Directors.
Associate Regional Health Directors.
Positions at grades GS–14 and GS–15 and above, or comparable pay levels whose incumbents are engaged in grant and fellowship activities including the review and approval of the applications and the administration thereof.
Project and Administrative Officers at grades GS–13 and above, or comparable pay levels, who are required to exercise judgment in making a Government decision concerning a proposed contractor's financial ability, and the propriety of payments during the course of contract administration.
Procurement and contract personnel, grades GS–13 and above, or comparable pay levels, who are required to exercise judgment in making a Government decision to purchase, contract, and accept material and/or services from non-Government entities.

Chiefs, and Deputy Chiefs, Lexington and Fort Worth Clinical Research Centers.
Chiefs and Assistant Chiefs of Clinical and Administrative Branches, Clinical Research Centers.
Director, Deputy Director, Assistant Director, Assistant to Director, National Center for Mental Health Services, Training and Research Superintendent, Assistant Superintendent, and First Assistant Physician, St. Elizabeths Hospital.
Executive Officer and Assistant Executive Officer, St. Elizabeths Hospital.
Chiefs and Directors of Clinical Divisions and Departments, St. Elizabeths Hospital.
Director, Laboratory Branch, St. Elizabeths Hospital.
Procurement Officer, St. Elizabeths Hospital.

MATERNAL AND CHILD HEALTH SERVICE

Director.
Assistant Director.
Assistant Director (International Activities).
Executive Officer.
Director, Division of Health Services.
Chief, Administrative Methods Branch.
Director, Division of Research.
Administrative Officer, Division of Research.

NATIONAL CENTER FOR FAMILY PLANNING SERVICES

Director.
Assistant Director.
Executive Officer.

NATIONAL INSTITUTES OF HEALTH

Office of the Director

Deputy Director.
Deputy Director for Science.
Associate Director for Extramural Research and Training.
Associate Director for Direct Research.
Associate Director for Clinical Care Administration.
Associate Director for Program Planning and Evaluation.
Associate Director for Administration.
Associate Director for Health Manpower.
Assistant Director for Collaborative Research.
Deputy Associate Director for Administration.

Institutes and Research Divisions, Division of Research Services, and Division of Research Grants

Director.
Deputy Director.
Associate Director.
Assistant Director.
Executive Officer.
Assistant Executive Officer.
Positions at GS–14 or 15, or those held by Director grade officers, whose incumbents are engaged in making judgments or determinations which materially affect the awarding and monitoring of grants and fellowships.
Project and administrative officers responsible for negotiating, supervising, accepting, and terminating research contracts, GS–13 or above.
Procurement, contract, and administrative officers who are required to exercise judgment in making a Government decision to purchase, contract, and accept material and/or services from non-Government entities, GS–13 or above.
Accountants and auditors, GS–13 or above, who are required to exercise judgment in making a Government decision concerning a proposed contractor's financial ability, and the propriety of payments during the course of contract administration.
Engineering positions and positions in the 1640 series in the Division of Research Services, GS–13 or above, and engineering positions in the National Institute of Environmental Sciences, GS–13 or above whose incumbents are authorized to approve contract change orders and determine acceptability of a contractor's performance.
Positions in the Division of Biologics Standards whose incumbents make independent inspections of establishments subject to Federal controls and are the recommending agents for approval of licenses, labels and/or products, GS–13 or above.

BUREAU OF HEALTH PROFESSIONS EDUCATION AND MANPOWER TRAINING

Office of Bureau Director

Director.
Deputy Director.
Deputy Director for Institutional Development.
Associate Director.
Associate Director for Program Planning and Evaluation.
Executive Officer.
Assistant Executive Officer.
Supervisory Contract Administrator.
Contract Specialist.

Division of Nursing

Director.
Deputy Director.
Assistant Director for Administration.
Chief, Research Grants Branch.
Chief, Nurse Education and Training Branch.

Division of Health Manpower Educational Services

Director.
Deputy Director.
Assistant Director for Administration.
Chief, Health Manpower Grants Branch.
Chief, Student Loan and Scholarship Branch.

Division of Physician Manpower

Director.
Deputy Director.
Assistant Director.
Assistant Director for Administration.
Chief, Research Grants Staff.
Chief, Physician Education Branch.
Chief, Continuing Education Branch.

Division of Allied Health Manpower

Director.
Deputy Director.
Executive Officer.
Chief, Educational Program Development Branch.
Chief, Manpower Resources Branch.
Chief, Program Assistance Branch.

Division of Dental Health

Director.
Deputy Director.
Scientific Director, Dental Health Center.
Scientific Director, Dental Clinical Center.
Executive Officer.
Chief, Research Grants Unit.

Division of Research Resources

Director.
Associate Director.
Executive Officer.
Grants Management Officer.
Chief, Special Research Resources Branch.
Chief, General Research Support Branch.
Chief, General Clinical Research Centers Branch.
Chief, Animal Resources Branch.

Division of Educational and Research Facilities

Director.
Deputy Director.
Assistant Director for Administration.
Grants Management Officer.
Chief, Architecture and Engineering Staff.
Chief, Dental Education and Facilities Branch.
Chief, Health Research Facilities Branch.
Chief, Nurse Education Facilities Branch.
Chief, Physician Education Facilities Branch.

National Library of Medicine

Director.
Deputy Director.
Executive Officer.
Assistant Executive Officer.
Contract Management Officer.
Grants and Contracts Management Officer, Extramural Programs.
Office Services Manager.

SOCIAL AND REHABILITATION SERVICE

Office of the Administrator

Deputy Administrator.
Associate Administrator.
Confidential Assistant to the Administrator.
Assistant Administrator for Field Operations.
Regional Commissioner, Region I.
Regional Commissioner, Region II.
Regional Commissioner, Region III.
Regional Commissioner, Region IV.
Regional Commissioner, Region V.
Regional Commissioner, Region VI.
Regional Commissioner, Region VII.
Regional Commissioner, Region VIII.
Regional Commissioner, Region IX.
Assistant Administrator for Administration.
Deputy Assistant Administrator for Administration.
Director, Finance Division.
Director, General Services Division.
All positions GS–13 and above in GS–1102 series.
Director, Management Systems Division.
Director, Division of Data Processing.

Office of Research, Demonstrations and Training

Assistant Administrator.
Deputy Assistant Administrator.
Program Management Officer.
Chief, Research and Demonstrations Division.
Deputy Chief, Division of Research and Demonstrations.
Chief, Intramural Research Division.
Deputy Chief, Intramural Research Division.
Chief, Division of Grants Management.
Grants Management Officer.
Chief, Division of Research and Training Centers.
Chief, Division of International Activities.
Assistant Chief, Research, Division of International Activities.
Assistant Chief, Training, Division of International Activities.
Chief, Division of Manpower Development and Training.

Office of Juvenile Delinquency and Youth Development

Director.
Deputy Director.

Cuban Refugee Program

Director.
Deputy Director.

Administration on Aging

Deputy Commissioner.
Associate Commissioner.
Executive Officer.
Director, Division of Older Americans Services.
Director, Research and Demonstrations Branch.
Director, Training Grants Branch.
Director, Foster Grandparent Program Branch.

Community Services Administration

Commissioner.
Deputy Commissioner.
Director, Family and Child Welfare Services.
Director, Self Support Services.
Chief, Office of Service Development.

Rehabilitation Services Administration

Associate Commissioner.
Executive Officer.
Director, Mental Retardation Division.
Director, Rehabilitation Training Division.
Director, Rehabilitation Facilities and Workshops Division.
Director, State Plans and Projects Division.

Assistance Payments Administration

Commissioner.
Deputy Commissioner.
Executive Officer.

Medical Services Administration

Commissioner.
Deputy Commissioner.
Executive Officer.
Director, Health Services Division.
Director, Medical Program Evaluation Division.
Director, Medical Program Management Division.
Director, Medical Program Planning and Development Division.

SOCIAL SECURITY ADMINISTRATION

OFFICE OF COMMISSIONER

Office of Commissioner, Field

Assistant Commissioner, Field.
Deputy Assistant Commissioner, Field.
Regional Commissioner.

OFFICE OF THE ACTUARY

Chief Actuary.

OFFICE OF ADMINISTRATION

Office of Assistant Commissioner

Assistant Commissioner.
Deputy Assistant Commissioner.

Employee Management Relations and Equal Employment Opportunity Staff

Civil Rights and Labor Relations Administrator.

Division of Systems Coordination and Planning

Director.
Deputy Director.
Digital Computer Systems Officer.
Chief, Systems Controls and Standards Branch.

Division of Operating Facilities

Director.
Deputy Director.
Deputy Director (Realty and Space).
Chief, Property Management Branch.
Deputy Chiefs, Property Management Branch.
Chief, Contract and Purchase Section.
Chief, Equipment Management Section.
Chief, Printing and Records Management Branch.
Deputy Chief, Printing and Records Management Branch.
Printing Officer.
Chief, Graphics Section.
Chief, Management Services Branch.

OFFICE OF INFORMATION

Assistant Commissioner for Public Affairs.

OFFICE OF PROGRAM EVALUATION AND PLANNING

Assistant Commissioner.

OFFICE OF RESEARCH AND STATISTICS

Assistant Commissioner.
Chief, Research Grants Staff.

BUREAU OF DATA PROCESSING AND ACCOUNTS

Director (Bureau).
Deputy Director (Bureau).
Deputy Assistant Bureau Director.
Assistant Bureau Director.
Assistant to the Director (Health Insurance).
Director (Division).
Deputy Director (Division).
Social Insurance Operations Advisor (GS–15).
Supervisory Computer Systems Analyst (GS–14).
Supervisory Communications Specialist (GS–13, 14, 15).
Micro-Photographic Systems Analyst.

BUREAU OF DISABILITY INSURANCE

Office of the Director

Director.
Deputy Director.
Executive Officer.
Technical Advisor.

Division of Management and Appraisal

Assistant Bureau Director.
Deputy Assistant Bureau Director.

Division of Disability Policy and Procedures

Assistant Bureau Director.
Chief, Systems and Procedures Branch.

Office of Assistant Bureau Director, Disability Operations

Assistant Bureau Director, Operations.

BUREAU OF DISTRICT OFFICE OPERATIONS

Director.
Deputy Director.

BUREAU OF HEALTH INSURANCE

Office of the Bureau Director

Bureau Director.
Deputy Bureau Director.
Assistant to the Bureau Director.
Chief Medical Officer.
Assistant Medical Officer.
Field Liaison Officer.
Program Integrity Officer.
Program Integrity Specialist (GS–14).
Program Analysis Officer (GS–14, 15).

Professional Organizations Liaison Staff

Supervisory Professional Relations Specialist.
Professional Relations Specialist (GS–14, 15).

Division of Management

Assistant Bureau Director.
Administrative Management Officer (GS–14).
Administrative Officer (GS–13).
Supervisory Management Analyst (GS–14).
Financial Management Officer (GS–14).
Supervisory Health Insurance Analyst (GS–14).

Regional Staff

Social Insurance Administrator (GS–14, 15).

Division of Reimbursement

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Medical Insurance Reimbursement Administrator (GS–14, 15).
Supervisory Social Insurance Reimbursement Specialist (GS–14).
Supervisory Accountant (GS–14, 15).
Accountant (GS–14).
Supervisory Social Insurance Analyst (GS–14).

Division of Policy and Standards

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Supervisory Social Insurance Specialist (GS–14, 15).
Health Insurance Determinations Review Officer (GS–14).
Health Insurance Reimbursement Administrator (GS–15).
Health Insurance Technical Advisor (GS–14).

Division of Intermediary Operations

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Supervisory Contract Operations Specialist (GS–14, 15).
Supervisory Contract Evaluation Specialist (GS–14, 15).
Supervisory Audit Review Specialist (GS–14).
Supervisory Fiscal Control Specialist (GS–14, 15).

Division of State Operations

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Social Insurance Advisor (GS–15).
Supervisory State Agency Operations Analyst (GS–15).
Technical Advisor (GS–14).
Supervisory Social Insurance Specialist (GS–14).

Division of Systems

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Supervisory Social Insurance Analyst (GS–14).
Social Insurance Administrator (GS–15).
Supervisory Management Analyst (GS–14, 15).

BUREAU OF HEARINGS AND APPEALS

Office of the Director

Director.
Deputy Director.

BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

Office of the Director

Director.
Deputy Director.
Executive Officer.

Office of the Assistant Bureau Director (Administration)

Assistant Bureau Director.
Deputy Assistant Bureau Director.
Chief, Administrative Management Branch.
Chief, Operating Services Section.

Division of Methods and Procedures

Assistant Bureau Director.
Deputy Assistant Bureau Director.

Payment Center Staff

Regional Representative.
Director of Management.
Assistant Director of Management.
Chief, Administrative Services Branch.
Director of Operations.

10. Appendix F "Code of Ethics for Government Employees" is redesignated as Appendix H.

11. A new Appendix F "Request for Approval of Outside Activity" is added.

12. A new Appendix G "Annual Report of Outside Activity" is added.

These amendments were approved by the Civil Service Commission on June 29, 1970, and are effective on publication in the FEDERAL REGISTER.

Dated: August 8, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70–10643; Filed, Aug. 13, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[4th Rev. S.O. 1041, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of August 1970.

Upon further consideration of Service Order No. 1041, as revised (35 F.R. 9858, 10150, 10225, 11023, 11402) and good cause appearing therefor:

It is ordered, That § 1033.1041 *Service Order No. 1041* (Distribution of boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

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

Effective date. This amendment shall become effective at 11:59 p.m., August 15, 1970.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–10665; Filed, Aug. 13, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[26 CFR Part 151]

REGULATORY TAXES ON NARCOTIC DRUGS

Administering and Dispensing Requirements; Extension of Time for Filing Comments

On June 11, 1970, a notice was published in the FEDERAL REGISTER (35 F.R. 9015) proposing that § 151.411 of Part 151 of Title 26 of the Code of Federal Regulations be amended to clarify the conditions under which narcotic drugs may be administered or dispensed in the course of narcotic addict rehabilitation programs. The notice provided for the filing of comments within 30 days after publication in the FEDERAL REGISTER. Thereafter, on July 25, 1970, additional notice was published granting an additional 30 days for the filing of comments.

The Bureau of Narcotics and Dangerous Drugs has received a further request for an extension of time for the filing of such comments. After conferring with the Commissioner of the Food and Drug Administration, it has been concluded that good reason is present for the extension of time to comment. Therefore, the time for filing comments on the proposed regulation is extended for an additional 30-day period ending September 9, 1970. A similar extension of time is being afforded by the Food and Drug Administration concerning this matter, and is published in this issue of the FEDERAL REGISTER.

This notice is being issued under the same authority as that cited in the original notice, and any comments should be filed at the same location as listed in the original notice.

Dated: August 6, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70-10645; Filed, Aug. 13, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

COAL MINE HEALTH AND SAFETY

Notice of Proposed Rule Making

In the FEDERAL REGISTER for March 28, 1970 (35 F.R. 5237) there was published as a part of Title 30, Code of Federal Regulations under Subchapter O—Coal Mine Health and Safety—Part 75—Mandatory Safety Standards, Underground Coal Mines. Since that date several notices pertaining to requirements and several notices of proposed rulemaking proposing amendments to various sections of Part 75 have been published in the FEDERAL REGISTER. Also, as a result of operating experience gained to date under the Federal Coal Mine Health and Safety Act of 1969 it is determined to be desirable to propose considerable additional amendments to Part 75 and to propose one new Subpart S—"Approved Books and Records."

Accordingly, in light of all of the previously published notices and proposals and the new proposals it is deemed advisable, pursuant to the authority contained in paragraph (d) of section 301 of the Coal Mine Health and Safety Act of 1969 (Public Law 91-173) to propose a new Part 75.

In order to facilitate consideration of this new proposal, new sections or subsections which have been added since the March 28, 1970, publication are designated in the index by means of a single asterisk (*) and sections and subsections which have been amended are designated by means of a double asterisk (**).

Interested persons may submit written comments, suggestions, or objections to the Director, Bureau of Mines, Washington, D.C. 20240 no later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

FRED J. RUSSELL,
Under Secretary of the Interior.

AUGUST 6, 1970.

PART 75 — MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Subpart A—General

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**75.1	Scope.
75.2	Definitions.

Subpart B—Qualified and Certified Persons

75.100	Certified person.
75.150	Tests for methane and for oxygen deficiency; qualified person.
75.151	Tests for methane; qualified person; additional requirement.
75.152	Tests of air flow; qualified person.
**75.153	Electrical work; qualified person.
75.154	Repair of energized surface high voltage lines; qualified person.
75.155	Qualified hoisting engineer; qualifications.
75.159	Records of certified and qualified persons.
75.160	Training programs.
**75.160-1	Plans for training programs.

Subpart C—Roof Support

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75.200	Roof control programs and plans.
75.200-1	Roof control program requirements.
**75.200-2	Roof control plans.
75.200-3	Filing of roof control plans.
75.200-4	Actions on roof control plans.
75.200-5	General information required in roof control plans.
**75.200-6	Criteria for approval of roof control plans.
**75.200-7	Criteria—Full roof bolting plan.
**75.200-8	Criteria—Conventional roof control plan.
**75.200-9	Criteria—Combination roof control plan.
**75.200-10	Criteria—Spot roof bolting plan.
**75.200-11	Criteria—Pillar recovery plan.
**75.200-12	Criteria—Special roof control plan.
**75.200-13	Criteria—Temporary support.
**75.200-14	Criteria—Roof support recovery.
75.201	Mining methods.
**75.201-1	Widths of openings.
**75.201-2	Pillar recovery methods.
75.201-3	Longwall mining.
75.202	Roof support materials.
*75.202-1	Adequate supply and location of roof support materials.
75.203	Roof bolt tests.
**75.203-1	Testing requirements.
75.204	Roof bolt recovery.
75.204-1	Requirements for roof bolt recovery.
75.205	Roof testing.

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75.300	Mechanical ventilation—main fans.
**75.300-1	Criteria for approval of main fan installation and operation.
**75.300-2	Criteria—Installation of main fans.
**75.300-3	Criteria—Operation of main fans.
75.300-4	Inspection, examinations and records.
75.301	Air quality, quantity, and velocity.
*75.301-1	Quality of air reaching working face.
75.301-2	Harmful quantities of noxious gases.
75.301-3	Locations of air measurements.
*75.301-4	Quantity and velocity of air; minimum requirements.
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**75.302-1	Installation of line brattice and other devices.
75.302-2	Repair of line brattice.
75.302-3	Flame resistant brattice cloth and ventilation tubing.
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75.303	Preshift examination.
75.303-1	Determination of course, volume, and velocity of air.
*75.303-2	Air measurement devices; approval; applications for approval.
75.304	On-shift examinations for hazardous conditions.
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**75.304–2 Tests for methane.
75.305 Weekly examinations for hazardous conditions.
75.305–1 Intervals of examination.
**75.305–2 Tests for methane.
75.306 Weekly ventilation examinations.
75.306–1 Qualified person.
75.306–2 Intervals of examinations.
75.307 Methane examinations.
**75.307–1 Methane examinations at face.
75.308 Methane accumulations in face areas.
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**75.309–1 Tests for methane.
75.309–2 Location of methane test.
75.309–3 Changes or adjustments in ventilation.
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75.310 Methane in virgin territory.
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**75.310–2 Tests for methane.
75.310–3 Location of methane tests.
75.311 Air passing opening of abandoned area.
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75.312 Air passing through abandoned, inaccessible, or robbed area.
**75.312–1 Pillared areas.
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75.313 Methane monitor.
75.313–1 Methane monitors, maintenance.
*75.313–2 Methane monitors; determination of reliability.
75.314 Inspection of idle and abandoned areas.
**75.314–1 Test for methane.
75.315 Examinations before intentional roof fall.
**75.315–1 Test for methane.
75.316 Ventilation system and methane and dust control plan.
**75.316–1 Methane content in active workings.
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**75.316–3 Criteria for approval of ventilation system and methane and dust control plan.
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75.318 Pillar recovery without bleeder system.
75.319 Ventilation of mechanized mining sections.
**75.319–1 Mechanized mining section.
75.320 Examination for methane before blasting.
75.321 Stoppage of fans, plans.
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75.322 Change in ventilation.
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75.324 Reports by mine foremen.
75.325 Reopening mines.
75.326 Aircourses and belt haulage entries.
75.327 Aircourses and trolley haulage systems.
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75.328 Ventilation during pillar extraction.
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**75.329–1 Sealing or ventilation of pillared or abandoned area.
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75.330 Sealing abandoned sections.
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75.400–1 Definitions.
75.400–2 Cleanup program.
75.401 Abatement of dust; water or water with a wetting agent.
**75.401–1 Excessive amounts of dust.
75.402 Rock dusting.
75.402–1 Definition.
75.402–2 Exceptions.
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*75.403–1 Incombustible content.
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75.501 Permissible electric face equipment; coal seams above water table.
75.501–1 Coal seams above the water table.
75.501–2 Permissible electric face equipment.
75.502 Permits for noncompliance.
75.503 Permissible electric face equipment; maintenance.
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75.504 Permissibility of replacement and rebuilt electric face equipment.
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75.510 Energized trolley wires; repair.
75.510–1 Repair of energized trolley wires; training.
75.511 Low-, medium-, or high-voltage distribution circuits and equipment; repair.
75.511–1 Qualified person.
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75.512–2 Frequency of examinations.
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75.516 Power wires; support.
**75.516–1 Installed insulators.
75.517 Power wires and cable; insulation and protection.
*75.517–1 Power wires and cables; insulation and protection.
*75.517–2 Plans for insulation of existing bare power wires and cables.
75.518 Electric equipment and circuits; overload and short circuit protection.
**75.518–1 Electric equipment and circuits; overload and short circuit protection; minimum requirements.

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*75.518–2 Incandescent lamps; overload and short circuit protection.
75.519 Main power circuits; disconnecting switches.
75.519–1 Main power circuits; disconnecting switches; locations.
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75.521 Power conductors, lightning arresters.
75.522 Lighting devices.
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75.523 Electric face equipment; deenergization.
75.523–1 Deenergization of battery powered tractors; emergency devices.
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75.600–1 Approved cables; flame resistance.
75.601 Short circuit protection of trailing cables.
75.601–1 Short circuit protection; ratings and settings of circuit breakers.
75.601–2 Short circuit protection; use of fuses, approval by the Secretary.
*75.601–3 Short circuit protection; dual element fuses; current ratings; maximum valves.
75.602 Trailing cable junctions.
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75.701–1 Approved methods of grounding of equipment receiving power from ungrounded alternating current power systems.
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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.
75.701–4 Grounding wires; capacity of wires.
75.701–5 Use of grounding connectors.
75.702 Protection other than grounding.
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75.703–2 Approved grounding mediums.
75.703–3 Approved methods of grounding offtrack mobile, portable and stationary direct-current machines.
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75.704 Grounding frames of stationary high-voltage equipment receiving power from ungrounded delta systems.
75.704–1 Approved methods of grounding.
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75.800–2 Approved circuit schemes.
75.800–3 Testing, examination and maintenance of circuit breakers; procedures.
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75.802 Protection of high-voltage circuits extending underground.
75.803 Fail-safe ground check circuits on high-voltage resistance grounded systems.
75.803–1 Maximum voltage ground check circuits.
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75.810 High-voltage trailing cables; splices.
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75.900–3 Testing, examinations and maintenance of circuit breakers; procedures.
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75.901 Protection of low- and medium-voltage three-phase circuits used underground.
75.902 Low- and medium-voltage ground check monitor circuits.
75.902–1 Maximum voltage ground check circuits.
75.902–2 Approved ground check systems not employing pilot check wires.
75.902–3 Low- and medium-voltage ground check circuit; extension of time for noncompliance.
75.902–4 Attachment of ground conductors and ground check wires to equipment frames; use of separate connections.
75.903 Disconnecting devices.
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75.1003–1 Other requirements for guarding of trolley wires and trolley feeder wires.

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**75.1100–1 Type and quality of firefighting equipment.
**75.1100–2 Quantity and location of firefighting equipment.
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**75.1101–1 Deluge-type water spray systems.
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**75.1101–4 Branch lines.
**75.1101–5 Installation of foam generator system.
*75.1101–6 Water sprinkler systems; general.
*75.1101–7 Installation of water sprinkler systems; requirements.
*75.1101–8 Water sprinkler systems; arrangement of sprinklers.
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*75.1101–10 Water sprinkler systems; fire warning devices at belt drives.
*75.1101–11 Inspection of water sprinkler systems.
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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 within the periods prescribed therein;

(j) "Low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "higher voltage" means more than 1,000 volts;

(k) "Respirable dust" means only dust particulates 5 microns or less in size;

(l) "Coal mine" includes areas of adjoining mines connected underground;

(m) "Secretary" means the Secretary of the Interior or his delegate; and

(n) "Act" means the Federal Coal Mine Health and Safety Act of 1969.

Subpart B—Qualified and Certified Persons

§ 75.100 Certified person.

(a) The provisions of Subpart D—Ventilation of this Part 75 require that certain examinations and tests be made by a certified person. A certified person within the meaning of those provisions is a person who has been certified as a mine foreman (mine manager), an assistant mine foreman (section foreman), or a preshift examiner (mine examiner). A person who has been so certified is also a qualified person within the meaning of those provisions of Subpart D of this part which require that certain tests be made by a qualified person and within the meaning of § 75.1106.

(b) A person who is certified as a mine foreman, an assistant mine foreman, or a preshift examiner by the State in which the coal mine is located is, to the extent of the State's certification, a certified person within the meaning of the provisions of Subpart D of this part and § 75.1106 referred to in paragraph (a) of this section.

(c) (1) The Secretary may temporarily certify for periods of time not to exceed 6 months for each such temporary certification, persons in the categories of mine foreman, assistant mine foreman, and preshift examiner whenever the State in which such persons are presently employed in such categories does not provide for such certification with respect to the coal mines in which such persons are employed, if the operator of such a coal mine in which such persons are employed makes an application and satisfactory showing that each such person has had at least 2 years experience underground in a coal mine and has held the position of mine foreman, assistant mine foreman, or preshift examiner for a period of 6 months immediately preceding the filing of the application and is qualified to test for methane and for oxygen deficiency. Applications for temporary Secretarial certification should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

(2) A person certified by the Secretary under this paragraph (c) will be a certified person, within the meaning of the provisions of Subpart D of this part and § 75.1106 referred to in paragraph (a) of this section, only with respect to the coal mine in which he is employed at the time the application for certification is filed.

§ 75.150 Tests for methane and for oxygen deficiency; qualified person.

(a) The provisions of Subpart D—Ventilation of this part and § 75.1106 require that tests for methane and for oxygen deficiency be made by a qualified person. A person is a qualified person for this purpose if he is a certified person under § 75.100.

(b) 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, pending issuance of federal standards which will give recognition to practical experience, may temporarily qualify persons for this purpose for periods of time not to exceed 6 months for each temporary certification if the operator of the coal mine in which such persons are employed makes an application and a satisfactory showing that each such person (1) has been performing electrical work, including the inspection, testing, and maintenance of electrical equipment and circuits, underground in a coal mine for 1 year preceding the application, or (2) has equivalent experience. Applications for temporary Secretarial qualification and renewals for an additional 6 months should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, Pittsburgh, Pa. 15213.

§ 75.154 Repair of energized surface high-voltage lines; qualified person.

An individual is a qualified person within the meaning of § 75.705 for the purpose of repairing energized surface high voltage lines only if he has had at least 2 years experience in electrical maintenance, and at least 2 years experience in the repair of energized high voltage surface lines located on poles or structures.

§ 75.155 Qualified hoisting engineer; qualifications.

(a) (1) A person is a qualified hoisting engineer within the provisions of Subpart O of this part, for the purpose of operating a steam-driven hoist in a coal mine, if he has at least 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 December 31, 1970, each operator shall submit to the Secretary a program or plan setting forth what, when, how and where he will train and retrain persons whose work assignments require that they be certified or qualified. Such program shall provide: (a) For certified persons, annual training courses in methane measurement and oxygen deficiency testing, roof and rib control, ventilation, first aid, principles of mine rescue, and the provisions of this Part 75; and (b) for qualified persons, annual courses in 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 supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine and approved by the Secretary shall be adopted and set out in printed form on or before May 29, 1970. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every 6 months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished to the Secretary or his authorized representative and shall be available to the miners and their representatives.

§ 75.200–1 Roof control program requirements.

Each operator shall adopt an adequate program for improving roof control 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.

§ 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:

(a) Name and address of the company.

(b) Name and address of the mine.

(c) Names and addresses of the responsible officials.

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

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

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

(2) Identify by type and show the thickness of each stratum (rock layer) up to and including the main roof over and for 10 feet under the coalbed.

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

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

(1) Drawings on 8½-inch by 11-inch paper or on paper folded to this size, showing the location of all roof, face, and rib supports for each method of mining employed at the mines. The scale shall be specified and not less than 5 feet to the inch nor more than 20 feet to the inch. A legend explaining all the symbols used shall also be included on the drawings.

(2) A list of all roof support materials employed in the roof control system including, where applicable, the name of the manufacturer and its designation for the item. Prior approval shall be obtained before making any changes in the materials listed.

§ 75.200–6 Criteria for approval of roof control plans.

Sections 75.200–7 through 75.200–14 set out the criteria by which District Managers will be guided in approving roof control plans on a mine-by-mine basis. Additional measures may be required. Roof control plans which do not conform to these criteria may be approved providing the operator can satisfy the Bureau of Mines that the resultant roof conditions will provide no less than the same measure of protection to the miners.

§ 75.200–7 Criteria—Full roof bolting plan.

A full roof bolting plan is one in which roof bolts constitute the sole means of roof support at a face as part of the normal mining cycle.

(a) Roof bolt assemblies should meet the following specifications:

(1) All components of the roof bolt assembly should comply with the American National Standards Institute, "Specifications for Roof Bolting Materials in Coal Mines".

(2) Roof bolts that provide support by creating a beam of laminated strata should be of a length that assures adequate anchorage, but in no case should the length of the bolt be less than 30 inches.

(3) Roof bolts that provide support by suspending the immediate roof from a stronger overlying strata should be of a length that permits anchoring at least 12 inches in the stronger strata.

(4) Bearing plates used directly against the mine roof should be not less than 6 inches square or of equivalent area. In exceptional cases where the mine roof is firm and not susceptible to sloughing, bearing plates 5 inches square or of equivalent area may be used.

(5) When wooden material such as planks, header blocks, and crossbars are used between the bearing plate and the roof for additional bearing, the use should be limited to short-life openings (not to exceed 3 years) unless treated. Bearing plates used in conjunction with wooden materials should be not less than 4 inches square or of equivalent area.

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

(b) Installation practices:

(1) Finishing bits should be easily identifiable by sight or feel and the diameter should be within a tolerance of plus 0.030-inch minus zero of the manufacturers recommended hole diameter for the anchor used.

(2) Torque ranges specified in the roof control plan should be capable of providing roof bolt loads to within plus or minus 1,000 pounds of 50 percent of either the yield point of the roof bolt being used or the anchorage capacity of the strata, whichever is less. In no case, however, should installed torques provide loads that exceed the yield point of the roof bolt being used or the anchorage capacity. Relationship for determining roof bolt load for torque applied are as follows:

CONE NECK OR SELF-CENTERING ROOF BOLT

⅝-inch expansion type roof bolt—30 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—30 lbs. of load per ft.-lb. of torque.

STANDARD ROOF BOLT WITHOUT HARD WASHER OR LUBRICANT

⅝-inch expansion type roof bolt—50 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—40 lbs. of load per ft.-lb. of torque.

STANDARD ROOF BOLT WITH HARD WASHER OR LUBRICANT

⅝-inch expansion type roof bolt—60 lbs. of load per ft.-lb. of torque.
¾-inch expansion type roof bolt—60 lbs. of load per ft.-lb. of torque.

(3) Each operator should outline and describe roof bolt testing procedures to be followed in the roof control plan. The procedures to be followed should include:

(i) Providing and maintaining an approved, calibrated torque wrench on each roof bolting machine. An approved wrench should be one that will indicate the actual torque on the roof bolt.

(ii) Designating a qualified person to spot check torques on at least 25 percent of the roof bolts immediately after the working place has been fully bolted. If the majority of the installed torques fall outside the recommended range, the remaining roof bolts in the working place should be tested. If the majority of the torques still fall outside the recommended range, necessary adjustments in the equipment used for tightening the roof bolts should be made immediately. If, after adjustments are made and required torques are not achieved, supplementary support such as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars should be installed.

(iii) On a daily basis, spot check torques on at least 10 percent of the roof bolts from the outby corner of the last open crosscut to the face and record the results. This record should show the number of roof bolts tested, number of roof bolts below the recommended range, and the number of roof bolts above the recommended range. If results show that a majority of the roof bolts are not maintaining at least 70 percent of the minimum torque required (50 percent if plates bear against wood), or have exceeded the maximum required torque by 50 percent, supplementary support such as additional roof bolts, longer roof bolts with adequate anchorage, posts, cribs, or crossbars should be installed until a review of the adequacy of the roof control plan is made by an authorized representative of the Secretary.

(4) Devices should be used to compensate for the angle when roof bolts are installed at angles greater than 5 degrees from the perpendicular to the roof line.

(c) Roof bolting pattern:

(1) Roof bolt spacing either lengthwise or crosswise should not exceed 5 feet.

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

(3) Roof bolts should be installed as close as possible to, but not more than 5 feet from, the face before starting conventional cutting or a continuous miner run.

(d) Openings should not exceed 20 feet in width where roof bolting is the sole means of roof support.

§ 75.200–8 Criteria—Conventional roof control plan.

A conventional roof control plan is one in which installation of materials other than roof bolts such as metal or wood posts, jacks, or cribs in conjunction with wooden cap blocks (half headers), footers (sills), planks and beams are installed as the sole means of roof support at a face as part of the normal mining cycle.

(a) Support materials should meet the following specifications:

(1) Posts should be of solid, straight grain wood with the ends sawed square and free from defects which would affect their strength.

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

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

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

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

(b) Installation practices:

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

(2) Posts should not be installed under roof susceptible to sloughing or under disturbed roof without a wooden cap block, plank, or crossbar between the post and the roof.

(3) Posts should be installed tight and on solid footing.

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

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

(c) Conventional support pattern:

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

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

(3) Roof supports should be installed to within 5 feet of the uncut face; however, the supports nearest the face may be removed to facilitate the operation of face equipment if equivalent temporary support is installed prior to removal.

(4) When an opening is no longer needed for storing supplies or for travel of equipment the roof at the entrance of all such openings along travelways should be supported by extending the post line across the opening.

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

§ 75.200–9 Criteria—Combination roof control plan.

For a plan where both roof bolts and conventional supports are used for roof control at the face, the criteria for a Full Roof Bolting Plan and a Conventional Roof Control Plan should apply with the following modifications:

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

(b) The roadway should be limited to 16 feet in width on both the straight and the curves to within 10 feet of the uncut face.

(c) A row of posts should be set for each 5 feet of space between the roadway posts and the ribs.

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

§ 75.200–10 Criteria—Spot roof bolting plan.

Spot roof bolting may be used only as a supplement to the approved roof control plan at random locations where adverse roof conditions are encountered. Where spot roof bolting is used, the criteria in § 75.200–7 (a) and (b) of the Full Roof Bolting Plan should apply. In addition, roof bolts should be installed in accordance with roof conditions, but in no case should spacing exceed 4 feet lengthwise and crosswise. Roof bolting should begin under sound roof and continue for the length of the adverse roof condition until sound roof is again encountered.

§ 75.200–11 Criteria—Pillar recovery plan.

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

(a) Sections 75.200–7, 75.200–8, and 75.200–9 should apply depending on whether the pillar recovery plan calls for conventional support or a combination of conventional support and roof bolting.

(b) During development, the size and shape of the pillars should be dictated by the depth of cover, height of coal and other conditions associated with the coalbed. The smallest dimension of the pillar should be no less than 20 feet.

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

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

(e) A row of roadside-radius (turn) posts or the equivalent should be installed on not more than 4-foot centers leading into pillar spilts, including secondary splits in slabs, wings, o fenders.

(f) The width of the roadway leading from the solid pillars to a final stump (pushout) should not exceed 14 feet. At least two rows of posts or their equivalent should be set on each side of the roadway on not more than 4-foot centers. Only one open roadway leading to a final stump (pushout) should be permitted.

(g) Before full pillar recovery is begun in areas where roof bolts were used as the sole means of roof support and openings are more than 16 feet wide, supplementary support should be installed. Supplementary supports should consist of at least one row of posts installed on either side on not more than 4-foot centers lengthwise and limit the width of all roadways to 16 feet. These supports should be extended from the entrance to the split for at least one full pillar outby the pillar in which the split is being made.

(h) The following criteria should apply to open end pillaring:

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

(2) If the roof in open end pillaring has a tendency to hang, falls should be made, or cribs installed in addition to the breakline posts between the active lift and the hanging area. The cribs should be set not more than 8 feet apart. Heavy duty hydraulic jacks set at centers close enough to give equivalent support may be substituted for cribs, if such jacks are removed remotely.

§ 75.200–12 Criteria-special roof control plan.

A special roof control plan should be adopted and followed when support is installed on an intermittent basis but only at predetermined locations such as at intersections, or when equipment is especially designed to provide either natural or artificial support as the coal is mined. Special roof control plans also cover experimental installations using new devices, materials, and methods for roof support.

(a) The following criteria should apply to mining systems employing continuous mining machines designed to give natural roof support by means of an arched roof:

(1) Where coal roof other than that included in the arch is necessary for roof support, positive means should be used to assure that at least 6 inches of coal roof is maintained at all times. In the event that less than 6 inches of coal roof is encountered, all work in such places should be stopped, the continuous miner withdrawn, and artificial roof support installed. A roof control plan for the support to be installed in such cases must be submitted for approval.

(2) During the development of four-way intersections, the roof between the tangents of the arches in the entry or room should be supported with artificial roof supports prior to the development of the fourth entrance to such intersection.

(3) All areas where the width of openings is to exceed the normal cutting width of the continuous mining machine should be supported with additional support as specified in the roof control plan before any other work is performed in the place.

(4) All areas where the arch is broken, except planned areas such as those covered in subparagraphs (2) and (3) of this paragraph should be considered as having unsupported roof and such roof should have artificial roof supports installed prior to any other work being performed in the area.

(b) The following criteria should apply to mining methods using continuous miners with integral roof bolting equipment where roof bolts are the sole means of roof support:

(1) The distance between roof bolts should not exceed 8 feet crosswise, unless additional material such as wooden planks, wooden beams, or metal straps are installed in conjunction with the roof bolts. Roof bolts installed more than 8 feet, but less than 9 feet apart, should be supplemented with a wooden plank at least 2-inches thick by 8-inches wide or its equivalent. Roof bolts installed more than 9 feet but less than 10 feet apart should be supplemented with a wooden plank at least 3-inches thick by 8-inches wide or its equivalent. Roof bolts should not be installed more than 10 feet apart.

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

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

(4) The distance between the last row of bolts and the face should not exceed the distance from the head of the machine to the integral roof bolting equipment before starting a continuous miner run.

(c) Before any new support materials, devices or systems are used as a sole means of roof support, their effectiveness should be demonstrated by experimental installations in areas approved by an authorized representative of the Secretary.

§ 75.200–13 Criteria—Temporary support.

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

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

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

(3) A minimum of two temporary supports should be installed on not more than 5-foot centers and within 5 feet of the rib or face when work is being done between such support and the nearest rib or face. At least four temporary supports should be installed on not more than 5-foot centers when work is being done in other areas of the face inby the last permanent support. No person should be permitted to proceed beyond temporary support in any direction unless such support is within 5 feet of the rib, face, or permanent support.

(b) During rehabilitation work such as rebolting, installing crossbars, or other permanent roof support, taking down loose roof and cleaning up falls of roof, temporary roof supports should be installed and the following criteria should apply:

(1) Where rebolting work is being done or crossbars are being installed, at least two rows of temporary supports on not more than 5-foot centers should be installed across the place so that the work in progress is done between the installed temporary supports and permanent roof supports installed in sound roof. The distance between the permanent supports and the nearest temporary supports should not exceed 5 feet.

(2) Tools used to take down loose material should be of a design that will enable workmen to perform their duties from a safe position without exposure to falling material. Where loose material is being taken down, a minimum of two temporary supports on centers of not more than 5 feet should be set between the workmen and the material if such work cannot be done from an area supported by permanent roof supports.

(3) Where roof falls have occurred a minimum of four temporary supports shall be set before starting any work in and around the affected area. These supports should be located so as to provide the maximum protection for persons working in the area.

§ 75.200–14 Criteria—roof support recovery.

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

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

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

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

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

(1) Where roof fractures are present or there are other indications of the roof being structurally weak.

(2) Where any second mining has been done.

(3) Where torque readings on roof bolts or visual observations of conventional support indicate excessive loading.

(e) Two rows of temporary supports on not more than 4-foot centers, lengthwise and crosswise, should be set across the place, beginning not more than 4 feet inby the support being recovered. In addition, at least one temporary support should be provided as close as practicable to the support being recovered.

(f) Temporary supports used should not be recovered unless recovery is done remotely from under roof where the permanent supports have not been disturbed and two rows of temporary support, set across the place on 4-foot centers, are maintained at all times between the workmen and the unsupported area.

(g) No one should be permitted to enter any area from which supports have been recovered.

(h) Entrances to the areas from which supports are being recovered should be marked with danger signs placed at conspicuous locations. The danger signs will suffice as long as further support recovery work is being done in the area. If the recovery work is completed or suspended for 3 or more days, the areas should be barricaded.

§ 75.201 Mining methods.

[Statutory Provisions]

The method of mining followed in any coal mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

§ 75.201–1 Widths of openings.

(a) The method of mining shall provide widths of openings and pillar dimensions compatible with effective roof control. These widths and dimensions shall be incorporated into the roof control plan submitted for approval.

(b) Where excessive widths result from poor mining practices, additional roof support shall be installed before any travel or other work is done in such area. If excessive widths of openings are a result of coal sloughing, additional support shall be installed and the mining system reevaluated to determine changes that are necessary to minimize such occurrences.

§ 75.201–2 Pillar recovery methods.

In addition to those criteria set forth in § 75.200–11 which may be required in the roof control plan, the following shall apply to pillar recovery:

(a) The overall pillar recovery system shall be designed to minimize the possibility of outbursts or squeezes. The manner and sequence of recovery shall be included in the roof control plan submitted for approval.

(b) Where full pillar recovery is being done, extraction shall be such as to allow total caving of the main roof in the pillared area.

(c) During partial pillar recovery sufficient coal shall be left in place to support the main roof to the extent that the possibility of undue forces overriding the working places will be minimized.

(d) A combination of full and partial pillar recovery shall not be conducted on the same pillar line.

(e) If full extraction of pillars is being done and physical conditions such as standing water, adverse roof conditions, and falls of roof, or law requirements concerning oil and gas wells or surface subsidence dictate that some pillars of coal are to be left in place, a sufficient amount of coal shall be left to support the main roof so as to minimize the possibility of undue forces overriding the working places.

(f) Where full recovery of pillars is planned, the design of the pillars shall be compatible with the planned method of extraction.

(g) Pillaring methods shall eliminate pillar points and pillars that project inby the breakline.

(h) When recovering adjacent pillars left and right from the same opening, mining shall be completed in one such pillar lift and the openings posted off with at least two rows of breaker posts on not more than 4-foot centers before operations are started in the second pillar.

§ 75.201–3 Longwall mining.

Longwall mining shall be considered as a modification of the open-end method of pillar extraction and the support system for the longwall shall be approved on an individual basis.

§ 75.202 Roof support materials.

[Statutory Provisions]

The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mines as the Secretary may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

§ 75.202–1 Adequate supply and location of roof support materials.

The operator shall have an adequate supply of roof support material (including temporary supports) as specified in the approved roof control plan for the type of mining being conducted as close as practical to the working face, but no

farther away than the first open crosscut out by the working face unless storing of such supplies in this area poses a hazard to the miner. In such cases supplies shall be stored at an alternate location approved by an authorized representative of the Secretary. Where mining equipment such as roof drilling machines or timbering machines are required to install the supports, such support material may be transported from place to place on the equipment. An adequate supply shall be defined as sufficient material including temporary supports, to support roof exposed by one complete cycle of mining. An additional supply of supplementary roof support materials, such as posts, jacks, crossbars, or different length roof bolts, shall be available in each working section in the event adverse roof conditions, such as water coming from the roof, slips, washouts, wants, roof cracks, are encountered.

§ 75.203 Roof bolt tests.

[STATUTORY PROVISIONS]

When installation of roof bolts is permitted, such roof bolts shall be tested in accordance with the approved roof control plan.

§ 75.203–1 Testing requirements.

The criteria which may be required in the roof control plan for testing installed roof bolts are set forth in § 75.200–7(b), (i), (ii), and (iii).

§ 75.204 Roof bolt recovery.

[STATUTORY PROVISIONS]

Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

§ 75.204–1 Requirements for roof bolt recovery.

To assure that miners are protected during roof bolt recovery work, the operator shall conform with criteria set forth in § 75.200–14.

§ 75.205 Roof testing.

[STATUTORY PROVISIONS]

Where miners are exposed to danger from falls of roof, face, and ribs the operator shall examine and test the roof, face, and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

Subpart D—Ventilation

§ 75.300 Mechanical ventilation—main fans.

[STATUTORY PROVISIONS]

All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

§ 75.300–1 Criteria—For approval of main fan installation and operation.

Sections 75.300–2 through 75.300–3, inclusive, set out the criteria by which Coal Mine Safety District Managers will be guided in approving main fan installation and operation on a mine-by-mine basis. Additional measures may be required. Installation and operating practices not conforming to these criteria may be approved, providing the operator can satisfy the Bureau of Mines that the results of such practices will provide no less than the same measure of protection to the miners.

§ 75.300–2 Criteria—Installation of main fans.

(a) Main fans should be:

(1) Installed on the surface.

(2) Installed in fireproof housings and connected to the mine opening with fireproof air ducts.

(3) Equipped with a pressure-recording gage and an automatic signal device designed to give alarm should the fan slow or stop. The signal from this device should be placed so that it will be seen or heard by a responsible person who is always on duty and can hear or will observe such alarm when men are underground and who should take appropriate action immediately as prescribed in § 75.321 or § 75.300–3(b).

(b) To protect main fans from forces coming out of the mine should an explosion occur:

(1) Main fans should be offset not less than 15 feet from the nearest side of the mine opening, and explosion doors or a weak wall having a cross-sectional area equal to or greater than the connection entry should be provided in direct line with possible explosion forces, or

(2) Main fans may be installed in line with a diversion entry, slope, or shaft (fan entry) driven from the mine air courses to the surface. The surface opening of the fan entry should be no less than 15 feet nor more than 100 feet from the surface opening of the connected mine air course (pressure relief entry). The pressure relief entry opening should be provided with a weak wall or explosion doors in direct line with forces of an explosion originating underground and such weak wall or explosion doors should have a cross-sectional area equal to or greater than the pressure relief entry and cross-sectional area of the pressure relief entry should not be less than that of the fan entry. The underground intersection of the fan entry and pressure relief entry should be no less than 15 feet nor more than 100 feet from the surface opening of the pressure relief entry. The pillar of coal between the pressure relief entry and the fan entry should, regardless of coal bed height, contain not less than 2,500 square feet.

(c) Main fans may be driven either by electric motors or internal combustion engines.

(1) When electric motors are used, they should be provided with a separate power circuit independent of any other mine circuit.

(2) When an internal combustion engine is used the engine should be installed in a fireproof housing, located so as to be protected from possible fuel supply fire or explosions and the engine and exhaust should be located out of direct line with the airstream produced by the fan and be vented to the atmosphere in such a manner that the exhaust gases cannot contaminate the mine intake airstream or any enclosure.

(d) In mines ventilated by multiple force or multiple exhaust main fans, each main fan installation should be equipped with fireproof doors so designed and positioned that in event of the failure of a main fan the doors at the fan will automatically close and prevent air reversal through the fan.

(e) In mines ventilated by a combination of force and exhaust main fans, fireproof automatic closing doors should be installed so that in event of fan failure or stoppage, the doors will automatically close to prevent air reversal that would affect the safety of the miners.

(f) The area surrounding all main fans should be kept free of flammable material for at least 100 feet in all directions.

§ 75.300–3 Criteria—Operation of main fan.

(a) All main fans should be kept in continuous operation except in the event of:

(1) Scheduled maintenance or adjustments on idle days when all men other than those performing evaluation of adjustments are withdrawn from the mine and the mine power is cut off.

(2) Uncontrolled stoppage or fan failure.

(3) Other stoppages, when written permission is obtained from an authorized representative of the Secretary.

(b) If an unusual variance in the mine ventilation pressure is observed, or if an electrical or mechanical deficiency of a main fan is detected, the mine superintendent or assistant mine superintendent or mine foreman should be notified immediately and appropriate action or repairs should be instituted promptly.

(c) Airflow should be maintained in all intake and return air courses of a mine. Where multiple fans are used, neutral areas (areas without perceptible air movement) created by pressure equalization between main fans should not be permitted.

§ 75.300–4 Inspection, examinations, and records.

(a) All main fans shall be inspected daily by a person trained and designated by the operator to make such inspections to insure the electrical and mechanical reliability of such fans.

(b) The fan pressure recording gages shall be examined daily and the charts for such gages shall be changed after completing one revolution.

(c) Automatic closing doors as required in multiple fan systems shall be

inspected at least once a month (intervals of not more than 31 days), to insure proper operation.

(d) Results of the inspections shall be recorded in a daily fan inspection book approved by the Secretary.

(e) Records of the daily fan inspections and the fan pressure recording gage charts shall be maintained for a minimum 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 Quantity of air reaching working face.

A minimum quantity of 3,000 cubic feet a minute of air shall reach each working face from which coal is being cut, mined, or loaded and any other working face so designated by the Coal Mine Safety District Manager, in the approved ventilation plan.

§ 75.301–2 Harmful quantities of noxious gases.

Concentrations of noxious or poisonous gases, other than carbon dioxide, shall not exceed the current threshold limit values (TLV) as specified and applied by the American Conference of Governmental Industrial Hygienists. Detectors or laboratory analysis of mine air samples shall be used to determine the concentrations of harmful, noxious or poisonous gases.

§ 75.301–3 Locations of air measurements.

The locations at which the quantity of air shall be measured are as follows:

(a) When a single split of air is used the volume of air shall be measured at the last open crosscut in a pair or set of developing entries or the last open crosscut in any pair or set of rooms which shall be the last crosscut through the line of pillars that separates the intake and return air courses. When the split system of ventilation is used, the volume of air shall be measured in the last open crosscut through the line of pillars that separates the intake and return air courses of each split.

(b) The volume of air at the intake end of a pillar line ventilated by a single split of air, shall be measured in the intake entry furthest from the return air courses and immediately outby the first open crosscut outby the line of pillars being mined. When a split system of ventilation is used, the volume of air shall be measured inby the last intake air split point.

(c) When longwall mining is practiced the volume of air shall be measured in the intake entry or entries at the intake end of the longwall face and the longwall shall be 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.

§ 75.301–4 Velocity of air; minimum requirements.

(a) On and after March 30, 1971, except in working places using a blowing system as the primary means of face ventilation or in working places where a lower mean entry air velocity has been determined to be adequate to render harmless and carry away methane and to reduce the level of respirable dust to the lowest attainable level by the Coal Mine Safety District Manager, the minimum mean entry air velocity shall be 60 feet a minute in (1) all working places where coal is being cut, mined, or loaded from the working face with mechanical mining equipment, and (2) in any other working place designated by the Coal Mine Safety District Manager for the district in which the mine is located in which excessive amounts of respirable dust are being generated by any type of mechanical mining equipment.

(b) (1) Except as provided in subparagraph (2) of this paragraph, and except in working places where combination face ventilation systems are employed, the mean entry air velocity of air passing through any room, entry, crosscut, pillar cut, or other working place shall be established as follows:

(i) The quantity of air, when measured at the inby end of the line brattice or other approved device, shall be determined;

(ii) The cross sectional area of the room, entry, crosscut, pillar cut, or other working place, when measured at or near the inby end of the line brattice system or other approved device, less the cross sectional area of the line brattice system or other approved device, shall be determined;

(iii) The air quantity measured in (i) shall then be divided by the remaining cross sectional area as determined in (ii) and the resulting quotient shall constitute the mean entry air velocity; thus:

$$\frac{i}{ii}=v.$$

(2) When longwall mining is used the mean entry air velocity at the longwall face shall be determined by establishing the total intake air quantity delivered to the longwall face and dividing this quantity by the cross sectional area of the longwall place at the entrance to the longwall face.

(c) The determination of mean entry air velocity may be made either immediately before mining equipment enters a working place or during its presence in such working place and the person making such determination shall use an anemometer or other device approved by the Secretary.

§ 75.302 Ventilation of the working face.

[STATUTORY PROVISIONS]

(a) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement, where such exception will not pose a hazard to the miners. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(b) The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive, and noxious gases, dust and explosive fumes.

(c) Brattice cloth used underground shall be of flame-resistant material.

§ 75.302–1 Installation of line brattice and other devices.

(a) Line brattice or any other approved device used to provide ventilation to the working face from which coal is being cut, mined or loaded and other working faces so designated by the Coal Mine Safety Manager, in the approved ventilation plan, shall be installed at a distance no greater than 10 feet from the area of deepest penetration to which any portion of the face has been advanced unless a greater distance is approved by the Coal Mine Safety District Manager of the area in which the mine is located.

(b) When line brattice is used:

(1) The space between the line brattice and the nearest rib shall be sufficiently free of any obstructions such as supplies, equipment, or debris to provide for the adequate coursing of air and permit necessary passage through such space; however, this does not exclude the use of auxiliary tubing or ventilation control devices in such space.

(2) Check curtains required in conjunction with the line brattice shall be so installed to minimize air leakage and

permit traffic to pass through without adversely affecting face ventilation.

§ 75.302–2 Repair of line brattice.

When the line brattice or other ventilating device is damaged to an extent that ventilation of the working face is inadequate, production activities in the working place shall cease until necessary repairs are made and adequate ventilation restored.

§ 75.302–3 Flame resistant brattice cloth and ventilation tubing.

Brattice cloth (jute or any substitute) and ventilation tubing used underground, shall be flame resistant to the extent that the flame spread index shall be 25 or less except that brattice cloth or ventilation tubing with a flame spread index of 50 or less may be used up until December 30, 1970. The flame spread index shall be determined by ASTM methods of test E–84 or E–162.

§ 75.302–4 Auxiliary fans and tubing.

In the event that auxiliary fans and tubing are used in lieu of or in conjunction with a line brattice system to provide ventilation of the working face:

(a) The fan shall be of a permissible type, maintained in permissible condition, so located and operated to avoid any recirculation of air at any time, and inspected frequently by a certified person when in use.

(1) Fans approved and maintained under Bureau of Mines Schedule 2G or 2F (Part 18 of this chapter) will meet the requirements of this section.

(2) Persons certified under Subpart B of this part will meet the requirements for this section.

(b) In places where auxiliary fans are used, accumulations of methane resulting from unscheduled stoppage of the main fan shall be removed after restoration of normal mine ventilation, by conducting the air current into the place with line brattice or the equivalent. Auxiliary fans shall not be operated in such place during stoppage of normal mine ventilation, and until methane accumulations have been removed.

(c) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(d) In places where auxiliary fans are used, the ventilation during scheduled idle periods such as weekends and idle shifts, shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(e) If the air passing through the auxiliary fan or tubing contains 1.0 volume per centum or more of methane, the provisions of § 75.308 shall be applied. Should the requirements of § 75.308 necessitate deenergizing the auxiliary fan, the auxiliary fan shall not be restarted until the methane content in the affected area is less than 1.0 volume per centum and such changes or adjustments have been made to the auxiliary ventilation system as required to insure that the volume of air delivered by the auxiliary system is adequate to maintain the methane content in the auxiliary fan and tubing at less than 1.0 volume per centum.

(f) To insure that an adequate volume and velocity of air is supplied continuously to the working face where auxiliary fan and tubing are used for face ventilation, a line brattice or other approved device shall be installed in accordance with § 75.302–1 before the auxiliary fan is stopped.

(g) All face ventilation systems using auxiliary fans and tubing or machine mounted diffusers shall be approved under the provisions of § 75.316.

§ 75.303 Preshift examination.

[Statutory Provisions]

(a) Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date and time at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "danger" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination, such mine examiner shall report the results of his examination to a person, designated by the operator to receive such reports at a designated station on the surface of the mine, before other persons enter the underground areas of such mine to work in such shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(b) No person (other than certified persons designated under § 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.

§ 75.303–2 Air measurement devices; approval; application for approval.

(a) All devices, other than anemometers, designed and constructed to test air volume or air velocity shall be approved by the Secretary only if such devices are designed and constructed to prevent to the greatest extent possible accidents in the use of such equipment.

(b) All devices for testing air volume or air velocity which contain electrical components shall be approved for permissiblity under Bureau of Mines Schedule 2G (Part 18 of this chapter).

(c) Applications for approval of air measurement devices other than anemometers may be submitted to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 75.304 On-shift examinations for hazardous conditions.

[Statutory Provisions]

At least once during each coal-producing shift, or more often if necessary for safety, each working section shall be examined for hazardous conditions by certified persons designated by the operator to do so. Any such conditions shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from

the area affected by such conditions to a safe area, except those persons referred to in section 104(d) of the Act, until the danger is abated. Such examination shall include tests for methane with a means approved by the Secretary for detecting methane and for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary.

§ 75.304–1 Coal-producing shift.

The term "coal-producing shift" means any shift during which one or more of the following operations are performed: Cutting, blasting, or loading of coal, or the hauling of coal from the face areas, regardless of whether the coal is dumped at a tipple.

§ 75.304–2 Tests for methane.

Additional tests to determine the methane content in the air in all working places may be required by the Coal Mine Safety District Manager if necessary for safety and a record shall be kept of all tests. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.305 Weekly examinations for hazardous conditions.

[STATUTORY PROVISIONS]

In addition to the preshift and daily examinations required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. Such weekly examinations need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 104(d) of the Act, until such danger is abated. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

§ 75.305–1 Intervals of examination.

Examinations as required by § 75.305 shall be made at least once each week and the phrase "once each week" shall mean at intervals not exceeding 7 days rather than at any time during each calendar week.

§ 75.305–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.306 Weekly ventilation examinations.

[STATUTORY PROVISIONS]

At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume and, when the Secretary so prescribes, the velocity reaching each working face, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the coal mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

§ 75.306–1 Qualified person.

The air measurements required by § 75.306 shall be made by a qualified person as defined in § 75.152, using an anemometer or other device approved by the Secretary.

§ 75.306–2 Intervals of examinations.

The phrase "once each week" shall mean at intervals not exceeding 7 days rather than at any time during each calendar week.

§ 75.307 Methane examinations.

[STATUTORY PROVISIONS]

At the start of each shift, tests for methane shall be made at each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of methane is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until the air therein contains less than 1.0 volume per centum of methane. Examinations for methane shall be made during the operation of such equipment at intervals of not more than 20 minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting methane.

§ 75.307–1 Methane examinations at face.

An examination for methane shall be made at the face of each working place during each shift and immediately prior to the entry of such electrical equipment into any working place. Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.308 Methane accumulations in face areas.

[STATUTORY PROVISIONS]

If at any time the air at any working place, when tested at a point not less than 12 inches from the roof, face, or rib, contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall contain less than 1.0 volume per centum of methane. While such changes or adjustments are underway and until they have been achieved, power to electric face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions shall be carried out under the direction of the operator or his agent so as not to endanger other areas of the mine. If at any time such air contains 1.5 volume per centum or more of methane, all persons, except those referred to in section 104(d) of the Act, shall be withdrawn from the area of the mine endangered thereby to a safe area, and all electric power shall be cut off from the endangered area of the mine, until the air in such working place shall contain less than 1.0 volume per centum of methane.

§ 75.308–1 Changes or adjustments in ventilation.

The "changes or adjustments" which shall be made in the ventilation means increasing the quantity or improving the distribution of air in the affected working place to the extent sufficient to reduce the maintain the methane content less than 1.0 volume per centum when operations are resumed.

§ 75.308–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.309 Return air; tests and adjustments.

[STATUTORY PROVISIONS]

(a) If, when tested, a split of air returning from any working section contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of methane. Tests under this § 75.309 shall be made at 4-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting methane.

(b) If, when tested, a split of air returning from any working section contains 1.5 volume per centum or more of methane, all persons except those persons referred to in section 104(d) of the Act, shall be withdrawn from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area of the mine, until the air in such split shall contain less than 1.0 volume per centum of methane.

§ 75.309–1 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane as required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.309–2 Location of methane test.

The methane content in a split of air returning from any working section shall be measured at such point or points where methane may be present in the air current in such split between the last working place of the working section ventilated by the split and the junction of such split with another airsplit or the location at which such split is used to ventilate seals or abandoned areas. Tests to determine the methane content of such split shall be made at a point not less than 12 inches from the roof or ribs.

§ 75.309–3 Changes or adjustments in ventilation.

The "changes or adjustments" which shall be made in the ventilation means increasing the quantity of air in the affected split or improving the distribution of air in the working section to the extent that the methane content in the affected split is reduced and maintained less than 1.0 volume per centum.

§ 75.309–4 Record of tests.

The results of such tests shall be recorded in the daily record book located on the surface.

§ 75.310 Methane in virgin territory.

[STATUTORY PROVISIONS]

In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in § 75.301 for the last open crosscut, if the air in the split returning from such workings does not pass over trolley wires or trolley feeder wires, and if a certified person designated by the operator is continually testing the methane content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons, except those referred to in section 104(d) of the Act, from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area only when the air returning from such workings contains 2.0 volume per centum or more of methane.

§ 75.310–1 Virgin territory.

The term "virgin territory" means that area of a mine that is being penetrated for the first time, is not surrounded on all sides by previous mining, and is of such extent that there has not been sufficient mining to reduce the amount of methane liberated during the extraction process.

§ 75.310–2 Tests for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplementary testing device.

§ 75.310–3 Location of methane tests.

The methane content in a split of air returning from any active workings of a mine shall be measured at such point or points where methane may be present in the air current in such split between the last working place ventilated by the split and the junction of such split with another air split or at a point where such split is used to ventilate seals or abandoned areas. Tests to determine the methane content of such split shall be made at a point not less than 12 inches from the roof or ribs.

§ 75.311 Air passing opening of abandoned areas.

[STATUTORY PROVISIONS]

Air which has passed by an opening of any abandoned area shall not be used to ventilate any working place in the coal mine if such air contains 0.25 volume per centum or more of methane. Examinations of such air shall be made during the preshift examination required by § 75.303. In making such tests, a certified person designated by the operator shall use means approved by the Secretary for detecting methane. For the purposes of this § 75.311, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

§ 75.311–1 Approved means for detecting methane.

Tests to determine whether the air contains 0.25 volume per centum or more methane, shall be made with a methane detector approved by the Secretary.

§ 75.312 Air passing through abandoned, inaccessible, or robbed area.

[STATUTORY PROVISIONS]

Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

§ 75.312–1 Pillared areas.

The phrase "an area from which the pillars have been removed" includes the area where second mining has been done regardless of the amount of recovery obtained. Second mining is construed to be intentional retreat mining.

§ 75.312–2 Tests for methane.

Tests to determine whether the air contains 0.25 volume per centum or more methane shall be made with a methane detector approved by the Secretary, and such test shall be made in the intake air current at a point between the area from which pillars have been removed and the adjacent working places.

§ 75.313 Methane monitor.

[STATUTORY PROVISIONS]

The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after March 30, 1970, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under §§ 75.500, 75.501, and 75.504. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. The sensing device of such monitor shall be installed as close to the working face as practicable. Such monitor shall be set to deenergize automatically such equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume per centum of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically equipment on which it is installed when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume per centum of methane.

§ 75.313–1 Methane monitors, maintenance.

The operator of any mine in which methane monitors are installed on any equipment shall establish and adopt a definite maintenance program designed to keep such monitors operative and a written description of such program shall be available for inspection. At least once each month the methane monitors shall be checked for operating accuracy with a known methane-air mixture and shall be calibrated as necessary. A record of calibration tests shall be kept in a book approved by the Secretary.

§ 75.313–2 Methane monitors; determination of reliability.

The methane monitors listed below are approved as reliable for detecting concentrations of methane.

Manufacturer	Part No.	Type of power
Bacharach Instrument Co.	23-7052	120 v. AC.
Do.	23-7090	240 v. AC.
Do.	23-7091	440 v. AC.
Do.	23-7092	480 v. AC.
Do.	23-7093	550 v. AC.
Do.	23-7053	200-350 v. DC.
Mine Safety Appliances Co.	08-95100	440 v. AC or battery.
Do.	08-456400	400 v. AC or battery.

§ 75.314 Inspection of idle and abandoned areas.

[STATUTORY PROVISIONS]

Idle and abandoned areas shall be inspected for methane and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible but not more than 3 hours before other persons are permitted to enter or work in such areas. Persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting methane and in the use of a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

§ 75.314–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device.

§ 75.315 Examinations before intentional roof fall.

[STATUTORY PROVISIONS]

Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether methane is present. Such person shall use means approved by the Secretary for detecting methane. If in such examination, methane is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of methane.

§ 75.315–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device.

§ 75.316 Ventilation system and methane and dust control plan.

[STATUTORY PROVISIONS]

A ventilation system and methane and dust control plan and revisions thereof suitable to the conditions and the mining system of the coal mine and approved by the Secretary shall be adopted by the operator and set out in printed form on or before June 28, 1970. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine, such additional or improved equipment as the Secretary may require, the quantity and velocity of air reaching each working face, and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every 6 months.

§ 75.316–1 Methane content in active workings.

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.

§ 75.316–2 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.

§ 75.316–3 Criteria for 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 should be so arranged that no adverse air reversal will occur, should failure or stoppage of any main fan or fans occur.

(b) Permanent stoppings, overcasts, undercasts, and shaft partitions should be constructed of solid, substantial, incombustible material, such as concrete, concrete blocks, cinder block, brick, or tile, or the equivalent. In heavy or caving areas, timbers laid longitudinally "skin to skin" may be used. Such permanent stoppings should be erected between the intake and return air courses in entries and should be maintained to and including the third connecting crosscut outby the faces of the entries. Permanent stoppings should be used to separate belt haulage entries from entries used as intake and return air courses.

(c) A crosscut should be provided at or near the face of each entry or room before the place is abandoned.

(d) The methane content in any return air course other than an air course returning the split of air from a working section (as provided in §§ 75.309 and 75.310) should not exceed 2.0 volume per centum.

(e) Bleeder entries, bleeder systems, or equivalent means should be used in all active pillaring areas to ventilate the mined areas from which the pillars have been wholly or partially extracted, so as to control the methane content in such areas. Bleeder entries or bleeder systems established after June 28, 1970, should conform with the requirements of this § 75.316–3.

(1) Bleeder entries shall be defined as special air courses 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 air courses. Bleeder entries should be connected to those areas from which pillars have been wholly or partially extracted at strategic locations in such a way to control airflow through such gob area, to induce drainage of gob gas from all portions of such gob areas and to minimize the hazard from expansion of gob gases due to atmospheric pressure change.

(2) Bleeder systems shall include any combination of bleeder entries, bleeder entry connections to any area from which pillars are wholly or partially extracted and all associated ventilation control devices. Such systems should extend from active pillar line of such gob to the intersection of that bleeder split with any other split of air, and shall not include active workings.

(f) (1) Bleeder entries developed after June 28, 1970, should be adequately maintained and free of water to permit safe travel or, if such bleeder entries cannot be traveled without exposing the mine examiner to undue hazard, such bleeder system should be designed and maintained so that bleeder entry performance can be evaluated for adequacy and continuity by a means approved by the Coal Mine Safety District Manager.

(2) When the mine operator deems that safe examination can be made such examination should be made at least once each week by a certified person designated by the operator to do so and the results of such examinations shall be recorded in a book as prescribed in § 75.305. The certified person shall place his initials, the time and the date at as many locations in the bleeder entries as are necessary to indicate that the entire length has been examined.

(3) When bleeder entry travel is considered unsafe the evaluation of bleeder entry performance should be adequate to indicate that the bleeder system is functioning as specified in paragraph (e) (1) of this section and shall be made at least once each week by a certified person or persons and the results shall be recorded in a book as prescribed in § 75.305. To protect the safety of the miners when bleeder entry performance evaluation requires altering the normal airflow through the affected area, such evaluation should be made during idle shifts with power cut off from the affected area. Due precaution should be taken so as not to endanger any other area of the mine and suitable examinations for methane should be made at the edges of the pillar 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 should at all times be adequate to insure gob gas drainage to the bleeder entries. The pressure differential shall be considered adequate when perceptible air-flow exists in all open or regulated bleeder connections, as determined with chemical smoke or other approved means.

(h) The methane content of the air current in the bleeder split at the point where such split enters any other air split should not exceed 2.0 volume per centum.

(i) When the return air courses 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 air courses, the bleeder connectors between the return air courses and the gob shall be considered as bleeder entries and the concentration of methane should not exceed 2.0 volume per centum at the intersection of the bleeder connectors and the return air courses.

§ 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 required by these regulations. On and after December 31, 1970, a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device.

§ 75.318 Pillar recovery without bleeder system.

[STATUTORY PROVISIONS]

Where areas are being pillared on March 30, 1970, without bleeder entries, or without bleeder systems or any equivalent means, pillar recovery may be completed in the area, to the extent approved by an authorized representative of the Secretary, if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of methane.

§ 75.319 Ventilation of mechanized mining sections.

[STATUTORY PROVISIONS]

Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of 9 months, may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on March 30, 1970.

§ 75.319–1 Mechanized mining section.

The term "mechanized mining section" means an area of a mine in which coal is mined with one set of production equipment, characterized in a conventional mining section by a single loading machine, or in a continuous mining section by a single continuous mining machine, and which is comprised of a number of contiguous working places. Specialized mining sections, such as longwall mining sections, which utilize equipment other than specified in this section, may, if approved by the Coal Mine Safety District Manager, be ventilated by a single split of air.

§ 75.320 Examination for methane before blasting.

[STATUTORY PROVISIONS]

In all underground areas of a coal mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for methane shall be made by a qualified person with means approved by the Secretary for detecting methane. If methane is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of methane. No shots shall be fired until the air contains less than 1.0 volume per centum of methane.

§ 75.321 Stoppage of fans, plans.

[STATUTORY PROVISIONS]

Each operator shall adopt a plan on or before May 29, 1970, which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (a) to withdraw all persons from the working sections, (b) to cut off the power in the mine in a timely manner, (c) to provide for restoration of power and resumption of work

if ventilation is restored within a reasonable period as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of 1.0 volume per centum or more exists therein, and (d) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

§ 75.321–1 Reasonable period.

Unless a different period of time is approved by the Coal Mine Safety District Manager, "reasonable period" referred to in § 75.321 means a time lapse of not more than 15 minutes.

§ 75.322 Change in ventilation.

[STATUTORY PROVISIONS]

Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

§ 75.323 Countersigning of reports.

[STATUTORY PROVISIONS]

The mine foreman shall read and countersign promptly the daily reports of the preshift examiner and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, they shall be corrected promptly. If such conditions create an imminent danger, the operator shall withdraw all persons from, or prevent any person from entering, as the case may be, the area affected by such conditions, except those persons referred to in section 104(d) of the Act, until such danger is abated. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

§ 75.324 Reports by mine foremen.

[STATUTORY PROVISIONS]

Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book approved by the Secretary provided for that purpose a report of the condition of the mine or portion thereof under his supervision, which report shall state clearly the location and nature of any hazardous condition observed by him or reported to him during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and shall be open for inspection by interested persons.

§ 75.325 Reopening mines.

[STATUTORY PROVISIONS]

Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection shall be made of the entire mine by an authorized representative of the Secretary before mining operations commence.

§ 75.326 Aircourses and belt haulage entries.

[STATUTORY PROVISIONS]

In any coal mine opened after March 30, 1970, the entries used as intake and return air courses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to March 30, 1970, which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to permit adequately the coursing of intake or return air through such entries, (a) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate, active working places, and (b) when the belt haulage entries are not necessary to ventilate the active working places, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane.

§ 75.327 Air courses and trolley haulage systems.

[STATUTORY PROVISIONS]

In any coal mine opened on or after March 30, 1970, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake aircourses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

§ 75.327–1 Velocity of air.

Unless a higher velocity is approved by the Coal Mine Safety District Manager, the velocity of the air current in the trolley haulage entries shall be limited to not more than 250 feet a minute. A higher air velocity may be required to limit the methane content in such haulage entries or elsewhere in the mines to less than 1.0 per centum and provide an adequate supply of oxygen.

§ 75.328 Ventilation during pillar extraction.

[STATUTORY PROVISION]

While pillars are being extracted in any area of a coal mine, such area shall be ventilated in the manner prescribed by this Subpart D "Ventilation."

§ 75.329 Bleeder systems.

[STATUTORY PROVISION]

On or before December 30, 1970, all areas from which pillars have been wholly or partially extracted and abandoned areas, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed, as determined by the Secretary or his authorized representative. When ventilation of such areas is required, such ventilation shall be maintained so as continuously to dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from the hazards of such methane and other explosive gases. Air coursed through underground areas from which pillars have been wholly or partially extracted which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

§ 75.329–1 Sealing or ventilation of pillared or abandoned area.

(a) All areas of a coal mine from which the pillars have been wholly or partially extracted and abandoned areas shall be ventilated or sealed by December 30, 1970. For those coal mines in which ventilation can be maintained so as to continuously dilute, render harmless and carry away methane and other exlosive gases within such areas and to protect the active workings of the mine from hazards of such methane and other explosive gases, the operator shall request permission from the Coal Mine Safety District Manager in whose district the mine is located to ventilate such areas.

(b) The request for permission to ventilate such areas must be submitted in time to allow consideration of the request, to obtain approval, and to permit the operator to install the ventilation system, or to install seals in the event the request to ventilate is denied, on or before December 30, 1970.

(c) The determination of whether ventilation will be permitted will be made after taking into consideration the history of methane and other explosive

gases in the mine, the size of the gob or abandoned areas, and if the areas can be ventilated adequately.

(d) To be considered for approval the request shall contain the following information provided by the mine operator.

(1) Name of mine and company.

(2) Location of mine (town, county, State).

(3) Operator's name and address.

(4) Date of application.

(5) A detailed history of the methane content determined throughout the mine and when available, the volume of air in which such methane determinations were made, to support the operator's application to ventilate.

(e) A description of the method by which the areas from which the pillars have been wholly or partially extracted and abandoned areas shall be ventilated and such maps and drawings as may be required to illustrate such method and to indicate existing or proposed air volumes used to ventilate such areas.

(f) The signature and title of the person who submits the application for the operator.

§ 75.329–2 Construction of seals or bulkheads.

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 an explosion hazard.

§ 75.402 Rock dusting.

[STATUTORY PROVISION]

All underground areas of a coal mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within 40 feet of all working faces, unless such areas are inaccessible or unsafe to enter or unless the Secretary or his authorized representative permits an exception upon his finding that such exception will not pose a hazard to the miners. All crosscuts that are less than 40 feet from a working face shall also be rock dusted.

§ 75.402–1 Definition.

The term "too wet" means that sufficient natural moisture is retained by the dust that when a ball of finely divided material is squeezed in the hands water is exuded.

§ 75.402–2 Exceptions.

Exceptions granted under § 75.402 by the Secretary or his authorized representative shall be reviewed periodically.

§ 75.403 Maintenance of incombustible content of rock dust.

[STATUTORY PROVISION]

Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a coal mine and maintained in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where methane is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of methane where 65 and 80 per centum, respectively, of incombustibles are required.

§ 75.403–1 Incombustible content.

Moisture contained in the combined coal dust, rock dust and other dusts shall be considered as a part of the incombustible content of such mixture.

§ 75.404 Exemption of anthracite mines.

[STATUTORY PROVISION]

Sections 75.401, 75.402, and 75.403 shall not apply to underground anthracite mines.

Subpart F—Electrical Equipment—General

§ 75.500 Permissible electric equipment.

[STATUTORY PROVISION]

On and after March 30, 1971:

(a) All junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible;

(b) All handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate on or before May 30, 1970, which are taken into or used inby the last open crosscut of any coal mine shall be permissible;

(c) All electric face equipment which is taken into or used inby the last open crosscut of any coal mine classified under any provision of law as gassy prior to March 30, 1970, shall be permissible; and

(d) All other electric face equipment which is taken into or used inby the last crosscut of any coal mine, except a coal mine referred to in § 75.501, which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, shall be permissible.

§ 75.501 Permissible electric face equipment; coal seams above water table.

[STATUTORY PROVISION]

On and after March 30, 1974, all electric face equipment, other than equipment referred to in paragraph (b) of § 75.500, which is taken into and used inby the last open crosscut of any coal mine which is operated entirely in coal seams located above the water table and which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, and in which one or more openings were made prior to December 30, 1969, shall be permissible.

§ 75.501–1 Coal seams above the water table.

As used in § 75.501, the phrase "coal seams above the water table" means coal seams in a mine which are located at an elevation above a river or the tributary of a river into which a local surface water system naturally drains.

§ 75.501–2 Permissible electric face equipment.

(a) On and after March 30, 1971, in mines operated entirely in coal seams which are located at elevations above the water table:

(1) All junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible; and

(2) All handheld electric drills, blower and exhaust fans, electric pumps, and all other electric-driven mine equipment, except low horsepower rock dusting equipment, that employs an electric current supplied by either a power conductor or battery and consumes not more than 2,250 watts of electricity, which is taken into or used inby the last open crosscut shall be permissible.

(b) On and after March 30, 1974, in mines operated entirely in coal seams which are located at elevations above the water table, all electric face equipment which is taken into or used inby the last crosscut shall be permissible.

§ 75.502 Permits for noncompliance.

An operator need not comply with paragraph (d) of § 75.500 or with § 75.501 during the period of time specified in a permit issued by the Interim Compliance Panel established by the Act.

§ 75.503 Permissible electric face equipment; maintenance.

[STATUTORY 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.

§ 75.503–1 Statement listing all electric face equipment.

(a) Each operator of a coal mine shall complete and file Bureau of Mines Form No. 6–1496 entitled "Coal Operator's Electrical Survey" and Form 6–1496 Supplemental entitled "Operator's Survey of Electrical Face Equipment." Forms may be obtained from any Coal Mine Safety District Office or Subdistrict Office of the Bureau of Mines.

(b) Separate forms shall be filed for each mine. Copies one and two of the completed form shall be filed with the Coal Mine District or Subdistrict Manager for the district in which each mine is located on or before May 30, 1970. An operator must list all electric face equipment being used at each mine as of the time of filing, all such equipment being repaired, and all standby electric equipment stored at or in the mine which the operator intends to use as face equipment. Failure to file a complete list of such equipment on or before May 30, 1970, will subject an operator to a penalty.

§ 75.504 Permissibility of replacement and rebuilt electric face equipment.

[STATUTORY PROVISION]

On and after March 30, 1971, all replacement equipment acquired for use in any mine referred to in §§ 75.500, 75.501, 75.503 shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use on or after March 30, 1971, such equipment shall be put in, and thereafter maintained in, a permissible condition, unless, in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

§ 75.505 Mines classed gassy; use and maintenance of permissible electric face equipment.

[STATUTORY PROVISION]

Any coal mine which, prior to March 30, 1970, was classed gassy under any provision of law and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

§ 75.506 Electric face equipment; requirements for permissibility.

(a) Electric-driven mine equipment and accessories manufactured on or after March 30, 1973, will be permissible electric face equipment only (1) if they are fabricated, assembled or built under an approval, or any extension thereof, issued by the Bureau of Mines in accordance with schedule 2G, or any subsequent Bureau of Mines schedule promulgated by the Secretary after March 30, 1970, which amends, modifies or supersedes the permissibility requirements of schedule 2G, and (2) if they are maintained in a permissible condition.

(b) Except as provided in paragraph (c) of this § 75.506, electric-driven mine equipment and accessories manufactured prior to March 30, 1973, will be permissible electric face equipment (1) if they were fabricated, assembled or built under an approval, or any extension thereof, issued by the Bureau of Mines in accordance with the schedules set forth below, and (2) if they are maintained in a permissible condition.

Bureau of Mines schedule 2D, May 23, 1936;
Bureau of Mines schedule 2E, February 15, 1945;
Bureau of Mines schedule 2F, August 3, 1955; and
Bureau of Mines schedule 2G, March 19, 1968.

Copies of these schedules are available at all Coal Mine Safety District and Subdistrict Offices of the Bureau of Mines.

(c) Electric-driven mine equipment and accessories bearing the Bureau of Mines approval numbers listed in appendix A to this subpart are permissible electric face equipment only if they are maintained in a permissible condition.

(d) Electric cap lamps, electric mine lamps other than standard cap lamps, flame safety lamps, portable methane detectors, telephones and signaling devices, single- and multiple-shot blasting units, lighting equipment for illuminating underground mines, and methane-monitoring systems will be permissible electric face equipment only (1) if they are approved under the appropriate Bureau of Mines schedule applicable to such equipment and (2) if they are in permissible condition. The Bureau of Mines schedules referred to, dates issued, and the appropriate parts of this chapter are:

Electric Cap Lamps, Bureau of Mines Schedule 6D, August 26, 1939 (Part 19);
Electric Mine Lamps Other than Standard Cap Lamps, Bureau of Mines Schedule 10C, May 17, 1938 (Part 20);
Flame Safety Lamps, Bureau of Mines Schedule 7C, August 30, 1935 (Part 21);
Portable Methane Detectors, Bureau of Mines Schedule 8C, October 31, 1935 (Part 22);
Telephone and Signaling Devices, Bureau of Mines Schedule 9B, October 25, 1938 (Part 23);
Single Shot Blasting Units, Bureau of Mines Shedule 12D, November 27, 1945 (Part 24);
Multiple Shot Blasting Units, Bureau of Mines Schedule 16E, May 19, 1960 (Part 25);
Lighting Equipment for Illuminating Underground Workings, Bureau of Mines Schedule 29A, December 2, 1958 (Part 26); and
Methane-Monitoring Systems, Bureau of Mines Schedule 32A, July 27, 1966 (Part 27).

§ 75.506–1 Electric face equipment; permissible condition; maintenance requirements.

(a) Except as provided in paragraph (b) of this section, electric face equipment which meets the requirements for permissibility set forth in § 75.506 will be considered to be in permissible condition only if it is maintained so as to meet the requirements for permissibility set forth in the Bureau of Mines schedule under which such electric face equipment was initially approved, or, if the equipment has been modified, it is maintained so as to meet the requirements of the schedule under which such modification was approved.

(b) Electric face equipment bearing the Bureau of Mines approval number listed in Appendix A of this subpart will be considered to be in permissible condition only if it is maintained so as to meet the requirements for permissibility set forth in Bureau of Mines Schedule

2D or, if such equipment has been modified, it is maintained so as to meet the requirements of the schedule under which the modification was approved.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, where the minimum requirements for permissibility set forth in the appropriate Bureau of Mines schedule under which such equipment or modifications were approved have been superseded by the requirements of this Part 75, the latter requirements shall be applicable.

§ 75.507 Power connection points.

[STATUTORY PROVISIONS]

Except where permissible power connection units are used, all power-connection points outby the last open crosscut shall be in intake air.

§ 75.508 Map of electrical system.

[STATUTORY PROVISIONS]

The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps, and trolley wires and trolley feeder wires, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

§ 75.508–1 Mine tracks.

When mine track is used as a conductor of a trolley system, the location of such track shall be shown on the map required by § 75.508, with a notation of the number of rails and the size of such track expressed in pounds per yard.

§ 75.508–2 Changes in electric system map; recording.

Changes made in the location, electrical rating or setting within the mine electrical system shall be recorded on the map of such system no later than the end of the next 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. Insulated J-hooks may be used to suspend insulated power cables for temporary installation not exceeding 6 months and for permanent installation of control cables such as may be used along belt conveyors.

§ 75.517 Power wires and cable; insulation and protection.

[STATUTORY PROVISIONS]

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

§ 75.517–1 Power wires and cables; insulation and protection.

Power wires and cables installed on or after March 30, 1970, shall have insulation with a dielectric strength at least equal to the voltage of the circuit.

§ 75.517–2 Plans for insulation of existing bare power wires and cables.

(a) On or before December 31, 1970, plans for the insulation of existing bare power wires and cables installed prior to March 30, 1970, shall be filed with the District Manager of the Coal Mine Safety District in which the mine is located to permit approval and prompt implementation of such plans.

(b) The appropriate District Manager shall notify the operator in writing of the approval of a proposed insulation plan. If revisions are required for approval, the changes required will be specified.

(c) An insulation plan shall include the following information:

(1) Name and address of the company, the mine, and the responsible officials;

(2) Map or diagram indicating location of power wires and cables required to be insulated;

(3) Total length of bare power wires and cables required to be insulated;

(4) Schedule for the replacement or insulation of bare power wires and cables;

(5) Type of insulation to be used and the voltage rating as indicated by the manufacturer.

(d) The District Manager shall be guided by the following criteria in approving insulation plans on a mine-by-mine basis. Insulation not conforming to these criteria may be approved provided the operator can satisfy the Bureau of Mines that the insulation will provide no less than the same measure of protection.

(1) Insulation shall be adequate for the applied voltage of the circuit.

(2) When tubing is used to insulate existing power wires and cables, it shall have a dielectric strength at least equal to the voltage of the circuit. When the tubing is split for purposes of installation, the joints shall be effectively sealed. The butt ends may be sealed with a moisture resistant insulating tape.

(3) When tape is used to insulate existing power wires and cables, it shall be applied half-lapped and one thickness of the tape shall have a dielectric strength at least equal to the voltage of the circuit. The tape shall be self-adhesive and moisture resistant.

§ 75.518 Electric equipment and circuits; overload and short circuit protection.

[STATUTORY PROVISION]

Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electrict equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

§ 75.518–1 Electric equipment and circuits; overload and short circuit protection; minimum requirements.

A device to provide either short circuit protection or protection against overload which does not conform to the provisions of the National Electric Code, 1968, does not meet the requirement of § 75.518. In addition, such devices on electric face equipment and trailing cables that are required to be permissible must meet the requirements of the applicable schedules of the Bureau of Mines.

§ 75.518–2 Incandescent lamps, overload and short circuit protection.

Incandescent lamps installed along haulageways and at other locations, not contacting combustible material, and powered from trolley or direct current feeder circuits, need not be provided with separate short circuit or overload protection, if the lamp is not more than 8 feet in distance from such circuits.

§ 75.519 Main power circuits; disconnecting switches.

[STATUTORY PROVISION]

In all main power circuits, disconnecting switches shall be installed underground within 500 feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within 500 feet of all other places where main power circuits enter the underground area of the mine.

§ 75.519–1 Main power circuits; disconnecting switches; locations.

Section 75.519 requires (a) that a disconnecting switch be installed on the surface at a point within 500 feet of the place where the main power circuit enters the underground area of a mine, and (b) that, in an instance on which a main power circuit enters the underground area through a shaft or borehole, a disconnecting switch be installed underground within 500 feet of the bottom of the shaft or borehole.

§ 75.520 Electric equipment; switches.

[STATUTORY PROVISION]

All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

§ 75.521 Power conductors, lightning arresters.

[STATUTORY PROVISION]

Each undergrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within 100 feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than 25 feet.

§ 75.522 Lighting devices.

[STATUTORY PROVISION]

No device for the purpose of lighting any coal mine which has not been approved by the Secretary or his authorized representative shall be permitted in such mine.

§ 75.522–1 Incandescent and fluorescent lamps.

(a) Except for areas of a coal mine inby the last open crosscut, incandescent lamps may be used to illuminate underground areas. When incandescent lamps are used in a track entry or belt entry or near track entries to illuminate special areas other than structures, the lamps shall be installed in weather-proof sockets located in positions such that the lamps will not come in contact with any combustible material. Lamps used in all other places must be of substantial construction and be fitted with a glass enclosure.

(b) Incandescent lamps within glass enclosures or fluorescent lamps may be used inside underground structures (except magazines used for the storage of explosives and detonators). In underground structures lighting circuits shall consist of cables installed on insulators or insulated wires installed in metallic conduit or metallic armor.

§ 75.523 Electric face equipment; deenergization.

[STATUTORY PROVISION]

An authorized representative of the Secretary may require in any mine that electric face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

§ 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 contractors 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, and 2C)

AIR COMPRESSORS

Approval No.	*Date*
128	March 21, 1927.
128A	July 16, 1926.

COAL DRILLS AND DRILLING MACHINES

Hand Drills

109	September 19, 1922.
154	August 1, 1928.
184	February 7, 1930.
227	July 29, 1931.
254	July 15, 1933.

Post Drills

119	April 15, 1925.
119A	Do.
225	July 10, 1931.
225A	Do.
228	August 12, 1931.
228A	February 17, 1932.
230	August 20, 1931.
230A	Do.
237	December 1, 1931.
237A	Do.

Drilling Machines

147	February 8, 1928.
147A	Do.
176	September 9, 1929.
176A	Do.

LOADING AND CONVEYING EQUIPMENT

LOADING MACHINES

Unmounted Type

122	January 8, 1926.
122A	Do.

Caterpillar-Mounted Type

150	May 11, 1928.
186	March 15, 1930.
222	May 8, 1931.
222A	July 28, 1931.
229	August 17, 1931.
229A	Do.
235	November 27, 1931.
235A	October 29, 1931.
278	January 17, 1935.
278A	Do.

LOADING MACHINES—continued

Caterpillar-Mounted Type—Continued

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 9, 1934.
390A	March 23, 1934.

Shaker Type

247	October 21, 1932.
257A	August 11, 1933.
262A	December 8, 1933.
271	May 20, 1935.
271A	October 17, 1934.
274A	December 13, 1934.
286A	March 12, 1935.
295	September 20, 1935.
299A	April 9, 1936.

Scraper-type Loaders

138	August 5, 1927.
138A	Do.
196	September 29, 1930.
196A	July 26, 1930.
226	July 27, 1931.
255	July 31, 1933.
256	Do.

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

MINING MACHINES

Shortwall Machines

103	November 2, 1917.
103A	Do.
105	February 9, 1922.
105A	Do.
106	Do.
106A	Do.
107	Do.
107A	Do.
108	Do.
108A	Do.
111	October 16, 1922.
111A	Do.
113	November 4, 1924.
113A	Do.

MINING MACHINES—continued

Shortwall Machines—Continued

114	February 7, 1925.
114A	Do.
115	Do.
115A	Do.
153	July 31, 1928.
153A	Do.
193	June 3, 1930.
193A	Do.
197	July 31, 1930.
197A	Do.
198	August 1, 1930.
198A	Do.
201	September 8, 1930.
201A	Do.
204	October 13, 1930.
204A	December 13, 1930.
223	May 13, 1931.
223A	Do.
241	March 18, 1932.
241A	Do.
258	August 15, 1933.
259A	August 16, 1933.
260A	August 17, 1933.
273	November 30, 1934.
288	March 27, 1935.
288A	Do.
292	September 11, 1935.
292A	Do.
293A	Do.

Longwall Machines

185	February 24, 1930.
185A	Do.
218	March 10, 1931.
218A	Do.
246	August 19, 1932.
246A	Do.
261	September 12, 1933.

Track or caterpillar mounted

112	March 13, 1924.
112A	Do.
118	March 12, 1925.
118A	Do.
125	April 26, 1926.
125A	Do.
172	April 30, 1929.
172A	Do.
188	April 15, 1930.
188A	Do.
207	November 14, 1930.
207A	Do.
216	February 12, 1931.
216A	Do.
231	August 31, 1931.
231A	Do.
242	April 7, 1932.
244	June 18, 1932.
244A	September 20, 1932.
253A	February 25, 1933.
267	June 27, 1934.
268A	July 25, 1934.
269A	September 24, 1934.
280A	March 4, 1935.
297	January 27, 1936.
297A	Do.

Mine Pumps

140	November 1, 1927.
140A	Do.
143	Do.
143A	Do.
144	Do.
144A	Do.
199	August 18, 1930.
199A	Do.
208	November 29, 1930.
210	December 15, 1930.
210A	Do.
211	December 17, 1930.
211A	Do.
213	December 29, 1930.
213A	Do.

MINING MACHINES—continued

Mine Pumps—Continued

214	January 2, 1931.
214A	Do.
215	Do.
215A	Do.
248	October 31, 1932.
248A	November 23, 1932.
264	January 31, 1934.
264A	Do.
272	October 23, 1934.
272A	Do.

Rock-Dusting Machines

130	November 5, 1926.
137	July 2, 1927.
146	January 20, 1928.
146A	April 3, 1928.
180	October 30, 1929.
180A	January 17, 1930.
206	November 12, 1930.
279	February 14, 1935.

Room and Car-Spotting Hoists

116	February 13, 1925.
116A	Do.
164	January 21, 1931.
164A	Do.
165	Do.
165A	Do.
169	April 5, 1929.
169A	February 26, 1934.
190	April 20, 1930.
251A	January 16, 1933.
263	January 11, 1934.
266A	February 27, 1934.

STORAGE-BATTERY LOCOMOTIVES AND POWER TRUCKS

(Approved under Schedules 15, 2C, 2D, and 2E)

Gathering Locomotives

1501	October 11, 1921.
1502	November 13, 1922.
1503	March 24, 1923.
1505	April 5, 1924.
1507	August 20, 1925.
1508	March 21, 1925.
1509	September 25, 1925.
1511	November 10, 1925.
1512	November 11, 1925.
1513	February 25, 1926.
1516	December 28, 1926.
1517	February 10, 1927.
1520	May 27, 1929.
1521	June 13, 1930.
1522	September 12, 1930.
1523	December 19, 1930.
1525	July 25, 1934.
1526	December 20, 1935.

Tandem Locomotive

1518	November 21, 1927.

Power Trucks

1506	May 5, 1924.
1505A	June 21, 1926.
1510C	December 31, 1926.
1514	December 18, 1926.
1515	December 28, 1926.
1512C	September 13, 1928.
1519C	April 6, 1929.
1524C	June 25, 1934.

JUNCTION, DISTRIBUTION, AND SPLICE BOXES

(Approved under Schedules 2D and 2E)

Junction Boxes

400	June 16, 1928.
400A	August 5, 1925.
401	May 11, 1927.
401A	Do.
402	Do.
402A	Do.

JUNCTION, DISTRIBUTION, AND SPLICE BOXES—Continued

Junction Boxes—Continued

403	April 14, 1931.
403A	Do.
405A	December 4, 1933.

Subpart G—Trailing Cables

§ 75.600 Trailing cables; flame resistance.

[STATUTORY PROVISIONS]

Trailing cables used in coal mines shall meet the requirements established by the Secretary for flame-resistant cables.

§ 75.600–1 Approved cables; flame resistance.

The requirements for flame resistant cables are set forth in § 18.64 of this chapter (Bureau of Mines Schedule 2G).

§ 75.601 Short circuit protection of trailing cables.

[STATUTORY PROVISIONS]

Short circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

§ 75.601–1 Short circuit protection; ratings and settings of circuit breakers.

Circuit breakers providing short circuit protection for trailing cables shall be set so as not to exceed the maximum allowable instantaneous settings specified in this section; however, higher settings may be permitted by an authorized representative of the Secretary when he has determined that special applications are justified:

Conductor size AWG or MGM	*Maximum allowable circuit breaker instantaneous setting (amperes)*
14	50
12	75
10	150
8	200
6	300
4	500
3	600
2	800
1	1,000
1/0	1,250
2/0	1,500
3/0	2,000
4/0	2,500
250	2,500
300	2,500
350	2,500
400	2,500
450	2,500
500	2,500

§ 75.601–2 Short circuit protection; use of fuses; approval by the Secretary.

Fuses shall not be employed to provide short circuit protection for trailing cables unless specifically approved by the Secretary.

§ 75.601–3 Short circuit protection; dual element fuses; current ratings; maximum values.

Dual element fuses having adequate current-interrupting capacity shall meet the requirements for short-circuit protection of trailing cables as provided in § 75.601, however, the current ratings of such devices shall not exceed the maximum values specified in this section:

Conductor size (AWG or MGM)	Single conductor cable		Two conductor cable	
	Ampacity	Maximum fuse rating	Ampacity	Maximum fuse rating
14			15	15
12			20	20
10			25	25
8	60	60	50	50
6	85	90	65	70
4	110	110	90	90
3	130	150	105	110
2	150	150	120	125
1	170	175	140	150
1/0	200	200	170	175
2/0	235	250	195	200
3/0	275	300	225	225
4/0	315	350	260	300
250	350	350	285	300
300	395	400	310	350
350	445	450	335	350
400	480	500	360	400
450	515	600	385	400
500	545	600	415	450

§ 75.602 Trailing cable junctions.

[STATUTORY PROVISION]

When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

§ 75.603 Temporary splice of trailing cable.

[STATUTORY PROVISION]

One temporary splice may be made in any trailing cable. Such trailing cable may only be used for the next 24-hour period. No temporary splice shall be made in a trailing cable within 25 feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this section, the term "splice" means the mechanical joining of one or more conductors that have been severed.

§ 75.604 Permanent splicing of trailing cables.

[STATUTORY PROVISIONS]

When permanent splices in trailing cables are made, they shall be:

(a) Mechanically strong with adequate electrical conductivity and flexibility;

(b) Effectively insulated and sealed so as to exclude moisture; and

(c) Vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

§ 75.604–1 Approved processes other than vulcanizing.

Raychem Corp.'s Thermofit Insulated Mine Splice is approved as meeting the flame-resistant requirements of paragraph (c) of § 75.604.

§ 75.605 Clamping of trailing cables to equipment.

[STATUTORY PROVISIONS]

Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections.

§ 75.606 Protection of trailing cables.

[STATUTORY PROVISIONS]

Trailing cables shall be adequately protected to prevent damage by mobile equipment.

§ 75.607 Breaking trailing cable and power cable connections.

[STATUTORY PROVISIONS]

Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

Subpart H—Grounding

§ 75.700 Grounding metallic sheaths, armors, and conduits enclosing power conductors.

[STATUTORY PROVISIONS]

All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the Secretary.

§ 75.700–1 Approved methods of grounding.

Metallic sheaths, armors and conduits in resistance grounded systems where the enclosed conductors are a part of the system will be approved if a solid connection is made to the neutral conductor; in all other systems, the following methods of grounding will be approved:

(a) A solid connection to a borehole casing having low resistance to earth;

(b) A solid connection to metal waterlines having low resistance to earth;

(c) A solid connection to a grounding conductor, other than the neutral conductor of a resistance grounded system, extending to a low resistance ground field located on the surface;

(d) Any other method of grounding, approved by an authorized representative of the Secretary, which ensures that there is no difference in potential between such metallic enclosures and the earth.

§ 75.701 Grounding metallic frames, casings, and other enclosures of electric equipment.

[STATUTORY PROVISIONS]

Metallic frames, casings, and other enclosures of electric equipment that can become alive through failure of insulation or by contact with energized parts shall be grounded by methods approved

by an authorized representative of the Secretary.

§ 75.701–1 Approved methods of grounding of equipment receiving power from ungrounded alternating current power systems.

For purposes of grounding metallic frames, casings and other enclosures of equipment receiving power from ungrounded alternating current power systems, the following methods of grounding will be approved:

(a) A solid connection between the metallic frame, casing, or other metal enclosure and the grounded metallic sheath, armor, or conduit enclosing the power conductor feeding the electrical equipment enclosed;

(b) A solid connection to a borehole casing having low resistance to earth;

(c) A solid connection to metal waterlines having low resistance to earth;

(d) A solid connection to a grounding conductor extending to a low resistance ground field located on the surface;

(e) Any other method of grounding, approved by an authorized representative of the Secretary, which ensures that there is no difference in potential between such metal enclosures and the earth.

§ 75.701–2 Approved method of grounding metallic frames, casings and other enclosures receiving power from single-phase 110–220-volt circuit.

In instances where single-phase 110–220-volt circuits are used to feed electrical equipment, the only method of grounding that will be approved is the connection of all metallic frames, casings and other enclosures of such equipment to a separate grounding conductor which establishes a continuous connection to a grounded center tap of the transformer.

§ 75.701–3 Approved methods of grounding metallic frames, casings and other enclosures of electric equipment receiving power from direct current power systems with one polarity grounded.

For the purpose of grounding metallic frames, casings and enclosures of any electric equipment or device-receiving power from a direct-current power system with one polarity grounded, the following methods of grounding will be approved:

(a) A solid connection to the mine track;

(b) A solid connection to the grounded power conductor of the system:

(c) Silicon diode grounding; however, this method shall be employed only when such devices are installed in accordance with the requirements set forth in paragraph (d) of § 75.703–3; and

(d) Any other method, approved by an authorized representative of the Secretary, which 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 offtract direct-current machines and the earth must be approved by an authorized representative of the Secretary.

§ 75.704 Grounding frames of stationary high-voltage equipment receiving power from ungrounded delta systems.

[STATUTORY PROVISIONS]

The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

§ 75.704–1 Approved methods of grounding.

The methods of grounding stated in § 75.701–1 will also be approved with respect to the grounding of frames of high-voltage equipment referred to in § 75.704.

§ 75.705 Work on high-voltage lines; deenergizing and grounding.

[STATUTORY PROVISIONS]

High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to March 30, 1970.

§ 75.705–1 Work on high-voltage lines.

(a) Section 75.705 specifically prohibits work on energized high-voltage lines underground;

(b) No high-voltage line, either on the surface or underground, shall be regarded as deenergized for the purpose of performing work on it, until it has been determined by a qualified person (as provided in § 75.153) that such high-voltage line has been deenergized and grounded. Such qualified person shall by visual observation; (1) determine that the disconnecting devices on the high-voltage circuit are in open position, and (2) ensure that each ungrounded conductor of the high-voltage circuit upon which work is to be done is properly connected to the system-grounding medium. In the case of resistance grounded or solid wye-connected systems, the neutral wire is the system-grounding medium. In the case of an ungrounded power system, either the steel armor or conduit enclosing the system or a surface grounding field is a system-grounding medium;

(c) No work shall be performed on any high-voltage line on the surface which is supported by any pole or structure which also supports other high-voltage lines until: (1) All lines supported on the pole or structure are deenergized and grounded in accordance with all of the provisions of this section which apply to the repair of energized surface high-voltage lines; or (2) the provisions of §§ 75.705–2 through 75.705–10 have been complied with, with respect to all lines, which are supported on the pole or structure.

(d) Work may be performed on energized surface high-voltage lines only in accordance with the provisions of §§ 75.705–2 through 75.705–10, inclusive.

§ 75.705–2 Repairs to energized surface high-voltage lines.

An energized high-voltage surface line may be repaired only when

(a) The operator has determined that:

(1) Such repairs cannot be scheduled during a period when the power circuit could be properly deenergized and grounded;

(2) Such repairs will be performed on power circuits with a phase-to-phase nominal voltage no greater than 15,000 volts;

(3) Such repairs on circuits with a phase-to-phase nominal voltage of 5,000 volts or more will be performed only with the use of live line tools;

(4) Weather conditions will not interfere with such repairs or expose those persons assigned to such work to an imminent danger; and

(b) The operator has designated a person qualified under the provisions of § 75.154 as the person responsible for carrying out such repairs and such person, in order to ensure protection for himself and other qualified persons assigned to perform such repairs from the hazards of such repair, has prepared and filed with the operator:

(1) A general description of the nature and location of the damage or defect to be repaired;

(2) The general plan to be followed in making such repairs;

(3) A statement that a briefing of all qualified persons assigned to make such repairs was conducted informing them of the general plan, their individual assignments, and the dangers inherent in such assignments;

(4) A list of the proper protective equipment and clothing that will be provided; and

(5) Such other information as the person designated by the operator feels necessary to describe properly the means or methods to be employed in such repairs.

§ 75.705–3 Work on energized high-voltage surface lines; reporting.

Any operator designating and assigning qualified persons to perform repairs on energized high-voltage surface lines under the provisions of § 75.705–2 shall maintain a record of such repairs. Such record shall contain a notation of the time, date, location, and general nature of the repairs made, together with a copy of the information filed with the operator by the qualified person designated as responsible for performing such repairs.

§ 75.705–4 Simultaneous repairs.

When two or more persons are working on an energized high-voltage surface line simultaneously, and any one of them is within reach of another, such persons shall not be allowed to work on different phases or on equipment with different potentials.

§ 75.705–5 Installation of protective equipment.

Before repair work on energized high-voltage surface lines is begun, protective equipment shall be used to cover all bare conductors, ground wires, guys, telephone lines, and other attachments in proximity to the area of planned repairs. Such protective equipment shall be installed from a safe position below the conductors or other apparatus being covered. Each rubber protective device employed in the making of repairs shall have a dielectric strength of 20,000 volts, or more.

§ 75.705–6 Protective clothing; use and inspection.

All persons performing work on energized high-voltage surface lines shall wear protective rubber gloves, sleeves, and climber guards if climbers are worn. Protective rubber gloves shall not be worn wrong side out or without protective leather gloves. Protective devices worn by a person assigned to perform repairs on high-voltage surface lines shall be worn continuously from the time he leaves the ground until he returns to the ground, and, if such devices are employed for extended periods, such person shall visually inspect the equipment assigned him for defects before each use and, in no case, less than twice each day.

§ 75.705–7 Protective equipment; inspection.

Each person shall visually inspect protective equipment and clothing provided him in connection with work on high-voltage surface lines before using such equipment and clothing, and any equipment or clothing containing any defect or damage shall be discarded and replaced with proper protective equipment or clothing prior to the performance of any electrical work on such lines.

§ 75.705–8 Protective equipment; testing and storage.

(a) All rubber protective equipment used on work on energized high-voltage surface lines shall be electrically tested by the operator in accordance with ASTM standards, Part 28, published

February 1968 and such testing shall be conducted in accordance with the following schedule:

(1) Rubber gloves, once each month;

(2) Rubber sleeves, once every 3 months;

(3) Rubber blankets, once every 6 months;

(4) Insulator hoods and line hose, once a year; and

(5) Other electric protective equipment, once a year.

(b) Rubber gloves shall not be stored wrong side out. Blankets shall be rolled when not in use, and line hose and insulator hoods shall be stored in their natural position and shape.

§ 75.705–9 Operating disconnecting or cutout switches.

Disconnecting or cutout switches on energized high-voltage surface lines shall be operated only with insulated sticks, fuse tongs, or pullers which are adequately insulated and maintained to protect the operator from the voltage to which he is exposed. When such switches are operated from the ground, the person operating such devices shall wear protective rubber gloves.

§ 75.705–10 Tying into energized high-voltage surface circuits.

If the work of forming an additional circuit by tying into an energized high-voltage surface line is performed from the ground, any person performing such work must wear and employ all of the protective equipment and clothing required under the provisions of §§ 75.705–5 and 75.705–6. In addition, the insulated stick used by such person must have been designed for such purpose and must be adequately insulated and be maintained to protect such person from the voltage to which he is exposed.

§ 75.705–11 Use of grounded messenger wires; ungrounded systems.

Solely for purposes of grounding ungrounded high-voltage power systems, grounded messenger wires used to suspend the cables of such systems may be used as a grounding medium.

§ 75.706 Deenergized underground power circuits; idle days-idle shifts.

[STATUTORY PROVISIONS]

When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

Subpart I—Underground High-Voltage Distribution

§ 75.800 High-voltage circuits; circuit breakers.

[STATUTORY PROVISIONS]

High-voltage circuits entering the underground area of any coal mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

§ 75.800–1 Circuit breakers; location.

Circuit breakers protecting high-voltage circuits entering an underground area of any coal mine shall be located on the surface and in no case installed either underground or within a drift.

§ 75.800–2 Approved circuit schemes.

The following circuit schemes will be regarded as providing the necessary protection to the circuits required by § 75.800:

(a) Ground check relays may be used for undervoltage protection if the relay coils are designed to trip the circuit breaker when line voltage decreases to 40 percent to 60 percent of the nominal line voltage;

(b) Ground trip relays on resistance grounded systems will be acceptable as grounded phase protection;

(c) One circuit breaker may be used to protect two or more branch circuits, if the circuit breaker is adjusted to afford overcurrent protection for the smallest conductor.

§ 75.800–3 Testing, examination and maintenance of circuit breakers; procedures.

(a) Circuit breakers and their auxiliary devices protecting underground high voltage circuits shall be tested and examined at least once each month by a person qualified as provided in § 75.153;

(b) Tests shall include:

(1) Breaking continuity of the ground check conductor, where ground check monitoring is used; and

(2) Actuating at least two (2) of the auxiliary protective relays.

(c) Examination shall include visual observation of all components of the circuit breaker and its auxiliary devices, and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 75.800–4 Testing, examination and maintenance of circuit breakers; record.

The operator of any coal mine shall maintain a written record of each test, examination, repair, or adjustment of all circuit breakers protecting high voltage circuits which enter any underground area of the coal mine. Such record shall be kept in a book approved by the Secretary.

§ 75.801 Grounding resistors.

[STATUTORY PROVISIONS]

The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

§ 75.802 Protection of high-voltage circuits extending underground.

[STATUTORY PROVISIONS]

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

§ 75.803 Fail-safe ground check circuits on high-voltage resistance grounded systems.

[STATUTORY PROVISIONS]

On and after September 30, 1970, high-voltage, resistance grounded systems shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail-safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available.

§ 75.803–1 Maximum voltage ground check circuits.

The maximum voltage used for ground check circuits under § 75.803 shall not exceed 96 volts.

§ 75.803–2 Ground check systems not employing pilot check wires; approval by the Secretary.

Ground check systems not employing pilot check wires will be approved only if it is determined that the system includes a fail safe design causing the circuit breaker to open when ground continuity is broken.

§ 75.803–3 High-voltage ground check circuits; extension of time for noncompliance.

Upon written application an extension of time may be granted for a period not to exceed 12 months after September 30, 1970, if the operator submits evidence showing that the necessary components

required for proper compliance have been ordered and are unavailable at the time of such application. Any application for an extension of time under the provisions of this section shall be addressed to the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240, and shall set forth the following information:

(a) A list of the component parts ordered;

(b) The manufacturer, distributor, or dealer from whom such parts were ordered;

(c) The date of such order or orders; and,

(d) Expected date of delivery.

§ 75.804 Underground high-voltage cables.

[STATUTORY PROVISIONS]

(a) Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (A.W.G.) for the ground continuity check circuit.

(b) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

§ 75.805 Couplers.

[STATUTORY PROVISIONS]

Couplers that are used with medium-voltage or high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, no less effective couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

§ 75.806 Connection of single-phase loads.

[STATUTORY PROVISIONS]

Single-phase loads, such as transformer primaries, shall be connected phase-to-phase.

§ 75.807 Installation of high-voltage transmission cables.

[STATUTORY PROVISIONS]

All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are 6½ feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits.

§ 75.808 Disconnecting devices.

[STATUTORY PROVISIONS]

Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

§ 75.809 Identification of circuit breakers and disconnecting switches.

[STATUTORY PROVISIONS]

Circuit breakers and disconnecting switches underground shall be marked for identification.

§ 75.810 High-voltage trailing cables; splices.

[STATUTORY PROVISIONS]

In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with § 75.-604. Terminations and splices in all other high voltage cables shall be made in accordance with the manufacturer's specifications.

§ 75.811 High-voltage underground equipment; grounding.

[STATUTORY PROVISIONS]

Frames, supporting structures and enclosures of stationary, portable, or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment receiving power from resistance grounded systems shall be effectively grounded to the high-voltage ground.

§ 75.812 Movement of high-voltage power centers and portable transformers; permit.

[STATUTORY PROVISIONS]

Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this section, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

§ 75.812–1 Qualified person.

A person who meets the requirements of § 75.153 is a qualified person within the meaning of § 75.812.

§ 75.812–2 High-voltage power centers and transformers; record of examination.

The operator shall maintain a record of all examinations conducted in accordance with § 75.812. Such record shall be kept in a book approved by the Secretary.

Subpart J—Underground Low- and Medium-Voltage Alternating Current Circuits

§ 75.900 Low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers.

[STATUTORY PROVISIONS]

Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

§ 75.900–1 Circuit breakers; location.

Circuit breakers used to protect low- and medium-voltage circuits underground shall be located in areas which are accessible for inspection, examination, and testing, have safe roofs, and are clear of any moving equipment used in haulageways.

§ 75.900–2 Approved circuit schemes.

The following circuit schemes will be regarded as providing the necessary protection to the circuit required by § 75.900:

(a) Ground check relays may be used for undervoltage protection if the relay coils are designed to trip the circuit breaker when line voltage decreases to 40 to 60 percent of the nominal line voltage.

(b) One undervoltage device installed in the main secondary circuit at the source transformer may be used to provide undervoltage protection for each circuit that receives power from that transformer.

(c) One circuit breaker may be used to protect two or more branch circuits if the circuit breaker is adjusted to afford overcurrent protection for the smallest conductor.

(d) Circuit breakers with shunt trip, series trip or undervoltage release devices may be used if the tripping elements of such devices are selected or adjusted in accordance with the settings listed in the Tables of the National Electric Code, 1968.

§ 75.900–3 Testing, examination, and maintenance of circuit breakers; procedures.

Circuit breakers protecting low- and medium-voltage alternating current circuits serving three-phase alternating current equipment and their auxiliary devices shall be tested and examined at

least once each month by a person qualified as provided in § 75.153. In performing such tests, actuating any of the circuit breaker auxiliaries or control circuits in any manner which causes the circuit breaker to open, shall be considered a proper test. All components of the circuit breaker and its auxiliary devices shall be visually examined and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 75.900–4 Testing, examination, and maintenance of circuit breakers; record.

The operator of any coal mine shall maintain a written record of each test, examination, repair, or adjustment of all circuit breakers protecting low- and medium-voltage circuits serving three-phase alternating current equipment used in the mine. Such record shall be kept in a book approved by the Secretary.

§ 75.901 Protection of low- and medium-voltage three-phase circuits used underground.

[STATUTORY PROVISIONS]

(a) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

§ 75.902 Low- and medium-voltage ground check monitor circuits.

[STATUTORY PROVISIONS]

On or before September 30, 1970, low- and medium-voltage resistance grounded systems shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

§ 75.902–1 Maximum voltage ground check circuits.

The maximum voltage used for such ground check circuits shall not exceed 40 volts.

§ 75.902–2 Approved ground check systems not employing pilot check wires.

Ground check systems not employing pilot check wires will be approved only if it is determined that the system includes a fail-safe design causing the circuit breaker to open when ground continuity is broken.

§ 75.902–3 Low- and medium-voltage ground check circuit; extension of time for noncompliance.

Upon written application an extension of time may be granted, for a period not to exceed 12 months after September 30, 1970, if the operator submits evidence showing that the necessary components required for proper compliance have been ordered and are unavailable at the time of such application. Any application for extension of time under the provisions of this section shall be addressed to the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240 and shall set forth the following information:

(a) A list of the component parts ordered;

(b) The manufacturer, distributor, or dealer from whom such parts were ordered;

(c) The date of such order or orders; and,

(d) Expected delivery date.

§ 75.902–4 Attachment of ground conductors and ground check wires to equipment frames; use of separate connections.

In grounding equipment frames of all stationary, portable or mobile equipment receiving power from resistance grounded systems separate connections shall be used when practicable.

§ 75.903 Disconnecting devices.

[STATUTORY PROVISIONS]

Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected.

§ 75.904 Identification of circuit breakers.

[STATUTORY PROVISIONS]

Circuit breakers shall be marked for identification.

§ 75.905 Connection of single-phase loads.

[STATUTORY PROVISIONS]

Single-phase loads shall be connected phase-to-phase.

§ 75.906 Trailing cables for mobile equipment, ground wires, and ground check wires.

[STATUTORY PROVISIONS]

Trailing cables for mobile equipment shall contain one or more ground conductors having a cross-sectional area of not less than one-half the power conductor, and, on September 30, 1970, an insulated conductor for the ground continuity check circuit or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Splices made in the cables shall provide continuity of all components.

§ 75.907 Design of trailing cables for medium-voltage circuits.

[STATUTORY PROVISIONS]

Trailing cables for medium-voltage circuits shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor or a ground metallic shield over the assembly, except that on equipment employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

Subpart K—Trolley Wires and Trolley Feeder Wires

§ 75.1000 Cutout switches.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

§ 75.1001 Overcurrent protection.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

§ 75.1001–1 Devices for overcurrent protection.

Automatic circuit interrupting devices that will deenergize the affected circuit upon occurrence of a short circuit at any point in the system will meet the requirements of § 75.1001.

§ 75.1002 Location of trolley wires, trolley feeder wires, high-voltage cables and transformers.

[STATUTORY PROVISIONS]

Trolley wires and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

§ 75.1003 Insulation of trolley wires, trolley feeder wires and bare signal wires; guarding of trolley wires and trolley feeder wires.

[STATUTORY PROVISIONS]

Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately:

(a) At all points where men are required to work or pass regularly under the wires;

(b) On both sides of all doors and stoppings; and

(c) At man-trip stations.

The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

§ 75.1003–1 Other requirements for guarding of trolley wires and trolley feeder wires.

Adequate precaution shall be taken to insure that equipment being moved along haulageways will not come in contact with trolley wires or trolley feeder wires.

Subpart L—Fire Protection

§ 75.1100 Requirements.

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) Waterlines: Waterlines shall be capable of delivering 50 gallons of water a minute at a nozzle pressure of 50 pounds per square inch.

(b) Portable water cars: A portable water car shall be of at least 1,000 gallons capacity (500 gallons capacity for anthracite mines) and shall have at least 300 feet of fire hose with nozzles. A portable water car shall be capable of providing a flow through the hose of 50 gallons of water per minute at a nozzle pressure of 50 pounds per square inch.

(c) A portable chemical car shall carry enough chemicals to provide a fire extinguishing capacity equivalent to that of a portable water car.

(d) Portable foam-generating machines: 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 a nominal weight of 5 pounds of dry powder and enough expellant to apply the powder or (2) a foam-producing type containing at least 2½ gallons of foam-producing liquids and enough expellant to supply the foam. Only fire extinguishers approved by the Underwriters Laboratories, Inc., or Factory Mutual 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 having 2A 10 BC or higher rating.

(f) The fire hose shall be rubber-lined, mildew-proof and the cover shall have flame resistant qualities meeting requirements for hose in Bureau of Mines' Schedule 2G, except that the test flame shall be applied to the outer surface rather than to an open end. The bursting pressure shall be at least 4 times higher than the static water pressure at the mine location; the maximum water pressure in the hose nozzle shall not exceed 100 p.s.i.g.

§ 75.1100–2 Quantity and location of firefighting equipment.

(a) *Working sections.* (1) Each working section of coal mines producing 300 tons or more per shift shall be provided with two portable fire extinguishers and 240 pounds of bagged rock dust; waterlines shall extend to each section loading point and be equipped with enough fire hose to reach each working face unless the section loading point is provided with one of the following:

(i) Two portable water cars; or

(ii) Two portable chemical cars; or

(iii) One portable water car or one portable chemical car, and either (*a*) a portable foam-generating machine or (*b*) a portable high-pressure rock-dusting machine fitted with at least 250 feet of hose and supplied with at least 60 sacks of rock dust.

(b) *Belt conveyors.* (1) In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. At least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry.

(2) Each working section of coal mines producing less than 300 tons of coal per shift shall be provided with two portable fire extinguishers, 240 pounds of bagged rock dust and at least 500 gallons of water and at least 3 pails of 10 quart capacity. In lieu of the 500-gallon water supply a waterline with sufficient hose to reach the working places, a portable water car (500 gallons capacity) or a portable all-purpose dry powder chemical car of at least 125-pounds capacity may be provided.

(c) *Haulage tracks.* (1) In mines producing 300 tons of coal or more per shift waterlines shall be installed parallel to all haulage tracks using mechanized equipment in the track or adjacent entry and shall extend to the loading point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than 500 feet, and 500 feet of firehose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available, may be used in lieu of waterlines prescribed under this paragraph.

(2) In mines producing less than 300 tons of coal per shift, there shall be provided at 500-foot intervals in all main and secondary haulage roads:

(i) A tank of water of at least 55-gallon capacity with at least 3 pails of not less than 10-quart capacity; or

(ii) Not less than 240 pounds of bagged rock dust.

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

(e) *Electrical installations.* (1) Two portable fire extinguishers shall be provided at each permanent electrical installation.

(2) One portable fire extinguisher and 240 pounds of rock dust shall be provided at each temporary electrical installation.

(f) *Oil storage stations.* Two portable fire extinguishers and 240 pounds of rock dust, shall be provided at each permanent underground oil storage station. One portable fire extinguisher shall be provided at each working section where 25 gallons or more of oil are stored in addition to extinguishers required under paragraph (a) of this section.

(g) *Welding, cutting, soldering.* One portable fire extinguisher or 240 pounds of rock dust shall be provided at locations where welding, cutting, or soldering with arc or flame is being done.

(h) *Powerlines.* At each wooden door through which powerlines pass there shall be one portable fire extinguisher or 240 pounds of rock dust within 25 feet of the door on the intake air side.

(i) *Emergency materials.* (1) At each mine producing 300 tons of coal or more per shift there shall be readily available the following materials at locations not exceeding 2 miles from each working section:

1,000 board feet of brattice boards
2 rolls of brattice cloth
2 hand saws
25 pounds of 8^d nails
25 pounds of 10^d nails
25 pounds of 16^d nails
3 claw hammers
25 bags of wood fiber plaster or 10 bags of cement (or equivalent material for stoppings)
5 tons of rock dust

(2) At each mine producing less than 300 tons of coal per shift the above materials shall be available at the mine, provided, however, that the emergency materials for one or more mines may be stored at a central warehouse or building supply company and such supply must be the equivalent of that required for all mines involved and within 1-hour's delivery time from each mine. This exception shall not apply where the active working sections are more than 2 miles from the surface.

§ 75.1100–3 Condition and examination of firefighting equipment.

All firefighting equipment shall be maintained in a usable and operative condition. Chemical extinguishers shall be examined every 6 months and the date of the examination shall be written on a

permanent tag attached to the extinguisher.

§ 75.1101 Deluge-type water sprays, foam generators; main and secondary belt-conveyor drives.

[STATUTORY PROVISIONS]

Deluge-type water sprays or foam generators automatically actuated by rise in temperature, or other no less effective means approved by the Secretary of controlling fire, shall be installed at main and secondary belt-conveyor drives.

§ 75.1101–1 Deluge-type water spray systems.

(a) Deluge-type spray systems shall consist of open nozzles attached to branch lines. The branch lines shall be connected to a waterline through a control valve operated by a fire sensor. Actuation of the control valve shall cause water to flow into the branch lines and discharge from the nozzles.

(b) Nozzles attached to the branch lines shall be full cone, corrosion resistant, and provided with blow-off dust covers. The spray application rate shall not be less than 0.25 gallon per minute per square foot of one surface of the conveyor belt and the discharge shall be directed to both the upper and bottom surfaces of the top belt and to the upper surface of the bottom belt.

§ 75.1101–2 Installation of deluge-type sprays.

Deluge-type water spray systems shall provide protection for the belt drive and 50 feet of fire-resistant belt or 150 feet of nonfire-resistant belt adjacent to the belt drive.

§ 75.1101–3 Water requirements.

Deluge-type water spray systems shall be attached to a water supply. Water so supplied shall be free of excessive sediment and noncorrosive to the system. Water pressure shall be maintained consistent with the pipe, fittings, valves, and nozzles at all times. Water systems shall include strainers with a flush-out connection and a manual shut-off valve. The water supply shall be adequate to provide flow for 10 minutes except that pressure tanks used as a source of water supply shall be of 1,000-gallon capacity for a fire-resistant belt and 3,000 gallons for a nonfire-resistant belt may be provided.

§ 75.1101–4 Branch lines.

As a part of the deluge-type water spray system, two or more branch lines of nozzles shall be installed. The maximum distance between nozzles shall not exceed 8 feet.

§ 75.1101–5 Installation of foam generator systems.

(a) Foam generator systems shall be located so as to discharge foam to the belt drive, belt take-up, electrical controls, gear reducing unit and the conveyor belt.

(b) Foam generator systems shall be equipped with a fire sensor which actuates the system, and each system shall be capable of producing and delivering the following amounts of foam within 5 minutes:

(1) At fire-resistant belt installations, an amount which will fully envelop the belt drive, belt take-up, electrical controls, gear reducing unit, and the conveyor belt over a distance of 50 feet; and,

(2) At nonfire-resistant belt installations, an amount which will fully envelop the belt drive, belt take-up, electrical controls, gear reducing unit, and the conveyor belt over a distance of 150 feet.

(c) The foam generator shall be equipped with a warning device designed to stop the belt drive when a fire occurs and all such warning devices shall be capable of giving both an audible and visual signal when actuated by fire.

(d) Water, power, and chemicals required shall be adequate to maintain water or foam flow for no less than 25 minutes.

§ 75.1101–6 Water sprinkler systems; general.

Water sprinkler systems may be installed to protect main and secondary belt-conveyor drives, however, where such systems are employed, they shall be installed and maintained in accordance with §§ 75.1101–7 through 75.1101–11.

§ 75.1101–7 Installation of water sprinkler systems; requirements.

(a) The fire-control components of each water sprinkler system shall be installed, as far as practicable in accordance with the recommendations set forth in National Fire Protection Association, 1968–69 edition, Code No. 13, "Installation of Sprinkler Systems" and such systems shall be of a type approved by the Underwriters' Laboratories, Inc., Factory Mutual Engineering Corp.

(b) Each sprinkler system shall provide protection for the motor drive belt take-up, electrical controls, gear reducing unit, and the 50 feet of fire-resistant belt, or 150 feet of nonfire-resistant belt adjacent to the belt drive.

(c) The components of each water sprinkler system shall be located so as to minimize the possiiblity of damage by roof fall or by the moving belt and its load.

§ 75.1101–8 Water sprinkler system; arrangement of sprinklers.

(a) At least one sprinkler shall be installed above each belt drive, belt take-up, electrical control, and gear-reducing unit, and individual sprinklers shall be installed at intervals of no more than 8 feet along all conveyor branch lines.

(b) Two or more branch lines, at least one of which shall be above the top belt and one between the top and bottom belt, shall be installed in each sprinkler system to provide a uniform discharge of water to the belt surface.

(c) The rate of water discharge from each sprinkler shall be equivalent to 0.25 gallons per square foot per minute over a single surface of the conveyor belt and the supply of water shall be adequate to provide a constant flow of water for 10 minutes with all sprinklers functioning.

(d) Each indivdual sprinkler shall be activated by a temperature rise of not more than 130° F. above ambient.

§ 75.1101–9 Back-up water system.

One fire hose outlet together with a length of hose capable of extending to the belt drive shall be provided within 300 feet of each belt drive.

§ 75.1101–10 Water sprinkler systems; fire warning devices at belt drives.

Each water sprinkler system shall be equipped with a device designed to stop the belt drive in the event of a rise in temperature and each such warning device shall be capable of giving both an audible and visual warning when a fire occurs.

§ 75.1101–11 Inspection of water sprinkler systems.

Each water sprinkler system shall be examined weekly and a functional test of the complete system shall be conducted at least once each year.

§ 75.1101–12 Equivalent dry-pipe system.

Where water sprinkler systems are installed to protect main and secondary belt conveyor drives and freezing temperatures prevail, an equivalent dry-pipe system may be installed.

§ 75.1101–13 Dry powder chemical systems; general.

Self-contained dry powder chemical systems may be installed to protect main and secondary belt conveyor drives, however, where such systems are employed, they shall be installed and maintained in accordance with the provisions of §§ 75.1101–14 through 75.1101–22.

§ 75.1101–14 Installation of dry powder chemical systems.

(a) Self-contained dry powder chemical systems shall be installed to protect each belt drive, belt take-up, electrical controls, gear reducing units and 50 feet of fire-resistant belt or 150 feet of nonfire-resistant belt adjacent to the belt drive .

(b) The fire-control components of each dry powder chemical system shall be a type approved by the Underwriters' Laboratories, Inc. of Factory Mutual Engineering Corp.

(c) The components of each dry powder chemical system shall be located so as to minimize the possibility of damage by roof fall or by the moving belt and its load.

§ 75.1101–15 Construction of dry powder chemical systems.

(a) Each self-contained dry powder system shall be equipped with hose or pipelines which are no longer than necessary.

(b) Metal piping and/or hose between control valves and nozzles shall have a minimum bursting pressure of 500 p.s.i.g.

(c) Hose shall be protected by wire braid or its equivalent.

(d) Nozzles and reservoirs shall be sufficient in number to provide maximum

protection to each belt, belt takeup, electrical controls, and gear reducing unit.

(e) Each belt shall be protected on the top surface of both the top and bottom belts and the bottom surface of the top belt.

§ 75.1101–16 Dry powder chemical systems; sensing and fire-suppression devices.

(a) Each self-contained dry powder chemical system shall be equipped with sensing devices which shall be designed to activate the fire-control system, sound an alarm and stop the conveyor drive motor in the event of a rise in temperature, and provision shall be made to minimize contamination of the lens of any optical sensing device installed in such system.

(b) Where sensors are operated from the same power source as the belt drive, each sensor shall be equipped with a standby power source which shall be capable of remaining operative for at least 4 hours after a power cutoff.

(c) Sensor systems shall include a warning indicator (or test circuit) which shows it is operative.

(d) Each fire-suppression system shall be equipped with a manually operated control valve which shall be independent of the sensor.

§ 75.1101–17 Sealing of dry powder chemical systems.

Each dry powder chemical system shall be adequately sealed to protect all components of the system from moisture, dust, and dirt.

§ 75.1101–18 Dry powder requirements.

Each dry powder chemical system shall contain the following minimum amounts of multipurpose dry powder:

Belt	*Dry Powder, pounds*
Fire resistant	125
Non-fire resistant	250

§ 75.1101–19 Nozzles; flow rate and direction.

The nozzles of each dry powder chemical system shall be capable of discharging all powder within 1 minute after actuation of the system and such nozzles shall be directed so as to minimize the effect of ventilation upon fire control.

§ 75.1101–20 Safeguards for dry powder chemical systems.

Adequate guards shall be provided along all belt conveyors in the vicinity of each dry powder chemical system to protect persons whose vision is restricted by a discharge of powder from the system. In addition, hand-rails shall be installed in such areas to provide assistance to those passing along the conveyor after a powder discharge.

§ 75.1101–21 Back-up water system.

One fire hose outlet together with a length of hose capable of extending to the belt drive shall be provided within 300 feet of each belt drive.

§ 75.1101–22 Inspection of dry powder chemical systems.

(a) Each dry powder chemical system shall be examined weekly and a functional test of the complete system shall be conducted at least once each year.

(b) Where the dry powder chemical system has been actuated, all components of the system shall be cleaned immediately by flushing all powder from pipes and hoses and all hose damaged by fire shall be replaced.

§ 75.1102 Slippage and sequence switches.

[STATUTORY PROVISIONS]

Underground belt conveyors shall be equipped with slippage and sequence switches.

§ 75.1103 Automatic fire warning devices.

[STATUTORY PROVISIONS]

On or before May 29, 1970, devices shall be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

§ 75.1103–1 Automatic fire sensors.

A fire sensor shall be installed on each underground belt conveyor. Sensors so installed shall be of a type which will (a) give warning automatically when a fire occurs on or near such belt; (b) provide both audible and visual signals that permit rapid location of the fire.

§ 75.1104 Underground storage, lubricating oil and grease.

[STATUTORY PROVISIONS]

Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in all underground areas in a coal mine shall be in fireproof, closed metal containers or other no less effective containers approved by the Secretary.

§ 75.1105 Housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps.

[STATUTORY PROVISIONS]

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

§ 75.1106 Welding, cutting, or soldering with arc or flame underground.

[STATUTORY PROVISIONS]

All welding, cutting, or soldering with arc or flame in all underground areas of a coal mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall, immediately before and during such operations, continuously test for methane with means approved by the Secretary for detecting methane. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of methane. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

§ 75.1106–1 Test for methane.

Until December 31, 1970, a permissible flame safety lamp may be used to make tests for methane required by the regulations in this part. On and after December 31, 1970 a methane detector approved by the Secretary shall be used for such tests and a permissible flame safety lamp may be used as a supplemental testing device. A person qualified to test for methane under § 75.151 will be a qualified person for the purpose of this section.

§ 75.1107 Fire suppression devices.

[STATUTORY PROVISIONS]

On and after March 30, 1971, fire-suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

§ 75.1108 Flame-resistant conveyor belts.

[STATUTORY PROVISIONS]

On and after March 30, 1970, all conveyor belts acquired for use underground shall meet the requirements to be established by the Secretary for flame-resistant conveyor belts.

§ 75.1108–1 Approved conveyor belts.

Conveyor belts which have been approved as flame-resistant by the Bureau of Mines under Part 18 of this chapter (Bureau of Mines Schedule 2G) meet the requirements of § 75.1108.

Subpart M—Maps

§ 75.1200 Mine map.

The operator of a coal mine shall have in a fireproof repository located in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on scale. Such map shall show:

(a) The active workings;

(b) All pillared, worked out, and abandoned areas, except as provided in this section;

(c) Entries and aircourses with the direction of airflow indicated by arrows;

(d) Contour lines of all elevations;

(e) Elevations of all main and cross or side entries;

(f) Dip of the coalbed;

(g) Escapeways;

(h) Adjacent mine workings within 1,000 feet;

(i) Mines above or below;

(j) Water pools above; and

(k) Either producing or abandoned oil and gas wells located within 500 feet of such mine; and

(l) Such other information as the Secretary may require.

Such map shall identify those areas of the mine which have been pillared, worked out, or abandoned, which are inaccessible or cannot be entered safely and on which no information is available.

§ 75.1200–1 Additional information on mine map.

Additional information required to be shown on mine maps under § 75.1200 shall include the following:

(a) Name and address of the mine;

(b) The scale and orientation of the map;

(c) The property or boundary lines of the mine;

(d) All drill holes that penetrate the coalbed being mined;

(e) All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coalbed being mined;

(f) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;

(g) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown;

(h) The location and description of at least two permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys;

(i) The location of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines as provided under paragraph (m) of this section;

(j) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;

(k) The elevation of the floor at intervals of not more than 200 feet in:

(1) At least one entry of each working section, and main and crosscut 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 responsiblities of the Secretary of Housing and Urban Development.

§ 75.1204 Mine closure; filing of map with Secretary.

[STATUTORY PROVISIONS]

Whenever an operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than 90 days, he shall promptly notify the Secretary of such closure. Within 60 days of the permanent closure or abandonment of the mine, or, when the mine is temporarily closed, upon the expiration of a period of 90 days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

§ 75.1204–1 Places to give notice and file maps.

Operators shall give notice of mine closures and file copies of maps with the Coal Mine Safety District Office for the district in which the mine is located.

Subpart N—Blasting and Explosives

§ 75.1300 Black blasting powder; mudcaps.

[STATUTORY PROVISIONS]

Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

§ 75.1301 Separate containers for explosives and detonators.

[STATUTORY PROVISIONS]

Explosives and detonators shall be kept in separate containers until immediately before blasting.

§ 75.1302 Blasting in underground anthracite mines.

[STATUTORY PROVISIONS]

In underground anthracite mines:

(a) Mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when methane or a fire hazard is not present, and if it is otherwise impracticable to start the battery;

(b) Open unconfined shake shots in pitching veins may be fired, when no methane or fire hazard is present, if the taking down of loose-hanging coal by other means is too hazardous; and

(c) Tests for methane shall be made immediately before such shots are fired and if 1.0 volume per centum or more of methane is present, when tested, such shot shall not be made until the methane content is reduced below 1.0 volume per centum.

§ 75.1303 Permissible explosives, detonators, blasting devices and shot firing units; stemming boreholes.

[STATUTORY PROVISIONS]

Except as provided in this section, in all underground areas of a coal mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe ,permit the firing of more than 20 shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Nothing in this subpart shall prohibit the use of compressed air blasting.

§ 75.1303–1 Use of nonpermissible shot-firing units; permits for use; procedures and safeguards.

(a) Where the Coal Mine Health and Safety District Manager has determined that the firing of more than 20 shots of permissible explosives will be necessary to reduce the overall hazard to which miners are exposed during underground blasting, he may, in writing, permit the use of nonpermissible shot-firing units if he finds that a permissible shot-firing unit does not have adequate blasting capacity and that the use of such permissible units will create any of the following development or construction hazards.

(1) Exposure to disturbed roof in an adjacent cavity while scaling and supporting the remaining roof prior to wiring a new series of shots;

(2) Exposure to underburden shots where prior shots have removed the burden adjacent to a remaining borehole;

(3) Exposure to an unsupported roof while redrilling large fragmented roof rock following the loss of predrilled boreholes during earlier blasting operations; and,

(4) Any other hazard created by the use of permissible shot-firing units during underground development or construction.

(b) Applications for permits for the use of nonpermissible shot-firing units shall be submitted in writing to the Coal Mine Health and Safety District Manager for the district in which the mine is located and shall contain the following information:

(1) The name and address of the mine;

(2) The active workings in the mine in which such units will be used and the approximate number of shots to be fired;

(3) The period during which such units are to be used;

(4) The nature of the development or construction for which they will be used, e.g., overcasts, undercasts, track grading, roof brushing or boomholes;

(5) A plan, proposed by the operator designed to protect miners in the mine from the hazards of methane and other explosive gases during each multiple shot, e.g., changes in the mine ventilation system, provisions for auxiliary ventilation and any other safeguards necessary to minimize such hazards.

(6) A statement of the specific hazards anticipated by the operator in blasting for overcasts, undercasts, track grading, brushing of roof, boomholes or other unusual blasting situations such as coalbeds of abnormal thickness.

(7) The method to be employed in the use of nonpermissible shot-firing units to avoid the dangers anticipated during development or construction which will ensure the protection of life and the prevention of injuries to the miners exposed to such underground blasting.

(c) (1) Permits for the use of nonpermissible shot-firing units shall be issued on a mine-by-mine basis for periods not to exceed 6 months.

(2) Permits issued under the provisions of this § 75.1303–1 shall specify and include as a condition of their use, any safeguards, in addition to those proposed by the operator, which the Health and Safety District Manager issuing such permit has determined will be required to safeguard the welfare of the miners employed in the mine at the time of the blasting permitted.

§ 75.1304 Persons carrying explosives or detonators underground.

[STATUTORY PROVISIONS]

Explosives or detonators carried anywhere underground in a coal mine by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

§ 75.1305 Transporting explosives or detonators.

[STATUTORY PROVISIONS]

Explosives or detonators shall be transported in special closed containers:

(a) In cars moved by means of a locomotive or rope;

(b) On belts;

(c) In shuttle cars; or

(d) In equipment designed especially to transport such explosives or detonators.

§ 75.1306 Storage of explosives and detonators underground for one or more working sections.

[STATUTORY PROVISIONS]

When supplies of explosives and detonators for use in one or more working sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least 25 feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except in pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

§ 75.1307 Storage of explosives and detonators in underground working places.

[STATUTORY PROVISIONS]

Explosives and detonators stored in the working places shall be kept in separate closed containers which shall be located out of the line of blast and not less than 50 feet from the working face and 15 feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least 5 feet. Such explosives and detonators, when stored, shall be separated by a distance of at least 5 feet.

§ 75.1308 Examinations for fires after blasting.

[STATUTORY PROVISIONS]

After every blasting operation, an examination shall be made to determine whether fires have been started.

Subpart O—Hoisting and Mantrips

§ 75.1400 Hoisting equipment; general.

[STATUTORY PROVISIONS]

Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist-handling platforms, cages, or other devices used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency, and such catches shall be tested at least once every 2 months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are transported into, or out of, a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

§ 75.1400–1 Hoists; brakes, capability.

Brakes on hoists used to transport persons shall be capable of stopping and holding the fully loaded platform, cage, or other device at any point in the shaft, slope, or incline.

§ 75.1400–2 Hoists; tests of safety catches; records.

A record shall be made in a book of the tests, required by § 75.1400, of the safety catches or other devices approved by the Secretary. Each entry shall be signed by the person making the tests and countersigned by a responsible official.

§ 75.1400–3 Daily examination of hoisting equipment.

The daily examination required by § 75.1400, of hoisting equipment, including automatic elevators shall include but not be limited to the following:

(a) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points, such as near the attachments, where the rope rests on the sheaves and where

the rope leaves the drum at both ends.

(b) An examination of the rope fastenings for defects.

(c) An examination of safety catches.

(d) An examination of the cage, platforms, elevators, or other devices for loose, missing, or defective parts.

(e) An examination of the head sheaves to check for broken flanges, defective bearings, rope alignment, and proper lubrication.

(f) An observation of the lining and all other equipment and appurtenances installed in the shaft.

§ 75.1400–4 Daily examinations of hoisting equipment; records.

Records of the daily examinations of hoisting equipment required by § 75.1400 shall be kept listing all items examined. Daily entries shall be signed by the person or persons making examinations. The reports of the examinations shall be read and countersigned by a responsible company official daily.

§ 75.1401 Hoists; rated capacities; ropes; indicators.

[STATUTORY PROVISIONS]

Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

§ 75.1401–1 Hoists, standards for ropes.

The American National Standards Institute "Specifications For the Use of Wire Ropes For Mines," M11.1–1960, or the latest revision thereof, shall be used as a guide in the use, selection, installation, and maintenance of wire ropes used for hoisting.

§ 75.1401–2 Hoists; notification of changes affecting rated capacity.

Alterations or changes in a hoist which affect the rated capacity shall be made only with the approval of the Coal Mine Safety District or Subdistrict Manager.

§ 75.1401–3 Hoists; indicators.

The indicator required by § 17.1401 of this chapter shall be placed so that it is in clear view of the hoisting engineer and shall be checked daily to determine its accuracy.

§ 75.1402 Communication between shaft stations and hoist room.

[STATUTORY PROVISIONS]

There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

§ 75.1402–1 Communication between shaft stations and hoist room.

One of the methods used to communicate between shaft stations and the hoist room shall give signals which can be heard by the hoisting engineer at all times while men are underground.

§ 75.1402–2 Tests of signaling systems.

Signaling systems used for communication between shaft stations and the hoist room shall be tested daily.

§ 75.1403 Other safeguards.

[STATUTORY PROVISIONS]

Other safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

§ 75.1403–1 General criteria.

(a) Sections 75.1403–2 through 75.1403–11 set out the criteria by which District Managers will be guided in requiring other safeguards under § 75.1403.

(b) The District Manager should in writing advise the operator of a specific safeguard to be provided pursuant to § 75.1403 and should fix a time within which the safeguard should be provided. If the safeguard is not provided within the time fixed, a notice should be issued to the operator pursuant to section 104 of the Act.

(c) Nothing in the sections in the § 75.1403 series in this Subpart O precludes the issuance of a withdrawal order because of imminent danger.

§ 75.1403–2 Criteria—Hoists transporting materials; brakes.

Hoists and elevators used to transport materials should be equipped with brakes capable of stopping and holding the fully loaded platform, cage, skip, car, or other device at any point in the shaft, slope, or incline.

§ 75.1403–3 Criteria—Drum clutch; attachment of ropes; cage construction.

(a) The clutch of free-drums on manhoist should be provided with a locking mechanism or interlocked with the brake to prevent the accidental withdrawal of the clutch.

(b) The hoist rope attached to a cage, man car, or trip should be equipped with two bridle chains or cables connected securely to the rope at least 3 feet above the attaching device and to the crosspiece of the cage, man car or trip.

(c) The hoist rope should have at least three full turns on the drum when extended to its maximum working length and should make at least one full turn on the drum shaft or around the spoke of the drum in the case of a free drum, and be fastened securely.

(d) Cages used for hoisting men should be constructed with the sides enclosed to a height of at least 6 feet and should have gates, safety chains, or bars across the ends of the cage when men are being hoisted or lowered.

(e) Self-dumping cages, platforms, or other devices used for transportation of men should have a locking device to prevent tilting when men are transported thereon.

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

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

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

§ 75.1403–4 Criteria—Automatic elevators.

(a) The doors of automatic elevators should be equipped with interlocking switches so arranged that the elevator car will be immovable while any door is opened or unlocked, and arranged so that such door or doors cannot be inadvertently opened when the elevator car is not at a landing.

(b) A "Stop" switch should be provided in the automatic elevator compartment that will permit the elevator to be stopped at any location in the shaft.

(c) A slack cable device should be used where appropriate on automatic elevators which will automatically shut-off the power and apply the brakes in the event the elevator is obstructed while descending.

(d) Each automatic elevator should be provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

§ 75.1403–5 Criteria—Belt conveyors.

(a) Positive-acting stop controls should be installed along all belt conveyors used to transport men, and such controls should be readily accessible and maintained so that the belt can be stopped or started at any location.

(b) Belt conveyors used for regularly scheduled mantrips should be stopped while men are loading or unloading.

(c) All belt conveyors used for the transportation of persons should have a minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there should be at least 36 inches of side clearance where men board or leave such belt conveyors.

(d) When men are being transported on regularly scheduled mantrips on belt conveyors the belt speed should not exceed 300 feet per minute when the vertical clearance is less than 24 inches, and should not exceed 350 feet per minute when the vertical clearance is 24 inches or more.

(e) Adequate illumination including colored lights or reflective signs should be installed at all loading and unloading stations. Such colored lights and reflective signs should be so located as to be observable to all persons riding the belt conveyor.

(f) After supplies have been transported on belt conveyors such belts should be examined for unsafe conditions prior to the transportation of men on regularly scheduled mantrips, and belt conveyors should be clear before men are transported.

(g) A clear travelway at least 24-inches wide should be provided on both sides of all belt conveyors installed after March 30, 1970. Where roof supports are installed within 24 inches of a belt conveyor, a clear travelway at least 24-inches wide should be provided on the side of such support farthest from the conveyor.

(h) On belt conveyors that do not transport men, stop and start controls should be installed at intervals not to exceed 1,000 feet. Such controls should be properly installed and positioned so as to be readily accessible.

(i) Telephone or other suitable communications should be provided at points where men or supplies are regularly

loaded on or unloaded from the belt conveyors.

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

§ 75.1403–6 Criteria—Self-propelled personnel carriers.

(a) Each self-propelled personnel carrier should:

(1) Be provided with an audible warning device;

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

(3) Be provided with reflectors on both ends and sides.

(b) In addition, each track-mounted self-propelled personnel carrier should:

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

(2) Be equipped with 2 separate and independent braking systems properly installed and well maintained;

(3) Be equipped with properly installed and well maintained sanding devices, except that personnel carriers (jitneys), which transport not more than 5 men, need not be equipped with such sanding device;

(4) If an open type, be equipped with guards of sufficient strength and height to prevent personnel from being thrown from such carriers.

§ 75.1403–7 Criteria—Mantrips.

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

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

(c) Mantrips should not be pushed.

(d) Where mantrips are operated by locomotives on slopes such mantrips should be coupled to the front and rear by locomotives capable of holding such mantrips. Where ropes are used on slopes for mantrip haulage, such conveyances should be connected by chains, steel ropes, or other effective devices between mantrip cars and the rope.

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

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

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

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

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

(j) Mantrips should not be permitted to proceed until the operator of the mantrip is assured that he has a clear road.

(k) Supplies or tools, except small hand tools or instruments, should not be transported with men.

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

(m) The mine car next to a trolley locomotive should not be used to transport men. Such cars may be used to transport small tools and supplies. This is not to be construed as permitting the transportation of large or bulky supplies such as shuttle car wheel units, or similar material.

(n) Drop-bottom cars used to transport men should have the bottoms secured with an additional locking device.

(o) Extraneous materials or supplies should not be transported on top of equipment; however, materials and supplies that are necessary for or related to the operation of such equipment may be transported on top of such equipment if a hazard is not introduced.

§ 75.1403–8 Criteria—Track haulage roads.

(a) The speed at which haulage equipment is operated should be determined by the condition of the roadbed, rails, rail joints, switches, frogs and other elements of the track and the type and condition of the haulage equipment.

(b) Track haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic. Where it is necessary to change the side on which clearance is provided, 24 inches of clearance should be provided on both sides for a distance of not less than 100 feet and warning signs should be posted at such locations.

(c) Track haulage roads developed after March 30, 1970, should have clearance on the type side of at least 12 inches from the farthest projection of normal traffic. A minimum clearance of 6 inches should be maintained on the tight side of all track haulage roads developed prior to March 30, 1970.

(d) The clearance space on all track haulage roads should be kept free of loose rock, supplies, and other loose materials.

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

§ 75.1403–9 Criteria—Shelter holes.

(a) Shelter holes should be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by the Coal Mine Safety District Manager(s).

(b) Shelter holes should be readily accessible and should be at least 5 feet in depth, not more than 4 feet in width (except crosscuts used as shelter holes) and at least the height of the coal seam where the coal seam is less than 6 feet high and at least 6 feet in height where the coal seam is 6 feet or more in height.

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

(d) Shelter holes should be provided at all manually operated doors and at switch throws except: (1) At room switches, or (2) at switches where more than 6 feet of side clearance is provided. The Coal Mine Safety District Manager(s) may permit exemption of this requirement if such shelter holes create a hazardous roof condition.

(e) At each underground slope landing where men pass and cars are handled, a shelter hole at least 10 feet in depth, 4 feet in width, and 6 feet in height should be provided.

§ 75.1403–10 Criteria—Haulage; general.

(a) A permissible trip light or other approved device such as reflectors, approved by the Coal Mine Safety District Manager(s), should be used on the rear of trips pulled, on the front of trips pushed and on trips lowered in slopes. However, trip lights or other approved devices need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads, during gathering operations at working faces, when trailing locomotives are used, or on trips pulled by animals.

(b) Cars on main haulage roads should not be pushed, except where necessary to push cars from side tracks located near the working section to the producing entries and rooms, where necessary to clear switches and sidetracks, and on the approach to cages, slopes, and surface inclines.

(c) Warning lights or reflective signs or tapes should be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(d) No person, other than the motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. No person should ride on any loaded car or on the bumper of any car. However, the brakeman may ride on the rear bumper of the last car of a slow moving trip pulled by a locomotive.

(e) Positive-acting stopblocks or derails should be used where necessary to protect persons from danger of runaway haulage equipment.

(f) An audible warning should be given by the operator of all self-propelled equipment including off-track equipment, where persons may be endangered by the movement of the equipment.

(g) Locomotives and personnel carriers should not approach to within 300 feet of preceding haulage equipment; except trailing locomotives that are an integral part of the trip.

(h) A total of at least 36 inches of unobstructed side clearance (both sides combined) should be provided for all rubber-tired haulage equipment where such equipment is used.

(i) Off-track haulage roadways should be maintained as free as practicable from bottom irregularities, debris, and wet or muddy conditions that affect the control of the equipment.

(j) Operators of self-propelled equipment should face in the direction of travel.

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

(l) All self-propelled rubber-tired haulage equipment should be equipped with well maintained brakes, lights, and a warning device.

(m) On and after March 30, 1971, all tram control switches on rubber-tired equipment should be designed to provide automatic return to the stop or off position when released.

§ 75.1403–11 Criteria—Entrances to shafts and slopes.

All open entrances to shafts should be equipped with safety gates at the top and at each landing. Such gates should be self-closing and should be kept closed except when the cage is at such landing.

§ 75.1404 Automatitc brakes; speed reduction gear.

[STATUTORY PROVISIONS]

Each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, where space permits. Where space does not permit automatic brakes, locomotives and haulage cars shall be subject to speed reduction gear, or other similar devices approved by the Secretary, which are designed to stop the locomotives and haulage cars with the proper margin of safety.

§ 75.1404–1 Braking system.

A locomotive equipped with a dual braking system will be deemed to satisfy the requirements of § 75.1404 for a train comprised of such locomotive and haulage cars, provided the locomotive is operated within the limits of its design capabilities and at speeds consistent with the condition of the haulage road. A trailing locomotive or equivalent devices should be used on trains that are operated on ascending grades.

§ 75.1405 Automatic couplers.

[STATUTORY PROVISIONS]

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

§ 75.1405–1 Automatic couplers, haulage equipment.

The requirement of § 75.1405 with respect to automatic couplers applies only to haulage cars which are regularly coupled and uncoupled.

Subpart P—Emergency Shelters

§ 75.1500 Emergency shelters.

[STATUTORY PROVISIONS]

The Secretary or an authorized representative of the Secretary may prescribe in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which persons may go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the persons while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers and the training of the miners in their proper use shall be submitted by the operator to the Secretary for his approval.

Subpart Q—Communications

§ 75.1600 Communications.

[STATUTORY PROVISIONS]

Telephone service or equivalent two-way communication facilities, approved by the Secretary or his authorized representative, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section of any coal mine this is more than 100 feet from a portal.

Subpart R—Miscellaneous

§ 75.1700 Oil and gas wells.

[STATUTORY PROVISIONS]

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

§ 75.1701 Abandoned areas, adjacent mines; drilling of boreholes.

[STATUTORY PROVISIONS]

Whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least 20 feet in advance of the working face of such working place and shall be continually maintained to a distance of at least 10 feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than 8 feet apart in the rib of such working place to a distance of at least 20 feet and at an angle of 45 degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of miners in such place.

§ 75.1702 Smoking; prohibition.

[STATUTORY PROVISIONS]

No person shall smoke, carry smoking materials, matches, or lighters underground, or smoke in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator shall institute a program, approved by the Secretary, to insure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters.

§ 75.1702–1 Smoking programs.

Programs required under § 75.1702 shall be submitted to the Coal Mine Safety District Manager for approval on or before May 30, 1970.

§ 75.1703 Portable electric lamps.

[STATUTORY PROVISIONS]

Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in the underground area of any coal mine, except as permitted under § 75.1106.

§ 75.1703–1 Permissible lamps.

Lamps approved by the Bureau of Mines under Part 19 or Part 20 of this chapter (Bureau of Mines Schedule 6D and Schedule 10C) are approved lamps for the purposes of § 75.1703.

§ 75.1704 Escapeways.

[STATUTORY PROVISIONS]

Except as provided in §§ 75.1705 and 75.1706, at least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground area of the mine of surface fires, fumes, smoke, and floodwater. Escape facilities approved by the Secretary or his authorized representative, properly maintained and frequently tested, shall be present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

§ 75.1704–1 Escapeways and escape facilities.

This section sets out criteria by which 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 satisfy the Bureau of Mines that such escapeways and facilities will enable miners to escape quickly to the surface in the event of an emergency.

(a) Except in situations where the height of the coalbed is less than 5 feet, escapeways 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 coalbed is less than 5 feet the escapeway shall be maintained to the height of the coalbed (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 degrees with the horizontal and equipped on the open side with suitable handrails. Where landing platforms are necessary, they shall be at least 2 feet wide and 4 feet long and properly railed.

(2) Ladders shall be anchored securely, set on an angle of not more than 60 degrees and be substantially constructed and maintained in good condition.

§ 75.1705 Opening new mines.

[STATUTORY PROVISIONS]

When new coal mines are opened, not more than 20 miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such connections shall be made as soon as possible.

§ 75.1706 Final mining of pillars.

[STATUTORY PROVISIONS]

When only one mine opening is available, owing to final mining of pillars, not more than 20 miners shall be allowed in such mine at any one time, and the distance between the mine opening and working face shall not exceed 500 feet.

§ 75.1707 Escapeways; intake air; separation from belt and trolley haulage entries.

[STATUTORY PROVISIONS]

In the case of all coal mines opened on or after March 30, 1970, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as such extension does not pose a hazard to the miners.

§ 75.1707–1 New working section.

The term "new working section" as used in § 75.1707 means any extension of the belt or trolley haulage system in main, cross, and room entries necessary for the development of the mine on and after March 30, 1970. Room entries being developed as of March 30, 1970, with certified stop line limitations as shown on the mine map and retreating panels shall not be considered as new working sections.

§ 75.1708 Surface structures, fireproofing.

[STATUTORY PROVISIONS]

After March 30, 1970, all structures erected on the surface within 100 feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date which are located within 100 feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering miners underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard and shall be available for inspection by interested persons.

§ 75.1708–1 Surface structures; fireproof construction.

Structures of fireproof construction is interpreted to mean structures with fireproof exterior surfaces.

§ 75.1709 Accumulations of methane and coal dust on surface coal-handling facilities.

[STATUTORY PROVISIONS]

Adequate measures shall be taken to prevent methane and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall methane be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for methane by the Secretary on and after March 30, 1971. Where coal is dumped at or near air-intake openings, provisions shall be made to avoid dust from entering the mine.

§ 75.1710 Canopies or cabs; electric face equipment.

[STATUTORY PROVISIONS]

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

§ 75.1711 Sealing of mines.

On or after March 30, 1970, the opening of any coal mine that is declared inactive by the operator, or is permanently closed, or abandoned for more than 90 days, shall be sealed by the operator in a manner prescribed by the Secretary. Openings of all other mines shall be adequately protected in a manner prescribed by the Secretary to prevent entrance by unauthorized persons.

§ 75.1711–1 Sealing of shaft openings.

Shaft openings required to be sealed under § 75.1711 shall be effectively capped or filled. Filling shall be for the entire depth of the shaft and, for the first 50 feet from the bottom of the coalbed, the fill shall consist of incombustible material. Caps consisting of a 6-inch thick concrete cap or other equivalent means may be used for sealing. Caps shall be equipped with a vent pipe at least 2 inches in diameter extending for a distance of at least 15 feet above the surface of the shaft.

§ 75.1711–2 Sealing of slope or drift openings.

Slope or drift openings required to be sealed under § 75.1711 shall be sealed with solid, substantial, incombustible material, such as concrete blocks, bricks or tile, or shall be completely filled with incombustible material for a distance of at least 25 feet into such openings.

§ 75.1711–3 Openings of active mines.

The openings of all mines not declared by the operator, to be inactive, permanently closed, or abandoned for less than 90 days shall be adequately fenced or posted with conspicuous signs prohibiting the entrance of unauthorized persons.

§ 75.1712 Bathhouses and toilet facilities.

[STATUTORY PROVISIONS]

The Secretary may require any operator to provide adequate facilities for the miners to change from the clothes worn underground, to provide for the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

§ 75.1712–1 Availability of surface bathing facilities; change rooms; and sanitary facilities.

Except where a waiver has been granted pursuant to the provisions of § 75.1712–4, each operator of an underground coal mine shall on and after December 30, 1970, provide bathing facilities, clothing change rooms, and sanitary facilities for the use of the miners at the mine.

§ 75.1712–2 Location of surface facilities.

Bathhouses, change rooms, and sanitary toilet facilities shall be in a location convenient for the use of the miners. Where such facilities are designed to serve more than one mine, they shall be centrally located so as to be as convenient for the use of the miners in all the mines served by such facilities.

§ 75.1712–3 Minimum requirements of surface bathing facilities, change rooms, and sanitary toilet facilities.

(a) All bathing facilities, change rooms, and sanitary toilet facilities shall be provided with adequate light, heat, and ventilation so as to maintain a comfortable air temperature and to minimize the accumulation of moisture and odors, and such facilities shall be maintained in a clean sanitary condition.

(b) Bathing facilities, change rooms, and sanitary toilet facilities shall be constructed and equipped so as to comply with applicable State and local building codes; Provided, however, that where no State or local building codes apply to such facilities, or where no State or local building codes exist, such facilities shall be constructed and equipped so as to meet the minimum construction requirements of the National Building Code; and the minimum plumbing requirements of the U.S.A. Standard Plumbing Code, ASA A40.8–1955.

(c) In addition to the minimum requirements specified in paragraphs (a) and (b) of this § 75.1712–3, facilities maintained in accordance with § 75.1712–1 shall include the following:

(1) *Bathing facilities.* (i) Showers shall be provided with both hot and cold water.

(ii) At least one shower head shall be provided where five or less miners use such showers.

(iii) Where five or more miners use such showers, sufficient showers shall be furnished to provide approximately one shower head for each five miners.

(iv) A suitable cleansing agent shall be provided for use at each shower.

(2) *Sanitary toilet facilities.* (i) At least one sanitary flush toilet shall be provided where 10 or less miners use such facilities.

(ii) Where 10 or more miners use such sanitary toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary flush toilet for each 10 miners.

(iii) Where 30 or more miners use sanitary toilet facilities, one urinal may be substituted for one sanitary flush toilet, however, where such substitutions are made they shall not reduce the number of toilets below a ratio of two toilets to one urinal.

(iv) An adequate supply of toilet paper shall be provided with each toilet.

(v) Adequate handwashing facilities or hand lavatories shall be provided in or adjacent to each toilet facility.

(3) *Change rooms.* (i) Individual clothes storage containers or lockers shall be provided for storage of miners clothing and other incidental personal belongings during and between shifts.

(ii) Change rooms shall be provided with ample space to permit the use of such facilities by all miners changing clothes prior to and after each shift.

§ 75.1712–4 Waiver of surface facilities requirements.

The Coal Mine Safety District Manager for the district in which the mine is located may, upon written application by the operator, waive any or all of the requirements of §§ 75.1712–1 through 75.1712–3 if he determines that the operator of the mine cannot or need not meet any part or all of such requirements, and, upon issuance of such waiver, he shall set forth the facilities which will not be required and the specific reason or reasons for such waiver.

§ 75.1712–5 Application for waiver of surface facilities.

Applications for waivers of the requirements of §§ 75.1712–1 through 75.1712–3 shall be filed with the Coal Mine Safety District Manager and shall contain the following information:

(a) The name and address of the mine operator;

(b) The name and location of the mine;

(c) A statement explaining why, in the opinion of the operator, the installation or maintenance of the facilities is impractical or unnecessary.

§ 75.1712–6 Underground sanitary facilities; approved sanitary toilets; installation and maintenance.

(a) Except as provided in § 75.1712–7, each operator of an underground coal mine shall, on and after December 30, 1970, provide and maintain one approved sanitary toilet, together with an adequate supply of toilet tissue, in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single approved sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Only sanitary toilets approved by the Health Division, Coal Mine Health and Safety, Bureau of Mines shall meet the requirements of this section.

(c) Applications for approval of sanitary toilets shall be submitted to:

Health Division, Coal Mine Health and Safety, Bureau of Mines, U.S. Department of the Interior, Washington, D.C. 20240.

§ 75.1712–7 Underground sanitary facilities; waiver of requirements.

If it has been determined by the Coal Mine Safety District Manager for the district in which the mine is located that sanitary toilets cannot be provided and maintained within 500 feet of a working place because of the thickness of the coal seam or because of any other physical restriction in the underground workings, he may, upon written application by the operator, waive the location requirements for underground sanitary facilities with respect to such working place.

§ 75.1712–8 Application for waiver of location requirements for underground sanitary facilities.

Applications for waivers of the location requirements of § 75.1712–6 shall be filed with the Coal Mine Safety District Manager and shall contain the following information:

(a) The name and address of the mine operator;

(b) The name and location of the mine;

(c) The thickness of the coal seam in each working place in the mine for which a waiver is requested; and

(d) Other physical restrictions in the mine (for example, poor roof conditions, excessive water, timbering, etc.)

If a sanitary toilet cannot be installed within 500 feet of a working place because of physical conditions other than the thickness of the coal seam, the operator shall also include a short statement specifying areas in the mine which could be considered possible alternative sites for installation of such facilities.

§ 75.1712–9 Issuance of waivers.

Following the receipt of an application submitted in accordance with the provisions of § 75.1712–8, the Coal Mine Safety District Manager shall, if he determines that the operator cannot meet the location requirements of § 75.1712–6 with respect to any or all of the working places in the mine because of the coal seam thickness or because of other physical restriction, issue a waiver of the requirements of this section and designate an alternative site for installation of such facilities. The waiver issued shall specify each working place to which it shall apply, set forth the reasons for such waiver, and the reasons for designation of the alternative site.

§ 75.1712–10 Underground sanitary facilities; maintenance.

Sanitary toilets shall be regularly maintained in a clean and sanitary condition. Holding tanks shall be serviced and cleaned when full and in no case less than once each week by draining or pumping or by removing them to the surface for cleaning or recharging. Transfer tanks and transfer equipment used underground shall be equipped with suitable fittings to permit complete drainage of holding tanks without spillage and allow for the sanitary transportation of wastes to the surface. Waste

shall be disposed of on the surface in accordance with State and local laws and regulations.

§ 75.1713 Emergency medical assistance; first-aid.

[STATUTORY PROVISIONS]

Each operator shall make arrangements in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first-aid and first-aid training shall be made available to all miners. Each coal mine shall have an adequate supply of first-aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements of this section, the operator shall meet at least minimum requirements prescribed by the Secretary of Health, Education, and Welfare.

§ 75.1713–1 Arrangements for emergency medical assistance and transportation for injured persons; agreements; reporting requirements; posting requirements.

(a) Each operator of an underground coal mine shall enter into and maintain an agreement with a licensed physician, medical service, medical clinic, or hospital to provide 24-hour emergency medical assistance for any person injured at the mine.

(b) Each operator of an underground coal mine shall enter into and maintain an agreement with an ambulance service, or otherwise provide, for 24-hour emergency transportation for any person injured at the mine.

(c) Each operator shall, on or before October 31, 1970, report to the Coal Mine Safety District Manager for the district in which the mine is located the name, title, and address of the physician, medical service, medical clinic, hospital, or ambulance service with whom agreements have been made, or otherwise provided, in accordance with the provisions of paragraphs (a) and (b) of this § 75.1713–1.

(d) Each operator shall, within 10 days after any change, revision, or cancellation of the agreements required to be reported under the provisions of this § 75.1713–1, report such changes, revisions, or cancellations to the Coal Mine Safety District Manager. If such changes or revisions involve a substitution of persons, the operator shall provide the name, title, and address of the person substituted together with the name and address of the medical service, medical clinic, hospital or ambulance service with which such person or persons are associated. If an agreement entered into under paragraph (a) or paragraph (b) of this § 75.1713–1 has been canceled, the operator shall report any substitute agreement in accordance with the provisions of paragraph (c) of this section.

(e) Each operator shall, immediately after entering into any agreement required under the provisions of paragraphs (a) and (b) of this § 75.1713–1, or immediately after any change, revision or cancellation of such agreement, post at appropriate places at the mine the names, titles, addresses, and telephone numbers of all persons or services currently available under such agreements to provide medical assistance and transportation at the mine.

§ 75.1713–2 Emergency communications; requirements.

(a) Each operator of an underground coal mine shall establish and maintain an emergency communication system from the mine to the nearest point of medical assistance. Emergency communication systems shall be designed to provide an alternative means of contact with the person or persons providing medical assistance and transportation for injured persons in accordance with the provisions of § 75.1713–1 where the usual means of communication from the mine has been interrupted.

(b) The emergency communication system required to be maintained under paragraph (a) of this § 75.1713–2 may be established by telephone or radio transmission or by any other means of direct communication to any facility (for example, the local sheriff, the State highway patrol, or local hospital) which has available the means of communication with the person or persons providing emergency medical assistance or transportation in accordance with the provisions of paragraph (a) of this § 75.1713–2.

§ 75.1713–3 First-aid training; supervisory employees.

On or before December 30, 1970, each operator of an underground coal mine shall conduct first-aid training courses for all supervisory employees at the mine, and report in writing to the Coal Mine Safety District Manager the names and job titles of all supervisory employees so trained. Thereafter, each operator shall, within 60 days after the appointment of a new supervisory employee, report in writing to the Coal Mine Safety District Manager the name and job title of such employee and the date on which such employee satisfactorily completed a first-aid training course.

§ 75.1713–4 First-aid training program; availability of instruction to all miners.

On or before June 30, 1971, each operator of an underground coal mine shall make available to all miners employed in the mine a course of instruction in first-aid conducted by the operator or under the auspices of the operator, and such a course of instruction shall be made available to newly employed miners within 6 months after the date of employment.

§ 75.1713–5 First-aid training program; retraining of supervisory employees; availability to all miners.

Beginning January 1, 1971, each operator of an underground coal mine shall conduct refresher first-aid training courses during each calendar year for all supervisory employees, and make available refresher first-aid training courses to all miners employed in the mine.

§ 75.1713–6 First-aid training program; minimum requirements.

(a) All first-aid training programs required under the provisions of §§ 75.1713–3 and 75.1713–4 shall include 10 class hours of training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

(b) Refresher first-aid training programs required under the provisions of § 75.1713–5 shall include five class hours of refresher training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

§ 75.1713–7 First-aid equipment; location; minimum requirements.

(a) Each operator of an underground coal mine shall maintain a supply of the first-aid equipment set forth in paragraph (b) of this § 75.1713–7 at each of the following locations:

(1) At the mine dispatcher's office or other appropriate work area on the surface in close proximity to the mine entry;

(2) At the bottom of each regularly traveled slope or shaft; however, where the bottom of such slope or shaft is not more than 1,000 feet from the surface, such first-aid supplies may be maintained on the surface at the entrance to the mine; and

(3) At a point in each working section not more than 500 feet outby the active working face or faces.

(b) The first-aid equipment required to be maintained under the provisions of paragraph (a) of this § 75.1713–7 shall include at least the following:

(1) One stretcher;
(2) One broken-back board;
(3) Twenty-four triangular bandages;
(4) Eight 4-inch bandage compresses;
(5) Sixteen 2-inch bandage compresses;
(6) Twelve 1-inch adhesive compresses;
(7) One foille;
(8) Two cloth blankets:
(9) One rubber blanket;
(10) Two turniquets;
(11) One 1-ounce bottle of aromatic spirits of ammonia;
(12) Two inflatable plastic arm splints;
(13) Two inflatable plastic leg splints; and
(14) Six small splints (metal or wooden).

(c) All first-aid supplies required to be maintained under the provisions of paragraphs (a) and (b) of this § 75.1713–7 shall be stored in suitable, sanitary, dust tight, moisture proof containers and such supplies shall be accessible to the miners.

§ 75.1714 Self-rescue device.

[STATUTORY PROVISIONS]

A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for 1

hour or longer. Each operator shall train each miner in the use of such device.

§ 75.1714–1 Approved self-rescue devices.

(a) Until March 31, 1971, the requirements of § 75.1714 may be met by making available to each miner two MSA self-rescuers bearing Bureau of Mines approval number BM–1447.

(b) The requirements of § 75.1714 may be met by furnishing an Auer self-rescuer, bearing Bureau of Mines approval number BM–14F–76 or any other self-rescuer which has been officially approved by the Bureau of Mines as meeting the requirements of § 75.1714.

§ 75.1715 Identification check system.

[STATUTORY PROVISIONS]

Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine, kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than 16 gauge.

§ 75.1716 Operations under water.

[STATUTORY PROVISIONS]

Whenever an operator mines coal from a coal mine opened after March 30, 1970, or from any new working section of a mine opened prior to such date, in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, that is, in the judgment of the Secretary, sufficiently large to constitute a hazard to miners, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of miners working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to such body of water. No plan shall be approved unless there is a minimum of cover to be determined by the Secretary, based on test holes drilled by the operator in a manner to be prescribed by the Secretary. No such permit shall be required in the case of any new working section of a mine which is located under any water resource reservoir being constructed by a Federal agency on December 30, 1969, the operator of which is required by such agency to operate in a manner that protects the safety of miners working in such section from cave-ins and other hazards.

§ 75.1716–1 Operations underwater; notification by operator.

An operator planning to mine coal from coal mines opened after March 30, 1970, or from working sections in mines opened prior to such date, and in such manner that mining operations will be conducted, or tunnels constructed, under any river, stream, lake, or other body of water, shall give notice to the Coal Mine Safety District Manager in the district in which the mine is located prior to the commencement of such mining operations.

§ 75.1716–2 Permit required.

If in the judgment of the Coal Mine Safety District Manager the proposed mining operations referred to in § 75.-1716–1 constitute a hazard to miners, he shall promptly so notify the operator that a permit is required.

§ 75.1716–3 Applications for permits.

An application for a permit required under this section shall be filed with the Coal Mine Safety District Manager and shall contain the following general information:

(a) Name and address of the company.

(b) Name and address of the mine.

(c) Projected mining and ground support plans.

(d) A mine map showing the locations of the river, stream, lake, or other body of water and its relation to the location of all working places.

(e) A profile map showing the type of strata and the distance in elevation between the coal bed and the river, stream, lake or other body of water involved. The type of strata shall be determined by core test drill holes as prescribed by the Coal Mine Safety District Manager.

§ 75.1716–4 Issuance of permits.

If the Coal Mine Safety District Manager determines that the proposed mining operations under water can be safely conducted, he shall issue a permit for the conduct of such operations under such conditions as he deems necessary to protect the safety of miners engaged in those operations.

§ 75.1717 Exemptions.

[STATUTORY PROVISIONS]

No notice under § 75.1716–1 and no permit under § 75.1716–2 shall be required in the case of any new working section of a mine which is located under any water-resource reservoir being constructed by a Federal agency as of December 30, 1969, and where the operator is required by such agency to operate in a manner that adequately protects the safety of miners.

§ 75.1718 Drinking water.

[STATUTORY PROVISIONS]

An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary containers.

§ 75.1718–1 Drinking water underground; quantity; minimum requirements.

On and after October 31, 1970, each operator of an underground coal mine shall provide at a location inby the loading point of each working section of the mine, a minimum of 2 quarts of potable water for each miner employed in such section during each production shift.

§ 75.1718–2 Drinking water dispensers; requirements.

The potable water required to be provided in accordance with § 75.1718–1 shall be supplied by a drinking fountain or stored in and dispensed from an impervious, corrosion resistant, and unbreakable water storage container equipped with an adequate dust seal.

§ 75.1718–3 Drinking water dispensers; maintenance.

(a) An adequate supply of single service cups shall be made available at each point in the mine where water is dispensed from water storage containers. Water shall not be dipped from inside water storage containers.

(b) Portable water containers shall remain sealed at all times during use and shall not be refilled with water for reuse underground without first being sterilized with the use of heat or antiseptics.

(c) Drinking fountains from which water is dispensed underground shall be thoroughly cleaned and treated with anticeptics once each week.

§ 75.1718–4 Drinking water; quality.

(a) Potable water provided in accordance with the provisions of § 75.1718–1 shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located.

(b) Where no State or local health requirements apply to drinking water or where no State or local minimum health requirements exist, drinking water provided in accordance with the provisions of § 75.1718–1 shall contain a minimum of 0.2 milligrams of free chlorine per liter of water.

Subpart S—Approved Books and Records

§ 75.1800 Scope.

(a) The provisions of this Subpart S set forth the requirements for recording the results of certain tests and examinations conducted in underground coal mines. In addition, it specifies the approved books in which such results are to be recorded and the manner in which they shall be maintained.

(b) The approved books required to be maintained in accordance with the provisions of §§ 75.1801 through 75.1808 of this Subpart S shall be secured by each operator from commercial sources. Facsimile copies of Bureau of Mines Forms 6–1331, 6–1489, 6–1490, 6–1491, 6–1492, 6–1493, and 6–1494, have been filed with the Office of the Federal Register, General Services Administration, Washington, D.C. 20408, and sample copies of each of these forms are available for the use of commercial printers or operators at each District or Subdistrict Coal Mine Health and Safety Office of the Bureau of Mines.

§ 75.1801 Examination of emergency escapeways and facilities, smokers' articles and fire doors; recording requirements; approved books.

The results of examinations of emergency escapeways and facilities, fire doors, and for smokers' articles required to be conducted under the provisions of §§ 75.1702, 75.1704 and 75.1708, shall be recorded in a book entitled "Examinations of Emergency Escapeways and Facilities; Smokers' Articles; Fire Doors" (Bureau of Mines Form 6–1331, Budget Bureau No. 42–R1589, March 1970).

§ 75.1802 Preshift—onshift and daily report; recording requirements; approved books.

The results of daily examinations and tests for hazardous conditions and roof bolt torque required to be conducted under the provisions of §§ 75.200–7(b)(3)(iii), 75.303, 75.304, 75.304–2, 75.309, 75.309–4, and 75.324, shall be recorded in a book entitled "Preshift—Onshift and Daily Report" (Bureau of Mines Form 6–1489, Budget Bureau No. 42–R1589, March 1970).

§ 75.1803 Weekly examinations for methane and hazardous conditions; recording requirements; approved books.

The results of weekly examinations for methane and hazardous conditions required to be conducted under the provisions of §§ 75.305, 75.306, and 75.316–2(f), shall be recorded in a book entitled "Weekly Examination for Methane and Hazardous Conditions" (Bureau of Mines Form 6–1490, Budget Bureau No. 42–R1589, March 1970).

§ 75.1804 Daily and monthly examination of ventilation equipment; recording requirements; approved books.

The results of daily and monthly examinations of ventilation equipment required to be conducted under the provisions of §§ 75.300 and 75.300–4, shall be recorded in a book entitled "Daily and Monthly Examination of Ventilation Equipment" (Bureau of Mines Form 6–1491, Budget Bureau No. 42–R1589, March 1970).

§ 75.1805 Examination of electrical equipment; recording requirements; approved books.

The results of examinations of electrical equipment required to be conducted under the provisions of §§ 75.313–1, 75.512, 75.512–2, 75.703–3(d)(11), 75.812, 75.812–2, 75.900, 75.900–3, and 75.900–4, shall be recorded in a book entitled "Examination of Electrical Equipment" (Bureau of Mines Form 6–1492, Budget Bureau No. 42–R1589, March 1970).

§ 75.1806 Monthly examination of surface high voltage circuit breakers; recording requirements; approved books.

The results of monthly examinations of high voltage circuit breakers on the surface required to be conducted under the provisions of §§ 75.800, 75.800–3, and 75.800–4, shall be recorded in a book entitled "Monthly Examination of Surface High Voltage Circuit Breakers" (Bureau of Mines Form 6–1493, Budget Bureau No. 42–R1589, March 1970).

§ 75.1807 Daily inspection of hoisting equipment; recording requirements; approved books.

The results of daily examinations of hoisting equipment required to be conducted under the provisions of §§ 75.1400, 75.1400–2, 75.1400–3, 75.1400–4, 75.1401–3, and 75.1402–2, shall be recorded in a book entitled "Report of Daily Inspection of Hoisting Equipment" (Bureau of Mines Form 6–1494, Budget Bureau No. 42–R1589, March 1970).

§ 75.1808 Maintenance of approved books and records; requirements.

All approved books and records maintained under the provisions of §§ 75.1801 through 75.1807 shall be stored in a fireproof repository on the surface of the mine chosen by the mine operator to minimize their destruction by fire or other hazard and such records shall be made available to interested persons.

[F.R. Doc. 70–10517; Filed, Aug. 13, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 45]

OLEOMARGARINE, MARGARINE

Standard of Identity; Use of BHA and BHT as Antioxidants in Animal Fat Ingredients

Notice is given that a petition has been filed by the National Association of Margarine Manufacturers, 545 Munsey Building, Washington, D.C. 20004, proposing that the standard of identity for oleomargarine, margarine (21 CFR 45.1) be amended to permit the optional use of the antioxidants BHA (butylated hydroxyanisole) and BHT (butylated hydroxytoluene) in the animal fat ingredients presently permitted in the food. The petition further proposes that the use of such treated animal fat ingredients will require appropriate label declaration.

Grounds given in support of the proposal are that (1) most animal fats available to users (shortenings, etc.) are routinely treated with the subject antioxidants thereby making available only a small amount of untreated fats to margarine manufacturers, (2) shipping delays, traffic tie-ups, and difficulties in margarine production scheduling sometimes cause the animal fat ingredients to stand longer than desired and to become rancid and (3) adopting the proposal will therefore improve the available margarine manufacturing ingredients and eliminate the adverse effects of a shortage in supply of ingredients not treated with BHA and BHT that are available for manufacture of margarine.

Due to cross-reference, the proposed amendment to § 45.1 also applies to § 45.2, the standard of identity for liquid margarine.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof.

Dated: August 4, 1970.

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

[F.R. Doc. 70–10622; Filed, Aug. 13, 1970; 8:46 a.m.]

[21 CFR Part 120]

DDT

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

A proposal to reduce tolerances for residues of the insecticide DDT in or on certain raw agricultural commodities was published in the FEDERAL REGISTER of February 9, 1968 (33 F.R. 2787), and an order reducing several tolerances was published June 27, 1968 (33 F.R. 9396). Both documents gave notice of the intention of the Commissioner of Food and Drugs to make further reductions in tolerances for DDT. In response to this notice of the intention of the Commissioner, comments were received from 56 interested parties and included residue data from 18 parties.

The Florida Agricultural Extension Service, University of Florida, Gainesville, Fla. 32601, has requested that the established tolerance of 1 part per million for residues of DDT in or on the raw agricultural commodity endive (escarole) be reestablished at 7 parts per million. This request is based on similarity of use conditions in Florida for endive and for collards, kale, mustard greens, spinach, and Swiss chard, all of which have a tolerance at 7 parts per million.

Consideration has been given to all comments and other relevant material that support the need for continuance of tolerances at a level higher than 1 part per million, if uses in accordance with good agricultural practice are to be continued, and to the request of the Florida Agricultural Extension Service. The Commissioner concludes that:

1. The tolerance of 7 parts per million in or on eggplants, melons, pumpkins,

and squash should be changed to 7 parts per million of which not more than 1 part per million shall be in the edible portion after the inedible peel or rind is removed and discarded.

2. The tolerance of 7 parts per million in or on onions should be reduced to 1 part per million in or on dry bulb onions.

3. The tolerance of 7 parts per million in or on beans should be reduced to 1 part per million in or on dried beans but remain at 7 parts per million for other beans.

4. The tolerance of 7 parts per million in or on peas should be reduced to 1 part per million in or on shelled peas but remain at 7 parts per million for peas with pods.

5. The tolerance of 7 parts per million in fat of meat from cattle, goats, hogs, horses, and sheep should be reduced to 5 parts per million.

6. The tolerance of 1 part per million in or on endive (escarole) should be reestablished at 7 parts per million.

7. Tolerances for residues in or on raw agricultural commodities not named above are at appropriate levels to cover residues from registered uses.

The Commissioner further concludes that all the tolerances for residues of DDT should be reworded to reflect the possible occurrence of its degradation products DDD and DDE as components of the residues.

The matter of pesticides and their relation to public health has been studied by a Commission appointed by the Secretary of Health, Education, and Welfare. One recommendation of that Commission (Secretary's Commission on Pesticides and their Relationship to Environmental Health, Part I, Recommendations and Summaries, Department of Health, Education, and Welfare, November 1969) is to "eliminate within 2 years all uses of DDT and DDD in the United States, excepting those uses essential to the preservation of human health or welfare and approved unanimously by the Secretaries of the Departments of Health, Education, and Welfare, Agriculture, and Interior." The Secretary of Health, Education, and Welfare has accepted this recommendation of the Commission. This proposal to reduce certain tolerances for DDT was under consideration prior to acceptance of the report. The reductions in tolerances in this proposal are on an interim basis pending actions to comply with the above recommendation.

Based on the Commissioner's conclusion that these tolerances will be safe, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a(e), (m)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 120.147 be amended by revising the introductory text, the paragraph "7 parts per million * * *," and the paragraph "1 part per million * * *," and by inserting after the paragraph "7 parts per million * * *" a new paragraph "5 parts per million," as follows:

§ 120.147 DDT; tolerances for residues.

Tolerances are established for residues in or on raw agricultural commodities listed below for each or any combination of the insecticide DDT (a mixture of 1,1,1-trichloro-2,2-bis(*p* - chlorophenyl) ethane and 1,1,1-trichloro-2-(*o*-chlorophenyl)-2-(*p*-chlorophenyl)ethane) and its degradation products DDD (1,1-dichloro-2,2-bis(*p*-chlorophenyl)ethane) and DDE (1,1-dichloro-2,2-bis(*p*-chlorophenyl)ethylene), except where a higher tolerance is established for residues of TDE (DDD) in § 120.187, such higher tolerance shall apply to the TDE (DDD) residue:

* * * * *

7 parts per million in or on apples, apricots, beans (except dried beans), beet greens, blueberries (huckleberries), cabbage, celery, collards, cranberries, cucumbers, eggplants (of which not more than 1 part per million shall be in the edible portion after the inedible peel or rind is removed and discarded), endive (escarole) grapes, kale, lettuce, mangoes, melons (of which not more than 1 part per million shall be in the edible portion after the inedible peel or rind is removed and discarded), mustard greens, nectarines, okra, parsnip greens, peaches, pears, peas (with pods), peppers, pineapples, pumpkins (of which not more than 1 part per million shall be in the edible portion after the inedible peel or rind is removed and discarded), quinces, radish tops, rutabaga tops, spinach, squash (of which not more than 1 part per million shall be in the edible portion after the inedible peel or rind is removed and discarded), summer squash, sweet potatoes (from postharvest use), Swiss chard, tomatoes, and turnip greens.

5 parts per million in fat of meat from cattle, goats, hogs, horses, and sheep.

* * * * *

1 part per million in or on artichokes, asparagus, beans (dried), beets (roots), blackberries, boysenberries, broccoli, brussels sprouts, cauliflower, currants, dewberries, gooseberries, guavas, kohlrabi, loganberries, mushrooms, onions (dry bulbs only), parsnips (roots), peanuts, peas (shelled), potatoes (determined after washing off any soil present when marketed), radishes (roots), raspberries, rutabagas (roots), strawberries, turnips (roots), and youngberries.

Any person who has registered or who has submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the subject pesticides may request, within 30 days after publication hereof in the FEDERAL REGISTER, that the above proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: July 21, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-10623; Filed, Aug. 13, 1970; 8:46 a.m.]

[21 CFR Part 130]

METHADONE

Conditions for Investigational Use for Maintenance Programs for Narcotic Addicts; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of June 11, 1970 (35 F.R. 9014), proposing establishment of § 130.44 *Conditions for investigational use of methadone for maintenance programs for narcotic addicts*, provided for the filing of comments within 30 days after said date.

The notice published in the FEDERAL REGISTER of July 25, 1970 (35 F.R. 12007), granted an extension of time for filing comments on the subject proposal to August 10, 1970. A similar extension of time for filing comments on the guidelines of the Bureau of Narcotics and Dangerous Drugs, Department of Justice, was published in the FEDERAL REGISTER of July 25, 1970 (35 F.R. 12002).

The Commissioner of Food and Drugs has received a request for an additional extension of such time. Having conferred with the Director, Bureau of Narcotics and Dangerous Drugs, and having found good reason for such extension, the Commissioner hereby extends the time for filing comments on the subject proposal to September 9, 1970.

A similar extension of time for filing comments on the guidelines of the Bureau of Narcotics and Dangerous Drugs, Department of Justice, is published in this issue of the FEDERAL REGISTER.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-53, as amended, 1055; 21 U.S.C. 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 7, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10644; Filed, Aug. 13, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-SW-46]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Dallas-Fort Worth, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications 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 Dallas-Fort Worth, Tex., transition area is amended in part by deleting "That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 33°11'00'' N., long. 97°27'00'' W., to lat. 33°11'00'' N., long. 97°19 00'' W., to lat. 33°08'00'' N., long. 97°15'00'' W., to lat. 33°10'30'' N., long. 97°06'00'' W., to lat. 33°19'00'' N., long. 96°57'00'' W., * * *" and substituting "That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 33°11'00'' N., long. 97°27'00'' W., thence to lat. 33°11' 00'' N., long. 97°19'00'' W., to lat. 33°26' 00'' N., long. 97°15'00'' W., to lat. 33°26' 00'' N., long. 97°07'00'' W., to lat. 33°19' 00'' N., long. 97°06'00'' W., to lat. 33°19' 00'' N., long. 96°57'00'' W., * * *" therefor.

The proposed alteration will provide controlled airspace protection for aircraft executing instrument approach/departure procedures proposed for the Denton Municipal Airport at Denton, Tex. This airport is adjacent to the Dallas-Fort Worth transition area and in the interest of chart clarity, it is appropriate to alter this transition area to include the controlled airspace required for the proposed approach/departure procedures rather than to designate a new separate transition area.

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

Issued in Fort Worth, Tex., on August 4, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-10628; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-47]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Athens, Tex., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications 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 Athens, Tex., transition area is amended to read:

ATHENS, TEX.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 32°12'30'' N., long. 95°39'-30'' W., to lat. 31°59'00'' N., long. 95°35'00'' W., to lat. 31°56'30'' N., long. 95°41'00'' W., to lat. 31°59'30'' N., long. 95°53'00'' W., to lat. 32°12'00'' N., long. 95°56'00'' W., to lat. 32°15'00'' N., long. 95°50'30'' W., to point of beginning.

This transition area will encompass existing controlled airspace provided for aircraft executing existing instrument approach/departure procedures to the Glad Oaks Airport as well as provide controlled airspace for aircraft executing instrument approach/departure procedures proposed to serve the Jones Municipal Airport at Athens, Tex.

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

Issued in Fort Worth, Tex., on August 4, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-10629; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-60]

TRANSITION AREA

Proposed Designation

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

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

The Wilkesboro transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Wilkes County Airport (lat. 36° 08'33'' N., long. 81°11'36'' W.); within 5 miles north and 3 miles south of the 075° bearing from Wilkesboro RBN (lat. 36°08' 36'' N., long. 81°11'44'' W.), extending from the 8.5-mile radius area to 10 miles east of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations in climb from 700 to 1,200 feet above the surface and in descent from 1,500 to 1,000 feet above the

surface. A prescribed instrument approach procedure to Wilkes County Airport, utilizing the Wilkesboro (private) NDB, is proposed in conjuncation with the designation of this transition area.

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

Issued in East Point, Ga., on August 5, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-10630; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SO-62]

TRANSITION AREA

Proposed Designation

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

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

The Barnwell transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barnwell County Airport (lat. 33°15'26" N., long. 81°23'06" W.); within 3 miles each side of the 009° bearing from Barnwell RBN (lat. 33°15'31" N., long. 81°22'43" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within R-6004.

The proposed designation is required to provide controlled airspace protection for IFR operations in climb from 700 to 1,200 feet above the surface and in descent from 1,500 to 1,000 feet above the surface. A prescribed instrument approach procedure to Barnwell County Airport, utilizing the Barnwell (private) RBN, is proposed in conjunction with the designation of this transition area.

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

Issued in East Point, Ga., on August 6, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-10631; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-62]

TRANSITION AREA

Proposed Designation, Alteration, and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate, alter, and revoke controlled airspace in the State of Illinois by designating the Illinois transition area.

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

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

There are varying portions of uncontrolled airspace scattered throughout the State of Illinois. These portions are either surrounded by Federal Airways or transition areas. Because of the increasing traffic volume and the demand for Air Traffic Control services, there is a need to include these areas within the proposed Illinois transition area. Inclusion of these areas within the proposed transition area would incur no apparent derogation to VFR operations.

To simplify airspace descriptions, provide continuity of the floors of controlled airspace and improve chart legibility, it is necessary to designate a 1,200-foot floor transition area for the State of Illinois which will also include amending certain existing transition areas and revoking two others within the State of Illinois and revoking the St. Louis, Mo., additional control area.

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

Section 71.181 (35 F.R. 2134), is amended as follows:

1. An Illinois transition area is added as follows:

ILLINOIS

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Illinois.

2. The following transition areas are altered by deleting the portions which designate airspace with a floor of 1,200 feet above the surface or higher.

Centralia, Ill.	Olney, Ill.
Decatur, Ill.	Salem, Ill.
Harrisburg, Ill.	Rantoul, Ill.
Jacksonville, Ill.	Peoria, Ill.
Macomb, Ill.	Cape Girardeau, Mo.
Marion, Ill.	Springfield, Ill.
Mattoon, Ill.	

3. In the Chicago, Ill., transition area, "excluding the portion which overlies the States of Illinois and Indiana." is added.

4. In the Rockford, Ill., transition area "on the south by latitude 41°55'00" N." is deleted and "on the south by the Illinois-Wisconsin boundary," is substituted therefor.

5. In the Moline, Ill., transition area "on the east by longitude 89°50'00" W., on the south by latitude 41°10'00" N.," is deleted and "on the southeast by the Illinois-Iowa boundary," is substituted therefor.

6. In the Burlington, Iowa, transition area, all after "within 1,200 feet above the surface" is deleted and "west of the Iowa-Illinois boundary within a 14-mile radius of Burlington Municipal Airport," is substituted therefor.

7. In the Evansville, Ind., transition area, all after "bounded by a line beginning at" is deleted and "latitude 38°02'50" N., longitude 86°30'00" W., to latitude 37°26'00" N., longitude 86°30'00" W., to latitude 37°17'50" N., longitude 87°13'00" W., to latitude 37°12'50" N., longitude 87°39'30" W., to latitude 37°26'10" N., longitude 88°19'00" W., thence via the Kentucky boundary to the point of beginning" is substituted therefor.

8. In the Milwaukee, Wis., transition area, all after "that airspace extending upward from 1,200 feet above the surface" is deleted and "bounded on the north by latitude 43°30'00" N., on the east by longitude 87°00'00" W., on the south by latitude 42°30'00" N., and the Illinois-Wisconsin boundary, and on the west by longitude 88°30'00" W.," is substituted therefor.

9. In the St. Louis, Mo., transition area, all after "Scott AFB (latitude 38°32'30" N., longitude 89°51'05" W.);" is deleted, and "excluding the portion overlying the State of Illinois; that airspace extending upward from 2,500 feet MSL within the area bounded on the northeast by the southwest edge of V-335, on the east by the Missouri-Illinois boundary, on the

south by the north edge of V–190 and on the west by the east edge of V–9; and that airspace extending upward from 4,500 feet MSL within the area bounded on the north by the south edge of V–88, on the northeast by the southwest edge of V–9W, on the south by the north edge of V–72, on the west by a line 5 miles west of and parallel to the St. Louis VORTAC 200° radial, and on the northwest by the southeast edge of V–238; within the area bounded on the north by the south edge of V–12, on the southeast by the northwest edge of V–14N, on the southwest by the northeast edge of V–175, and on the northwest by a line 5 miles southeast of and parallel to the Jefferson City, Mo., VOR 041° radial, and within the area bounded on the northeast by the southwest edge of V–52 and the Missouri-Illinois boundary, on the south by the north edge of V–4N, and on the northwest by the southeast edge of V–63," is substituted therefor.

10. The Quincy, Ill., transition area is amended to read:

QUINCY, ILL.

That airspace extending upward from 700 feet above the surface within 5 miles northwest and 8 miles southeast of the Quincy ILS localizer southwest course, extending from 4 miles northeast to 12 miles southwest of the OM; and that airspace extending upward from 1,200 feet above the surface west of the Illinois-Missouri boundary within a 13-mile radius of the Quincy VORTAC.

11. In the following transition areas, "excluding the portion which overlies the State of Illinois" is added:

Cairo, Ill.	Paducah, Ky.
Keokuk, Iowa.	Sikeston, Mo.
Dubuque, Iowa.	

12. The following transition areas are deleted:

Bible Grove, Ill.	Vandalia, Ill.

In § 71.163 (35 F.R. 2046), the following additional control area is deleted: St. Louis, Mo.

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

Issued in Kansas City, Mo., on July 7, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70–10632; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70–CE–74]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Wolf Point, Mont.

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

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

Since designation of controlled airspace the instrument approach procedure for Wolf Point, Mont., International Airport has been altered. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Wolf Point transition area to adequately protect aircraft executing this altered approach procedure and to comply with the new transition area criteria.

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

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

WOLF POINT, MONT.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Wolf Point International Airport (latitude 48°05'40" N., longitude 105°34'45" W.); and within 3 miles each side of the 314° bearing from Wolf Point International Airport, extending from the 8-mile radius area to 10 miles northwest of the airport; and that airspace extending upward from 1200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 314° bearing from Wolf Point International Airport, extending from the airport to 20½ miles northwest of the airport; and within 5 miles each side of the 134° bearing from Wolf Point International Airport extending from the airport to 12 miles southeast of the airport.

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

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70–10633; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70–CE–77]

TRANSITION AREA

Proposed Designation

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

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

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

A new public use instrument approach procedure has been developed for the Sparta, Ill., Community Airport, utilizing a community-owned radio beacon located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot floor transition area at Sparta, Ill. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic at Sparta will be controlled by the Scott Air Force Base approach control facility.

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

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

SPARTA, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Sparta Community Airport (latitude 38°08'30" N., longitude 89°41'55" W.); and within 3 miles each side of the 009° bearing from Sparta Community Airport, extending from the 5-mile radius area to 8 miles north of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C.

1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on July 30, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-10634; Filed, Aug. 13, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-63]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area at Wells, Nev.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, 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 amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

An approach procedure has been developed for Harriet Field, Wells, Nev., utilizing the 287° T (270° M) radial of the Wells, Nev., VOR for procedure turn and holding radial. The proposed 700-foot transition area is required to provide controlled airspace protection for the instrument approach procedure. The proposed 1,200-foot portion of the transition area will provide controlled airspace for aircraft executing the established holding procedure while transitioning to and from the airway structure or continental control area.

In consideration of the foregoing, the Federal Aviation Administration proposes the following airspace action:

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

WELLS, NEV.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harriet Field (latitude 41°06'54" N., longitude 114°55'24" W.) and within 4.5 miles south and 9.5 miles north of the Wells VOR 287° radial, extending from the VOR to 18.5 miles west of the VOR. That airspace extending upwards from 1,200 feet above the surface within 12 miles north and 8 miles south of the Wells VOR 287° and 107° radials extending from 23 miles west to 10 miles east of the VOR.

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

Issued in Los Angeles, Calif., on August 7, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-10635; Filed, Aug. 13, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-64]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of The Dalles, Oreg. transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, 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 amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The instrument approach procedure has been revised in accordance with the U.S. Standards for Terminal Instrument Procedures (TERPS). The proposed additional 700-foot transition area is required to provide controlled airspace for aircraft executing the prescribed instrument procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (35 F.R. 2134) the description of The Dalles, Oreg. transition area is amended as follows:

Delete all before "* * *, that airspace extending upward from 1,200 feet * * *" and substitute therefor, "That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dalles Municipal Airport (latitude 45°37' 05" N., longitude 121°10'05" W.,), that airspace south of The Dalles, extending from a line 2 miles east of and parallel to The Dalles VORTAC 186° radial clockwise to the 222° radial, extending from the 5-mile radius area to an ARC of an 11.5-mile radius circle centered on The Dalles Municipal Airport; * * *"

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

Issued in Los Angeles, Calif., on August 7, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-10636; Filed, Aug. 13, 1970; 8:47 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 1-11; Notice 5]

REAR UNDERRIDE PROTECTION; TRUCKS AND TRAILERS

Notice of Proposed Rule Making

A notice of a proposed new motor vehicle safety standard on Rear Underride Protection was published on March 19, 1969 (34 F.R. 5383). In view of comments received in response to that notice and other considerations, it has been determined that changes should be made before issuing the standard. This amended notice of proposed rule making is being issued to allow interested parties to comment on the requirements that are presently under consideration.

Many comments expressed concern for the economic and operational difficulties that might be encountered because of the proposed requirement for a maximum road clearance of 18 inches. Problems that were envisioned included stubbing on abrupt grade changes in roads and loading ramps, mismatches between vehicles and equipment used with them, as between dump trucks and paving machines, and interference with working equipment normally mounted at the rear end of the vehicle. Some persons were concerned that the structure necessary to provide strength at that height would add weight to the vehicle that would significantly reduce payload capacity and operating revenues. It has been demonstrated, however, that a rear-end clearance as high as 24 inches above the ground exposes a significant proportion of the vehicle population to a serious underride hazard.

The comments also contained suggestions that the proposal be altered to allow rear tires, axles, and other parts

of the rear bogie to be used to satisfy the underride protection requirements. Although not expressly prohibited under the previous proposal, it was unlikely that these components could be used to meet the requirement, since a continuous horizontal section of the rear surface ("guard line") was required to extend across the vehicle, at no point more than 15 inches forward of the rearmost point on the vehicle. These suggestions have been found to be reasonable as long as the vehicle components meet the basic strength requirements. It was also suggested that the test block be enlarged, to engage more of the structure at the rear of the vehicle.

The proposed test requirement has been altered to take into account these objections and suggestions. It is now proposed that the face of the test block be a rectangle 4 inches high and 12 inches wide, and that its height for the test be uniformly set with its lower edge 16 inches from the ground. The vehicle would be required to meet the strength requirement at all points out to the outermost test points on the vehicle. All specific configurational requirements would be eliminated, and the vehicle could meet the strength requirement with whatever components are in position to contact the test block.

Test programs conducted by both the NHSB and concerned industries indicated that the 75,000-pound test force was unnecessarily large. The proposed requirement has been changed to 50,000 pounds in accordance with those findings.

Some comments suggested that the 15-inch penetration limit be increased to a larger figure. These suggestions have not been adopted. The likely crush distance of the impacting vehicle traveling at moderate speeds, added to a 15-inch penetration of the impacted truck or trailer, approaches the length forward of the windshield of many smaller vehicles. Therefore, allowing a greater penetration could seriously derogate from the protection offered.

The outermost test points have been determined relative to a newly defined "side reference point", the outermost point on each side of the vehicle between 18 and 66 inches from the ground, in a transverse section through the center of the rear tires.

Further consideration will be given, after issuance of the standard and completion of technical studies, to the inclusion of energy management of underride protection to the sides of large vehicles. The standard proposed herein does not preclude the immediate use of energy absorbing elements in the protected areas, and it is hoped that manufacturers will include these elements in their designs.

Proposed effective date: January 1, 1972.

In consideration of the above, it is proposed that a motor vehicle safety standard on Rear Underride Protection be issued, to read as set forth below. Comments are invited on the proposal, particularly in regard to the changes made from the proposal of March 19, 1969 (34 F.R. 5383). Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on September 25, 1970, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on August 11, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

REAR UNDERRIDE PROTECTION—TRUCKS AND TRAILERS

S1. *Purpose and scope.* This standard establishes the requirement that the rear end of heavy vehicles be constructed so as to reduce the probability of underride by passenger vehicles in rear-end collisions.

S2. *Applicability.* This standard applies to trailers and trucks. It does not, however, apply to pole trailers, truck tractors, or any vehicles with gross vehicle weight rating of 10,000 pounds or less.

S3. *Definitions.* "Rear reference point" means the point on the vehicle, between 18 and 66 inches from the ground when the vehicle is loaded to its gross vehicle weight rating, that is farthest to the rear when cargo doors, tailgate, or other closing devices are in the fully closed position.

"Side reference point" means the point on the vehicle, between 18 and 66 inches from the ground when the vehicle is loaded to its gross vehicle weight rating, that is farthest outboard in a vertical transverse plane through the axis of rotation of the rearmost tires.

S4. *Requirements.* When the vehicle is tested according to S5 at any point between the outermost test positions specified in S4.1, the test block shall not move more than 15 inches forward of the rear reference point of the vehicle.

S4.1 At the outermost test position on each side, the outer edge of the test block shall be in the vertical longitudinal plane passing through the side reference point.

S5. *Test procedure.*

S5.1 Place the vehicle, loaded to its curb weight, on level ground, restrained to prevent forward, upward or lateral motion. The means used to restrain the vehicle must not inhibit forward movement of the portions tested relative to the rest of the vehicle.

S5.2 Prepare a test block of rigid material with a plane surface in the form of a rectangle 4 inches high and 12 inches wide ("the surface").

S5.3 Position the test block at a point between the outermost positions specified in S4.1, so that—

(a) The surface is vertical and facing in the direction of forward travel of the vehicle;

(b) The lower 12-inch edge of the surface is horizontal and 16 inches from the ground; and

(c) The surface is in contact with the rear of the vehicle.

S5.4 Apply a forward static force of 50,000 pounds to the test block. Maintain the force for 15 seconds. Restrain the block from lateral, vertical, or rotational movement throughout the test.

[F.R. Doc. 70-10663; Filed, Aug. 13, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 16979; FCC 70-866]

INTERDEPENDENCE OF COMPUTER AND COMMUNICATION SERVICES AND FACILITIES

Order Scheduling Oral Argument

In the matter of regulatory and policy problems presented by the interdependence of computer and communication services and facilities.

1. In our notice of proposed rule making herein released April 3, 1970 (FCC 70-338), we stated that, after receipt of comments on our tentative decision and proposed rules, we would schedule oral argument. We have received written comments from 33 interested parties.

2. Our review of the comments indicate that a number of those submitting comments may wish to forego oral argument and rest on their written submissions and that other parties having common interests may wish to join in presenting argument through a single spokesman. Accordingly, we are fixing the date and time for oral argument herein and will issue a further order allocating the time therefor after receipt of notices of intention to appear.

3. *Accordingly, it is ordered,* That oral argument is scheduled before the Commission, en banc, on September 3, 1970, beginning at 9:30 a.m.

4. *It is further ordered,* That, within 5 days after the release of this order, parties submitting written comments

who wish to participate in oral argument, shall submit written notice of intention to appear and participate.

Adopted: August 5, 1970.

Released: August 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-10661; Filed, Aug. 13, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 104, 105, 141, 204, 205, 260]

[Docket No. R-390]

UNIFORM SYSTEMS OF ACCOUNTS AND FORMS 1-F AND 2-A

Notice of Proposed Rule Making; Correction

JULY 8, 1970.

In the document appearing at 35 F.R. 11246, third column, line 51, delete entire sentence which reads: "The item is, rather an amount which in the Commission's view, is and always has been additional earnings which in fact serve directly to reduce to any extent interest charges from which a reporting utility is responsible."

GORDAN M. GRANT,
Secretary.

[F.R. Doc. 70-10669; Filed, Aug. 13, 1970; 8:49 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 250]

GUIDES FOR HOUSEHOLD FURNITURE INDUSTRY

Notice of Public Hearing and Opportunity To Submit Written Views, Suggestions or Objections

On February 13, 1970, the Commission added and made public new provisions to proposed Guides 5 and 12 of the proposed guides for the Household Furniture Industry. These revisions were published in the FEDERAL REGISTER on that date on page 2998. In response to the invitation to industry members and other interested parties to submit written comments concerning the proposed guides, a number of suggestions, criticisms and objections were received. After giving due consideration to these comments and other pertinent information received, the Commission is of the opinion that a public hearing regarding paragraphs 4 and 5 of proposed Guide 5, and paragraph 5 of proposed Guide 12 is desirable.

Accordingly, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C., secs. 41–58, and the provisions of Part 1, Subpart A, of the Commission's procedures and rules of practice, 16 CFR 1.5 and 1.6, the Commission today republished the revised proposed guides without change as hereinafter set forth and hereby extends opportunity to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the proposed guides to appear and be heard in the premises and to present to the Commission their views concerning the above noted paragraphs of the revised proposed guides, including such pertinent information, suggestions or objections as they may desire to submit. For this purpose, additional copies of revised proposed Guides 5 and 12 may be obtained upon request to the Commission.

The Commission especially invites comments from textile manufacturers who should have considerable interest and expertise concerning the subjects covered by the revised paragraphs of the proposed guides. Also, the Commission encourages consumers and their representatives to comment since they have a vital interest in knowing what performance characteristics may be expected from furniture and fabrics used thereon.

Data, views, information, and suggestions may be presented orally at the hearing, or by letter, memorandum, brief, or other written communication not later than October 26, 1970, to the Assistant Director, Division of Industry Guidance, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580. To the extent practicable, persons filing written presentations in excess of three pages should submit 20 copies.

Opportunity to be heard orally will be afforded at the hearing beginning at 10 a.m., e.s.t., each day on November 2 and 3, 1970, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any person desiring to present his views at the hearing should so inform the Assistant Director, Division of Industry Guidance, Bureau of Consumer Protection, not later than October 26, 1970, and state the estimated time required for his oral presentation. Reasonable limitations on the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Assistant Director, Division of Industry Guidance, Bureau of Consumer Protection, on or before October 26, 1970.

Any person desiring to submit exhibits (physical or documentary) at the hearing should have them identified by mark or label in a legible and proper manner (e.g., "Smith Exhibit No. 1") and such exhibits should be identified for the record at the time submitted.

Oral and written comments received pursuant to this notice will be available for examination by interested parties at the Commission's Washington address and will be fully considered by the Commission.

Guides for this industry, if and when finally approved and adopted by the Commission, will be designed to assist manufacturers and other sellers of household furniture in avoiding violations of the Federal Trade Commission Act, as amended (15 U.S.C., secs. 41–58), in labeling and advertising their products. Their purpose will be to encourage voluntary compliance with the Act which makes illegal unfair methods of competition and unfair or deceptive acts or practices in commerce. Proceedings to prevent deceptive practices in the sale of household furniture may be brought under the Federal Trade Commission Act.

Text of the revised proposed Guides follows:

NOTE: These Guides have not been approved by the Federal Trade Commission. They are a draft of proposed guides which are made available to all interested or affected parties for their consideration and for submission of such views, suggestions, or objections as they may care to present, due consideration to which will be given by the Commission before proceeding to final action on the proposed guides.

Sec.
250.5 Outer coverings.
250.12 Guarantees, waranties, etc.

AUTHORITY: §§ 250.5 and 250.12 issued under 38 Stat. 717, as amended; 15 U.S.C. 41–58.

§ 250.5 Outer coverings.[1]

(a) In connection with the sale of furniture, members of the industry should not use any direct or indirect representation concerning the outer covering thereof which:

(1) Is false (e.g., using the term "Mohair" to describe a fabric not produced from fibers derived from the angora goat); or

(2) Has the capacity and tendency or effect of deceiving furniture purchasers (e.g., by telling a half-truth, such as using the unqualified word "Nylon" to describe a blend of nylon and other fibers).

(b) When any identifying reference is made in advertising to an outer covering made of a mixture of different kinds of fibers, each constituent fiber present in substantial quantity (at least 5 percent) should be designated in the order of its predominance by weight (e.g., "cotton and nylon") in a manner provided for in § 250.1. If a fiber so designated is not present in a substantial quantity (less than 5 percent) the percentage thereof shall be stated (e.g., "cotton, rayon, 3 percent nylon").

(c) When any identifying reference is made on a tag or label to an outer

[1] Section 12(a)(2) of the Textile Fiber Products Identification Act (72 Stat. 1717; 15 U.S.C. 70) specifically exempts "outer coverings of furniture * * *" from the application of the Act. Section 14 of the same Act provides that the Act "shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States." Therefore, corrective action involving deceptive practices in the sale of furniture would when warranted be initiated under the authority of section 5 of the Federal Trade Commission Act which prohibits "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce."

covering made of a mixture of different kinds of fibers, each and every kind of fiber present in such outer covering should be identified by showing the fiber content with percentages of the respective fibers in order of their predominance by weight (e.g., "55% Cotton 45% Rayon"). In the case of pile fabrics, identification of the fiber content should be made on a tag or label by stating:

(1) The fiber content of the face or pile and of the back or base, with percentages of the respective fibers in order of their predominance by weight and the respective percentages of the face and back showing the ratio between face and back (e.g., "Face 60% Rayon, 40% Nylon—Back 100% Cotton; Back constitutes 80% of fabric and face 20%"); or

(2) The percentages of the fibers of the face or pile and the back or base in relation to the total weight of the fabric (e.g., "40% Cotton, 40% Rayon, 20% Nylon" to describe a fabric having an all nylon pile constituting 20 percent of the total weight backed by a 50–50 percent blend of cotton and rayon).

(d) When any representation is made that a fabric has been "tested" or that it meets any performance standards, or when any similar representation is made with respect to quality, durability, wear resistance, colorfastness or any other characteristic of a fabric, a clear and conspicuous disclosure should be made in conjunction therewith identifying the test or standard mentioned, the particular properties of the fabric which were tested, and the test results.

(e) A seller impliedly warrants that his products are fit for the ordinary purposes for which they are used; with respect to upholstered furniture such warranty should be understood to include a warranty of the durability, colorfastness, and suitability of the outer covering under normal conditions of reasonable use for a reasonable period of time, as well as all other warranties of product performance arising under state law out of the seller's implied warranty of merchantability.

[Guide 5]

§ 250.12 Guarantees, warranties, etc.

(a) Industry members should not represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity and the address of the guarantor.

(b) Representations that a product is guaranteed for life or has a lifetime guarantee, in addition to meeting the above requirements, should contain a conspicuous disclosure of the meaning of "life" or "lifetime" as used (whether that of the purchaser, the product or otherwise).

(c) Guarantees should not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact.

(d) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty."

(e) A warranty, guarantee or representation in the nature of a warranty or guarantee should not contain and disclaimers, exceptions or exclusions, whether disclosed or not, in an attempt to relieve the warrantor of liability which would otherwise arise under the law of any State with respect to an implied warranty of merchantability or fitness.

NOTE: The Commission's Guides Against Deceptive Advertising of Guarantees furnish additional guidance respecting guarantee representations and are to be considered as supplementing this section. See 16 CFR Part 239 for Guides Against Deceptive Advertising of Guarantees.

[Guide 12]

Issued: August 14, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-10550; Filed, Aug. 13, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

FRANK JOHN KLUS

Notice of Granting of Relief

Notice is hereby given that Mr. Frank John Klus, Walshville, Ill., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 8, 1936, in the Recorder's Court of the City of Detroit, Mich., and on January 27, 1937, in the Hamilton County Court, Chattanooga, Tenn., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frank John Klus, because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Frank John Klus to receive, possess, or transport in commerce a firearm. Notice is hereby further given that I have considered Frank John Klus' application and have found:

(1) The convictions were made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Frank John Klus from disabilities incurred by reason of his convictions, would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Frank John Klus be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 6th day of August 1970.

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

[F.R. Doc. 70-10653; Filed, Aug. 13, 1970; 8:48 a.m.]

MILTON F. MILLER

Notice of Granting of Relief

Notice is hereby given that Milton F. Miller, 1356 Emilie Street, Green Bay, Wis., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 26, 1966, in the Brown County Court, Green Bay, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Milton F. Miller because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Milton F. Miller to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Milton F. Miller's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Milton F. Miller be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 3d day of August 1970.

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

[F.R. Doc. 70-10654; Filed, Aug. 13, 1970; 8:48 a.m.]

EPHY U. PAYNE, JR.

Notice of Granting of Relief

Notice is hereby given that Mr. Ephy U. Payne, Jr., Route 20, Kansas City, Mo. 64165, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 8, 1968, in the Circuit Court of Carroll County, Mo., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Ephy U. Payne, Jr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Ephy U. Payne, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Ephy U. Payne, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Ephy U. Payne, Jr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 5th day of August 1970.

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

[F.R. Doc. 70-10655; Filed, Aug. 13, 1970; 8:48 a.m.]

MICHAEL L. RANN

Notice of Granting of Relief

Notice is hereby given that Michael L. Rann, 5851 Ontario Street, Olcott, N.Y., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 19, 1943, in the County Court, Lockport, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Michael L. Rann because of such conviction to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Michael L. Rann to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Michael L. Rann's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Michael L. Rann be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 29th day of July 1970.

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

[F.R. Doc. 70-10656; Filed, Aug. 13, 1970; 8:48 a.m.]

ALEXANDER WALKER, JR.

Notice of Granting of Relief

Notice is hereby given that Mr. Alexander Walker, Jr., 1789 Pine Hollow Road, McKees Rocks, Pa. 15136, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 28, 1961, in the Criminal Court of Lancaster County, Pa., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Alexander Walker, Jr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Alexander Walker, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Alexander Walker, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Alexander Walker, Jr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 3d day of August 1970.

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

[F.R. Doc. 70-10657; Filed, Aug. 13, 1970; 8:48 a.m.]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DoD Directive 5129.1, Mar. 13, 1970]

DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

Organizational Statement

The Deputy Secretary of Defense approved the following revision to the organizational statement published at 24 F.R. 6096:

I. *General.* Pursuant to the authority vested in the Secretary of Defense and the provisions of title 10, U.S.C., section 135(b), the Director of Defense Research and Engineering shall have responsibilities, functions, and authorities as prescribed herein.

II. *Responsibilities.* The Director of Defense Research and Engineering is the principal adviser and staff assistant to the Secretary of Defense in the following functional fields:

A. Scientific and technical matters.

B. Basic and applied research.

C. Research, development, test, and evaluation of weapons, weapons systems, and Defense materiel.

D. Design and engineering for suitability, producibility, reliability, maintainability, and materials conservation.

E. Environmental services, which include the various combinations of scientific, technical, and advisory activities required to produce and supply information on the past, present, and future states of space, atmospheric, oceanographic, and terrestrial environments for use in military decision-making processes.

III. *Functions.* Under the direction, authority and control of the Secretary of Defense, the Director of Defense Research and Engineering shall supervise all research and engineering activities in the Department of Defense and shall perform the following functions in his assigned fields of responsibility:

A. Recommend policies and guidance governing Department of Defense planning and program development.

B. Plan and recommend an optimum integrated program of research and development to meet the requirements of national military objectives and initiate projects to fill important gaps which may exist.

C. Review projects, programs, and objectives of programs of the military departments and of Department of Defense research and development agencies.

D. Develop systems and standards for the administration and management of approved plans and programs.

E. Evaluate the administration and management of approved policies, programs, and projects.

F. Recommend the assignment or reassignment of research and engineering responsibility for the development of new weapons or weapons systems, giving due consideration to the departmental functions set forth in DOD Directive 5100.1,

"Functions of the Department of Defense and its Major Components" (24 F.R. 6092).

G. Direct and control (including their assignment or reassignment) research and engineering activities that the Secretary of Defense deems to require centralized management.

H. As approved by proper authority, engage in or designate appropriate research and development facilities to engage in basic and applied research projects essential to the responsibilities of the Department of Defense which pertain to weapons systems and other military requirements: (1) By contract with private business entities, educational or research institutions or other agencies of government, (2) through one or more of the military departments, or (3) by utilizing employees and consultants of the Department of Defense.

I. Recommend appropriate steps (including the transfer, reassignment, abolition and consolidation of functions) which will provide in the Department of Defense for more effective, efficient and economical administration and operation, will eliminate unnecessary duplication, or will contribute to improved military preparedness.

J. Recommend to the Secretary of Defense appropriate funding for research, development, test, and evaluation, including allocations from the Emergency Fund, Department of Defense.

K. Keep the Department of Defense informed on significant trends in scientific research relating to national security and recommend measures to assure continuing progress.

L. Exercise administrative direction of the Weapons Systems Evaluation Group and assure its responsiveness to the needs of the Joint Chiefs of Staff and the Office of the Secretary of Defense for operations analysis.

M. In coordination with the Assistant Secretary of Defense (International Security Affairs), engage in programs for assistance to friendly countries in military research and development and in the interchange of related scientific and technical information.

N. Coordinate and develop the DOD position for interagency and international affairs concerning environmental services.

O. Provide for DOD representation on interagency, international, and military treaty organization in environmental services committees treating assigned programs, to insure that proper consideration be given to DOD interests.

P. Act for the Secretary of Defense with regards to the assignment of environmental services programs to satisfy emergency requirements of the unified and specified commands.

Q. Review plans of the military departments to insure adequate assigned environmental services capabilities to support operational requirements and recommend to the Secretary of Defense action as necessary to eliminate unwarranted duplication.

R. Such other duties as the Secretary of Defense assigns.

IV. *Relationships.* A. In the performance of his functions, the Director of Defense Research and Engineering shall:

1. Coordinate actions, as appropriate, with the military departments and other Department of Defense agencies having collateral or related functions in the field of his assigned responsibility.

2. Maintain active liaison for the exchange of information and advice with the military departments and other Department of Defense agencies.

3. Consult with the Joint Chiefs of Staff on the interaction of research and development and strategy.

4. Seek formal statements of military operational requirements from the military departments or the Joint Chiefs of Staff, as appropriate, for research and development projects and equipment areas and for environmental services programs which appear to require such statements.

5. Maintain or arrange for the maintenance of active liaison with appropriate research and development and environmental services agencies outside the Department of Defense, including private business entities, educational or research institutions or other agencies of government.

6. Make full use of established facilities in the Office of the Secretary of Defense, military departments and other Department of Defense agencies rather than unnecessarily duplicating such facilities.

B. The Secretaries of the military departments, their civilian assistants, and the military personnel in such departments shall fully cooperate with the Director of Defense Research and Engineering and his staff in a continuous effort to achieve efficient administration of research and engineering activities in the Department of Defense.

V. *Authorities.* A. The Director of Defense Research and Engineering, in the course of exercising full staff functions in his assigned fields, including those enumerated in section III above, is hereby specifically delegated authority to:

1. Issue instructions and one-time directive-type memoranda, in writing, appropriate to carrying out policies approved by the Secretary of Defense for his assigned fields of responsibilities in accordance with DOD Directive 5025.1, "DOD Directives System".[1] Such instructions and memoranda to the military departments will be issued through the Secretaries of those departments or their designees.

2. Approve, modify, or disapprove programs and projects of the military departments and other Department of Defense agencies in his assigned fields to eliminate unpromising or unnecessarily duplicative programs, and initiate or support promising ones for research and development and environmental services.

3. Obtain such reports and information and assistance from the military departments and other Department of Defense agencies as may be necessary to the performance of his assigned functions.

B. Other authorities specifically delegated by the Secretary of Defense to the Director of Defense Research and Engineering in other directives will be referenced in section VI. below.

VI. *References to other authorities specifically delegated by the Secretary of Defense to the Director of Defense Research and Engineering in other directives.* Authority to act for the Secretary of Defense in matters pursuant to Executive Order 9913 pertaining to the termination of OSRD as contained in DOD Directive 5129.36, "Delegation of Authority to the Director of Defense Research and Engineering" (19 F.R. 5155).

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

[F.R. Doc. 70-10601; Filed, Aug. 13, 1970; 8:49 a.m.]

[1] Filed as part of original. Copies available from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention: Code 300.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

BLACKFEET TRIBES OF BLACKFEET RESERVATION, MONT.

Order for Restoration of Lands to Tribal Ownership

Whereas, pursuant to authority contained in the Act of March 1, 1907 (34 Stat. 1015), the townsite of Blackfoot, Mont., was established on the Blackfeet Indian Reservation, and,

Whereas, the departmental order dated February 6, 1911, authorized settlement and entry of the townsite of Blackfoot, Mont., within the Blackfeet Indian Reservation and there has been no active public demand for these lots for the past several years, and,

Whereas, the Blackfeet Tribal Council of the Blackfeet Tribe requests that the departmental order dated February 6, 1911, be revoked so far as it affects the therein described lands and further requests the said lands be restored to tribal ownership, which the Acting Assistant Area Director at the Billings Area Office and the Commissioner of Indian Affairs have recommended be granted.

Now, therefore, by virtue of the authority contained in section 3 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 463), I hereby find that the restoration to tribal ownership of the lands hereinafter described in this paragraph will be in the public interest, and the said lands are hereby restored to tribal ownership of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., subject to any valid existing rights and the departmental order of February 6, 1911, is hereby revoked insofar as it affects the following described lands:

PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 10 W., sec. 35:

BLACKFOOT TOWNSITE

Block No.	Lots	Block No.	Lots
1	All	12	All
2	All	13	All
3	All	14	All
5	All	15	All
6	All	16	All
7	All	17	All
8	All	18	All
9	All	19	All
10	All	20	All
11	All		

FRED J. RUSSELL,
Acting Secretary of the Interior.

AUGUST 7, 1970.

[F.R. Doc. 70-10625; Filed, Aug. 13, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

WHEAT

Notice of Postponement of Marketing Quota Referendum for 1971 Crop

Notice of a marketing quota referendum for the 1971 crop of wheat to be held during the period July 27 to 31, 1970, each inclusive, was given in the FEDERAL REGISTER of July 3, 1970 (35 F.R. 10870). By legislation enacted July 23, 1970 (Public Law 91-348), the time for conducting the marketing quota referendum on the 1971 crop of wheat was extended to not later than October 15, 1970, or 30 days after the adjournment sine die of the 91st Congress, whichever occurs first. Pursuant to said legislation, the referendum is postponed to such later period or date as may hereafter be designated.

Signed at Washington, D.C., August 8, 1970.

CLIFFORD M. HARDIN,
Secretary.

[F.R. Doc. 70-10671; Filed, Aug. 13, 1970; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 407]

GEO SPACE FRANCE S.A. AND YVES MANUEL

Order Denying Export Privileges and Placing on Probation

In the matter of Geo Space France S.A. and Yves Manuel, 25 Rue D'Astorg, 75 Paris 8, France, Respondents.

By charging letter issued on February 20, 1970, the Director, Investigations Division, Office of Export Control, charged the above respondents with violations of the Export Control Act of 1949 and regulations thereunder.[1] The respondents appeared by counsel and an answer was filed on their behalf.

There are two charges. Charge I is against Geo Space France and alleges in substance that in October 1965 said firm delivered to one of its customers in France a U.S.-origin oscillograph valued at $8,000, knowing or having reason to know that the customer intended to reexport the oscillograph to Communist China in violation of the U.S. export regulations and that the customer did in fact reexport the oscillograph.

Charge II is against both respondents and alleges in substance that in March 1967 Manuel, acting individually and for Geo Space, prepared three misleading antedated letters concerning disposition of U.S.-origin seismic equipment and submitted said letters to Geo Space U.S.A., knowing or having reason to know that the Office of Export Control was conducting an investigation concerning the disposition of said seismic equipment and that the letters in question would be transmitted to the Office of Export Control.

Pursuant to the provisions of § 388.10 of the Export Control Regulations, with agreement of the Director, Investigations Division, the respondents, submitted to the Compliance Commissioner a proposal for the issuance of a consent order against them. The proposal has been approved and accepted. In the consent proposal respondents admitted jurisdiction of the forum and did not contest or deny the violations set forth in the charging letter. They waived all right to an oral hearing before the Compliance Commissioner, consented to the issuance of an order to be entered by the Director, Office of Export Control, and further waived all rights of administrative appeal from a judicial review of such order.

The Compliance Commissioner reviewed the facts in the case and the consent proposal and he approved the proposal and recommended that it be accepted. He also made findings of fact, which after considering the record in the case, I adopt as my own.

Findings of fact. 1. The respondent Geo Space France S.A. is a French corporation with a place of business in Paris, France. The company is a subsidiary of Geo Space Corp. of Houston, Tex. At all times here material, the respondent Manuel was president and general manager of Geo Space France.

2. Shortly before October 11, 1965, there came under the control of respondent Geo Space France in Paris, France, a U.S.-origin Geo Space oscillograph valued at approximately $8,000. On or about October 11, 1965, said respondent caused said oscillograph to be delivered to one of its customers in France. At the time of such delivery said respondent knew or had reason to know that its customer intended to reexport the oscillograph to Communist China contrary to the U.S. export regulations.

3. On or about November 25, 1965, contrary to the U.S. Export Regulations, the said customer of respondent Geo Space did in fact reexport the oscillograph to Communist China.

4. On or about March 2, 1967, respondent Manuel, acting individually and for respondent Geo Space France, caused to be prepared three misleading antedated letters concerning the disposition of certain U.S.-origin seismic equipment and submitted said letters to Geo Space U.S.A. One of said letters bore a date in February 1965 and the other two bore dates in May 1965. The said letters were on letterheads of parties in France who handled said equipment and stated, among other things, that the commodities in question were destined for Gabon or Africa.

5. The respondents knew or had reason to know that the Office of Export Control was conducting an investigation under the Export Control Act of 1949 concerning the disposition of the seismic equipment previously exported from the United States to respondent Geo Space France and that the letters in question were relevant to the investigation and would be transmitted by Geo Space U.S.A. to the Office of Export Control, which was in fact done.

Based on the foregoing, I have concluded that the respondent Geo Space France S.A. violated § 387.4 of the Export Control Regulations in that it disposed of a U.S.-origin commodity to a company in France with knowledge that said company intended to reexport said commodity from France to Communist China contrary to the provisions of the U.S. Export Control Regulations. I have further concluded that respondents Geo Space France S.A. and Yves Manuel violated § 387.5 of the Export Control Regulations in that in the course of an investigation instituted under authority of the Export Control Act of 1949, as amended, said respondents made false and misleading statements to and concealed material facts from the Office of Export Control by means of antedated misleading letters that it prepared and which were transmitted to the Office of Export Control through another party.

I have considered the record in the case and the recommendations of the Compliance Commissioner. The consent proposal is hereby accepted and being of the opinion that the following order is calculated to achieve effective enforcement of the law and the purposes thereof: *It is hereby ordered:*

I. All outstanding licenses in which respondent Geo Space France S.A. appears or participates in any manner are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

[1] This Act has been succeeded by the Export Administration Act of 1969, Public Law 91-184, approved Dec. 30, 1969, 50 U.S.C. App. sec. 2401-2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 * * * shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act".

II. Except as qualified in Part IV hereof, respondent Geo Space France S.A. for a period of 1 year from the effective date of this order is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction, involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the export control regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to respondent Geo Space France S.A. but also to its agents and employees when acting in such capacity, and to any subordinate person, firm, corporation, or other business organization with which it now or hereafter may be related by affiliation, ownership, control, position of responsibility or other connection in the conduct of trade or services connected therewith.

IV. Three months after the effective date of this order the privileges denied to respondent Geo Space France S.A. shall be restored conditionally and thereafter said respondent shall be on probation for the remainder of the denial period. The condition of probation is that respondent Geo Space S.A. shall fully comply with all requirements of the Export Administration Act of 1969 and all regulations, licenses and orders issued thereunder, including this order.

V. During the time that respondent Geo Space France S.A. is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with respondent Geo Space France S.A. or whereby said respondent may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for the respondent; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. Respondent Yves Manuel for a period of 9 months from the effective date of this order is placed on probation on condition that he does not knowingly violate the Export Administration Act of 1969, or any regulations, licenses, or orders issued thereunder. While said respondent is on probation he shall be permitted all export privileges as though this order had not been entered. If said respondent does not violate the condition of probation, this order without further action shall terminate at the expiration of 9 months from its effective date.

VII. In the event that it is found, after investigation, by the Director, Office of Export Control, or such other official as may at that time be exercising his duties, that either of the respondents Geo Space France S.A. or Yves Manuel has failed during the aforesaid periods of probation to comply in any respect with the conditions thereof, such official may summarily and without notice to said respondent enter and publish an order against him denying export privileges for a period equal to the period of probation herein imposed. Such order as may be entered for violation of probation shall contain the usual terms and prohibitions of denial orders as set forth in paragraphs I, II, III, and V of this order.

The entry of an order under this part shall not limit the Bureau of International Commerce from taking such action based on the violation for which probation was revoked as said Bureau shall deem warranted.

This order shall become effective on August 14, 1970.

Dated: August 7, 1970.

RAUER H. MEYER,
Director,
Office of Export Control.

[F.R. Doc. 70-10658; Filed, Aug. 13, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 11877V]

AMINOPROPAZINE FUMARATE WITH OR WITHOUT NEOMYCIN

Drugs for Veterinary 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 preparations by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., 520 West 21st Street, Kansas City, Mo. 64141:

1. Jenotone; each cubic centimeter of sterile aqueous solution contains aminopropazine ([bis(dimethylamino)-2', 3' propyl]-10 phenothiazine) fumarate equivalent to 25 milligrams of aminopropazine base.

2. Jenotone Tablets; each tablet contains 25 milligrams of aminopropazine base (as fumarate).

3. Jenomycin; tablets containing 25 milligrams of aminopropazine base (as fumarate) and 50 milligrams of neomycin base (as sulfate).

The Academy evaluated the products containing only aminopropazine fumarate as probably not effective for regulating or normalizing smooth muscle contractions in horses, dogs, and cats. The report stated:

1. The claim for regulating or normalizing smooth muscle contractions implies that the drug would stimulate an underacting muscle; it would be more appropriate to state "reduces smooth muscle contractions."

2. With very few exceptions (cats for urethral spasm, horses in colic spasms, and perhaps dogs for urethral spasm), none of the indications have been adequately documented and even these exceptions should be qualified.

3. A warning should appear in the package insert to prevent use of the product in the presence of organophosphates since phenothiazines may potentiate organophosphate toxicity.

4. A statement is needed that the product may potentiate the action of other central nervous system depressants.

5. The package insert contains statements which are not compatible; for example, under indications the drug is recommended for use to reduce vomiting associated with nephritis while under precaution it is stated that the product must be used with care in cases of severe renal disease.

The Academy evaluated the product containing aminopropazine fumarate and neomycin sulfate as probably not effective insofar as the action of aminopropazine fumarate is concerned, and probably effective for the antimicrobial action of neomycin sulfate in the treatment of bacterial diarrhea in dogs. The report stated:

1. Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combintaion.

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

3. The disease claim for this preparation must be restricted to diseases involving the gastrointestinal tract because of the chemical and pharmacological properties of neomycin sulfate.

4. The above statements on products containing aminopropazine fumarate alone are also applicable to the aminopropazine fumarate-neomycin sulfate combination product.

The Food and Drug Administration concurs with the Academy's findings.

Veterinary drugs of this type are prescription items and as such must bear the statement "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug applications for the listed drugs has been mailed a copy of the NAS–NRC reports. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 31, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10616; Filed, Aug. 13, 1970; 8:45 a.m.]

[DESI 6032V]

DIPHENYLHYDANTOIN SODIUM

Drugs for Veterinary 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 preparation: Dilantin; each capsule contains 0.1 gram of diphenylhydantoin sodium; by Parke, Davis and Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232.

The Academy evaluated this product as probably effective as an aid in the control of epileptic convulsions and certain nervous symptoms in dogs. The Academy stated: (1) The label and the package insert are not veterinary and it is recommended that the manufacturer prepare a veterinary label and a package insert to provide the required information; and (2) the manufacturer should document that the product is efficacious in the treatment of chorea or this indication for use should be deleted from the label.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 31, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10615; Filed, Aug. 13, 1970; 8:45 a.m.]

[DESI 0124NV]

PROCAINE PENICILLIN G-POTASSIUM PENICILLIN G IN OIL

Drugs for Veterinary 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 preparation: Lentovet; each cubic centimeter contains 300,000 units of crystalline procaine penicillin G and 100,000 units of crystalline potassium penicillin G in oil; by Wyeth Laboratories Inc., Post Office Box 8299, Philadelphia, Pa. 19101.

The Academy evaluated this product for intramuscular injection as probably effective for the treatment of animal diseases caused by pathogens sensitive to penicillin. The Academy stated:

1. The dosage directions should be on the basis of body weight and species (units per pound or kilogram). In small animals, the recommended dosage should provide blood levels equivalent to a minimum daily dose of 10,000 units of procaine penicillin G per pound of body weight. In large animals, the recommended dosage should provide blood levels equivalent to a minimum daily dose of 3,000 units procaine penicillin G per pound of body weight.

2. In some instances, because of decreasing bacterial sensitivity higher doses may be necessary; however, dosage should not be increased on the basis that no response is observed to previous injections.

3. Treatment for hypersensitivity reactions to penicillin should be stated on the label.

4. The clinical use of penicillin products in treating staphlococcal infections should be preceeded by sensitivity testing of the causative organism.

5. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

In accordance with § 3.25 *Antibiotics used in food-producing animals*, an order published in the FEDERAL REGISTER of May 17, 1969 (34 F.R. 7851) revised § 146a. 52 *Procaine penicillin and crystalline penicillin in oil* to require the statement "Warning—Not for use in animals which are raised for food production."

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the

date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 31, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10614; Filed, Aug. 13, 1970; 8:45 .am.]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1010) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898 proposing the establishment of tolerances for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on the raw agricultural commodities bean forage and hay, peanut hulls, forage and hay, and sugar beet tops at 15 parts per million; beans at 2 parts per million; peanuts and sugar beets at 0.2 part per million; and in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the fungicide is the method of H. L. Pease and J. A. Gardiner, published in the "Journal of Agricultural and Food Chemistry," vol. 17, pp. 267–70 (1969).

Dated: August 6, 1970.

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

[F.R. Doc. 70–10619; Filed, Aug. 13, 1970; 8:45 a.m.]

R. P. SCHERER CORP.

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), R. P. Scherer Corp., 9425 Grinnell Avenue, Detroit, Mich. 48213, has withdrawn its petition (FAP 0A2508), notice of which was published in the FEDERAL REGISTER of March 4, 1970 (35 F.R. 4087), proposing that § 121.1058 *Silicon dioxide* (21 CFR 121.1058) be amended to provide for the safe use of silicon dioxide as a thickener, suspending agent, and dispersing agent in encapsulated foods.

Dated: August 6, 1970.

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

[F.R. Doc. 70–10618; Filed, Aug. 13, 1970; 8:45 a.m.]

[Docket No. D–172; NDA No. 8–345]

SALEM PHARMACAL

Keranil Ointment (10 Percent Chloranil); Notice of Withdrawal of Approval of New-Drug Application

A notice of opportunity for hearing on the proposed withdrawal of approval of new-drug application No. 8–345 and all amendments and supplements thereto held by Salem Pharmacal, Naugatuck, Conn. 06770, for the drug Keranil Ointment (10 percent chloranil) was published in the FEDERAL REGISTER on June 3, 1970 (35 F.R. 8610). Salem Pharmacal filed a letter requesting a hearing, but did not file any data to support such request. The Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact to justify a hearing (35 F.R. 7250; May 8, 1970).

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended; 21 U.S.C. 355) and under authority delegated to him (21 CFR 2.120), the Commissioner finds on the basis of new information before him, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented in its labeling to have for the treatment of psoriasis.

Therefore, pursuant to the foregoing findings, approval of new-drug application No. 8–345 and all amendments and supplements thereto applying to Keranil Ointment (10 percent chloranil) is withdrawn effective on the date of signature of this document.

Dated: August 3, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10613; Filed, Aug. 13, 1970; 8:45 a.m.]

SUCCINIC ACID 2,2-DIMETHYLHYDRAZIDE

Notice of Reextension of Temporary Tolerance

Uniroyal Inc., Bethany, Conn. 06525, was granted a temporary tolerance of 30 parts per million for residues of the plant regulator succinic acid 2,2-dimethylhydrazide in or on peanuts on May 24, 1968 (notice was published in the FEDERAL REGISTER of June 5, 1968; 33 F.R. 8357). The firm was granted an extension to May 24, 1970 (notice was published March 27, 1969; 34 F.R. 5753).

The firm has requested 1-year reextension for obtaining additional information on the factors involved in the yield of treated peanuts. The Commissioner of Food and Drugs concludes that such reextension will protect the public health.

A condition under which this temporary tolerance is reextended is that the plant regulator will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Uniroyal Inc., name.

As reextended, this temporary tolerance expires May 24, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 4, 1970.

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

[F.R. Doc. 70–10617; Filed, Aug. 13, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND CARGILL, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW.,

Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111

Agreement No. 8705-2 between the Port of Seattle and Cargill, Inc. (Cargill), modifies the basic agreement which provides for the lease of certain terminal property and grain elevator facilities at Pier 25 (Hanford Street), Seattle, Wash. The purpose of the modification is to cover an interim period during which Cargill will be operating at both Pier 25 and Pier 86.

Dated: August 10, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10648; Filed, Aug. 13, 1970; 8:48 a.m.]

[Docket No. 70-28]

PICKUP AND DELIVERY RATES AND PRACTICES IN PUERTO RICO

Order of Investigation and Suspension

Sea-Land Service, Inc., Seatrain Lines, Inc., and Transamerican Trailer Transport, Inc., have recently filed the following tariff amendments, proposed to become effective August 10, 1970, for the purpose of increasing certain pickup and delivery charges in Puerto Rico:

SEA-LAND SERVICE, INC.

FMC-F No. 21:
Item No. 1720 in section B on First and Second Revised Pages 190.
FMC-F No. 19:
Item No. 1420 in section B on Third and Fourth Revised Pages 109.

SEATRAIN LINES, INC.

FMC-F No. 2:
Item No. 60 in section B on 10th and 12th Revised Pages 6.

TRANSAMERICAN TRAILER TRANSPORT, INC.

FMC-F No. 1:
Rule No. 1050 in section B on Fourth Revised Page 68.

Upon consideration of the said schedules and a protest filed thereto by the Commonwealth of Puerto Rico, the Commission is of the opinion that the above designated increased charges should be made the subject of a public investigation and hearing to determine whether they are unjust, unreasonable, or otherwise unlawful under section 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

The Commission is further of the view that the investigation should also consider whether charges and practices of the aforementioned carriers related to their pickup and delivery services in Puerto Rico may be in violation of section 18(a) of the Shipping Act, 1916 and/or sections 2, 3, and 4 of the Intercoastal Shipping Act, 1933.

Now therefore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, and sections 2, 3, and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased pickup and delivery charges, and all charges and practices of the aforementioned carriers relating to pickup and delivery in Puerto Rico with a view to making such findings and orders in the premises as the facts and circumstances warrant;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933 the operation of aforementioned recently filed tariff amendments is suspended and the use thereof be deferred to and including December 9, 1970, unless otherwise ordered by this Commission. In the event the matter hereby placed under investigation is further changed, amended, or reissued upon termination of the suspension period before the investigation has been concluded, such changed, amended, or reissued matter will be included in this investigation;

It is further ordered, That Sea-Land Service, Inc.; Seatrain Lines, Inc.; and Transamerican Trailer Transport, Inc., be, and they are hereby named respondents in this proceeding; and that the Commonwealth of Puerto Rico be named as a petitioner in accordance with the Commission's rules of practice and procedure;

It is further ordered, That there shall be filed immediately with the Commission by the above-named respondents, a consecutively numbered supplement to each of their respective tariffs which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until December 10, 1970, unless otherwise authorized by the Commission, and the rates and charges or other provisions heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter which is continued in effect as a result of such suspension, may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission;

It is further ordered, That copies of this order shall be filed with said tariff schedules in the Bureau of Domestic Regulation of the Federal Maritime Commission;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondents and petitioner herein and published in the FEDERAL REGISTER; and (II) the said respondents and petitioner be duly served with notice of the time and place of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10646; Filed, Aug. 13, 1970; 8:47 a.m.]

[Docket No. 70-28]

PICKUP AND DELIVERY RATES AND PRACTICES IN PUERTO RICO

Investigation and Suspension; Correction

The following tariff pages were inadvertently included in the original order of investigation and suspension in this proceeding, served August 6, 1970, and they are hereby deleted:

SEA-LAND SERVICE, INC.

First Revised Page 190 to Tariff FMC-F No. 21.
Third Revised Page 109 to Tariff FMC-F No. 19.

SEATRAIN LINES, INC.

Tenth Revised page 6 to Tariff FMC-F No. 2.

The Original order in this proceeding remains unchanged in all other respects.

JOSEPH C. POLKING,
Assistant to the Secretary.

[F.R. Doc. 70-10647; Filed, Aug. 13, 1970; 8:47 a.m.]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of

the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. 20573.

Alaska Custom Brokers, Inc., 239 International Airport Building, 5000 West International Airport Road, Anchorage, Alaska 99502.

Officers:

J. W. Hansford—President.
Alex M. Bryce, Jr.—Vice President.
Austen D. Hemion—Secretary-Treasurer.

Stephen M. Bethell, d.b.a. International Shippers Co. of New York, 120 Liberty Street, New York, N.Y. 10006.

Stephen M. Bethell—Owner.

Neptune World Wide Moving, Inc., 55 Weyman Avenue, New Rochelle, N.Y. 10805.

Officers:

David Kirschenbaum—President.
Henry Kirschenbaum—Vice President and Secretary.
Richard Kirschenbaum—Treasurer.
Sidney Epstein—Vice President.
J. Robert Goldman—Vice President.

William P. Mulry, d.b.a., WPM International, 11 Broadway, New York, N.Y. 10004.

William P. Mulry—Owner.

Alexander G. Arroyos, 225 Japhet Street, Post Office Box 53162, Houston, Tex. 77052.

Alexander G. Arroyos—Owner.

Jose Benjamin Azios, d.b.a., Azios International Air Cargo Expeditors, Cargo Forwarders Building, Inter Continental Airport—No. 3050—Jetero, West, Houston, Tex. 77060.

Jose Benjamin Azios—Owner.

Kim International, Inc., 6060 Duke Street, Post Office Box 9069, Alexandria, Va. 22304.

Officers:

Joan Pascavage—President, Treasurer.
Louis L. Rainey, Jr.—Vice President.
Barbara Gordon—Secretary.

Saleh Ipektchi, d.b.a., Ipektchi International, 41-16, 47th Avenue, Sunnyside, N.Y. 11104.

Saleh Ipektchi—Owner.

Shiloh International, Inc., 316 West Second Street, Los Angeles, Calif. 90012.

Officers:

Kyungho Kim—President.
Kyung Ki Shin—Vice President, Treasurer.
Darwin Liao—Secretary.

Dated: August 10, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-10649; Filed, Aug. 13, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI 71-89]

COLINE OIL CORP.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

AUGUST 5, 1970.

On July 6, 1970, corrected by filing of July 20, 1970, Coline Oil Corp. (Coline)[1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: Notice of change.
Purchaser and producing area: Northern Natural Gas Co. (Hansford (Lower Morrow) Field, Hansford County, Tex.) RR. District No. 10).
Rate schedule designation: Supplement No. 3 to Coline's FPC Gas Rate Schedule No. 5.
Effective date: August 6, 1970.[2]
Amount of annual increase: $768.
Effective rate: 17.5 cents per Mcf.[3,4]
Proposed rate: 18.5 cents per Mcf.[4,5]
Pressure base: 14.65 p.s.i.a.

The proposed periodic rate increase, from 17.5 cents to 18.5 cents per Mcf, filed by Coline is for a sale of gas to Northern Natural Gas Co. from the Hansford (Lower Morrow) Field, Hansford County, Tex. (Railroad District No. 10) and exceeds the area increased rate ceiling of 11 cents per Mcf for Texas Railroad District No. 10 as announced in the Commission's statement of general policy No. 61-1, as amended, and should be suspended for 5 months from August 6, 1970, the expiration date of the statutory notice.

The proposed rate and charge may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 3 to Coline's FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Coline's FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, Supplement No. 3 to Coline's FPC Gas Rate Schedule No. 5 is hereby suspended and the use thereof deferred until January 6, 1971 and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before September 15, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-10668; Filed, Aug. 13, 1970; 8:49 a.m.]

[1] Address is: 900 Polk Street, Amarillo, Tex. 79101.

[2] The stated effective date is the first day after expiration of the statutory notice.

[3] Rate is in effect subject to refund in Docket No. RI 65-495.

[4] Rate includes a 1-cent charge paid by buyer to seller for relinquishing the right to recover the liquefiable hydrocarbons from the gas.

[5] Periodic rate increase.

SECURITIES AND EXCHANGE COMMISSION

[70-4898]

VERMONT YANKEE NUCLEAR POWER CORP. ET AL.

Notice of Proposed Issue and Sale of Subordinated Notes by Subsidiary Company and Acquisition by Sponsor Companies

AUGUST 7, 1970.

Notice is hereby given that Vermont Yankee Nuclear Power Corp. ("Vermont Yankee"), 77 Grove Street, Rutland, Vt. 05701, an electric utility company and a subsidiary company of both Northeast Utilities (Northeast) and New England Electric System (NEES), registered holding companies; New England Power Co. (NEPCO), an electric utility subsidiary company of NEES; Western Massachusetts Electric Co. (WMECO), The Connecticut Light & Power Co. (CL&P), and The Hartford Electric Light Co. (Hartford), three public utility subsidiary companies of Northeast; and Montaup Electric Co. (Montaup), an electric-utility subsidiary company of Eastern Utility Associates, a registered holding company (referred to collectively as "sponsors"), have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 9(a), and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Vermont Yankee is constructing a nuclear-powered electric generating plant with a net expected capacity of approximately 540 megawatts. The total capital cost of the plant, excluding the cost of the initial inventory of nuclear fuel of about $20 million, is estimated at $135 million. The sponsors are committed by capital fund agreements and power contracts to provide Vermont Yankee, in accordance with their stock percentages, the capital required by Vermont Yankee, and to purchase a like percentage of the capacity and power output of the Vermont Yankee plant on a cost-of-service basis, which includes an appropriate return on their investment.

Vermont Yankee has arranged to obtain short-term interim financing from banks, pursuant to revolving credit agreements, pending the completion of proceedings relating to the issue and sale of Vermont Yankee's common stock and pending its long-term debt financing. These revolving credit agreements provide for short-term loans from banks to Vermont Yankee up to an aggregate outstanding at any time of $20 million until October 28, 1970 (File No. 70-4611). As of May 31, 1970, an aggregate of $20 million has been borrowed under this arrangement. In addition, Vermont Yankee is presently authorized to issue and sell to its sponsor companies up to an aggregate of $60 million of subordinated notes (Holding Company Act Release No. 16556), of which an aggregate of $42,046,000 are currently outstanding and are held by the sponsors in the same proportion as contemplated by the instant application.

Vermont Yankee hereby proposes to issue and sell to the sponsors an additional aggregate of $20 million of its subordinated notes for the purpose of providing funds from time to time prior to December 31, 1971, as required to meet construction expenses. The sponsors, which are parties to this application, have agreed to acquire 34.5 percent of the $20 million of subordinated notes in the following percentages: NEPCO 20 percent, CL&P 6 percent, Hartford 3.5 percent, Montaup 2.5 percent, and WMECO 2.5 percent. The remaining amount will be issued to the other sponsors, but the acquisition thereof is not subject to the approval of this Commission. The subordinated notes will be issued by Vermont Yankee for general corporate purposes, including obtaining funds with which to pay its obligations to the banks as they come due under the revolving credit agreements. The application states that the notes will mature within 1 year from the date of issue, and will bear interest at an annual rate which is 1½ percent in excess of the lowest prime rate for commercial loans in effect at any bank in New York City on the date of issue thereof. The notes will be subordinated as to both principal and interest to senior indebtedness. It is contemplated that substantially all of the short-term indebtedness will be refunded by the issuance of long-term debt securities.

The application states that the Vermont Public Service Board has expressly approved the issue and sale of the notes. The Massachusetts Department of Public Utilities also has jurisdiction over the acquisition of the notes by the Massachusetts sponsors. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment.

Notice is further given that any interested person may, not later than August 28, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. 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 applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 70-10626; Filed, Aug. 13, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 131]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 11, 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 9194 (Sub-No. 1 TA), filed August 4, 1970. Applicant: AAA TRANSFER, INC., 558 Occidental Avenue South, Post Office Box 3746, ZIP 98124, Seattle, Wash. 98104. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in cargo vans and/or containers, and *empty cargo vans and containers*, between Seattle and Tacoma, Wash., on the one hand, and, on the other, points in Oregon and Washington, restricted to shipments having a prior or subsequent movement by water, for 180 days. Supporting shipper: Alaska Steamship Co., Pier 42, Seattle, Wash. 98134; American Mail Line, Ltd., 1010 Washington Building, Seattle, Wash. 98104; Northland Marine Lines, Inc., 653 Northwest 41st Street, Seattle Wash. 98107; SSI Container Corp., 40 South Spokane Street, Seattle, Wash. 98134; Transpacific Transportation Co., Norton Building, Seattle, Wash. 98104; Williams, Diamond & Co., 1515 Pacific Building, 720 Third Avenue, Seattle, Wash. 98104. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 42156 (Sub-No. 6 TA), filed July 31, 1970. Applicant: WALTON BULIFANT (Walton Bulifant, Jr., and Donald Bulifant, Executors), doing business as M. BULIFANT, 970 North Front Street, Philadelphia, Pa. 19123. Applicant's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Philadelphia, Pa., to points in Suffolk and Nassau Counties, N.Y., for 180 days. Supporting shippers: G. B. Goldman Paper Co., 2201 East Allegheny Avenue, Philadelphia, Pa. 19134; Grant Paper Co., 25 McKean Street, Philadelphia, Pa. 19148. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Philadelphia, Pa. 19106.

No. MC 45736 (Sub-No. 39 TA), filed July 4, 1970. Applicant: GUIGNARD FREIGHT LINES, INC., Statesville Road, Post Office Box 26067, Highway 21, North, Charlotte, N.C. 28213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and woodpulp*, from plantsite of Bowaters Southern Paper Corp., Calhoun, Tenn., to points in North Carolina, South Carolina, and Virginia, except those points in Virginia located on U.S. Highway 1 and U.S. Highway 360, for 180 days. Supporting shipper: Bowaters Southern Paper Corp., Calhoun, Tenn. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 96098 (Sub-No. 42 TA), filed July 31, 1970. Applicant: MILTON

TRANSPORTATION, INC., Rural Delivery 2, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, except in bulk, from St. Clair, Mich., to New York, N.Y., and its commercial zone, as defined by the Commission, and Elizabeth and Newark, N.J., under contract with Diamond Crystal Salt Co., St. Clair, Mich., for 150 days. Supporting shipper: Diamond Crystal Salt Co., St. Clair, Mich. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, Pa. 17108.

No. MC 103993 (Sub-No. 550 TA), filed August 3, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from plantsite of Crestwood Mobile Homes, Inc., in Hillsboro County, N.H., to points in Maine, Vermont, New York, Rhode Island, Connecticut, and Massachusetts, for 180 days. Supporting shipper: Crestwood Mobile Homes, Inc., Post Office Box 486, Berwick, Pa. 18603. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 103993 (Sub-No. 552 TA), filed August 4, 1970. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles, in initial movements; and (2) *buildings*, in sections, mounted on undercarriages, from Fairmont, N.C., to in (1) above points in Virginia, South Carolina, Georgia, Tennessee, Kentucky, West Virginia, and Florida, and in (2) above to points in Massachusetts, Delaware, New Jersey, Vermont, Virginia, and South Carolina, for 180 days. Supporting shipper: USCO, Inc., Post Office Box 548, Fairmont, N.C. 23240. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 422 TA), filed August 4, 1970. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos siding, materials, and accessories;* from the plantsite of GAF Corp., at St. Louis, Mo., to points in Indiana, Dauphin (except Harrisburg), and Montour Counties, Pa., for 180 days. Supporting shipper: GAF Corp., Elm Street, South Bound Brook, N.J. 08880. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 107403 (Sub-No. 799 TA), filed August 3, 1970. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke fines*, in pneumatic unloading closed hopper trucks, from Delaware City, Del., to Ashtabula, Ohio, for 180 days. Supporting shipper: Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 700 TA), filed July 31, 1970. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, Ga. 30050. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, in vehicles equipped with mechanical refrigeration from Augusta, Ga., to Scranton, Pa., for 150 days. Supporting shipper: Shapiro Packing Co., Inc., Post Office Box 119, Augusta, Ga. 30903. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 108449 (Sub-No. 314 TA), filed August 4, 1970. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Larry L. Gass (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products*, from Grand Forks, N. Dak., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, for 180 days. Supporting shipper: Western Potato Service, Inc., Grand Forks, N. Dak. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 109637 (Sub-No. 370 TA), filed August 5, 1970. Applicant: SOUTHERN TANK LINES, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Syrup coloring* (Caramel), in bulk, from Louisville, Ky., to Granite City, Ill., for 180 days. Supporting shipper: D. D. Williamson & Co., Inc., Post Office Box 6001, Louisville, Ky. 40206. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 110683 (Sub-No. 76 TA), filed August 4, 1970. Applicant: SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, Va. 24401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic scrap*, dry, in bulk, in van type trailers, from the plantsite of Rohm & Haas Co. at Louisville, Ky., to the plantsite of Rohm & Haas Co. at Bristol, Pa., for 180 days. Supporting shipper: Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 111467 (Sub-No. 26 TA), filed August 4, 1970. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed rock and crushed sand*, from points in Clinton County, Iowa, to Oshkosh, Wis., for 150 days. Supporting shipper: Lowe & Eschman Construction Co., Box 267, Marion, Iowa 52302. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 116073 (Sub-No. 130 TA), filed August 4, 1970. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, Post Office Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frames and undercarriages*, from New Ulm, Minn., to points in Iowa and Wisconsin, for 180 days. Supporting shipper: Riblet Products Corp., Post Office Box 759, Elkhart, Ind. 46514. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

No. MC 117765 (Sub-No. 108 TA), filed August 4, 1970. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Post Office Box 75267, Oklahoma City, Okla. 73107. Applicant's representative: Ray E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and *related advertising matter*, from Fort Worth, Tex., to Fort Smith, Ark., for 180 days. Supporting shipper: Burford Distributing Co., Richard D. Burford, Fort Smith, Ark. 72901. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 117940 (Sub-No. 27 TA), filed August 4, 1970. Applicant: NATION-WIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minn. 55359. Applicant's representative: M. James Levitus (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and frozen poultry and frozen poultry parts and fats* (except commodities in bulk), from points in Minnesota and Wisconsin (except Green Bay), to points in Virginia, for 180 days. Supporting shipper: Land O'Lakes, Inc., 2215 Kennedy Street NE., Minneapolis, Minn. 55413. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 119539 (Sub-No. 13 TA), filed July 31, 1970. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, Routes 5 and 20, East Bloomfield, N.Y. 14443. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and canning materials and supplies*, between Hamlin, Holley, Williamson, Rochester, and Brockport, N.Y., on the one hand, and, on the other, Hartford, Bailey, and Grawn, Mich.; restricted to traffic originating at or destined to the plantsites of Duffy-Mott Co., Inc., for 180 days. Supporting shipper: Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, N.Y. 10017. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Boulevard West, Syracuse, N.Y. 13202.

No. MC 123674 (Sub-No. 3 TA), filed August 3, 1970. Applicant: ARCTIC STORAGE OF UTICA, INC., Truck Route 5–A, Yorkville, N.Y. 13493. Applicant's representative: Murrary J. S. Kirshtein, 118 Bleecker Street, Utica, N.Y. 13601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Packaged frozen foods*, from Whitestown, N.Y., to Wilkes-Barre, Edwardsville, Hazelton, Lehighton, McAdoo, Shenandoah, Lansford, and Tamaqua, Pa., for 180 days. Supporting shipper: Victory Markets, Inc., Norwich, N.Y. Send protests to: District Supervisor Morris H. Gross, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Boulevard West, Syracuse, N.Y. 13202.

No. MC 124722 (Sub-No. 8 TA), filed August 5, 1970. Applicant: E'PORT WAREHOUSE & TRANSFER CO., Post Office Box 5, 811 East Linden Avenue, Linden, N.J. 07036. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, from Pennsville, N.J., to points in Pennsylvania, Delaware, Maryland, Virginia, and District of Columbia, for the account of Food Fair Stores, Inc., for 180 days. Supporting shipper: Food Fair Stores, Inc., 320 Stiles Street, Linden, N.J. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 124373 (Sub-No. 8 TA), filed July 29, 1970. Applicant: NELMAR TRUCKING CO., 735 Rahway Avenue, Union, N.J. 07083. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned carbonated beverages*, from Baltimore, Md., to Wilmington, Del.; Washington, D.C.; Salisbury, Md.; Atlantic City and Vineland, N.J.; Akron, Middleport, Ravenna, Steubenville, and Youngstown, Ohio; Altoona, Beaver Falls, Bedford, Dubois, Johnstown, Knox, McKeesport, Philadelphia, Pittsburgh, and York, Pa.; Bluefield, Cape Charles, Covington, Norfolk, Pulaski, Richmond, Roanoke, and Springfield, Va., Berkley, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Logan, Morgantown, Parkersburg, Rainelle, Richwood, Wheeling, and Williamson, W. Va., for 150 days. Supporting shipper: Custom Canners of Baltimore, Inc., 200 Padonia Road West, Timonium, Md. 21093. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 125433 (Sub-No. 18 TA), filed July 31, 1970. Applicant: F–B TRUCK LINE COMPANY, 1891 West 2100 South Street, Salt Lake City, Utah 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed auto bodies, scrap auto engine blocks and transmissions*, from points in Idaho south of but not including Idaho County, to Oakland, Calif., for 180 days. Supporting shipper: Rackliff Bros., Inc., 309 Woodlawn Drive, Caldwell, Idaho 83605 (Fred Rackliff, Secretary-Treasurer). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 125497 (Sub-No. 11 TA), filed August 5, 1970. Applicant: L. WOODS & SON TRANSPORT LTD., 5005 Irwin Avenue, LaSalle, Province of Quebec, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Pittsburgh, Pa.; Youngstown, Ohio; Philipsdale, R.I.; and Detroit, Mich.; to ports of entry on the United States-Canada boundary line in the States of New York and Michigan. *Restrictions:* (1) The transportation to be authorized herein will be restricted to traffic moving from points in the United States to points in Canada; and (2) the transportation to be authorized herein will be restricted to shipments originating at the named points in the United States and destined to the plants and warehouses of the Dominion Steel & Coal Corp., Ltd., located in the Province of Quebec, Canada, for 180 days. Supporting shipper: Dominion Steel & Coal Corp., Ltd., 507 Place d'Armes, C.P. 249 Post Office Box 249, Montreal 101, Province of Quebec, Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602.

No. MC 126528 (Sub-No. 3 TA), filed July 29, 1970. Applicant: BULK HAULERS, INC., Airport Road, Post Office Box 407, Nashua, N.H. 03060. Applicant's representative: Thomas J. O'Loughlin, Jr., 18 Baker Street, Hulson, N.H. 03051. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, and, equipment, materials, and supplies*, used in connection therewith, between points in California, Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Canada, on the one hand, and, on the other, points in New Hampshire, for 180 days. Supporting shipper: State of New Hampshire, State Liquor Commission, Storrs Street, Concord, N.H. 03301, Attention: Robert W. Herlihy, Director, Merchandising and Accounts. Send protests to: District Supervisor, Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 129978 (Sub-No. 2 TA), filed July 31, 1970. Applicant: HAP TRUCKING, INC., 26–30 Borough Place, Woodside, Queens, N.Y. 11377. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Single faced corrugated products*, from New York, N.Y., to points in New Jersey, Connecticut, and Massachusetts, for 180 days. Supporting shipper: Druth Packaging Corp., 1300 North Branch Street, Chicago, Ill. 60622. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 129742 (Sub-No. 6 TA), filed July 29, 1970. Applicant: TRANS CANADIAN COURIES LTD., 20 Morse Street, Toronto 10, Ontario, Canada. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds*, between Detroit, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line, located near Detroit, Mich.; and (2) *radiopharmaceuticals, radioactive drugs, and medical isotopes*, between Detroit, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line, located near Detroit, Mich., restricted to shipments having an

immediately prior or subsequent movement by air, for 150 days. Supporting shippers: The Manufacturers Life Insurance Co., 200 Bloor Street East, Toronto 285, Canada; Confederation Life Association, 321 Bloor Street East, Toronto 5, Canada; North American Life Assurance Co., 105 Adelaide Street West, Toronto 1, Canada; Ford Motor Co. of Canada, Ltd., The Canadian Road, Oakville, Ontario, Canada; Uniroyal Ltd., Post Office Box 130, Place d'Armes, Montreal, Canada; Abbott Laboratories, Radio-Pharmaceutical Products Division, Abbott Park, North Chicago, Ill. 60064. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 133123 (Sub-No. 4 TA), filed August 4, 1970. Applicant: RUJAC TRUCKING CORP., 1133 Sixth Avenue, Room 3210, New York, N.Y. 10009. Applicant's representative: Morris Honig, 150 Broadway, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical goods*, from Elizabethport, N.J., to East Hanover, N.J., for 150 days. Supporting shipper: Panasonic New York, Division of Matsushita Electric Corp. of America, 43–20 24th Street, Long Island City, N.Y. 11101. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 133453 (Sub-No. 11 TA), filed August 3, 1970. Applicant: TROJAN TRANSPORTATION, INC., 2729 Federal Street, Philadelphia, Pa. 19145. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, material, and supplies* used or useful in the manufacture of beverages, from Bridgeton, Wharton, Cliffwood, Freehold, Millville, North Bergen, Salem, and Vineland, N.J., and Baltimore, Md., to Philadelphia, Pa., for 180 days. Supporting shipper: Boulevard Beverage Co., 2000 Bennett Road, Philadelphia, Pa. 19116. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 133931 (Sub-No. 1 TA), filed August 4, 1970. Applicant: M. POLLON, INC., doing business as MARINE GUARD SERVICE, 1351 North Delaware Avenue, Philadelphia, Pa. 19125. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gaskets and mechanical packing*, from warehouse of Garlock, Inc., Philadelphia, Pa., to plantsites and facilities of E. I. du Pont de Nemours & Co., in New Jersey and Delaware, for 150 days. Supporting shipper: Garlock, Inc., 2204 East Butler Street, Philadelphia, Pa. 19137. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Philadelphia, Pa. 19106.

No. MC 134088 (Sub-No. 2 TA), filed July 23, 1970. Applicant: FORD L. WRIGHT AND MARIE A. WRIGHT, a partnership, doing business as ALL-AMERICAN MOVING & STORAGE, 3091 Bellbrook Center Drive, Memphis, Tenn. 38116. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between the following points, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic; points in Shelby, Fayette, Hardeman, McNairy, Chester, Hardin, Tipton, Haywood, Madison, Henderson, Lauderdale, Crockett, Carroll, Dyer, Gibson, Lake, Obion, Weakley, Henry, and Decatur Counties, Tenn.; De Soto, Marshall, Benton, Tippah, Alcorn, Tishomingo, Tunica, Tate, Prentiss, Coahoma, Quitman, Panola, Lafayette, Union, Pontotoc, Lee, Itawamba, Bolivar, Washington, Sunflower, Tallahatchie, Leflore, Yalobusha, Grenada, Carroll, Montgomery, Webster, Calhoun, Chicasaw, Clay, Monroe, Lowndes, Oktibbeha, Choctaw, Winston, and Noxubee Counties, Miss.; and Randolph, Clay, Sharp, Lawrence, Greene, Independence, Jackson, Craighead, Poinsett, Miss.; White, Woodruff, Cross, Crittenden, St. Francis, Lonoke, Prairie, Monroe, Lee, Phillips, Arkansas, Jefferson, Pulaski, Faulkner, Saline, and Garland Counties Ark., for 180 days. Supporting shippers: King Pak, Inc., Post Office Box 18298, Wichita, Kans. 67218; Columbia Export Packers, Inc., 19000 South Vermont Avenue, Torrance, Calif. 90502; Imperial Household Shipping Co., Inc., Post Office Box 20124, St. Petersburg, Fla. 33702; Northwest Consolidators, Inc., Post Office Box 3583, Terminal Annes, Seattle, Wash. 98124; CTI-Container Transport International, Inc., 17 Battery Place, New York, N.Y. 10004. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 390 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 134697 (Sub-No. 1 TA), filed August 3, 1970. Applicant: JIMMY DARWIN, doing business as DARWIN TRUCKING COMPANY, U.S. Highway 27, Bronson, Fla. 32621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from points in Gilchrist and Levy Counties, Fla., to Clyattville, Ga., for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 453, Chiefland, Fla. 32626. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 134785 (Sub-No. 2 TA), filed August 4, 1970. Applicant: TRANSPORT SERVICE CO. INC., Diamond Avenue, Columbia City, Ind. 46725. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Huntington, Ind., to Hicksville, Lima, Montpelier, and Van Wert, Ohio (service to be performed under a continuing contract with Mobil Oil Corp.), for 180 days. Supporting shipper: Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 134793 (Sub-No. 1 TA), filed July 30, 1970. Applicant: EDWIN LINDEN, doing business as EAST-WEST REFRIGERATED FREIGHT LINES, 520 East Ogden Avenue, Naperville, Ill. 60540. Applicant's representative: Thomas F. McFarland, Jr., 20 North Wacker Drive, Chicago, Ill. 60606. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Storm windows and doors*, completely assembled and glazed; (2) *awnings*, fiberglass and aluminum, assembled and knocked down; and (3) *aluminum patio covers*, knocked down, from the plantsite at Kinkead Industries, Inc., at Warrenville, Ill., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, for 150 days. Supporting shipper: Kinkead Industries, Inc., Post Office Box 310, Warrenville, Ill. 60555. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 134804 TA, filed July 31, 1970. Applicant: AUZA-HOFFMAN, INCORPORATED, Post Office Box 1892, Flagstaff, Ariz. 86001. Applicant's representative: A. Michale Bernstein, 3550 North Central, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products and machinery or parts used in the manufacture of paper products*, from Flagstaff, Ariz., to points in Texas, New Mexico, Arizona, California, Nevada, Colorado, Oregon, Washington, Idaho, Utah, Montana, Wyoming, Oklahoma, Kansas, Nebraska, and South Dakota, and *scrap paper* between points in the above-mentioned states; and, on return, *scrap paper and chemicals, supplies, and machinery* used in the manufacture and sale of paper products for Ponderosa Paper Products, Inc., only, for 180 days. Supporting shipper: Ponderosa Paper Products, Inc., Post Office Box JJ, Flagstaff, Ariz. 86001. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85071.

No. MC 134805 TA, filed July 31, 1970. Applicant: McGEE NAVAJO-HOPI TRANSPORT CO., Post Office Box 148, Holbrook, Ariz. 86025. Applicant's representative: A. Michael Bernstein, 3550 North Central, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, excluding household goods and liquid commodities in tank vehicle; (1) between Holbrook, Ariz., and the Navajo and Hopi Indian Reservations; (2) between Winslow, Ariz., and the Navajo and Hopi Indian Reservations; (3) between points on the Navajo and Hopi Indian Reservations, for 180 days. Supporting shippers: There are approximately 24 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 134806 TA, filed July 30, 1970. Applicant: B–D–R TRANSPORT, INC., Brattleboro, Vt. 05301. Applicant's representative: Frank Ortman, Suite 770, Mills Building, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular route, transporting: (1) *Boots and shoes and other footwear*, from Brunswick and North Berwick, Maine; Manchester, Nashua, and Rollinsford, N.H.; to Brattleboro, Vt.; (2) *boots and shoes and other footwear*, from Wilton Maine, and Brattleboro, Vt., to Chicago, Ill.; Cheyenne, Wyo.; Salt Lake City, Utah; and Reno, Nev.; (3) *tanned leather*, from Milwaukee and Fond du Lac, Wis., and Chicago, Ill., to Wilton, Maine. The above authority to be restricted to transportation to be performed under a contract with Dunham Brothers Co. of Brattleboro, Vt. as to (1) and (2) above and under a contract with G. H. Bass & Co., as to (2) and (3) above, for 150 days. Supporting shippers: Dunham Brothers Co., Brattleboro, Vt. 05301; G. H. Bass & Co., Wilton, Maine 04294. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602.

No. MC 134809 TA, filed July 31, 1970. Applicant: LYELL HINTZ, doing business as HINTZ TRUCKING, 1674 Grand Teton Drive, Milpitas, Calif. 95035. Applicant's representative: B. Silver, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail discount stores*, on a continuing contract with Ames Mercantile Co., Inc., from Brisbane, Calif., to points in Clark County, Nev., for 180 days. Supporting shipper: Ames Mercantile Co., Inc., 435 Valley Drive, Brisbane, Calif. 94005. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 134815 (Sub-No. 1 TA), filed August 5, 1970. Applicant: DEWELL WILLIAM HOSKINS, doing business as HOSKINS TRUCK SERVICE, Post Office Box 66, Malvern, Ark. 72104. Applicant's representative: Louis Tarlowski, Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum scrap*, from plantsite of Reynolds Metals Co., Gum Springs, Ark., to Russellville, Ala., for 150 days. Supporting shipper: Reynolds Metals Co., Post Office Box 128, Malvern, Ark. 72104. Send protests to: District Supervisor William H. Land, Jr., 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 134826 TA, filed August 5, 1970. Applicant: DAVID GWYTHER AND DONALD GWYTHER, doing business as WHOLE EARTH TRUCK STORE, 651 East 13th Street, Eugene, Oreg. 97401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Berkeley, Calif., to Eugene and Portland, Oreg.; Tacoma and Seattle, Wash.; and ports of entry on the international boundary line between the United States and Canada located in Washington, for 180 days. Supporting shipper: Rolling Stone Magazine, 625 Third Street, San Francisco, Calif. 94107. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 134827 TA, filed August 5, 1970. Applicant: GEORGE WETZSTEIN, doing business as COAST TO COAST TOWBAR, 11801 Bradford Road, Hopkins, Minn. 55343. Applicant's representative: Will S. Tomljanovich, 2327 Wycliff, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in driveaway service, between points in the United States (except Alaska and Hawaii), under continuing contract or contracts with Gelco-IVM Leasing Co. of Hopkins, Minn., and Tempel Motors, Inc., of St. Paul, Minn., for 180 days. Supporting shipper: Gelco-IVM Leasing Co., Post Office Box 16040, Elmwood Branch, Minneapolis, Minn. 55416. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

MOTOR CARRIER OF PASSENGERS

No. MC 125494 (Sub-No. 4 TA), filed August 3, 1970. Applicant: D & M TAXI CO., INC., Post Office Box 38, Fort Dix, N.J. 08640. Applicant's representative: John D. Hawke, Jr., 1229 19th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle, in special and charter operations, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats, between points in Mercer County, N.J., on the one hand, and the Philadelphia International Airport and points in Philadelphia, Pa. (including the commercial zone of Philadelphia as defined by the ICC), on the other, for 180 days. Supported by: There are numerous statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–10666; Filed, Aug. 13, 1970; 8:49 a.m.]

[Notice 573]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 11, 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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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–72285. By order of August 7, 1970, the Motor Carrier Board approved the transfer to Douglas N. Miller, doing business as Western Transport, 1106 26th Avenue, Missoula, Mont., of the operating rights in certificate No. MC–125907 issued October 6, 1964, to Hughes Hauling Co., a corporation, Missoula, Mont., authorizing the transportation of road building and logging equipment, machinery, and supplies, between points in Deer Lodge, Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., and points in Idaho.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–10664; Filed, Aug. 13, 1970; 8:49 a.m.]

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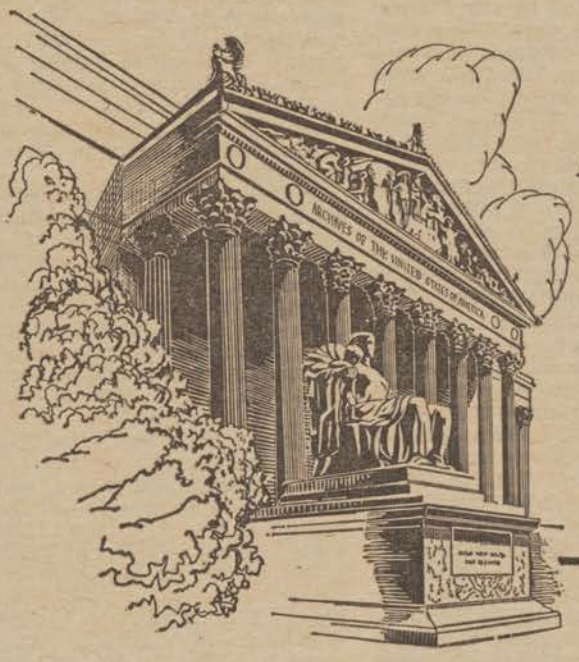
PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

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Milk in Eastern Ohio-Western Pennsylvania Marketing Area



Decision on Proposed Amendments to Marketing Agreement and to Order

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1036]

[Docket Nos. AO–179–A32, AO–179–A32–R02]

MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Cleveland, Ohio, on September 9–12 and 15, 1969, pursuant to notice thereof issued on August 14, 1969 (34 F.R. 13419).

Upon the basis of the evidence introduced at the September 1969 hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on June 9, 1970 (35 F.R. 9888; F.R. Doc. 70–7385), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Following the issuance of the recommended decision, the hearing was reopened on July 29, 1970, at Parma, Ohio, pursuant to notice thereof issued on July 20, 1970 (35 F.R. 11800). The July 29 hearing session was limited to further consideration of the appropriate classification of milk products. Because of their emergency nature, a recommended decision on the matters considered at the July 29 hearing has been omitted. Such matters are dealt with in the following findings and conclusions.

Also, the September 1969 hearing was reopened on January 20, 1970, at Clayton, Mo., pursuant to notices thereof which were issued on November 26, 1969 (34 F.R. 19078), January 8, 1970 (35 F.R. 435), and January 29, 1970 (35 F.R. 2527). Such reopening was for the limited purpose of considering the use of an economic formula for changing simultaneously the Class I prices under all Federal milk orders, including the Eastern Ohio-Western Pennsylvania order. The economic formula issue will be considered in a separate decision.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision previously noted are hereby approved and adopted and are set forth in full herein, subject to the revisions listed below. Such revisions include the incorporation of the findings and conclusions on the matters considered at the July 20, 1970, reopened hearing which have not been dealt with in a recommended decision.

1. The list of material issues is changed.

2. Under the heading "5. *Provisions relating to diverted milk*", the 11th and 15th paragraphs are changed and the 16th and 17th paragraphs are deleted and two new paragraphs are substituted therefor.

3. Findings and conclusions on two new issues, No. 15 and No. 16, are added after the findings and conclusions on issue No. 14.

The material issues on the record of the September 1969 and July 1970 hearings relate to:

1. Class I price;
2. Expansion of the marketing area;
3. Pooling standards for supply plants;
4. Definition of distributing plant;
5. Provisions relating to diverted milk;
6. Definition of producer-handler;
7. Pooling exemption for a handler's own production;
8. Classification of certain milk products;
9. Direct delivery differentials;
10. Price for milk used to produce cottage cheese, yogurt, and sour cream;
11. Price for milk used to produce butter;
12. Location adjustments on other source milk;
13. Producer-settlement fund reserve;
14. Seasonal production incentive plans;
15. Classification of cream (considered at reopened hearing); and
16. Whether an emergency exists to warrant the omission of a recommended decision on Issue No. 15.

Issue No. 1 was considered in a decision issued December 5, 1969 (34 F.R. 19507). This decision deals with the remaining issues.

Findings and Conclusions

The following findings and conclusions are based on evidence presented at the hearing and the record thereof:

2. *Expansion of the marketing area.* Certain territory in Ohio and West Virginia not now included in any Federal order marketing area should be a part of the Eastern Ohio-Western Pennsylvania marketing area. The Ohio areas are Holmes County, Ashland County except Ruggles, Troy, and Sullivan Townships, the townships of Harrisville, Westfield, and Guilford in Medina County, and the remaining unregulated parts of Wayne, Stark, and Lake Counties. The West Virginia areas are Wetzel, Tyler, Doddridge, and Tucker Counties and the remaining unregulated parts of Lewis, Upshur, Randolph, Barbour, Taylor, and Preston Counties.

The addition of this unregulated territory to the Order 36 marketing area was proposed by five cooperative associations in the market. Their proposal to include also the unregulated Ohio townships of Litchfield, Chatham, Spencer, and Homer in Medina County and Ruggles, Troy, and Sullivan in Ashland County is denied.

Six of the 10 West Virginia counties involved in the proposed area expansion are now partially in the marketing area. The regulated portions include the magisterial districts of Grafton in Taylor County, Philippi in Barbour County, and Leadsville in Randolph County, the cities of Buckhannon in Upshur County and Weston in Lewis County, and the town of Kingwood in Preston County.

All Class I sales in these 10 West Virginia counties are by handlers regulated under either the Eastern Ohio-Western Pennsylvania order or the Tri-State order. The proponent cooperatives claimed that a majority of the sales in each county is by Order 36 handlers. A Tri-State handler stated, though, that he and another Tri-State handler have somewhat over 50 percent of the sales in Doddridge County, and nearly 50 percent of the sales in Lewis, Wetzel, and Tyler Counties. Although he opposed all of the proposed West Virginia territory, the handler did not indicate the extent of his sales in the other West Virginia areas under consideration.

In opposing the area expansion, the Tri-State handler contended that such expansion would result in additional Class I sales being made in the Order 36 marketing area by handlers regulated under the Tri-State order. However, he did not show how this might disrupt the orderly marketing of producer milk under either of the orders involved.

The proposed West Virginia territory is an integral part of the sales areas of Order 36 handlers. The Class I sales in the unregulated areas have resulted from the normal extension of distribution routes by Order 36 handlers having sales in the nearby regulated areas. All of the proposed area except Tyler County borders on the present Order 36 marketing area, and Tyler County adjoins two of the counties proposed to be included. As noted, portions of several of the counties to be added are already in the marketing area. Although Class I sales are being made in some of the proposed area by Tri-State handlers, it is concluded that the marketing relationship of the total unregulated territory is essentially with the presently regulated areas in West Virginia. While all fluid milk sales in the territory are by handlers subject to classified pricing under an order, including the proposed territory in the marketing area will insure price parity for all handlers should an unregulated distributor find Class I outlets in this area.

In Ohio, the proposed marketing area expansion would add the eastern part of Lake County consisting of Concord, Leroy, Perry, Madison, and Painesville Townships. The western part of the county is now in the marketing area. All Class I sales in this unregulated territory, which is bordered on three sides by the marketing area and on the other by Lake Erie, are by Order 36 handlers.

All of Stark County except Sugar Creek and Paris Townships is presently in the marketing area. Paris Township is completely surrounded, and Sugar Creek Township nearly so, by the present marketing area. The Class I sales in these townships are by Order 36 handlers:

Ten of the 17 townships in Medina County are now regulated under the order. The townships of Harrisville, Westfield, and Guilford that are proposed to be added are adjacent to the regulated portions of the county and are a part of the sales areas of Order 36 han-

dlers who distribute milk in the regulated townships.

Only a very small part of Wayne County, namely, secs. 1, 2, 3, 10, 11, and 12 of Sugar Creek Township, is now in the marketing area. The Class I sales in this county and in the unregulated county of Holmes are largely by a handler who operates an Order 36 pool plant in Wayne County at Orrville. There are also limited sales in Wayne County by at least one other Order 36 handler. Handlers under the Southern Michigan, Northwestern Ohio, and Columbus orders also have sales in the two-county area.

In Ashland County, excluding Ruggles, Troy, and Sullivan Townships, Order 36 handlers account for about 70 percent of the fluid milk sales there. The remaining sales are by Columbus, Northwestern Ohio, and Southern Michigan handlers.

The marketing situation just described for Ashland County is different from that depicted at the hearing. At the time of the hearing, about half of the Class I sales in the county were made from an unregulated distributing plant at Ashland in Ashland County. Milk distributed from this plant was received at the plant from dairy farmers and in packaged form from the plant operator's Order 36 pool distributing plant at Akron, Ohio.

Official notice is taken of the commercial fact that (1) the Ashland plant no longer receives milk from dairy farmers or processes and packages milk, and (2) such plant is a distribution point for milk fully regulated under the Eastern Ohio-Western Pennsylvania order.

Class I sales in the Ohio territory proposed herein to be added to the marketing area are largely, and in some areas entirely, by Order 36 handlers. Such territory is an integral part of the sales areas of such handlers. By extending regulation to this territory, the proposed marketing area would more nearly represent the total sales areas of the handlers now subject to the order. In addition, inclusion of this territory would insure price parity for all handlers who now have Class I sales in the area.

For pricing purposes, the Eastern Ohio-Western Pennsylvania marketing area is divided into the Pittsburgh district and the Cleveland-Erie district. All of the present marketing area that is in West Virginia is now included in the Pittsburgh district. The conditions supporting this arrangement are equally applicable to the additional West Virginia territory, which should be included in the Pittsburgh district. The Ohio areas proposed to be added are adjacent to those parts of the marketing area now included in the Cleveland-Erie district. It is reasonable that the new Ohio areas likewise be in the Cleveland-Erie pricing district.

Marketing conditions do not warrant the addition of Litchfield, Chatham, Spencer, and Homer Townships in Medina County and Ruggles, Troy, and Sullivan Townships in Ashland County to the Order 36 marketing area.

The inclusion of these areas would cause an unregulated plant at Oberlin, Ohio, from which sales are made in these townships to become fully regulated under the order. The proponent cooperatives contended that this distributor has a competitive advantage relative to regulated handlers since the cost of his Class I milk is not the order Class I price but rather approximates the Order 36 uniform price.

The operator of the Oberlin distributing plant opposed the inclusion of the seven townships. In addition to his sales in these areas, the distributor also sells milk in unregulated areas in Lorain, Huron, and Erie Counties. The plant is a partially regulated distributing plant under Order 36 on the basis of its limited route disposition in the regulated part of Medina County.

The Oberlin distributor's annual Class I utilization is about 80 percent of receipts. He pays the 12 dairy farmers supplying him the Order 36 uniform price plus whatever premiums Cleveland handlers are paying. He also offers a 10-cent per hundredweight quality bonus and deducts 15 cents per hundredweight for hauling.

At least two Order 36 handlers compete with this distributor in the four Medina County townships that the distributor opposes. The regulated handlers presented no testimony concerning the proposed extension of the area to include these townships.

There appears to be no compelling need at this time for adding the three Ashland County townships and the four Medina County townships to the marketing area. The proposal is denied.

3. *Pooling standards for supply plants.* Milk that is diverted to a supply plant from other plants should not be considered a part of the supply plant's receipts for the purpose of determining if the supply plant has met the prescribed shipping requirements for pooling. Presently, such diverted milk is included in the plant's receipts for this purpose.

This change in the pooling standards was proposed by several cooperatives, including the operator of a pool supply plant at Orrville, Ohio, that serves as a major surplus disposal outlet for the market. This plant also receives surplus milk from other markets, on an agreed upon Class II utilization, for manufacturing. Proponents claimed that the present order provisions cause unnecessary movements of milk from this plant for the purpose of assuring its qualification as a pool plant.

Proponents cited the milk movements that need to occur during the months of September, October, and November, for example, when the 50 percent shipping percentage applies. For each 100 pounds of milk that is not used at pool distributing plants and is diverted to a supply plant for manufacturing, 50 pounds of milk must be shipped from the supply plant to distributing plants. As an indication of the size of the problem, proponents stated that the supply plant at Orrville, Ohio, received over 17 million pounds of milk diverted from Order 36 pool plants as surplus during the months of September 1968 through February 1969, the months when the minimum shipping requirements apply.

The proposed change is desirable to assure the orderly disposition of reserve milk supplies in the market that are not needed for Class I use. The Orrville plant serves not only as a supply plant for the market, a function that would in no way be diminished by this order change, but also as an important outlet for reserve milk supplies. If the order were not changed, the plant might well refuse to receive milk diverted from distributing plants so as to not lose its pool plant status. The order tends to encourage movements of milk that are both uneconomic and unnecessary.

The proposed change will not result in dilution of the pool with additional milk for manufacturing purposes. Any milk received at a pool supply plant as milk diverted from another pool plant already will have qualified for inclusion in the pool on the basis of its association with the other pool plant. Also, milk received as a diversion from an other order plant is not included in the pool if the milk is designated for surplus use and priced under the other order. Moreover, the supply plant will not be pooled unless it moves to pool distributing plants the required minimum volume of its regular producer milk supply.

No provision should be made for "system" pooling for supply plants. A handler who operates two pool distributing plants and a pool supply plant in the market proposed an arrangement whereby his supply plant could qualify for pooling on a "system" basis with his distributing plants. The three-plant system, which would be considered for pooling purposes as a single plant operation, would have to meet the pooling standards prescribed for a pool distributing plant in order for each plant in the system to be a pool plant. Presently, a distributing plant qualifies for pooling if during the month it distributes on routes not less than 50 percent (40 percent monthly in April through August) of its total receipts of fluid milk products and distributes on routes in the marketing area not less than 15 percent of such receipts.

Proponent claimed that under his particular operation the proposed pooling arrangement would facilitate a more economical movement of producer milk now associated with his plants. He pointed out that the operations at his distributing plants are confined largely to the processing of Class I products. His Class II products such as cottage cheese and sour cream—cultured items which he claimed are normally asssociated with a fluid milk operation—are processed, on the other hand, at his supply plant. The milk products made at this plant are limited to dips, sour cream, cottage cheese, and half and half, the latter being a Class I product.

The handler pointed out that these cultured products are normally sold through the same outlets as Class I products, and any increase in Class I sales is usually accompanied by additional sales of cottage cheese and sour cream items. He indicated that with the shipping requirements for supply plants, any major increase in receipts at his supply plant to cover increased production of

cottage cheese and sour cream necessitates additional shipments of milk from the supply plant to distributing plants, whether or not needed there. Proponent claimed that competitors who have all their milk operations in one plant can meet a similar increased demand for these cultured items without being burdened with offsetting milk movements.

The present pooling standards for supply plants, except for certain modifications proposed herein, continue to be appropriate under the existing marketing conditions. Under these standards, a supply plant qualifies for pooling if not less than a specified percentage of its receipts of approved milk from dairy farmers is moved, either by transfer or diversion, to pool distributing plants. For the months of September, October, and November, the minimum shipments required are 50 percent of receipts; for all other months they are 40 percent. A supply plant that is pooled in each of the preceding months of September through February automatically qualifies as a pool plant for the months of March through August irrespective of whether it ships any milk to other plants.

These standards provide the necessary assurance that milk associated with pool supply plants will be available to distributing plants for fluid use. Minimum shipments are required at a time when supplies in the market tend to be less plentiful relative to the market's Class I demand. The order recognizes, on the other hand, that the demand for supply plant milk is less during the flush production months, and no shipments to distributing plants are required during a 6-month period.

It is possible that the proposed system pooling arrangement could result in some milk supplies in the market not being made available to distributors for Class I use when needed. In this case, producers would be receiving less than the highest possible returns for their milk since such milk would not be going into available Class I uses. Moreover, the unavailability of milk for fluid use could encourage handlers to obtain outside supplies to carry them over the peak bottling days. This would reduce further the total returns to producers regularly supplying the market.

There is no indication that proponent's supply plant, which has been a pool plant under the order for a substantial period of time, would be unable to remain associated with the market under the present pooling standards. In presently meeting these pooling standards, the plant is demonstrating its function as a source of milk for distributing plants. The handling of reserve milk at this plant, on the other hand, will be facilitated by the proposed change in these standards that was described earlier. Under this change, milk diverted from other pool plants to this plant would not count as a part of the supply plant's receipts in determining if the shipping percentages have been met for pooling.

A further modification in the supply plant pooling standards should be made in recognition of those handlers who may be processing Class I items at their supply plants as well as shipping milk to other plants for fluid use. The handler who proposed system pooling, for example, indicated that he processes half and half, a Class I product, at his supply plant. It is reasonable that any route disposition in the marketing area from a supply plant be counted with the plant's shipments to pool distributing plants in determining the plant's qualification for pooling. Any in-area route disposition of a supply plant is a part of the plant's demonstration of its association with the fluid market and should be recognized for pooling purposes.

A proposal to lower the shipping percentages for a supply plant should not be adopted. Also, a reloading operation on the premises of a supply plant should not be considered a separate operation.

The operator of a pool supply plant sought the latter changes to lessen the amount of milk which he must ship to pool distributing plants to qualify his plant for pooling. He contended that the increasing production of the 130 producers shipping to his plant is making it more difficult for the plant to qualify for pooling during the months of September through February when minimum shipments are required. He suggested that lowering the present shipping percentages of 50 percent for September, October and November and 40 percent for the other months to 40 percent and 30 percent, respectively, would be helpful to his operation. Also, the handler stated that not including in the plant's receipts milk reloaded from farm pickup tankers into over-the-road tankers on the plant's premises would help accommodate his situation. In addition to supplying milk to distributing plants, the handler manufactures several products at his plant.

A major function of the supply plant pooling standards is to insure that handlers who are processing milk and distributing it for sale primarily to consumers in the marketing area can regularly and dependably obtain milk from supply plants to meet their fluid milk requirements. Without such standards, or if minimum shipping requirements are set too low, supply plants could keep milk at their plants for manufacturing when it is to their advantage to do so rather than make the milk available to distributing plants for fluid use.

The present shipping percentages were determined, at the time Order 36 was greatly expanded, to be appropriate for this market. There is no indication of changed conditions throughout the market that make such shipping requirements inconsistent with the fluid milk needs of distributors.

The order defines a reload point as a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. Further, a reload operation on the premises of a plant is considered under the order as a part of the plant operation. This latter provision is necessary since it is often difficult from an administrative standpoint to be assured that the reload operation is in all instances and respects separate from the plant operation. The contemplated reloading operation of the proponent handler would appear to present this very problem of being able to distinguish at all times, and with the necessary certainty, between his reload operation and his plant operation. This situation requires that the handler's proposal be denied.

4. *Definition of distributing plant.* The proposed modification of the distributing plant definition should not be adopted.

The order defines a "distributing plant" as a plant in which either milk approved by a duly constituted health authority for fluid consumption or filled milk is processed or packaged and from which there is route disposition in the marketing area during the month. Several cooperatives suggested that a plant not qualify as a "distributing plant" unless its in-area route sales exceed 5,000 pounds per month. This change would exempt a distributing-type plant with less in-area sales from all regulatory provisions of the order. Proponents indicated that such plants should probably be required to file reports, however.

Proponents claimed that the administration of the order would be facilitated by excluding from regulation the very small distributors in the market. It was expected that the exemption would apply in most cases to persons in the market commonly referred to as "juggers". These are dairy farmers who retail their own production through outlets on the farm premises.

"Juggers" presently qualify in most cases as producer-handlers. As producer-handlers, such persons are exempt from all but the reporting provisions of the order. Inasmuch as the record is not clear as to what administrative problems are actually being encountered, and thus whether or not the proposed remedy is appropriate, the proposal is denied.

5. *Provisions relating to diverted milk.* Several provisions in the order concerning the regulatory treatment of producer milk diverted from one plant to another should be modified.

Several cooperatives proposed that the manner in which "over-diversions" are determined be changed. The order now provides that during the months of August through March the quantity of milk of any producer diverted to nonpool plants that exceeds that delivered to pool plants shall not be deemed to have been received by the diverting handler and shall not be producer milk. The cooperatives asked that this limit on diversions be measured in terms of days of delivery of a producer's milk rather than in terms of the pounds of milk delivered to plants.

Proponents claimed that it is difficult to know in advance how much milk a farmer will produce each month. It is not uncommon, for instance, for production to increase during the month because of cows freshening or an expansion of the herd. Proponents contended that sometimes they have difficulty in assuring that a producer's milk is not diverted

to nonpool plants in excess of the quantity limit specified in the order. It is more practical and simpler, they claimed, to direct milk to various plants when milk movements can be considered in terms of days of delivery.

For the reasons set forth by proponents, the proposed change is reasonable and should be adopted. However, the diversion limits should be expressed in terms of days of production rather than days of delivery. This will accommodate the possible situation where a producer's milk might be picked up at his farm on a daily basis part of the month and on an every-other-day basis the rest of the month.

The order also prescribes certain diversion limits for determining the location at which diverted milk shall be priced. As suggested by the cooperatives, these limits, which are now stated in terms of the quantity (or pounds) of a producer's milk, likewise should be expressed in terms of days of production. This, again, will assist the cooperatives in moving producer milk to outlets within the desired limits.

The shrinkage provisions should be changed so that a pool plant operator receiving milk diverted from another pool plant is allowed Class III shrinkage on such milk of up to 2 percent of the milk if he purchases it on the basis of farm weights. (This discussion reflects the proposal described later to change the order's classification system from two classes to three classes with the present "Class II" being redesignated as "Class III".) Presently, the Class II shrinkage on such milk is limited to 1.5 percent of the milk. The proprietary handler diverting the milk is allowed 0.5 percent Class II shrinkage on the milk. This change was proposed by a handler who purchases diverted milk on the basis of farm weights.

This proposed arrangement is similar to the present shrinkage allowance on milk which a pool plant operator purchases from a cooperative association that is acting as a handler for bulk tank milk. In both situations, the handler who physically receives the milk at his plant is purchasing milk that moves directly from the farm to his plant. The milk that is diverted from a pool plant has not actually moved through the plant where some shrinkage from handling would otherwise have occurred. Thus, there is no reason to treat the two situations differently as to the division of shrinkage on this milk received from producers.

The order should be modified to make it clear that in all handling arrangements, whether they involve movements of milk by a cooperative that is a bulk tank handler or diversions of milk by cooperatives or proprietary handlers, the operator physically receiving milk at his plant directly from producers' farms should be allowed up to 2 percent Class III shrinkage on the milk if it is purchased on the basis of farm weights. If the milk is purchased on some other basis, then the 1.5 percent shrinkage allowance should apply.

Under any of these arrangements, the handler that picks the milk up at the farm should not be allowed any shrinkage on the milk if the operator physically receiving the milk at his plant buys the milk on the basis of farm weights. If some other weight basis is used, the handler picking up the milk should be allowed up to 0.5 percent Class III shrinkage on the milk as measured by the farm weights.

With these changes it is desirable that the order be clear as to what milk is producer milk of which handlers and who is to be the reporting handler for the milk. The "producer milk" definition and the reporting provisions have been modified for this purpose.

The proposal to permit a cooperative association to divert producer milk between pool plants of other handlers and collect from the receiving handler class prices for the milk should not be adopted. Cooperatives proposed this change in the order to accommodate their methods of supplying handlers with their daily requirements of milk. However, on the basis of the marketing situation described by proponents, it is concluded that handlers receiving milk from a cooperative association in its capacity as a handler for bulk tank milk of producers should be required to pay the cooperative for such milk at not less than the applicable class prices, rather than at the uniform price as now required. This method of payment should apply only if the cooperative is also the operator of a pool plant.

Proponents stated that in meeting the demands of handlers a cooperative may supply a distributing plant both from its supply plant and by moving to the distributing plant milk that is normally associated with another pool distributing plant. Proponents pointed out that under the present order provisions, however, these two types of movements involve different accounting and payment procedures for the cooperative and the distributing plant. For that milk which the cooperative moves from its pool supply plant to the distributing plant, the cooperative is the handler responsible for reporting to the market administrator the classification of the milk and settling with the pool at the class prices. The distributing plant operator is required to pay the cooperative not less than the applicable class prices for such milk.

In the other case, proponents stated, the cooperative is the handler for bulk tank milk and directs the milk from the farm to the distributing plant where needed. The plant operator who receives the milk is the handler responsible for reporting the classification of the milk to the market administrator and settling with the producer-settlement fund at the class prices. He is then required to pay the cooperative not less than the uniform price for the milk.

Proponents claimed that handlers who receive milk from a cooperative under both arrangements in the same month object to this mixture of accounting and payment methods.

From the standpoint of order administration, it is preferable to require that the plant operator who receives and processes the milk of producers be the handler who is principally responsible for all reporting and payment arrangements attendant to such milk. The order now provides for this under most circumstances. The plant operator must report monthly to the market administrator his receipts of milk from producers and the utilization of such milk. In paying for the milk at the order's class prices, the handler makes settlement with the producer-settlement fund directly through the market administrator. He then pays producers or cooperatives for milk delivered from the farm at the uniform price. Under this arrangement, any problems concerning a plant operator's order obligations involve from an administrative or enforcement standpoint only the operator and the market administrator.

Although it was proposed in the recommended decision not to expand the scope of this payment arrangement because of the administrative considerations just noted, proponent's exceptions prompt further consideration of this matter. The payment arrangement desired by proponents now applies in the case of milk which is moved from a cooperative's pool plant to other pool plants, including some which is moved by diversion. It is concluded that the handling of milk in this market can be facilitated by permitting a cooperative that operates a pool plant to collect the class prices on milk which it may also deliver in its bulk tank handler capacity to another handler. Thus, the same accounting and payment arrangements would apply for a handler receiving milk from a cooperative whether the milk was moved from the cooperative's pool plant or directly from the farm.

This payment arrangement should be limited to only those cooperatives operating a pool plant. The marketing situation accommodated by this change does not exist for cooperatives not operating a pool plant.

6. *Definition of producer-handler.* No change should be made in the definition of a producer-handler.

Under the order, a producer-handler is a person who operates a dairy farm and a distributing plant and whose receipts at the plant are limited to his own production and fluid milk products from pool plants. To remain qualified as a producer-handler, the person must provide proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing and packaging business are the personal enterprise and risk of such person.

A handler proposed that the producer-handler definition be modified to accommodate certain contractual arrangements when a producer-handler leases cows. As proposed, a producer-handler would be able to have his rental payments for the cows based on the current

production of each cow. Also, the producer-handler would be able to return a cow to its owner whenever he determined that the cow was unfit for milk production.

The handler maintained that the present producer-handler definition does not preclude these particular arrangements between the lessor and lessee. Because the order has been applied to the contrary, the handler sought at the hearing a clarification of the order in this respect.

The order presently makes no specific reference to leasing arrangements that may or may not be entered into by a producer-handler. However, the specific inclusion of provisions suggested by proponent would be inconsistent with the intent of the personal enterprise and risk requirement contained in the producer-handler definition.

Producer-handlers, in their capacity as handlers, are not subject to the pricing and pooling provisions of the order. In consideration of this exemption, the order requires that both the production and processing operations of a producer-handler be carried on as his personal enterprise and at his personal risk. Any sharing of this risk would be inconsistent with the basis for the producer-handler's exemption.

If a producer-handler's rental payments for a leased cow are contingent upon the cow's production, the risk of production is shared by the producer-handler and the cow owner. Such risk is shared also under an arrangement permitting the producer-handler the option of returning the cow to its owner whenever he determines that the cow is unfit for production. Under both arrangements, the producer-handler divests himself of at least part of the risk of producing milk which he would otherwise bear if he owned the cows himself.

For instance, if a cow owned by a producer-handler becomes unfit for production because of disease, accident, or death, he has to accept whatever he can get, if anything, for the cow. He also must assume whatever financial burden is involved in getting replacement cows. This normally entails a much greater degree of financial risk than what the producer-handler would have under the leasing arrangement desired by proponent.

Similarly, the degree of financial risk borne by a producer-handler is greater when he must assume all costs associated with his own cows regardless of their level of production. Actually, basing a producer-handler's rental payments on the amount of milk a cow produces is, in essence, merely the purchasing of milk from another dairy farmer. This is clearly contrary to the basis on which producer-handler exemption from pooling is granted.

For these reasons, the proposal to change the producer-handler definition is denied.

7. *Pooling exemption for a handler's own production.* A regulated handler's own production should continue to be pooled with the milk of other producers.

A group of milk handlers proposed that a handler's own production be exempt from pooling. In computing his net pool obligation, the handler's production would be subtracted from each class pro rata to the handler's total utilization of his own production and receipts at his plant from other producers.

The dealers contended that a handler should not have to share with other producers the returns from the Class I sale of his own production since he is the person who has created through his own distribution efforts the Class I outlet for the milk. Of the 84 dealers in the group, six or seven were described as possibly being affected by this proposal.

A handler who produces milk that is received at a pool plant, even though the plant is his own, has no different position in the regulated market with respect to such milk than does a dairy farmer whose milk is likewise received at such pool plant. Both are producers under the order and both are producing milk for the Class I market. There is nothing to distinguish the handler's production in a way that would warrant its not being priced and pooled in the same manner and under the same rules as other producer milk is priced and pooled.

Exempting a handler's production from pooling would permit him to have a preferential Class I market for his production that would not be available for other producers. The purpose of the marketwide pooling arrangement under the order is to have all producers in the market share equitably in the higher-valued Class I sales and also in the burden of the lower-valued reserve milk supplies normally associated with a Class I market. The handler's proposal, however, would set aside a part of the Class I market for the handler's own production and the returns from the sale of his milk would accrue to him only.

Proponents incorrectly contemplate through their proposal that the handler whose milk is exempt from pooling would share with other producers the burden of the reserve supplies. This is on the basis that his own production would receive the same pro rata utilization that would apply to all producer milk at his plant. The handler's production would not receive the same treatment as all producer milk in the market, however, unless the handler's Class I utilization approximated the average for the market. Relatively small handlers, and it is they who are seeking this change, usually have essentially a Class I operation. In their case, the exempt production would be nearly all Class I milk.

8. *Classification of certain milk products.* No change should be made in the present manner of classifying milk shake mixes. Such products containing less than 12 percent total milk solids are now classified as Class I products. Milk shake mixes with a higher milk solids content are Class II items. This classification scheme recognizes the two general uses of milk shake mixes. Mixes with the lower solids content are usually distributed to consumers for consumption in fluid form. Milk shake mixes with the higher solids content are usually sold to commercial establishments for further processing through freezing units.

Several cooperatives proposed that the 12 percent milk solids factor used for classifying milk shake mixes be changed to 15 percent. Thus, any milk shake mix containing less than 15 percent total milk solids would be a Class I product.

Proponents claimed that this change would facilitate the administration of the order's classification provisions. They stated that it can be difficult at times to differentiate between milk shake mix and chocolate milk since the milk solids content of chocolate milk may be 12 percent or more of the product. In this situation, proponents contended, chocolate milk, which is a Class I product, could be claimed by a handler to be a chocolate flavored milk shake mix, and thus a Class II product.

A number of handlers opposed any increase in the present 12 percent milk solids factor. They maintained that the present classification of milk shake mixes permits the production of a mix for commercial freezing that is competitive pricewise with imitation milk shake mixes and with milk shake mixes priced at the manufacturing price level. Opponents claimed that a higher milk solids requirement for Class II milk shake mixes could jeopardize their present outlets for such products.

The situation described by proponents does not warrant any change at this time in the manner of classifying milk shake mixes. Should there develop a more positive demonstration that the intent of the present classification provisions is being eroded, a further review of this matter may be necessary at a later time.

In conjunction with their proposed classification change for milk shake mixes, the cooperatives proposed that the "fluid milk product" definition be changed in line with what they had recommended at an earlier hearing on a proposed merger of five Ohio orders. A revision of this definition is appropriate for the purpose of making clear that only those items that are designated in the order as Class I products are considered as "fluid milk products." This is consistent with the current application of the term "fluid milk product" in the pool plant and transfer provisions where this term has particular significance.

A number of handlers proposed that the classification of milk products be based in part on the solids content of the product. They suggested that any product with less than 18 percent total solids be classified as a Class I product. Products with a higher total solids content would be classified in a lower class. Under their proposal, the order would specifically designate as Class I products those products now named in the order as Class I items.

Proponents claimed that the classification of products that have a "semi-liquid" consistency should be based on their total solids content. They contended that basing a product's classification on just the milk solids content does not take into account additional product ingredients, such as stabilizers

and sweeteners, that affect the product's consistency. A total solids content of 18 percent was described as properly differentiating between those products that should be considered as fluid milk products, and thus as Class I items, and those products that should be considered as manufactured items with a lower classification.

No provision should be made at this time for classifying products on the basis of solids content. The handlers' proposal as explained at the hearing goes considerably beyond the scope of their proposal that was set forth in the hearing notice. The published proposal was limited to basing the classification of just milk shake mix on the total solids content rather than on the milk solids content as the order now provides. Any classification scheme that incorporates the use of a solids percentage level for distinguishing between different classes of milk products warrants a thorough exploration of the issue at a hearing after adequate public notice. These conditions were not met at this hearing.

A handler's proposal to designate as a Class II product a milk product which he sells under the trade name of "Instant Breakfast" should not be adopted. The handler makes this product from milk, additional nonfat milk solids, and various nonmilk ingredients, including flavoring. It is marketed in liquid form for consumption in such form.

The handler claimed that "Instant Breakfast" competes primarily with similar products in dry or liquid form that are made by firms not covered by order regulation. Proponent contended that because of this competition the product should be a Class II product. Moreover, he contended, the relatively high 22 percent total solids content of "Instant Breakfast" distinguishes this product for classification purposes from other products defined as fluid milk products.

The product which proponent is marketing as "Instant Breakfast" is a form of a flavored milk product with added nonfat milk solids. The order now defines flavored milk and flavored milk drinks as fluid milk products and classifies them as Class I. This product is in the same form and is intended for the same use as other flavored fluid milk products. It is marketed in the same package and in the same trade channels as other flavored fluid milk products. Likewise, the product is consumed in liquid form. Such consideration of the use and form of "Instant Breakfast" is consistent with the Act which states that an order shall classify milk "in accordance with the form in which or the purpose for which it is used."

The Class I price serves to assure an adequate supply of high quality milk for fluid uses. Milk used in any product that is consumed as a beverage thus should make its proportionate contribution to the producer price level that induces a milk supply. Therefore, returns to producers for milk used in "Instant Breakfast" should be the same as for milk used in other flavored fluid milk products.

9. *Direct delivery differentials.* Milk delivered directly from producers' farms to pool plants in Cuyahoga County, Ohio, and Allegheny County, Pa., should not be subject to a special "direct delivery" differential.

Several cooperative associations proposed that producers whose milk is delivered directly from their farms to pool plants in these two counties receive an additional 5 cents per hundredweight over the uniform price. The differential would apply to a producer's total monthly production if at least two-thirds of his milk were delivered to pool plants in Allegheny and Cuyahoga Counties. The differential would apply also on milk delivered to plants in the two counties by diversion from other pool plants.

The effect of this proposal on handlers who operate plants in the two counties would be to increase their cost of producer milk used in each class 5 cents per hundredweight over the applicable class prices.

Cuyahoga County, which includes Cleveland and the surrounding metropolitan area, encompasses the largest concentration of population in the Ohio portion of the marketing area. Similarly, Allegheny County, in which Pittsburgh is located, encompasses the main metropolitan area in the Pennsylvania part of the marketing area.

About one-half of the Class I milk of Order 36 handlers is associated with pool plants in the two counties. Gross Class I use in the market totaled 2,301 million pounds in the July 1968–June 1969 period. Of this, 567 million pounds were handled by Cuyahoga County plants; Allegheny County plants handled 580 million pounds.

With respect to the proposed differential for Cuyahoga County, proponents claimed that the milk delivered to plants in that area involves higher hauling costs than does milk delivered to other outlets in the Ohio portion of the marketing area. Proponents cited hauling costs from the outlying Akron and Orrville, Ohio, areas to Cuyahoga County plants averaging 5 to 6 cents per hundredweight more than for deliveries to pool plants located in the outlying areas. The higher charges were explained in terms of longer hauling distances, traffic congestion in the Cleveland metropolitan area, and the incentive needed to move milk past the outlying consuming centers of Lorain, Akron, Canton, and Youngstown. It was contended that since deliveries to plants in other localities bear a lesser hauling cost, members of the cooperatives resist designation as suppliers for Cuyahoga County plants.

Proponents indicated that the need for the proposed direct delivery differential has become greater with the growing concentration of bottling operations in Cuyahoga County, which has resulted primarily from plant closings in outlying areas. With the shifting of processing operations to plants in Cuyahoga County, there has been an accompanying demand for increased producer deliveries to that area.

Support for a direct delivery differential at Allegheny County plants was related to the closing of country receiving stations in recent years and consequent greater length of haul from farms to processing plants. A witness cited lesser average hauling rates to alternative outlets in Youngstown, Ohio, and Wheeling, W. Va., than to Allegheny County plants. It was claimed that because of a longer haul and denser traffic a 5-cent differential should be paid by Allegheny County handlers for milk delivered directly from farms to their plants.

Handler testimony on the proposal was largely in opposition to a direct delivery differential. The one handler who acknowledged that he paid some hauling subsidies on milk moved from the Toledo area to his plant in Cleveland stated that the situation at his Pittsburgh plant is different and that no special incentive is needed there to secure milk. Other handlers in the Cleveland area maintained that no direct delivery differential for Cuyahoga County is needed and that they are not paying any hauling subsidy. Pittsburgh area handlers also generally denied that there are any hauling subsidies being paid or that there is any need for such an incentive to either haulers or producers for direct deliveries.

The evidence of this record does not indicate a milk procurement problem for handlers in Allegheny and Cuyahoga Counties that requires a special incentive to induce the delivery of milk directly from farms to plants in those areas. Handlers in the two counties are able to obtain adequate supplies under the present pricing structure for the market. The limited hauling subsidies being paid to get milk delivered to plants in these two counties are not a sufficient basis for the proposed direct delivery differential.

The marketing situation presented by proponents is not a matter of plants in Cuyahoga and Allegheny Counties being unable to attract sufficient milk for their Class I needs, but rather a case of some producers being unable to find Class I outlets at the same hauling cost as some other producers. This situation, of course, fosters discontent among neighboring producers when some must deliver their milk to more distant plants than others. Cooperatives have found this to be a particularly difficult problem when, in marketing the milk of their members, they must assign producers to various plants at different hauling costs.

Nevertheless, cooperatives in the market are regularly supplying plants in the two counties as well as plants in the outlying areas. To the extent that some equalization of hauling costs among individual members is considered necessary by cooperatives, the cooperatives are paying haulers from organizational funds.

Proponents stressed that the proposed direct delivery differential is necessary to continue the movement of milk past outlying consumption centers to plants in Cuyahoga and Allegheny Counties. It is not evident, however, that the option to producers is merely one of shipping

milk to other cities in the marketing area as opposed to shipping to plants in the two counties, as proponents' testimony would imply. Dairy farmers cannot obtain the higher Class I returns in a fluid market unless they find a Class I outlet for their milk. As indicated, pool plants in Cuyahoga and Allegheny Counties handle about one-half of the Class I milk in the Order 36 market. Producers desiring to share in the fluid sales of this market will have to incur those hauling costs necessary to get their milk to Class I outlets, which for many producers will be in Cuyahoga and Allegheny Counties.

For many years, distributing plants and receiving stations were relatively numerous and producers seldom had to ship their milk any great distance. More recently, the consolidation of receiving and processing operations in large, centrally located facilities has required many producers to move their milk much farther, and at greater hauling cost, in order to continue participating in a Class I market. This does not necessarily warrant the use of a direct delivery differential as proposed by cooperatives.

Differences in hauling costs do exist depending on the distance of the farm from the consuming center. The difference in net returns to producers in the market should reflect the relative values of milk supplies at various locations. No differential pricing now exists within the main supply area except for the 10-cent differential between the Pittsburgh and Cleveland-Erie districts. Other location differentials under the order apply only at plants beyond 85 miles from principal cities in the marketing area. It is estimated that 80 to 90 percent of the market supply is produced within the area delineated by the 85-mile limit.

If a new location differential structure is needed for this market to reflect different location values on milk, such a change should be based on a specific proposal for hearing.

10. *Price for milk used to produce cottage cheese, yogurt and sour cream.* The price for milk used to produce cottage cheese (including cottage cheese curd), yogurt, and sour cream (including sour cream products such as "dips") should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. To implement this, the classification system under the order should provide for three classes rather than two. Class II would apply to the cultured products just named. The present Class II would be redesignated as Class III.

As proposed herein, the present Class II butterfat differential would apply to both Class II milk and Class III milk. No different butterfat value was proposed for the new Class II. The additional charge to handlers for producer milk used in making the proposed Class II items thus would apply only to the skim milk portion of such milk.

Milk used in cottage cheese, yogurt, and sour cream is now classified as Class II and priced at the present Class II price. This price is the basic formula price or a butter-nonfat dry milk formula price, whichever is lower.

Several cooperatives proposed that the new Class II price be the present Class II price plus 20 cents. They maintained that the present Class II price does not represent the full value of producer milk used to make these several cultured products. Handlers claimed in response to the proposal that as long as there are markets nearby where no intermediate class price applies, they will be competitively disadvantaged on the sale of the proposed Class II products.

Handlers in the Eastern Ohio-Western Pennsylvania market rely substantially on producer milk supplies for the production of cottage cheese, sour cream, and yogurt. In the July 1968–June 1969 period, such handlers used over 205 million pounds of milk in making cottage cheese. This was 16 percent of the total milk used in Class II. Handlers also used 10.7 million pounds of milk in sour cream items during the same period. No data were available at the hearing on the amount of milk used in yogurt. From the testimony of handler witnesses, yogurt production in this market at this time is limited.

Of the proposed Class II products, cottage cheese and sour cream in particular constitute an important and continuous outlet for reserve supplies of producer milk. Handlers process these products on a regular basis and demand an adequate supply of high quality milk at all times for such uses. There is little, if any, relationship between the volume of these cultured products made and the amount of reserve milk available in the market, as in the case of butter and nonfat dry milk, for instance. Instead, producers are generally expected to produce sufficient supplies of high quality milk for these Class II products in addition to the Class I requirements of the market. This is undoubtedly due in part to the fact that these cultured items must be made from inspected milk if sold in the marketing area.

Making such milk available to handlers at central points in the market for the proposed Class II uses warrants at least a minimum compensation to producers of 10 cents over the Minnesota-Wisconsin manufacturing milk price. The Class I price should not compensate alone for the costs involved in inducing the necessary supplies for these regular outlets for producer milk. The class price applicable to these cultured products should bear a reasonable portion of these costs.

Other than the local producer supply, there are no dependable sources of inspected milk for Class II use within the normal milkshed for the market. The only nearby milk of the necessary quality is attached to other fluid milk markets surrounding the Eastern Ohio-Western Pennsylvania area and would be available only sporadically to Eastern Ohio-Western Pennsylvania handlers. Inspected milk supplies are usually available from more distant heavy production areas such as in Wisconsin. However, the value of such milk in that area would be expected to be no less than the Minnesota-Wisconsin manufacturing price for ungraded milk. With the additional cost of transporting the milk to the Eastern Ohio-Western Pennsylvania area, the cost of such milk would be in excess of the Class II price adopted herein.

11. *Price for milk used to produce butter.* The present Class II price should continue to apply to milk used in making butter.

A number of handlers proposed that producer milk used for butter production be priced to handlers at something less than the current Class II price. They contended that at a time when the butterfat content of Class I products is averaging less than the butterfat content of producer receipts, handlers should have some price relief on surplus cream that is used in butter. They argued that there should be a Class II "credit" on the skim milk and butterfat contained in such cream of at least 5 cents per pound of butterfat plus the Class II value of the skim milk.

In justifying the proposal the spokesman for the handlers described his own situation. The handler claimed that he is unable to recover from his surplus cream sales to a creamery the Class II price, his order obligation on the cream. He stated that in addition to receiving a price for the butterfat that is lower than what the order provides, he realizes nothing for the skim milk in the cream. He indicated that for the 12-month period of August 1968 through July 1969 he experienced a loss of about $8,640 on the sale of surplus cream.

The total Class II disposition of all Order 36 handlers during the August 1968–July 1969 period was nearly 1,296 million pounds of milk. Of this quantity, a relatively limited amount, 23 million pounds (1.8 percent of the total), was used to produce butter. The spokesman's cream sales for butter production were about 1 percent of all milk disposed of by handlers for butter use. The quantity of cream sales by the other proponents is not stated in the record.

Producer milk not needed for Class I use should be priced at the maximum level that permits the orderly disposition of the milk. Only when there is a definite indication that the order price is not clearing the market of reserve supplies in an orderly manner would there appear to be any justification for reducing the price level.

At a time when consumer preference is for low-fat fluid milk products, the problem of excess butterfat undoubtedly is experienced by other handlers in the market as well as by proponents. The average butterfat test of producer milk in the August 1968–July 1969 period was 3.71 percent. The average test of Class I producer milk was 3.36 percent. Handlers and cooperatives both have surplus butterfat for which they must find an outlet. The record does not indicate that the majority of handlers in the market or cooperatives are experiencing the problems described by proponents. The present Class II price level apparently is not hindering in general the removal of surplus butterfat from the market.

Providing for a lower price for milk used in butter could tend to channel milk into butter production rather than into other available uses that would return more to producers. Adoption of the handlers' proposal under present marketing conditions would return to producers less than the obtainable market value for milk not needed for Class I purposes.

It should be noted that the present Class II price provisions give recognition to prices paid by butter manufacturers. The current Class II price is the lower of the Minnesota-Wisconsin pay price for manufacturing grade milk or a butter-nonfat dry milk formula price. The formula price has been the effective Class II price in this market since October 1968.

The butter-nonfat dry milk price was incorporated in the Class II price provisions in recognition of the possibility that the butter segment of the manufactured milk industry may be unduly influenced occasionally by certain supply-demand conditions not affecting the remainder of the industry. Using the butter-nonfat dry milk formula price insures that the order surplus price continues to reflect the product values of butter and nonfat dry milk in the event of any unusual divergence in the relationship between such values and the values of other manufactured products reflected in the Minnesota-Wisconsin pay price.

For these reasons, the proposal for a special butter credit is denied.

12. *Location adjustments on other source milk.* The producers' proposal to modify the computation of a handler's pool obligation on certain other source milk should be adopted.

The order provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I use. The handler's payment is determined by charging him at the Class I price for the milk involved and giving him a credit on such milk at the uniform price. Both prices are adjusted for the location of the unregulated supply plant. The adjustment of the uniform price, though, is limited to not less than the present Class II price. No limitation is applied to the Class I price adjustment.

A similar limitation on the Class I price adjustment should be provided. Otherwise, the Class I price adjustment could result under certain conditions in the handler receiving a payment from the producer-settlement fund on the Class I milk obtained from the unregulated supply plant. Such payment could result when the location differential at the distant plant is greater than the difference between the Class I price and the lowest class price. In this circumstance, producers under the order, in effect, would be giving the handler a credit sufficient to reduce his cost for the distant milk below its value for manufacturing use at the point of purchase.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the uniform price or the present Class II price. For the reasons stated above, the proposed order should provide that the Class I price, as adjusted for location, not be less than the lowest class price in computing the obligation of these handlers.

13. *Producer-settlement fund reserve.* The proposal to increase the operating reserve maintained in the producer-settlement fund should not be adopted. Cooperatives proposed that the amount to be withheld monthly from producers' returns for this reserve should be not less than 5 cents nor more than 6 cents per hundredweight. The present deduction is from 4 to 5 cents per hundredweight of milk.

A reasonable operating reserve is necessary to provide for such contingencies as the failure of a handler to pay his monthly obligation to the producer-settlement fund, or the payment to a handler from the fund for an audit adjustment. Proponents claimed that the current reserve has not been sufficient for the satisfactory functioning of the producer-settlement fund. They indicated that occasional delays in the mail service affect the market administrator's timely receipt of payments by handlers to the producer-settlement fund. This, they claimed, sometimes delays payments from the producer-settlement fund to handlers.

How extensive this problem may be was not revealed on the record. Nevertheless, it is questionable whether increasing the operating reserve is the most satisfactory approach to resolving the problem described by proponents. Any increase in the reserve fund means, of course, tying up additional money of producers.

Consideration should be given, perhaps, to establishing different dates in the order for payments, uniform price announcements, and maybe even reporting as alternative means of meeting the problem. Presently, the order prescribes that the uniform price be announced by the 14th day of the month. Following this, handlers must make payments to the producer-settlement fund by the 16th day, and payments from such fund are to be made by the 17th day. Handlers' payments to producers are to be by the 18th day of the month.

From a practical standpoint, it is possible that all payments cannot physically be made within the period set in the order. However, different payment dates should not be fixed without adequate consideration of this issue at a hearing. No proposal of this nature was offered as a solution to the problem raised by the cooperatives. Nevertheless, the proposal to increase the operating reserve should not be adopted.

14. *Seasonal production incentive plans.* The order should provide for a "Louisville plan" to encourage a more even seasonal pattern of milk production.

Under the Louisville plan adopted herein, a portion of the total value of milk delivered to all handlers, which value is based on handlers' utilization of milk at class prices, would be retained as an obligated balance in the producer-settlement fund. The amount retained would be equivalent to 6 percent of the average basic formula price for the preceding calendar year, but not more than 25 cents per hundredweight. These obligated funds would be accumulated automatically in the producer-settlement fund when settlement is made by handlers for producer milk delivered in each of the months of April, May, June, and July. This obligated balance would be subject to short-term investment, with the interest earned being included in such balance when the monies withheld are included in the uniform price computation.

The uniform price computed for milk delivered in April, May, June, and July, after the retention of the monies indicated above, is expected to be sufficient to stimulate the necessary production of milk during such months for the fluid needs of the market.

The proposed plan also provides that one-fourth of the obligated balance previously established be included in the computation of the uniform price payable to producers for milk delivered during each of the months of September through December. The interest earned on this obligated balance would be included in the computation of the December uniform price.

As has always been the case under marketwide pool orders, the uniform price payable periodically to producers does not reflect any "obligated" balance. However, when certain monies are no longer obligated, the funds involved are merged with other unobligated funds in the producer-settlement fund and are distributed to producers through the announced order uniform prices. In the case of funds retained as a part of the "obligated" balance under the Louisville plan, the order itself would contain provisions for the systematic release of such funds together with whatever interest has been earned during the period in which they are held as an obligated balance.

The Louisville plan is a particular method of distributing to producers the total utilization value of all milk over a multimonth period. A handler's obligation under the order is not affected by the plan.

Minimum blend prices to be paid periodically to producers out of the total use value of milk must be such as will insure a sufficient quantity of pure and wholesome milk each month throughout the year and be in the public interest. This necessitates consideration of the inherent seasonal characteristics of milk production and the nature of consumer demand that must be satisfied throughout the year. Commensurate with the production and demand conditions for this market, the blend price, insofar as possible, should stimulate the necessary production when and as needed in the

area covered by the order and remove or reduce unnecessary seasonal surpluses. One method for achieving this is the "Louisville" plan.

This method of paying uniform prices to producers each month and distributing among producers the amounts paid by handlers throughout the year, based on their individual uses of such milk, will promote orderly marketing and is in the public interest. It permits the total utilization value paid by handlers, and ultimately by consumers, to have an enhanced influence in attracting sufficient quantities of milk to satisfy the needs and habits of the consuming public, and tends to minimize the production of burdensome market surpluses. Thus, the producer, by careful herd control, can benefit from higher fall prices and become a more efficient producer. The consumer can be assured that he is receiving maximum value for his milk dollar and does not have to bear the inherent cost involved in maintaining the additional supplies throughout the year which inevitably result from meeting minimum market requirements each month under an uneven production pattern.

If a Louisville plan is not used for establishing seasonal prices to producers, the Class I price to handlers, which is relatively constant, might have to be adjusted seasonally in order to achieve comparable seasonality in producer prices. While such an alternative might result in approximately the same prices to producers each month as would be provided by the Louisville plan, it could create greater and undesirable variation in resale prices, thereby contributing to consumer unrest and market instability rather than orderly marketing.

Although the production history of this market as presently constituted is relatively brief (the order for the Eastern Ohio-Western Pennsylvania marketing area became effective July 1, 1968), the problem of seasonal production is similar to that of other markets in the region. The yearly cycle of relatively high production in the spring and early summer contrasted with lower production in the fall and winter is inherent for milk production in this region. Neighboring markets already provide for some type of seasonal incentive payment plan for leveling production.

Data on the average daily production per producer for the July 1968–June 1969 period illustrate the seasonal variation in milk production in the Order 36 market. Average daily production was highest at 1,019 pounds in May 1969 and lowest at 761 pounds in November 1968. These amounts were 118 percent and 88 percent, respectively, of the annual average of 864 pounds per producer.

Dairymen in the Order 36 area produce milk primarily for the fluid market where demand is relatively stable throughout much of the year. The wide seasonal variation in the proportion of producer milk used in Class I in this market is illustrated by the 56 percent Class I utilization in June 1969 compared with the 82 percent utilization in November 1968.

Production patterns that coincide with Class I demand are in accord with marketing efficiency. For instance, wide swings in production can overburden milk handling facilities in some months and cause their inefficient use in other months. Such a production pattern also tends to associate with the market a greater total milk supply relative to the Class I demand than does a more level production pattern, thereby lowering total returns to producers. This occurs as handlers and cooperatives attach to the market that number of producers necessary to assure an adequate milk supply during the period of lowest production. To the extent that local supplies are not adequate during the low-production months, supplemental supplies must be obtained from other markets, usually at additional expense because of handling and hauling charges.

The proposed plan for reducing producer returns for the high-production months and increasing the returns to producers for the low-production months will provide an economic incentive for dairymen in the Eastern Ohio-Western Pennsylvania area to produce more evenly throughout the year.

The proposed plan also will tend to eliminate the seasonal disparity between blend prices in the Order 36 market and such prices in neighboring markets. The Eastern Ohio-Western Pennsylvania market has common production areas with several markets which have seasonal incentive plans. Producers for this market who are in Ohio, Indiana, Michigan, Pennsylvania, Maryland, and West Virginia are located in areas also supplying the Columbus, Cincinnati, Miami Valley, Northwestern Ohio, Tri-State, Indiana, Southern Michigan, New York-New Jersey, Delaware Valley, Upper Chesapeake Bay, and Washington, D.C., markets. All of these markets have seasonal incentive plans which are either Louisville plans or base and excess plans.

Since the Order 36 market is the only market in the region without a seasonal price plan, the Order 36 blend prices often differ significantly from the blend prices of other markets. This can be disconcerting to dairy farmers located in areas where they could ship to either this market or another market. Producer witnesses expressed concern that blend price disparities could result in shifting of producers or plants between markets.

Cooperatives representing a major portion of the more than 10,000 producers on the market favored some kind of seasonal incentive plan. A substantial number of the producers supported a Louisville plan. Two cooperatives with a combined producer membership of about 360 dairymen supported a base-excess plan. Three cooperatives with about 790 producer members opposed any type of seasonal price plan. It is appropriate to adopt the seasonal plan most favored by the dairy farmers who would be receiving the returns under the plan.

To provide an incentive for more even production in this market, the Louisville plan deductions should apply to months of high production and the money deducted should be paid out on milk delivered in months of short production. Producer proposals differed as to some of the months for each of these periods. For the months of deductions, all proponents included April through July and one included March. Proposals for paying out the money included payments on milk delivered in September through December, but some proponents included August also.

During the first 14-month period (July 1968–August 1969) under the Eastern Ohio-Western Pennsylvania order, the months of highest average daily production per producer were April through July. The months of lowest daily production were September through December. These are the "takeout" and "payback" months proposed herein. They are also the takeout and payback months used in the Louisville plans under the neighboring Northwestern Ohio, Columbus, Miami Valley, Cincinnati, and Tri-State markets. There would be considerable benefit in keying the seasonal price changes with similar price changes in nearby markets which have production areas overlapping with the milkshed for this market. For this reason, March and August should not be included in the takeout and payback periods.

The adoption of a Louisville plan requires the use of the term "weighted average price" to represent the average value of producer milk before Louisville plan deductions in April, May, June, and July and before the Louisville plan money is added in the computation of the uniform prices for September, October, November, and December. The weighted average price serves as a basis for determining the obligation of handlers on unregulated milk.

15. *Classification of cream.* Fluid cream, including aerated and sterilized cream, and mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat, such as half and half, should be included in the new Class II classification that is proposed herein.

As described earlier under issue No. 10, it is proposed herein that the order provide for three classes of utilization rather than two, with the present Class II classification being redesignated as Class III. A new Class II classification would include milk used to produce cottage cheese, yogurt, and sour cream. The Class II price would be the Minnesota-Wisconsin manufacturing milk price for the month plus 10 cents.

Following the issuance of the recommended decision in which this classification system was proposed, the initial hearing was reopened to consider additional proposals on the classification of milk products. At the latter session, an operator of pool distributing plants at Pittsburgh and Cleveland proposed that cream and mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat be removed from the Class I classification of the order. The handler proposed that such products be in Class II under a two-class order or, if three classes are established as proposed in the recommended decision, in the new Class II. This proposal was endorsed at the hearing by the major dis-

tributors of milk in the northeastern Ohio portion of the market.

Proponent contended that the immediate removal of cream and half and half from the Class I classification is necessary if Order 36 handlers are to be competitive with handlers in other markets in the sale of such products. The handler pointed out that effective August 1, 1970, the new three-class order for the nearby Ohio Valley market would classify cream and cream mixtures in Class II. The new two-class order for the neighboring Middle Atlantic market also would classify such products in the lower class. Proponent indicated that under these circumstances the classification of cream and half and half in Class I under Order 36 would seriously jeopardize the present sales of such products by Order 36 handlers.

A major cooperative association in the market proposed in conjunction with the handler proposal that any new Class II classification include also aerated and sterilized cream, products which are now in the lower class of the present two-class order. The cooperative stressed that these products are competitive with other cream products and that all cream items should thus be in the same use class.

Relative to the total Class I sales of producer milk under Order 36, cream and cream mixtures sold by Order 36 handlers represent less than 2 percent of the Class I market. Route sales of these products during the recent 12-month period of July 1969 through June 1970 averaged 2.3 million pounds monthly. Average monthly Class I sales of producer milk during this time were 188.8 million pounds. Thus, the classification change desired by handlers would have relatively little effect on the total returns to producers.

Distributors of cream products, on the other hand, can be significantly affected by the particular classification of these items. Order 36 handlers are competing for cream sales with handlers regulated under the Ohio Valley and Middle Atlantic orders. As of August 1, 1970, producer milk under the Ohio Valley order that is used in cream and cream mixtures is priced at the Minnesota-Wisconsin manufacturing milk price for the month plus 10 cents, the same price proposed herein for milk used in such products. Under the Middle Atlantic order, the price for producer milk used in these products is the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price, subject to varying monthly adjustments that range from plus 12 cents to minus 10 cents. The applicable butterfat differentials under these two orders are approximately the same, both using a factor of 0.115 times the average wholesale price of butter at specified locations.

By comparison, the Order 36 Class I price now applicable to milk used in fluid cream and cream mixtures is the Minnesota-Wisconsin price for the preceding month plus $1.87 for the Cleveland-Erie district and $1.97 for the Pittsburgh district. The Class I butterfat differential is 0.120 times the average Chicago wholesale butter price.

Based on these pricing provisions, Order 36 handlers are paying approximately $1.77 to $1.87 more per hundredweight than are Ohio Valley handlers for milk testing 3.5 percent butterfat that is used in cream and cream mixtures. With the difference in the applicable butterfat differentials, which in June 1970, for example, was 0.4 of a cent for each one-tenth percent variation in butterfat test, the actual price differences are even greater because of the higher butterfat test of the cream products. Similar price differences exist as between Eastern Ohio-Western Pennsylvania handlers and Middle Atlantic handlers.

At a time when sales of cream and cream mixtures are already declining, it is in the interest of orderly marketing that Order 36 handlers be able to maintain a competitive position in the marketplace for sales of these products. The classification and pricing proposed herein for milk used in cream products should facilitate the disposition of butterfat in producer milk that is not needed for the major fluid uses. Moreover, the removal of cream products from Class I should lessen somewhat the unfavorable competitive price relationship between cream and vegetable fat substitutes that has contributed to the lower sales of cream products.

Classifying the several types of cream items, including aerated cream, sterilized cream, and half and half, in Class II places in the same price category a group of generally competing products. Light cream and half and half are used principally by consumers in coffee. Whipping cream, sterilized cream and aerated cream are used as dessert toppings.

Presently, fluid cream and half and half are Class I products under the order and sterilized and aerated cream are in Class II. This classification scheme results in wide disparity in pricing to handlers for products that are competing in the same trade channels for the same consumers. The manner in which sterilized cream and aerated cream are processed and packaged does not change significantly the similar purposes of use of these cream items and thus does not constitute a basis for classifying them differently from the other cream items.

Producers proposed that the new Class II classification include also any bulk sales of milk, skim milk or cream to commercial food processors, presently a Class II utilization. Adoption of this proposal will provide greater uniformity in the classification provisions applicable in the Eastern Ohio-Western Pennsylvania and Ohio Valley markets where there is substantial competition between regulated handlers in the two areas.

16. *Emergency action on issue No. 15.* The due and timely execution of the functions of the Secretary under the Act imperatively and unavoidably requires the omission of the recommended decision and opportunity for filing exceptions thereto on the classification matters dealt with under issue No. 15. The competitive position of Order 36 handlers relative to handlers regulated under nearby orders with respect to cream sales was described in connection with that issue. This situation is such that remedial action should be taken as soon as possible.

It is therefore found that good cause exists for omitting the recommended decision on issue No. 15 and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are here-

by overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be June 1970.

The agent of the Secretary to conduct such referendum is hereby designated to be W. W. Hurwitz.

Signed at Washington, D.C., on August 11, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Eastern Ohio-Western Pennsylvania Marketing Area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(i) Producer milk (including such handler's own production);

(ii) Other source milk allocated to Class I pursuant to § 1036.45(a) (4) and (9) and the corresponding steps of § 1036.45(b); and

(iii) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on June 9, 1970, and published in the FEDERAL REGISTER on June 16, 1970 (35 F.R. 9888; F.R. Doc. 70-7385), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following changes:

Changes are made in §§ 1036.7, 1036.16, 1036.17 (a) and (b), 1036.27 (l) and (n), 1036.30(a) (1)(ii) and (2), 1036.41, 1036.42(b) (1) and (2), introductory text of § 1036.43, and 1036.43 (a) and (b), 1036.45(a), 1036.60 (b) through (e), 1036.70(d), and 1036.77(b).

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1036.70	Time and method of payment.
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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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DEFINITIONS

§ 1036.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1036.2 Secretary.

"Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 1036.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1036.4 Person.

"Person" means any individual, partnership, corporation, association, or other business unit.

§ 1036.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.6 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) In Ohio:

(1) The following counties in their entirety:

Ashtabula.	Lake.
Belmont.	Mahoning.
Carroll.	Monroe.
Columbiana.	Portage.
Cuyahoga.	Stark.
Geauga.	Summit.
Harrison.	Trumbull.
Holmes.	Tuscarawas.
Jefferson.	Wayne.

(2) The townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville, and Sheffield in Lorain County;

(3) All of Medina County except the townships of Chatham, Homer, Litchfield, and Spencer;

(4) All of Ashland County except the townships of Ruggles, Sullivan, and Troy; and

(5) The townships of Londonderry, Millwood, and Oxford in Guernsey County.

(b) In Pennsylvania:

(1) The following counties in their entirety:

Allegheny.	Fayette.
Armstrong.	Greene.
Beaver.	Lawrence.
Butler.	Mercer.
Crawford.	Venango.
Erie.	Washington.

(2) The townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby in Clarion County; and

(3) All of Westmoreland County except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair.

(c) In West Virginia, the following counties in their entirety:

Barbour.	Ohio.
Brooke.	Preston.
Doddridge.	Randolph.
Hancock.	Taylor.
Harrison.	Tucker.
Lewis.	Tyler.
Marion.	Upshur.
Marshall.	Wetzel.
Monongalia.	

§ 1036.7 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 12 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.41 (b) (1) and (3), and (c) (1).

§ 1036.8 Route disposition.

"Route disposition" means a delivery (except to a plant), either directly or through any distribution facility (including disposition from a plant store, vendor or vending machine), of a fluid milk product classified as Class I pursuant to § 1036.41(a) (1).

§ 1036.9 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted health authority for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1036.10 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority, or filled milk, is transferred or diverted during the month to a pool plant.

§ 1036.11 Pool plant.

"Pool plant" means a plant specified in paragraph (a), (b), or (c) of this section that is not an other order plant or a producer-handler plant.

(a) A distributing plant that has:

(1) Route disposition, except filled milk, during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products, except filled milk, that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk pursuant to § 1036.16 to a nonpool plant; and

(2) Route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of the receipts described in subparagraph (1) of this paragraph.

(b) A supply plant from which during the months of September, October, and November not less than 50 percent, and in all other months not less than 40 percent, of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received (excluding that diverted from other plants) at such plant from dairy farmers and handlers defined in § 1036.13(d) or diverted as producer milk pursuant to § 1036.16 to pool plants and nonpool plants is transferred or diverted to and physically received in the form of fluid milk products, except filled milk, at pool plants qualified under paragraph (a) of this section or disposed of as route disposition in the marketing area.

(c) A plant that was a pool plant under paragraph (b) of this section in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant.

§ 1036.12 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) Except as provided in paragraphs (c)(2) and (d)(2) of this section, "other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1036.11 and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means:

(1) A nonpool plant that is a distributing plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to its route disposition in the marketing area that is not priced and pooled pursuant to any order issued pursuant to the Act.

(d) "Unregulated supply plant" means:

(1) A nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to fluid milk products which were received at a pool plant from such a plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

§ 1036.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler to a nonpool plant;

(d) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; and

(f) Any producer-handler.

§ 1036.14 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1036.15 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk for fluid consumption in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1036.16 from a pool plant to a nonpool plant or another pool plant.

(b) "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1036.16 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) With respect to a handler defined in § 1036.13(a):

(1) Received at the handler's pool plant directly from the producer, excluding receipts of milk diverted from another pool plant;

(2) Received at the handler's pool plant from a handler defined in § 1036.13(d) that does not operate a pool plant;

(3) Diverted for the handler's account from its pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section; or

(4) Diverted for the handler's account from its pool plant to another pool plant, subject to the conditions set forth in paragraph (f) of this section;

(b) With respect to a handler defined in § 1036.13(c), diverted for the handler's account from a pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section;

(c) With respect to a handler defined in § 1036.13(d) that does not operate a pool plant, received by the handler from the producer's farm in excess of the producer's milk that is received by a pool plant operator pursuant to paragraph (a)(2) of this section; and

(d) With respect to a handler defined in § 1036.13(d) that also operates a pool plant, received by the handler from the producer's farm.

(e) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Except as provided in subparagraph (2) of this paragraph, such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted;

(2) In any month of April through July, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have been received by the diverting handler at the location of the nonpool plants to which diverted;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(4) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have not been received by the diverting handler and shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(6) In determining if the diversion limitations specified in this paragraph have been exceeded, the quantity of milk diverted to nonpool plants or physically received at pool plants shall be considered in terms of days of production of the producer; and

(7) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

(f) The following conditions shall apply to milk diverted from a pool plant to another pool plant:

(1) Except as provided in subparagraph (2) of this paragraph, such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted; and

(2) If less than one-half of a producer's milk pooled under this order during the month (such quantity to be considered in terms of days of production of the producer) is physically received at a pool plant from which milk of the producer is diverted to any other plant, such producer's milk diverted to another pool plant shall be deemed to have been re-

ceived by the diverting handler at the location of the pool plant to which diverted.

§ 1036.17 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk cream from any source except producer milk, fluid milk products and bulk cream from pool plants, and fluid milk products and bulk cream in inventory at the beginning of the month;

(b) Products, other than fluid milk products and Class II products listed in § 1036.41(b) (1) and (3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1036.33.

§ 1036.18 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

§ 1036.19 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1036.20 Pittsburgh district.

"Pittsburgh district" means all the territory in the marketing area that is either in West Virginia or within 80 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) of the Pittsburgh, Pa., city hall.

§ 1036.21 Cleveland-Erie district.

"Cleveland-Erie district" means all the territory in the marketing area that is not within the Pittsburgh district.

§ 1036.22 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1036.25 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1036.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1036.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 1036.77:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1036.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1036.30 through 1036.32, or payments pursuant to §§ 1036.70, 1036.74, 1036.76, 1036.77, and 1036.78;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or nonhandler upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the dates specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the following:

(1) The 6th day of each month, the Class I price and the Class I butterfat differential for the current month, and the Class II and Class III prices and butterfat differentials for the preceding month; and

(2) The 14th day of each month, the uniform price computed pursuant to § 1036.61 and the butterfat differential computed pursuant to § 1036.71;

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.45(a)(10) and the corresponding step of § 1036.45(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk cream to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk cream were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and bulk cream from other pool plants and from a handler defined in § 1036.13(d) that also operates a pool plant; and

(iii) Other source milk;

(2) Inventories of fluid milk products and products listed in § 1036.41(b)(1) at the beginning and the end of the month, showing separately such inventories of products listed in § 1036.41(b)(1) that are in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants; and

(4) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe;

(b) Each cooperative association shall report:

(1) The quantities of skim milk and butterfat contained in milk from producers for which it is the handler pursuant to § 1036.13 (c) and (d), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds and butterfat test of the milk and the number of days of production involved;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, except that contained in producer milk described in § 1036.16(a)(2); and

(3) Such other information with respect to its receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the amount of reconstituted skim milk in route disposition in the marketing area.

§ 1036.31 Producer payroll reports.

(a) Each handler defined in § 1036.13 (a), (c), and (d) shall report to the market administrator on or before the 25th day after the end of the month, in the detail and on forms prescribed by the market administrator, his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1036.62(b) shall report to the market administrator on or before the 25th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering milk that is approved by a duly constituted health authority for fluid consumption shall be reported in lieu of payments to producers.

§ 1036.32 Other reports.

(a) Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

§ 1036.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products (including filled milk) handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products (including filled milk) in inventory at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1036.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain. If the market administrator notifies the handler in writing within such 3-year period that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1036.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1036.30 shall be classified each month pursuant to the provisions of §§ 1036.41 through 1036.45: *Provided*, That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1036.41 Classes of utilization.

Subject to the conditions set forth in § 1036.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragrah (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of as fluid cream (including aerated cream and sterilized cream) or as mixtures of cream and milk or skim milk containing 10.5 percent or more butterfat;

(2) In packaged inventory at the end of the month of the products listed in subparagraph (1) of this paragraph:

(3) Used to produce yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, and cottage cheese curd; and

(4) Disposed of in bulk as fluid milk products or products listed in subparagraph (1) of this paragraph to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except those products listed in paragraph (b) (1) and (3) of this section in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products and products listed in

paragraph (b) (1) and (3) of this section that are disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products and products listed in paragraph (b) (1) and (3) of this section that are dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of fluid milk products and bulk cream at the end of the month;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler defined in § 1036.13(d));

(ii) Plus 1.5 percent of milk received from a handler defined in § 1036.13(d) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(iv) Plus 1.5 percent of bulk fluid milk products and bulk cream received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification was requested by the operators of both plants;

(vi) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III classification is requested by the handler; and

(vii) Less 1.5 percent of bulk fluid milk products and bulk cream transferred to other plants;

(7) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1036.42(b)(2); and

(8) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a nonpool plant by a cooperative association acting as a handler pursuant to § 1036.13(c) or in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.13(d), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1036.42 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products and bulk cream specified in § 1036.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1036.41(b)(6).

§ 1036.43 Interplant movements.

Skim milk or butterfat in the form of a fluid milk product or bulk cream shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.45(a)(10) and the corresponding step of § 1036.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.45(a)(4) and the corresponding step of § 1036.45(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.45(a)(9) or (10) and the corresponding steps of § 1036.45(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler plant. If Class II or Class III utilization is requested by the operators of both plants, such classification shall be as Class II or Class III milk to the extent of such utilization at the transferee plant;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification as Class II or Class III in his report submitted pursuant to § 1036.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent Class III utilization is available and the remainder as Class II milk; and

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, movements in bulk form shall be classified as Class III milk to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to

this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk and butterfat allocated to the other class shall be classified as Class III milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.41.

§ 1036.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1036.30 and shall compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1036.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1036.44, the market administrator shall determine the classification of producer milk for each handler as follows: *Provided*, That the classification of producer milk for which a cooperative association is the handler pursuant to § 1036.13 (c) or (d) shall be determined separately from the operations of any pool plant operated by such cooperative association:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.41(c)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (4)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III milk pursuant to § 1036.41(c)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this subparagraph is effective, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged products listed in § 1036.41(b)(1) that are in inventory at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product or bulk cream;

(ii) Receipts of fluid milk products (except filled milk) and bulk cream for which appropriate health approval is not established and receipts of fluid milk products and bulk cream from unidentified sources;

(iii) Receipts of fluid milk products and bulk cream from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk cream received from nonpool plants that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III), but not in excess of such quantities:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph:

(*a*) For which the handler requests Class III classification; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (4)(v) of this paragraph, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk cream (and, for the first month this subparagraph is effective, packaged products listed in § 1036.41(b)(1)) at the beginning of the month;

(8) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (4)(iv) and (6)(i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraphs (4)(v) and (6)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1036.27(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk cream received from pool plants of other handlers according to the classification of such products pursuant to § 1036.43(a);

(12) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.13(d) that also operates a pool plant;

(13) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1036.50 Basic formula price.

The basic formula price shall be the price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported on a 3.5 percent butterfat basis by the Department for the month. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

§ 1036.51 Class prices.

Subject to the provisions of §§ 1036.52 and 1036.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $1.67 for plants in the Cleveland-Erie district and $1.77 for plants in the Pittsburgh district, plus 20 cents for each district. At a plant outside the marketing area, add to the basic

formula price for the preceding month the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest such plant (by the shortest hard-surfaced highway distance as determined by the market administrator): Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the Chicago butter price;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1036.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1036.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the Chicago butter price for the preceding month by 0.12.

(b) *Class II and Class III milk.* Multiply the Chicago butter price for the month by 0.115.

§ 1036.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant more than 85 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from all the cities in § 1036.51(a) shall be reduced 13 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the city hall of the nearest of the cities listed in § 1036.51(a).

(b) For the purpose of computing location adjustments, receipts of fluid milk products from pool plants at a pool plant shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

§ 1036.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price that is required.

APPLICATION OF PRICES

§ 1036.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler defined in § 1036.13 (a), (c), and (d) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.45(c) by the applicable class price;

(b) Add the amounts obtained from multiplying the overage deducted from each class pursuant to § 1036.45(a)(13) and the corresponding step of § 1036.45 (b) by the applicable class price;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.45(a)(7) and the corresponding step of § 1036.45(b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a) (4) and (5) and the corresponding steps of § 1036.45 (b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.45(a)(4) (iv) and (v) and the corresponding steps of § 1036.45(b) (4) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class III price); and

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received, but not to be less than the Class III price, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.45(a)(9) and the corresponding step of § 1036.45(b).

§ 1036.61 Computation of the uniform price.

For each month, the market administrator shall compute a uniform price per hundredweight as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk specified in paragraph (f) of this section is less or more, respectively, than 3.5 percent the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1036.71, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1036.72(a);

(d) Subtract an amount equal to the total value of the plus location differential computed pursuant to § 1036.72(a);

(e) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e);

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(h) For the months specified in paragraphs (i) and (j) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (e) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (f)(2) of this section by the weighted average price;

(i) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (f)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(j) Add for each of the months of September, October, and November one-fourth of the total amount subtracted pursuant to paragraph (i) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(k) Divide the amount resulting from the computations pursuant to paragraphs (h), (i), and (j) of this section by the hundredweight of producer milk specified in paragraph (f)(1) of this section; and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1036.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to

§§ 1036.30 and 1036.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. There shall be included in the obligation so computed a charge in the amount specified in § 1036.60(e) and a credit in the amount specified in § 1036.74(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified below in this subparagraph. If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.11 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), subtract its value at the weighted average price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), less the value of such skim milk at the Class III price.

§ 1036.63 Notification.

On or before the 14th day of each month the market administrator shall notify each handler who submitted a report for the preceding month pursuant to § 1036.30 of:

(a) The classification pursuant to § 1036.45 of skim milk and butterfat in producer milk received by such handler during the month and the value of such milk pursuant to § 1036.60;

(b) The uniform price for the month pursuant to § 1036.61; and

(c) The amount due such handler pursuant to § 1036.75 and the amount to be paid by such handler pursuant to §§ 1036.74, 1036.76, and 1036.77.

§ 1036.64 Obligation of handler operating an other order plant.

Each handler who operates an other order plant that is regulated under an order providing for individual-handler pooling shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(a) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to the route disposition in each marketing area; and

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to route disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class III price) and substract its value at the Class III price.

PAYMENTS

§ 1036.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) To each producer, on or before the 18th day of the following month, the uniform price per hundredweight for his deliveries of producer milk during the month adjusted pursuant to §§ 1036.71, 1036.72, and 1036.76, subject to the following:

(i) Minus payments made pursuant to paragraph (c) of this section;

(ii) Less proper deductions authorized in writing by the producer; and

(iii) If by such date the handler has not received full payment from the market administrator pursuant to § 1036.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association for producer milk on or before the 16th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer, and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association;

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(c) Upon written request filed with him on or before the 15th day of the month by a producer, or by a cooperative association which collects payments pursuant to paragraph (b) of this section, each handler shall make payment as follows:

(1) On or before the last day of the month, to each such producer who has not discontinued delivery of milk to such handler, an amount not less than the value of milk received from such producer during the first 15 days of such month computed at the Class III price for the preceding month for milk of 3.5 percent butterfat content, without deduction for hauling; and

(2) On or before the 27th day of the month, to the cooperative association, for milk received during the first 15 days of the month from certified members specified in the request for payment, an amount not less than the aggregate value of such milk at the Class III price for the preceding month for milk of 3.5 percent butterfat content, without deduction for hauling; and

(d) On or before the 15th day after the end of each month, each handler shall pay a cooperative association at not less than the class prices applicable pursuant to § 1036.51 for milk which he receives:

(1) By transfer or diversion from a pool plant operated by such cooperative association; or

(2) From such cooperative association in its capacity as a handler pursuant to § 1036.13(d), if such cooperative association also operates a pool plant.

§ 1036.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1036.45 by the respective butterfat differential for each class and dividing the sum of the resulting amounts by the total pounds of butterfat in producer milk.

§ 1036.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted as follows:

(1) At all plants, reduced according to the location of the plant at the rates set forth in § 1036.53; and

(2) Additionally, at plants at which the Pittsburgh district Class I price is applicable, increased 10 cents.

(b) For the purpose of computations pursuant to § 1036.74(b), the weighted average price shall be adjusted at the rates set forth in § 1036.53 that are applicable at the location of the nonpool plant from which other source milk was received.

§ 1036.73 Producer-settlement fund.

(a) The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments pursuant to §§ 1036.62, 1036.64, and 1036.74 and out of which he shall make all payments pursuant to § 1036.75: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

(b) All amounts subtracted pursuant to §1036.61(i) shall be deposited in the producer-settlement fund and set aside as an obligated balance until withdrawn for the purpose of effectuating § 1036.61(j).

§ 1036.74 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1036.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the weighted average price applicable at the location of the plants from which received (not to be less than the value at the Class III price) of other source milk for which a value is computed pursuant to § 1036.60(e).

§ 1036.75 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1036.74(b) exceeds the amount computed pursuant to § 1036.74(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1036.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 16th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 16th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1036.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1036.45(a)(4) and (9) and the corresponding steps of § 1036.45(b); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1036.78 Adjustment of accounts.

(a) *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, due such handler from the market administrator, or due any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to § 1036.74, § 1036.75, § 1036.76, § 1036.77, or paragraph (a) of this section shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation, and on the first day of each calendar month thereafter until such obligation is paid.

§ 1036.79 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the skim milk and butterfat involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The months during which the skim milk and butterfat, with respect to which

the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producers or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the skim milk and butterfat involved in the claim were received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1036.90 Effective time.

The provisions of this part or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1036.91 Suspension or termination.

The Secretary shall suspend or terminate any or all provisions of this part whenever he finds that they obstruct or do not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1036.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such other person, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such other person pursuant thereto.

§ 1036.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet the outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1036.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1036.101 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

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