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Part I

(Part II begins on page 4651)

Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

3 CFR

PROCLAMATION:
4035 ... 4589

9 CFR

311 ... 4591

14 CFR

61 ... 4591
91 ... 4591
385 ... 4592

PROPOSED RULES:
Ch. II ... 4627

16 CFR

13 (6 documents) ... 4592–4596

19 CFR

153 ... 4597

PROPOSED RULES:
1 ... 4611

26 CFR

1 ... 4597

PROPOSED RULES:
201 ... 4611
252 ... 4611

30 CFR

PROPOSED RULES:
11 ... 4652
12 ... 4652
13 ... 4652
14 ... 4652
14a ... 4652

33 CFR

207 ... 4599

38 CFR

3 ... 4599

41 CFR

6–1 ... 4599

46 CFR

PROPOSED RULES:
146 ... 4625

47 CFR

21 ... 4600

49 CFR

571 (2 documents) ... 4600, 4606

PROPOSED RULES:
172 ... 4626
173 ... 4626
571 ... 4627
1300 ... 4628

50 CFR

33 ... 4608
260 ... 4609

Presidential Documents

Title 3—The President

PROCLAMATION 4035

Volunteers of America Week

By the President of the United States of America

A Proclamation

From the beginning of our country, Americans have worked together voluntarily to help master common needs and problems. This year marks the seventy-fifth anniversary of one of the Nation's leading voluntary action organizations, the Volunteers of America, devoted to solving the spiritual and social problems of our needy.

In recognition of the work of this humanitarian organization, the Congress, by House Joint Resolution 337, has requested the President to designate the second week of March 1971 as Volunteers of America Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of March 7, 1971, as Volunteers of America Week. I urge our people during that week to express their appreciation and gratitude for the untiring and selfless work of the Volunteers of America and to continue their support of its activities.

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

Richard Nixon

[FR Doc.71-3417 Filed 3-9-71;9:41 am]

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

PART 311—DISPOSAL OF DISEASED OR OTHERWISE ADULTERATED CARCASSES AND PARTS

Tapeworm Cysts (Cysticercus Bovis) in Cattle

On November 7, 1970, there was published in the FEDERAL REGISTER (35 F.R. 17188) a notice that the Department was considering amending § 311.23 of the revised Meat Inspection Regulations (9 CFR 311.23), which became effective December 1, 1970, under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), to prohibit any cattle carcasses from being passed for human food at an establishment subject to the Act if one or more lesions of cysticercus bovis is found in the carcass, unless the carcass is first refrigerated or heated to destroy the infestation.

A period of 30 days was allowed for filing of comments by interested persons. The time for filing of comments was extended for an additional 30 days by a notice published in the FEDERAL REGISTER on December 9, 1970 (35 F.R. 18672), pursuant to requests for additional time made by affected persons.

After due consideration of all relevant matters, including all comments received pursuant to the notice of proposed rulemaking, and under the authority of section 21 of the Federal Meat Inspection Act (21 U.S.C. 621), the proposal set forth in the FEDERAL REGISTER of November 7, 1970 (35 F.R. 17188; F.R. Doc. 70–15089) is hereby adopted with the following change:

In § 311.23(a)(2) as set forth in said notice, the last three words "under retention tags" are deleted and the phrase "under positive control of a Program inspector" is substituted therefor.

(Sec. 21, 34 Stat. 1264, as amended, 21 U.S.C. 621; 29 F.R. 16210, as amended, 33 F.R. 10750)

This change relates to a matter of agency procedure which does not impose any additional requirement on any member of the public, and under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public rulemaking procedures on the amendment are unnecessary. This amendment shall become effective 30 days after the date of publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., on March 4, 1971.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

§ 311.23 Tapeworm cysts (cysticercus bovis) in cattle.

(a) Except as provided in paragraph (b) of this section, carcasses of cattle affected with lesions of cysticercus bovis shall be disposed of as follows:

(1) Carcasses of cattle displaying lesions of cysticercus bovis shall be condemned if the infestation is extensive or if the musculature is edematous or discolored. Carcasses shall be considered extensively infested if in addition to finding lesions in at least two of the usual inspection sites, namely the heart, diaphragm and its pillars, muscles of mastication, esophagus, tongue, and musculature exposed during normal dressing operations, they are found in at least two of the sites exposed by (i) an incision made into each round exposing the musculature in cross section, and (ii) a transverse incision into each forelimb commencing 2 or 3 inches above the point of the olecranon and extending to the humerus.

(2) Carcasses of cattle showing one or more tapeworm lesions of cysticercus bovis but not so extensive as indicated in subparagraph (1) of this paragraph, as determined by a careful examination, including examination of, but not limited to, the heart, diaphragm and its pillars, muscles of mastication, esophagus, tongue, and musculature exposed during normal dressing operations, may be passed for human food after removal and condemnation of the lesions with surrounding tissues: *Provided*, That the carcasses, appropriately identified by retained tags, are held in cold storage under positive control of a USDA Food Inspector at a temperature not higher than 15° F. continuously for a period of not less than 10 days, or in the case of boned meat derived from such carcasses, the meat, when in boxes, tierces, or other containers, appropriately identified by retained tags, is held under positive control of a Program Inspector at a temperature of not higher than 15° F. continuously for a period of not less than 20 days. As an alternative to retention in cold storage as provided in this subparagraph, such carcasses and meat may be heated throughout to a temperature of at least 140° F. under positive control of a Program Inspector.

(b) Edible viscera and offal shall be disposed of in the same manner as the rest of the carcass from which they were derived unless any lesion of cysticercus bovis is found in these byproducts, in which case they shall be condemned.

[FR Doc.71–3309 Filed 3–9–71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 7025; Amdts. Nos. 61–53, 91–88]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

PART 91—GENERAL OPERATING AND FLIGHT RULES

Category II Operations With Small Airplanes

These amendments provide for the issuance by the Administrator of individual authorizations to permit a pilot to conduct Category II operations in small airplanes identified as Category A airplanes under § 97.3(b)(1), if passengers or property are not carried for compensation or hire.

These amendments are issued in response to a petition for rule making submitted by the Aircraft Owners and Pilots Association (AOPA), and serve as a disposition of that petition as well. The petition requests the adoption of rules amending current Category II requirements to allow Category II operations with small Category A Airplanes with one pilot rather than two as currently required, without the required special equipment and maintenance, and also to allow Category II operations with small Category A aircraft on Category I ILS approaches to Category I runways.

In support of its petition, AOPA cites an extensive series of tests it conducted over a period of 2½ years, during which time AOPA's pilot representative made more than 100 simulated approaches to a decision height of 100 feet in a small twin-engine airplane. In addition, five approaches (pursuant to a waiver from the weather minimums of §§ 91.116 and 91.117) were made in conditions below Category I minimums.

As defined in Part 1 of the Federal Aviation Regulations, a Category II operation is a straight-in ILS approach to a runway of an airport under an ILS instrument approach procedure that includes lower than standard visibility minimums (down to 1,200 RVR from 2,400) and lower than standard decision heights (down to 100 feet from 200 feet). For the purpose of this amendment, standard minimums and operations are designated as Category I.

In order to gain additional information pertinent to the matter concerned herein, the FAA conducted a program of demonstrations in August 1969, using both single and multiengine airplanes

and using pilots of varying experience, including AOPA member pilots. These demonstrations tended to support AOPA's findings with respect to the use of slower, smaller, and more maneuverable airplanes in Category II operations. However, with regard to approaches under Category I systems, the demonstrations indicated that each airport must be individually evaluated in terms of ILS accuracy below current decision height minimums, and missed approach obstacle clearance surfaces at the lower decision heights.

Therefore, the FAA has determined that a general rule-making scheme as requested by AOPA is not appropriate at this time. However, the FAA does believe that the issuance of individual authorizations to permit Category II operations in small Category A aircraft is both consonant with safety and practicable. For several years the FAA, pursuant to authority currently contained in § 91.63, has issued waivers authorizing deviations in certain instances from the Category I requirements of §§ 91.116 and 91.117. Based upon the experience gained in this area, the FAA is confident that safety will not be impaired by adopting similar deviation authority in connection with certain Category II operations, inasmuch as Category II airports have more approach facilities and aids than Category I airports. Furthermore, this procedure will give the FAA an opportunity, under actual operating conditions, to compile and evaluate data for the purpose of determining the feasibility of adopting a general rule making approach as AOPA proposes. Therefore, the agency is amending Parts 61 and 91 to permit FAA personnel under the jurisdiction of the FAA regional offices to issue individual authorizations for Category II operations conducted in small airplanes identified as Category A aircraft in § 97.3(b)(1). However, the FAA does not believe that this authority should include the carriage of persons or property for compensation or hire and such a restriction is stated in the rules adopted herein.

Since these amendments delegate authority to issue individual authorizations and impose no additional burden upon any person, I find that public notice and procedure thereon are unnecessary.

In consideration of the foregoing, Parts 61 and 91 of the Federal Aviation Regulations are amended, effective May 9, 1971, as follows:

1. By adding a new paragraph (h) to § 61.3 to read as follows:

§ 61.3 Certificates and ratings required.

* * * * *

(h) The Administrator may issue a certificate of authorization to the pilot of a small airplane identified as a Category A aircraft in § 97.3 of this chapter to use that airplane in a Category II operation, if he finds that the proposed operation can be safely conducted under the terms of the certificate. Such authorization does not permit operation of the aircraft carrying persons or property for compensation or hire.

2. By adding a new section to follow immediately after § 91.1 to read as follows:

§ 91.2 Certificate of authorization for certain Category II operations.

The Admistrator may issue a certificate of authorization authorizing deviations from the requirements of §§ 91.6, 91.33(f), and 91.34 for the operation of small airplanes identified as Category A aircraft in § 97.3 of this chapter in Category II operations, if he find that the proposed operation can be safely conducted under the terms of the certificate. Such authorization does not permit operation of the aircraft carrying persons or property for compensation or hire.

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

Issued in Washington, D.C., on March 2, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc.71-3314 Filed 3-9-71; 8:47 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-54; Amdt. 20]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to Director, Bureau of Enforcement; To Require Submission of Certain Information

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of March 1971.

In order to facilitate the submission of reports and other information by air carriers which the Board is authorized to require under section 407 of the Act, this amendment delegates to the Director, Bureau of Enforcement, authority to issue orders requiring air carriers to prepare and submit, within a specified reasonable period, special reports, copies of agreements, records, accounts, papers, documents, and specific answers to questions upon which information is deemed necessary.

Since the delegation of authority to a staff member is not a substantive rule, but a rule of agency organization and procedure, notice and public procedure hereon are not required and the rule may be made effective immediately.

Accordingly, the Board hereby amends § 385.22 of Part 385 of the Organization Regulations (14 CFR Part 385), effective March 5, 1971, by adding paragraph (c) to read as follows:

§ 385.22 Delegation to the Director, Bureau of Enforcement.

* * * * *

(c) Issue orders requiring air carriers to prepare and submit within a specified reasonable period, special reports, copies of agreements, records, accounts, papers, documents, and specific answers to questions upon which information is deemed necessary. Special reports shall be under oath whenever the Director, Bureau of Enforcement so requires.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5989)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3334 Filed 3-9-71; 8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1857]

PART 13—PROHIBITED TRADE PRACTICES

Associated Chinchilla Breeders, Inc., and Bruce Tibbals

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits;* § 13.175 *Quality of product or service.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1615 *Earnings and profits;* § 13.1715 *Quality.*

(Sec. 6, 8 Stat. 721; 15 U.S.S. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Associated Chinchilla Breeders, Inc. et al., Minot, N. Dak. Docket No. C-1857, Jan. 27, 1971]

In the Matter of Associated Chinchilla Breeders, Inc., a Corporation, and Bruce Tibbals, Individually and as an Officer of Said Corporation

Consent order requiring a Minot, N. Dak., distributor of chinchilla breeding stock to cease making exaggerated earning claims, representing that it is feasible to breed chinchilla stock in garages and basements, that each female chinchilla will produce four live offspring per year, that its stock is hardy and free from disease, and misrepresenting the average price or range of prices realized from the pelts of chinchillas purchased from respondents.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Associated Chinchilla Breeders, Inc., a corporation, and its officers, and Bruce Tibbals, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages, or other quarters or buildings unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature,

humidity, ventilation and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without knowledge or experience in the breeding, caring for and raising of such animals.

3. Chinchillas are hardy animals or are relatively free from diseases.

4. Each female chinchilla purchased from respondents and each female offspring will produce at least four live offspring per year.

5. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla of purchasers of respondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

6. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of $20 per pelt, or that they generally sell for from $17 to $40 each.

7. Chinchilla pelts from respondents' breeding stock will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price, or range of prices of purchasers of respondents' breeding stock unless, in fact, the past price, average price, or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

8. Purchasers of respondents' breeding stock will realize earnings, profits, or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless, in fact, the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

B. Misrepresenting in any manner the earnings or profits to purchasers or reproduction capacity of any chinchilla breeding stock.

C. Failing to deliver a copy of this order to cease and desist to all present and future salesmen and other persons engaged in the sale of respondents' products or services, and failing to secure from each such individual a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 27, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc. 71-3296 Filed 3-9-71; 8:46 am]

[Docket No. C-1856]

PART 13—PROHIBITED TRADE PRACTICES

Bar-Zon Frocks, Inc., and Sam Garfinkel

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Bar-Zon Frocks, Inc., et al., New York, N.Y., Docket C-1856, Jan. 26, 1971]

In the Matter of Bar-Zon Frocks, Inc., a Corporation, and Sam Garfinkel, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer and distributor of women's wearing apparel to cease violating the Flammable Fabrics Act by manufacturing or distributing any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Bar-Zon Frocks, Inc., a corporation, and its officers, and Sam Garfinkel, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material, fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom has been delivered the fabric which gave rise to this complaint, of the flammable nature of said fabric, and effect the recall of said fabric from such customers.

It is further ordered, That the respondents herein either process the fabric which gave rise to this complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabric which gave rise to the complaint, (2) the amount of said fabric in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabric and effect the recall of said fabric from customers, and of the results thereof, (4) any disposition of said fabric since May 21, 1970, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 26, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-3295 Filed 3-9-71;8:46 am]

[Docket No. C-1853]

PART 13—PROHIBITED TRADE PRACTICES

Gulf Union Corp. and Sound Dimensions, Inc.

Subpart—Misrepresenting oneself and goods—Promotional sales plans: § 13.1830 *Promotional sales plans:* 13.1830–10 Temporary increase of broadcast audience, "hypoing."

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Gulf Union Corp. et al., Baton Rouge, La., Docket No. C-1853, Jan. 25, 1971]

In the Matter of Gulf Union Corp., a Corporation, and Sound Dimensions, Inc., a Corporation

Consent order requiring a Baton Rouge, La., radio broadcasting company and its subsidiary to cease engaging in "hypoing" during a period when its broadcast audience is being measured, that is, using unusual promotional practices designed to temporarily increase the size of a broadcast audience during rating periods.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Gulf Union Corporation, a corporation, and Sound Dimensions, Inc., a corporation, their officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the broadcasting, and the advertising, offering for sale or sale of broadcast time in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Conducting or participating in any unusual contest or give-away or promotional practice which is calculated or designed to temporarily increase the size of their broadcast audience only during a rating or survey period or which is calculated or designed to cause any rating or survey company to publish and place in the hands of purchasers thereof, audience rating or other data which may mislead or deceive such purchasers as to the size or composition of respondents' audience.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondent Sound Dimensions, Inc., notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 25, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-3292 Filed 3-9-71;8:46 am]

[Docket No. C-1851]

PART 13—PROHIBITED TRADE PRACTICES

Holiday Universal, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.125 *Limited offers or supply;* § 13.155 *Prices:* 13.155–100 Usual as reduced, special, etc.; § 13.170 *Qualities or properties of product or service:* 13.170–52 Medicinal, therapeutic, healthful, etc.; 13.170–74 Reducing, nonfattening, low-calorie, etc.; § 13.260 *Terms and conditions.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* § 13.1710 *Qualities or properties;* § 13.1747 *Special or limited offers;* § 13.1760 *Terms and conditions:* 13.1760–50 Sales contract. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 *Sales contract, right-to-cancel provision.* Subpart—Securing signatures wrongfully: §13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Holiday Universal Inc., et al., Baltimore, Md., Docket No. C-1851, Jan. 19, 1971]

In the Matter of Holiday Universal, Inc., a Corporation, and Frank Bond, Norman Pessin, Donald Goldman and Maury Scarborough, Individually and as Officers of Said Corporation, and Holiday Health Studio of Pimlico, Inc., Holiday Health Studio of Glen Burnie, Inc., Holiday Health Studios of North Point, Inc., Holiday Health of Bethesda, Inc., Holiday Health of Silver Spring, Inc., Holiday Health of Washington, D.C., Inc., Holiday Health of 40 West, Inc., Holiday Health of Huntington, Inc., Holiday Health of Falls Church, Inc., Holiday Health of Hempstead, Inc., General Health of Laurias, Inc., General Health of Windsor, Inc., General Health of Park City, Inc., Holiday Health of Towson, Inc., Century Health Spa of Plainview, Ltd., Holiday Health Spa, Inc., Spa International, Inc., American Spas, Inc., Holiday Health of Hampton, Inc., Great American Financial Management Corp., Trans State Investments, Inc., Trans State Investments of Glen Burnie, Inc., National Loan Corp., National Loan Corporation of Glen Burnie, Inc., Corporations, and Bernard Sandler Advertising, Inc., a Corporation, and Bernard Sandler, Individually and as an Officer of Said Corporation.

Consent order requiring an operator of various health club facilities and an advertising agency, both located in Baltimore, Md., to cease representing that the price of any membership is special or reduced or that an increase is imminent, that its health program will alter body size, extend life, prevent heart attacks, and reduce weight without calory control, that all facilities are available at all clubs and that any service is guaranteed unless all aspects of the guarantee are disclosed, using deceptive "before and after" photographs, making repeated telephone calls to obtain payments on any debt, misrepresenting that any debt has been turned over to an independent collector, failing to disclose that any paper about to be signed is a contract or promissory note, obtaining signature on any contract which fails to provide a 4 day cancellation clause and a provision that it may be canceled if the customer moves beyond a 25-mile limit, and misrepresenting that application for membership will be held without acceptance pending further investigations.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents, Holiday Universal Inc., a corporation, and Holiday Health of Pimlico, Inc., Holiday Health Studios of Glen Burnie, Inc., Holiday Health Studios of North Point, Inc., Holiday Health of Bethesda, Inc., Holiday Health of Silver Spring, Inc., Holiday Health of Washington, D.C., Inc., Holiday Health of 40 West, Inc., Holiday Health of Huntington, Inc., Holiday Health of Falls Church, Inc., Holiday Health of Hempstead, Inc., General Health of Laurias, Inc., General Health of Windsor, Inc., General Health of Park City, Inc., Holiday Health of Towson, Inc., Century Health Spa of Plainview, Ltd., Holiday Health Spa, Inc., Spa International, Inc., American Spas, Inc., Holiday Health of Hampton, Inc., Great American Financial Management Corp., Trans State Investments, Inc., Trans State Investments of Glen Burnie, Inc., National Loan Corp., National Loan Corporation of Glen Burnie, Inc., corporations, and their officers, and Frank Bond, Norman Pessin, Donald Goldman, and Maury Scarborough, individually and as officers of said corporations and respondents' agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of health club memberships or other services or products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. Representing, directly or by implication

(A) That fewer health club memberships are available for sale than are in fact available.

(B) That the price charged for any club membership or service is a special or reduced price unless:

(1) Respondents maintain accounting records with respect to each sale, indicating:

(a) The type of membership and/or services,

(b) The price charged for such membership and/or services,

(c) The terms of each such membership or service,

(d) The name and address of each customer purchasing any such membership or services.

(2) Such price represents a significant reduction from the usual and customary price charged for the same or similar memberships or services.

(C) That a price increase is imminent unless the respondents' management by appropriate corporate action has previously theretofor determined the amount of such increase and the effective date thereof and such increase takes place on the date determined.

(D) That any person will alter their body size or configuration in any specified way or in any specified period of time as a result of participation in respondents' health club program.

(E) That attendance and participation in respondents' programs will insure an extended life span or will insure against or prevent heart attacks or any other bodily malfunctions.

(F) That respondents' exercise programs are unique.

(G) That respondents' programs are the only way to improve a person's figure or physique, appearance, vitality or virility.

(H) That health club memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

(I) That respondents' programs are effective in reducing a person's weight without regulating caloric intake.

(J) That a substantial number of respondents' health club members had paid for their memberships by inducing others to join respondent's clubs.

(K) That any facilities are available unless such facilities are available at all clubs referred to in any particuar advertisement and are available to persons of either sex at all said clubs during all of said clubs' business hours. If the facilities are not available to all members at all hours at each club referred to in such advertisement, such representation shall be qualified by a clear and conspicuous disclosure in immediate conjunction therewith providing that "such facilities and hours may differ at each location." Such disclosure shall appear in a type size larger than the size used to set out the facilities.

(L) That any of respondents are holders in due course of any notes, contracts or other documents signed or executed by respondents' customers.

(M) That any service or product is guaranteed without disclosing clearly and conspicuously and in immediate conjunction therewith:

(1) The nature and extent of such guarantee;

(2) The manner in which the guarantor will perform thereunder;

(3) The identity of the guarantor.

II. Use of "before and after" or comparison photographs indicating any change of body configuration unless:

(A) The person so depicted has attended respondents' health clubs, and the results depicted were achieved through participation in respondents' health club program; or

(B) The photographs are accompanied by the following statement to appear in clear and conspicuous fashion in immediate conjunction therewith: "Posed photographs".

III. Placing repeated telephone calls to, or making repeated personal contact with, any person at their home, place of employment, or any other place, for the purpose of obtaining payment on any debt or obligation after such person has clearly indicated he will not heed such telephone or personal requests for payment.

IV. Misrepresenting, directly or by implication that a customer's account has been turned over to an attorney or an independent organization engaged in the business of collecting past due accounts.

V. Failing to clearly and conspicuously disclose in writing in a manner which can be easily understood by any customer and before obtaining his signature on any application for membership, note, contract, agreement, or other document and failing to require all salesmen and other representatives, by means of both oral and written instructions, that they disclose orally in a manner which can be easily understood by any customer, and before obtaining his signature, on any application for membership, note, contract, agreement or other document:

(A) That the document is a contract and will become legally binding upon said customer upon its acceptance by the respondents.

(B) The terms and conditions of any promissory note or other instrument of indebtedness in such document.

(C) Each and every circumstance or condition under which a customer's membership may be canceled or teminated, and any terms, conditions or costs to the customers of such cancellation or termination.

VI. Taking judgment on any note, agreement or other instrument executed by the respondents' health club customers, which contains any provision whereby any party thereto authorizes a confession of judgment against said party or waives any legal rights or defenses which said party would have under a suit on a simple contract, unless the defendent in such suit receives notice from the respondent in accordance with the rules of court of the local jurisdiction where such suit is instituted of his right to assert any defense in such suit which he would have if the suit were a suit on a simple contract in such jurisdiction and unless the defendent is afforded an opportunity for a hearing on the merits in such proceeding prior to judgment.

VII. Obtaining customer's signatures on any application for membership, contract, note or other document which fails to:

(A) Contain a clause allowing customers to avoid said agreement or obligation, within 4 business days of the date of execution of said document, upon the tender of a certificate from the customer's physician that participation in respondents' health club programs would impair the health of said customer during the term of said contract provided such certificate is accurate and correct.

(B) Contain a clause which provides for termination of the membership in respondents' health clubs by any member who permanently moves his place of residence beyond a twenty-five (25) mile radius of any health club owned or operated by respondents or by any other person or firm which is a member of a trade or other association to which respondents belong and with whom they have an agreement offering reciprocal membership in a health club with similar facilities without additional charge to such member.

VIII. Representing to any of respondents' customers that any application for membership, contract, note, or other documents executed by said customer will: (1) be held without acceptance pending further confirmation of the terms and conditions thereof by said customers and not be accepted by respondents until such confirmation or (2) not be accepted by respondents in the normal course of business unless such representation is specifically contained in the terms of the written agreement or in a separate written instrument.

IX. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondents, to all franchisees or licensees and to all officers, managers and salesmen both present and future and to any other person now engaged or who shall become engaged in the sale of health club memberships or collection of club dues as respondents' agent, representative or employee; and failing to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

It is further ordered, That respondents Bernard Sandler Advertising, Inc., a corporation, and Bernard Sandler, individually and as an officer of said corporation, and respondents' agents, representatives, salesmen, and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing the dissemination of any advertising of health clubs, or other products or services, containing any representation or misrepresentations prohibited by paragraphs I or II hereof.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of any successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a written report

setting forth in detail the manner and form of their compliance with this order.

Issued: January 19, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-3291 Filed 3-9-71;8:45 am]

[Docket No. C-1854]

PART 13—PROHIBITED TRADE PRACTICES

Saks Fur Co., Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Saks Fur Co., Inc., et al., New York, N.Y., Docket No C-1854, Jan 26, 1971]

In the Matter of Saks Fur Co., Inc., a Corporation, and Arthur Schachner and Edna Schachner, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturer and distributor of fur products to cease misbranding and falsely invoicing its furs.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Saks Fur Co., Inc., a corporation, and its officers, and Arthur Schachner and Edna Schachner, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: January 26, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-3293 Filed 3-9-71;8:46 am]

[Docket No. C-1855]

PART 13—PROHIBITED TRADE PRACTICES

Sutter Textile Co. et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Sutter Textile Co. et al., New York, N.Y., Docket C-1855, Jan. 26, 1971]

In the Matter of Sutter Textile Co., a Partnership, and Allan Sutter, Robert Sutter and George Sutter, Individually and as Copartners Trading as Sutter Textile Co.

Consent order requiring a New York City partnership which imports and distributes textile fiber products to cease importing and distributing any fabric or related material which fails to conform to the standards of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Sutter Textile Co., a partnership, and Allan Sutter, Robert Sutter, and George Sutter, individually and as copartners trading as Sutter Textile Co., or under any other name or names, respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended, or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom has been delivered the fabric which gave rise to the complaint, of the flammable nature of said fabric and effect the recall of said fabric from such customers.

It is further ordered, That the respondents herein either process the fabric which gave rise to the complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabric which gave rise to the complaint, (2) the amount of said fabric in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabric and effect the recall of said fabric from customers, and of the results thereof, (4) any disposition of said fabric since October 1969, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any

such product, fabric, or related material with this report.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: January 26, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-3294 Filed 3-9-71;8:46 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-76]

PART 153—ANTIDUMPING

Television Receiving Sets, Monochrome and Color, From Japan

MARCH 8, 1971.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that television receiving sets, monochrome and color, from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of December 5, 1970 (35 F.R. 18549, F.R. Doc. 70-16531).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on March 4, 1971, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of television receiving sets, monochrome and color, from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of March 9, 1971 (36 F.R. 4576, F.R. Doc. 71-3244).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to television receiving sets, monochrome and color, from Japan.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Television receiving sets, monochrome and color.	Japan.....	71-76

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.71-3415 Filed 3-9-71;9:18 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7092]

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

Amounts Representing Taxes and Interest Paid to Cooperative Housing Corporations

On December 29, 1970, a notice of proposed rule making to amend the Income Tax Regulations (26 CFR Part 1) was published in the FEDERAL REGISTER (35 F.R. 19670). The notice of proposed rule making conformed the regulations to section 216 of the Internal Revenue Code of 1954, as amended by section 913 of the Tax Reform Act of 1969. Section 216 relates to the deduction of taxes and interest by the tenant-stockholders of a cooperative housing corporation. Since no comments were received and since no public hearing was held, the amendment is hereby adopted subject to the following changes:

Examples (1) and (2) of § 1.216–1(c)(2) and examples (1) and (4) of § 1.216–1(g), as set forth in paragraph 2 of the notice of proposed rule making, are revised.

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

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

Approved: March 5, 1971.

EDWIN S. COHEN, *Assistant Secretary of the Treasury.*

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 216 (a) and (b) to the amendments of the Internal Revenue Code of 1954, made by section 913 of the Tax Reform Act of 1969 (83 Stat. 723), and to make certain clarifying changes to such regulations, such regulations are amended as follows:

PARAGRAPH 1. Section 1.216(b) is amended by adding at the end thereof the following new paragraph and by revising the historical note:

§ 1.216 Statutory provisions; deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.

Sec. 216. *Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.* * * *

(b) *Definitions.* * * *

(4) *Stock owned by governmental units.* For purposes of this subsection, in determining whether a corporation is a cooperative housing corporation, stock owned and apartments leased by the United States or any of its possessions, a State or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities, shall not be taken into account.

* * * * *

[Sec. 216 as amended by sec. 28, Revenue Act 1962 (76 Stat. 1068); sec. 913, Tax Reform Act 1969 (83 Stat. 723)]

PAR. 2. Section 1.216–1 is amended to read as follows:

§ 1.216–1 Amounts representing taxes and interest paid to cooperative housing corporation.

(a) *General rule.* An individual who qualifies as a tenant-stockholder of a cooperative housing corporation may deduct from his gross income amounts paid or accrued within his taxable year to a cooperative housing corporation representing his proportionate share of:

(1) The real estate taxes allowable as a deduction to the corporation under section 164 which are paid or incurred by the corporation before the close of the taxable year of the tenant-stockholder on the houses (or apartment building) and the land on which the houses (or apartment building) are situated, or

(2) The interest allowable as a deduction to the corporation under section 163 which is paid or incurred by the corporation before the close of the taxable year of the tenant-stockholder on its indebtness contracted in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses (or apartment building), or in the acquisition of the land on which the houses (or apartment building) are situated.

(b) *Limitation.* The deduction allowable under section 216 shall not exceed the amount of the tenant-stockholder's proportionate share of the taxes and interest described therein. If a tenant-stockholder pays or incurs only a part of his proportionate share of such taxes and interest to the corporation, only the amount so paid or incurred which represents taxes and interest is allowable as a deduction under section 216. If a tenant-stockholder pays an amount, or incurs an obligation for an amount, to the corporation on account of such taxes and interest and other items, such as maintenance, overhead expenses, and reduction of mortgage indebtedness, the amount representing such taxes and interest is an amount which bears the same ratio to the total amount of the tenant-stockholder's payment or liability, as the case may be, as the total amount of the tenant-stockholder's proportionate share of such taxes and interest bears to the total amount of the tenant-stockholder's proportionate share of the taxes, interest, and other items on account of which such payment is made or liability incurred. No deduction is allowable under section 216 for that part of amounts representing the taxes or interest described in that section which are deductible by a tenant-stockholder under any other provision of the Code.

(c) *Tenant-stockholder's proportionate share*—(1) *General rule.* The tenant-stockholder's proportionate share is that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation, including any stock held by the corporation. For taxable years beginning after December 31, 1969, if the cooperative housing corporation had issued stock to a governmental unit, as defined in paragraph (f) of this section, then in determining the total outstanding stock of the corporation, the governmental unit shall be deemed to hold the number of shares that it would have held, with respect to the apartments or houses it is entitled to occupy, if it has been a tenant-stockholder. That is, the number of shares the governmental unit is deemed to hold is determined in the same manner as if stock had been issued to it as a tenant-stockholder. For example, if a cooperative housing corporation requires each tenant-stockholder to buy one share of stock for each one thousand dollars of value of the apartment he is entitled to occupy, a governmental unit shall be deemed to hold one share of stock for each one thousand dollars of value of the apartments it is entitled to occupy, regardless of the number of shares formally issued to it.

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

Example (1). The X Corporation is a cooperative housing corporation within the meaning of section 216. In 1970, it acquires a building containing 40 category A apartments and 25 category B apartments, for $750,000. The value of each category A apartment is $12,500, and of each category B apartment is $10,000. X values each share of stock issued with respect to the category A apartments at $125, and sells 4,000 shares of its stock, along with the right to occupy the 40 category A apartments, to 40 tenant-stockholders for $500,000. X also sells 1,000 shares of nonvoting stock to G, a State housing authority qualifying as a governmental unit under paragraph (f) of this section for $250,000. The purchase of this stock gives G the right to occupy all the category B apartments. G is deemed to hold the number of shares that it would have held if it had been a tenant-stockholder. G is therefore deemed to own 2,000 shares of stock of X. All stockholders are required to pay a specified part of the corporation's expenses. F, one of the tenant-stockholders, purchased 100 shares of the category A stock for $12,500 in order to obtain a right to occupy a category A apartment. Since there are 6,000 total shares deemed outstanding, F's proportionate share is 1/60 (100/6,000).

Example (2). The X Corporation is a cooperative housing corporation within the meaning of section 216. In 1960 it acquired a housing development containing 100 detached houses, each house having the same value. X issued one share of stock to each of 100 tenant-stockholders, each share carrying the right to occupy one of the houses. In 1971 X redeemed 40 of its 100 shares. It then sold to G, a municipal housing authority qualifying as a governmental unit under paragraph (f) of this section, 1,000 shares of preferred stock and the right to occupy the 40 houses with respect to which the stock had been redeemed. X sold the preferred stock to G for an amount equal to the cost of redeeming the 40 shares. G also agreed to pay 40 percent of X's expenses. For purposes of determining the total stock which X has outstanding, G is deemed to hold 40 shares of X.

(d) *Cooperative housing corporation.* In order to qualify as a "cooperative housing corporation" under section 216, the requirements of subparagraphs (1) through (4) of this paragraph must be met.

(1) *One class of stock.* The corporation shall have one and only one class of stock outstanding. However, a special classification of preferred stock, in a nominal amount not exceeding $100, issued to a Federal housing agency or other governmental agency solely for the purpose of creating a security device on the mortgage indebtedness of the corporation, shall be disregarded for purposes of determining whether the corporation has one class of stock outstanding and such agency will not be considered a stockholder for purposes of section 216 and this section. Furthermore, for taxable years beginning after December 31, 1969, a special class of stock issued to a governmental unit, as defined in paragraph (f) of this section, shall also be disregarded for purposes of this paragraph in determining whether the corporation has one class of stock outstanding.

(2) *Right of occupancy.* Each stockholder of the corporation, whether or not the stockholder qualifies as a tenant-stockholder under section 216(b)(2) and paragraph (e) of this section, must be entitled to occupy for dwelling purposes an apartment in a building or a unit in a housing development owned or leased by such corporation. The stockholder is not required to occupy the premises. The right as against the corporation to occupy the premises is sufficient. Such right must be conferred on each stockholder solely by reason of his ownership of stock in the corporation, that is, the stock must entitle the owner thereof either to occupy the premises or to a lease of the premises. The fact that the right to continue to occupy the premises is dependent upon the payment of charges to the corporation in the nature of rentals or assessments is immaterial.

(3) *Distributions.* None of the stockholders of the corporation may be entitled, either conditionally or unconditionally, except upon a complete or partial liquidation of the corporation, to receive any distribution other than out of earnings and profits of the corporation.

(4) *Gross income.* Eighty percent or more of the gross income of the corporation for the taxable year of the corporation in which the taxes and interest are paid or incurred must be derived from the tenant-stockholders. For purposes of the 80-percent test, in taxable years beginning after December 31, 1969, gross income attributable to any house or apartment which a governmental unit is entitled to occupy, pursuant to a lease or stock ownership, shall be disregarded.

(e) *Tenant-stockholder.* The term "tenant-stockholder" means an individual who is a stockholder in a cooperative housing corporation, as defined in section 216(b)(1) and paragraph (d) of this section, and whose stock is fully paid up in an amount at least equal to an amount shown to the satisfaction of the district director as bearing a reasonable relationship to the portion of the fair market value, as of the date of the original issuance of the stock, of the corporation's equity in the building and the land on which it is situated which is attributable to the apartment or housing unit which such individual is entitled to occupy.

(f) *Governmental unit.* For purposes of section 216(b) and this section, the term "governmental unit" means the United States or any of its possessions, a State or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities.

(g) *Examples.* The application of section 216 (a) and (b) and this section may be illustrated by the following examples, which refer to apartments but which are equally applicable to housing units:

Example (1). The X Corporation is a cooperative housing corporation within the meaning of section 216. In 1970, at a total cost of $200,000, it purchased a site and constructed thereon a building with 15 apartments. The fair market value of the land and building was $200,000 at the time of completion of the building. The building contains five category A apartment units, each of equal value, and 10 category B apartment units. The total value of all of the category A apartment units is $100,000. The total value of all of the category B apartments is also $100,000. Upon completion of the building, the X Corporation mortgaged the land and building for $100,000, and sold its total authorized capital stock for $100,000. The stock attributable to the category A apartments was purchased by five individuals, each of whom paid $10,000 for 100 shares, or $100 a share. Each certificate for 100 shares of such stock provides that the holder thereof is entitled to a lease of a particular apartment in the building for a specified term of years. The stock attributable to the category B apartments was purchased by a governmental unit for $50,000. Since the shares sold to the tenant-stockholders are valued at $100 per share, the governmental unit is deemed to hold a total of 500 shares. The certificate of such stock provides that the governmental unit is entitled to a lease of all of the category B apartments. All leases provide that the lessee shall pay his proportionate part of the corporation's expenses. In 1970 the original owner of 100 shares of stock attributable to the category A apartments and to the lease to apartment No. 1 made a gift of the stock and lease to A, an individual. The taxable year of A and of the X Corporation is the calendar year. The corporation computes its taxable income on an accrual method, while A computes his taxable income on the cash receipts and disbursements method. In 1971, the X Corporation incurred expenses aggregating $13,800, including $4,000 for the real estate taxes on the land and building, and $5,000 for the interest on the mortgage. In 1972, A pays the X Corporation $1,380, representing his proportionate part of the expenses incurred by the corporation. The entire gross income of the X Corporation for 1971 was derived from the five tenant-stockholders and from the governmental

unit. A is entitled under section 216 to a deduction of $900 in computing his taxable income for 1972. The deduction is computed as follows:

Shares of X Corporation owned by A		100
Shares of X Corporation owned by four other tenant-stockholders		400
Shares of stock of X Corporation deemed owned by governmental unit		500
Total shares of stock of X Corporation outstanding		1,000
A's proportionate share of the stock of X Corporation (100/1,000)		1/10
Expenses incurred by X Corporation:		
Real estate taxes	$4,000	
Interest	5,000	
Other	4,800	
Total		$13,800
Amount paid by A		$1,380
A's proportionate share of real estate taxes and interest based on his stock ownership (1/10 of $9,000)		$900
A's proportionate share of total corporate expenses based on his stock ownership (1/10 of $13,800)		$1,380
Amount of A's payment representing real estate taxes and interest (900/1,380 of $1,380)		$900
A's allowable deduction		$900

Since the stock which A acquired by gift was fully paid up by his donor in an amount equal to the portion of the fair market value, as of the date of the original issuance of the stock, of the corporation's equity in the land and building which is attributable to apartment No. 1, the requirement of section 216 in this regard is satisfied. The fair market value at the time of the gift of the corporation's equity attributable to the apartment is immaterial.

Example (2). The facts are the same as in example (1) except that the building constructed by the X Corporation contained, in addition to the 15 apartments, business space on the ground floor, which the corporation rented at $2,400 for the calendar year 1971. The corporation deducted the $2,400 from its expenses in determining the amount of the expenses to be prorated among its tenant-stockholders. The amount paid by A to the corporation in 1972 is $1,140 instead of $1,380. More than 80 percent of the gross income of the corporation for 1971 was derived from tenant-stockholders. A is entitled under section 216 to a deduction of $743.48 in computing his taxable income for 1972. The deduction is computed as follows:

Expenses incurred by X Corporation	$13,800.00	
Less: Rent from business space	2,400.00	
Expenses to be prorated among tenant-stockholders		$11,400.00

[FR Doc.71-3341 Filed 3-9-71;8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Banana River, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.171c is hereby revoked, effective upon publication in the FEDERAL REGISTER (3-10-71) since the area is no longer needed, as follows:

§ 207.171c Banana River at Patrick Air Force Base, Fla.; seaplane restricted area. [Revoked]

[Regs., February 18, 1971, 1522-01—Banana River, Fla.—ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-3339 Filed 3-9-71;8:49 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

EFFECTIVE DATES

1. In § 3.400, paragraph (o) is amended to read as follows:

§ 3.400 General.

* * * * * *

(o) *Increases (38 U.S.C. 3010(a); §§ 3.109, 3.156, 3.157).* Except as provided in § 3.401(b), date of receipt of claim or date entitlement arose, whichever is later. A retroactive increase or additional benefit will not be awarded after basic entitlement has been terminated, such as by severance of service connection.

* * * * * *

2. In § 3.401, paragraph (b) is amended to read as follows:

§ 3.401 Veterans.

* * * * * *

(b) *Dependent, additional compensation or pension for.* Latest of the following dates:

(1) Date of claim: This term means the following, listed in their order of applicability:

(i) Date of veteran's marriage, or birth of his child, or his adoption of a child, if the evidence of the event is received within 1 year of the event.

(ii) Date notice is received of dependent's existence, if evidence is received within 1 year of the Veterans Administration request.

(2) Date dependency arises.

(3) Date the law permits benefits for dependents generally.

(4) Date of commencement of veteran's award. (38 U.S.C. 3010(f),(n); Public Law 91-584, 84 Stat. 1575) (Other increases, see § 3.400(o). For school attendance see § 3.667.)

* * * * * *

3. In § 3.403, paragraph (c) is amended to read as follows:

§ 3.403 Children.

(c) *Posthumous child.* Date of child's birth if proof of birth is received within 1 year of that date, or if notice of the expected or actual birth meeting the requirements of an informal claim, is received within 1 year after the veteran's death; otherwise, date of claim. (38 U.S.C. 3010(n); Public Law 91-584, 84 Stat. 1575)

* * * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 24, 1970.

Approved: March 4, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-3302 Filed 3-9-71;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 6—Department of State

[Dept. Reg. 108.632]

PART 6-1—GENERAL

Miscellaneous Amendments

Correction

In F.R. Doc. 71-3021 appearing at page 4377 in the issue of Friday, March 5, 1971, the bracketed material above the part heading should read as set forth above.

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-217]

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

Radio Station Applications; Deletion of Special Filing Requirement for Alaska

Memorandum opinion and order. In the matter of amendment of Part 21 of the Commission's rules to delete the special filing requirement for applications involving radio stations in Alaska.

1. Section 21.13(a) of the Commission's rules now requires that every application for a radio station authorization under Part 21, except applications for stations located in Alaska, be submitted to the Commission's office in Washington, D.C. Paragraph (b) states that applications for authorizations under Part 21 for stations in Alaska shall be filed with the Commission's Engineer-in-Charge (EIC) in Seattle, Wash., and that the filing should include one extra copy of all such applications (§ 21.13 (d)). At the time that the foregoing provisions were adopted in 1956 the Alaska Communications System (ACS) was in existence and was operated by the Department of Defense. ACS headquarters was in Seattle, Wash., and the filing of applications with the Commission's Engineer-in-Charge in Seattle enabled ACS headquarters to keep informed in a timely fashion of the filing of such applications.

2. The ACS effectively ceased to exist when its communications assets were transferred from the U.S. Government to RCA Alaska Communications, Inc., on January 10, 1971. Since the Commission's Seattle office performed no substantive function with respect to the applications, but simply acted as a conduit to ACS headquarters, there appears to be no reason why there should be a continued requirement for the filing of Part 21 Alaska applications with the EIC in Seattle.

3. It would therefore appear to be in the public interest to make appropriate changes in § 21.13, paragraph (a), and to delete the present paragraphs (b) and (d).[1]

4. Authority for this amendment is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Since the subject amendment is procedural and relieves a restriction, compliance with the public notice and effective date requirements of 5 U.S.C. 553 is unnecessary.

5. *Accordingly, it is ordered,* That, effective March 17, 1971, Part 21 is amended as set forth below.

[1] The present paragraph (c) will be redesignated as paragraph (b).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: March 3, 1971.

Released: March 4, 1971.

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

Section 21.13 is amended to read as follows:

§ 21.13 Place of filing applications, fees, and number of copies.

(a) Every application for a radio station authorization, and all correspondence relating thereto, shall be submitted to the Commission's office at Washington, D.C. 20554. Each application shall be accompanied by the fee prescribed in Subpart G of Part 1 of this chapter.

(b) Unless otherwise specified in a particular case, or for a particular form, each application, including exhibits and attachments thereto, shall be filed in duplicate.

[FR Doc.71-3319 Filed 3-9-71;8:48 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69-7; Notice 9]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection in Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses

The purpose of this amendment to Standard No. 208, 49 CFR 571.21, is to specify occupant crash protection requirements for passenger cars, multipurpose passenger vehicles, trucks, and buses manufactured on or after January 1, 1972, with additional requirements coming into effect for certain of of those vehicles on August 15, 1973, August 15, 1975, and August 15, 1977. The requirements effective for the period beginning on January 1, 1972, were the subject of a notice of proposed rulemaking published September 25, 1970 (35 F.R. 14941), and appear today for the first time in the form of a rule. The requirements for subsequent periods were issued in rule form on November 3, 1970 (35 F.R. 16927), and are reissued today in amended form as the result of petitions for reconsideration.

The substantive rulemaking actions that preceded this amendment are as follows:

(a) May 7, 1970 (35 F.R. 7187)—Proposed requirements and a schedule for the adoption of passive restraint systems and interim active systems.

(b) September 25, 1970 (35 F.R. 14941)—Proposal for a modified interim set of requirements effective January 1, 1972.

(c) November 3, 1970 (35 F.R. 16927)—Rule amending Standard No. 208 to specify requirements for passive restraints, effective July 1, 1973.

(d) November 3, 1970 (35 F.R. 16937)—Proposed additional requirements and conditions to be contained in Standard No. 208.

Following issuance of the November 3 amendment, petitions for reconsideration were filed pursuant to § 553.35 of the procedural rules (49 CFR 553.35, 35 F.R. 5119) by Japan Automobile Manufacturers Association, Inc., American Safety Belt Council, Peugeot, Inc., American Motors Corp., Volvo, Inc., Ford Motor Co., Chrysler, Chrysler United Kingdom, Ltd., International Harvester Co., Automobile Manufacturers Association, Generol Motors Corp., Volkswagen of America, Inc., Takata Kojyo Co., Ltd., Renault, Inc., American Motors (Jeep), Rolls-Royce, Ltd., American Safety Equipment Corp., Hamill Manufacturing Co., Energy Systems Division (Olin), American Association for Automotive Medicine, Checker Motors Corp., Eaton Yale and Towne, Inc., and the American Academy of Pediatrics.

Concurrently with the evaluation of the petitions, the Administration has reviewed the comments received in response to the September 25 and November 3 proposals, and the interim occupant protection requirements are combined herein with the requirements for later periods.

The standard establishes quantitative criteria for occupant injury, as determined by use of anthropomorphic test devices. For the head, the criterion is a severity index of 1,000, calculated according to SAE Information Report J885a; for the upper thorax, it is a deceleration of 60g except for a cumulative period of not more than 3 milliseconds; and for the upper legs it is an axial force of 1,400 pounds. A fourth criterion is that the test devices must be contained by the outer surfaces of the passenger compartment.

For systems that provide complete passive protection there are three vehicle impact modes in which a vehicle is required to meet the injury criteria. In the frontal mode, the vehicle impacts a fixed collision barrier perpendicularly or at any angle up to and including 30° in either direction from the perpendicular while traveling longitudinally forward at any speed up to 30 m.p.h. In the lateral mode, the vehicle is impacted on its side by a barrier moving at 20 m.p.h. In the rollover mode, the vehicle is rolled over from a speed of 30 m.p.h.

On January 1, 1972, a passenger car will be required to provide one of three options for occupant protection: (1) Passive protection system that meets the above injury criteria in all impact modes at all seating positions; (2) lap belts at all positions, with a requirement that the front outboard positions meet the injury criteria with lap-belted dummies in a 30-m.p.h. perpendicular barrier crash; or (3) lap-and-shoulder-belt systems at the

front outboard positions that restrain test dummies in a 30-m.p.h. barrier crash without belt or anchorage failure, and lap belts in other positions.

Both the second and third options require warning systems that activate a visible and audible signal if an occupant of either front outboard position has not extended his lap belt to a specified length. Lap belts furnished under the second or third options must have emergency-locking or automatic-locking retractors at all outboard positions, front and rear. Shoulder belts furnished under the third option must have either manual adjustment or emergency-locking retractors.

On August 15, 1973, a passenger car will be required to provide one of two options for occupant protection: (1) Passive protection that meets the injury criteria in all impact modes at all seating positions; or (2) a system that provides passive protection for the front positions in a perpendicular frontal fixed barrier crash, that includes lap belts at all seating positions such that the injury criteria are met at the front positions both with and without lap belts fastened in a perpendicular frontal fixed barrier crash, and that has a seat belt warning system at the front outboard positions.

On and after August 15, 1975, a passenger car will be required to meet the injury criteria in all impact modes at all seating positions by passive means.

Multipurpose passenger vehicles and trucks with gross vehicle weight ratings of 10,000 pounds or less manufactured from January 1, 1972, to August 15, 1975, will have the option of meeting the injury criteria in all impact modes at all seating positions by passive means, or of providing a seatbelt assembly at each designated seating position. From August 15, 1975, to August 15, 1977, these vehicles will be required to meet one of the two options permitted passenger cars during the period August 15, 1973, to August 15, 1975. On and after August 15, 1977, they will be required to meet the full passive crash protection requirements that become effective for passenger cars on August 15, 1975. Forward control vehicles, however, may continue to use belt systems, and certain other specialized types of vehicles may continue to provide only head-on passive protection.

Multipurpose passenger vehicles and trucks with a GVWR of more than 10,000 pounds manufactured on or after January 1, 1972, will have the option of providing protection by passive means that meet all the crash protection requirements or of installing seat belt assemblies at all seating positions. Buses manufactured after January 1, 1972, will be required to provide one of these options for the driver's seating position.

The remainder of this preamble is separated into sections dealing with (I) the comments received in response to the September 25 proposal for the interim system, (II) the petitions for reconsideration of the November 3 rule on the requirements for later periods, and (III) the comments received and action taken pursuant to the November 3 proposal for additional requirements.

I. The September 25 proposal specified a series of options for occupant protection in passenger cars manufactured on or after January 1, 1972. Each option represented a significant advance over the level of protection afforded occupants by present seat belt systems. Upon consideration of comments requesting postponement of the requirements, it has been determined that compliance with one or another of the options by January 1, 1972, is reasonable and practicable. In response to the comments and other available information, however, certain changes have been made.

In the proposal, the first option consisted of a passive protection system that would meet the injury criteria at all seating positions in a 30 m.p.h. perpendicular frontal impact. A large number of respondents (to this notice and to others dealt with herein), both within and outside of the concerned industries, took the position that the requirements for installation of seat belts should not be dropped until the vehicles in question provided protection in angular, lateral, and rollover crash modes, in addition to the direct frontal mode. After detailed consideration of these arguments and other available data, it has been determined that the added cost of seatbelt systems is justified, even where vehicles provide passive frontal-impact protection. Accordingly, the first option, the only one under which manufacturers are allowed not to provide seat belts in their vehicles, requires a passive protection system that meets the injury criteria in all of the impact modes mentioned above.

The second option set forth in the proposal consisted of Type 1 seatbelt assemblies with a warning system at the front outboard positions and Type 1 or Type 2 assemblies at the other positions. The front outboard positions were either to meet the injury criteria in a perpendicular impact by use of the belts, or be protected by energy absorbing materials conforming to amended requirements proposed for Standards Nos. 201 and 203. The latter alternative was the subject of several adverse comments, and in the light of these comments and the tentative nature of the proposed amendments to Standards Nos. 201 and 203, the alternative has been deleted. As adopted, the option provides that the front outboard positions must meet the injury criteria in a perpendicular fixed barrier crash with the test dummies restrained by Type 1 belts only. The wording that a vehicle should have "either a Type 1 or a Type 2" seatbelt assembly under this option has been changed to refer simply to Type 1 (lap belt) assemblies. A manufacturer may at his option provide upper torso restraints, which do or do not attach to the lap belts. The essence of the second option, however, is that the vehicle be designed to provide protection with lap belts alone, in view of their much higher level of public use in comparison with lap-and-shoulder combinations. Vehicles under this option, therefore, must provide lap belts that are usable separately.

The third option proposed in the September 25 notice has been adopted with some changes. It consists of an improved combination of lap and shoulder belts in the front outboard seating positions, with lap belts in other positions. The belts and anchorages at the front outboard positions must be capable of restraining a dummy in a 30-m.p.h. frontal perpendicular impact without separation of the belts or their anchorages.

The seat belt warning system required under the second and third options has been modified somewhat in the light of the comments, to clarify the requirements and to restrict its operation to situations where the vehicle is likely to be in motion. The notice proposed that the system operate when the driver or right front passenger, or both, occupied the seat but did not fasten the belt about them. It was stated in several comments such systems operating through the buckle are relatively complex and that leadtime would be a significant problem. Upon evaluation of the comments, it has been decided to provide for warning system operation when the driver's belt is not extended to a length that will accommodate a 5th-percentile adult female, or when the right front passenger's seat is occupied and that belt is not extended far enough to fit a 50th-percentile 6-year-old. Keying the system to belt withdrawal is technologically simpler, and still provides protection against tampering. The notice had proposed that the system operate whenever the vehicle's ignition was in the "on" position. It was pointed out in the comments that situations arise in which the vehicle is at rest with the ignition on and the engine running, as when picking up or discharging passengers. To avoid the annoyance to vehicle occupants of the warning system in such situations, the standard provides that the system shall operate only if the ignition is in the "on" position and the transmission is in a drive position.

The seat belt system requirements have also been changed somewhat in response to comments. The notice had proposed to require retractors at all seating positions in those options specifying seat belts. Several comments stated that the installation of retractors at inboard positions would require extensive redesign of bench-type seats. In the light of the low occupancy rate for the center seats, the difficulties in meeting the requirement, and the short leadtime available, the requirement for center-position retractors has been omitted.

The requirement that the shoulder and pelvic restraints be releasable at a single point by a pushbutton-type action has been retained. The Administration considers that single-point release is essential to the convenient operation of the seat belts, and that standardization of the buckle release device is also important, particularly in emergency situations. However, the additional requirement for one-hand fastening by the

driver has been deleted. Adjustable bench seats would require major redesign in many cases, and it has been determined that the additional convenience afforded the driver would not be sufficient to justify the cost and leadtime problems that would result.

A number of comments noted that no dimensions were specified in the notice for the various occupants, and that there were no dimensions of this type in general use. To remedy the problem, the standard provides a table of dimensions for various sizes of adult occupants and 50th-percentile 6-year-olds. The latter set of dimensions has been adopted because of the availability of manikins at that size.

In response to several comments stating that the proposed 8-inch distance between the occupant's certerline and the intersection of the upper torso belt with the lap belt was too great, the distance has been reduced to 6 inches. It has been determined that a 6-inch distance will provide satisfactory protection and lessen the convenience problems that might be created with the greater distance.

II. With few exceptions, the petitions for reconsideration of the November 3 amendment requested that the requirement for mandatory passive protection be postponed. The length of postponement requested varied from 2 months to several years. After full consideration of the issues raised by the petitions, it has been decided to continue to require passive protection for the front seating positions of passenger cars in 1973. In order to ease the problem of model year scheduling, the date is changed from July 1, 1973, to August 15, 1973. The petitions did not offer sufficient reasons to change the Administration's position as set forth in previous notices in this docket, that passive protection systems are a vitally important step in reducing the death and injury toll on our highways, and that the relevant technology is sufficiently advanced to provide this basic protection, in accordance with the performance requirements and the time schedule that have been specified. The petitions that requested a postponement of all passive protection requirements beyond August 15, 1973, are therefore denied.

However, considerable data was presented in the petitions to the effect that the development of passive systems for the various impact modes has not proceeded at an equal rate. It appears that a number of manufacturers may be unable to comply with the lateral crash protection requirements in 1973. Accordingly, it has been decided to establish two restraint options for the front seating positions of passenger cars manufactured on or after August 15, 1973, and before August 15, 1975. A manufacturer may choose, first, to provide a passive system that meets the occupant crash protection requirements at all seating positions, in all impact modes. If he is unable to provide such full passive protection, he may choose to adopt a system that provides passive protection for the front occupants in a head-on collision, and also, includes a lap belt at each seating position with a seatbelt warning system for the front outboard positions. Under this option, the injury criteria must be met at each front position in a perpendicular barrier crash up to 30 m.p.h., both with and without the lap belts fastened. This option thus resembles the second option permitted during the interim period, except that the injury criteria must also be met with the test dummies unrestrained, and at the front center position as well as the front outboard positions.

The date on which a passenger car must provide passive means of meeting the injury criteria in a side impact is changed to August 15, 1975, to reflect the greater leadtime needed to develop such passive systems. To provide uniform phasing, and allow time for development of passive protection in the angular-impact and rollover modes, the effective date for these requirements is also set at August 15, 1975. Thus, after August 15, 1975, each passenger car must meet the crash protection requirements at each seating position in all impact modes by means that require no action by vehicle occupants.

Petitions of manufacturers of multipurpose passenger vehicles and trucks with GVWR of 10,000 pounds or less stated that the trucking industry as a whole would need additional time to assimilate the experience of passenger car manufacturers, before passive systems could be properly installed on their vehicles. The Administration has determined that additional leadtime is required for these vehicles. The standard accordingly provides that the protection required for passenger cars in 1973 will be required for multipurpose passenger vehicles and trucks with a GVWR of 10,000 pounds or less on August 15, 1975. The protection required for passenger cars on August 15, 1975, will be required of these vehicles on August 15, 1977.

The notice of proposed rulemaking published on November 3, 1970, proposed to make the passive protection requirements applicable to open-body type vehicles. Review of the comments and the petitions for reconsideration leads to the conclusion that this type of vehicle, along with convertibles, walk-in van-type vehicles, motor homes, and chassis-mount campers cannot be satisfactorily equipped with a complete passive protection system. Accordingly, the standard provides that only the head-on passive protection system required for passenger cars in 1973 will be required for each of these types on August 15, 1977, and thereafter. It has been further determined that it may not be feasible to provide passive protection in some forward control vehicles, and such vehicles are therefore permitted the option of providing seat belt assemblies at all seating positions.

A number of petitions objected to the requirement for a minimum speed below which a crash-deployed system may not deploy. Upon consideration of the petitions, it has been determined that it is preferable to allow manufacturers freedom in the design of their protective systems at all speeds, and this requirement is hereby deleted from the standard.

The injury criteria specified in the November 3 amendment were the subject of numerous petitions. The basic objections to the head injury criteria were that the 70g–3-millisecond requirement was too conservative, with respect to both acceleration levels and time factors. Review of these objections and a reevaluation of the information available to the Administration leads to the conclusion that the head injury criteria can be more appropriately based on the severity index described in the Society of Automotive Engineers Information Report J885(a), June 1966. Accordingly, the standard adopts as the criterion for head injury a severity index of 1,000 calculated by the method in the SAE report.

The severity index is based on biomechanical data derived from head injury studies and does not adapt itself readily to chest-injury usage. Several petitions stated that the chest injury criteria were set at too low a level. In some respects, a higher "g-level" on the chest actually increases the protective capabilities of the system, if properly designed, since it more effectively utilizes the available space in which the occupant can "ride down" the crash impact—an especially important factor in higher-speed crashes. Therefore, in accordance with data currently available, a chest tolerance level of 60g, except for a cumulative period of 3 milliseconds, is hereby adopted.

No data was received to support the contention of several petitioners that the upper leg load was too conservative. The maximum force level of 1,400 pounds appears well founded and is retained.

Several petitions objected to the condition that vehicles be tested at their gross vehicle weight rating. Upon review of the appropriateness of this requirement for passenger cars and a review of loading patterns on trucks, it has been decided to alter the condition to specify that passenger cars are tested at a weight that represents their unloaded vehicle weight (recently defined in the FEDERAL REGISTER of Feb. 5, 1971, 36 F.R. 2511) plus the weight of rated cargo capacity and the specified number of test devices. Trucks are to be tested at a weight that approximates a half-loaded vehicle, with the load secured in the cargo area, plus the specified number of test devices.

The use of the anthropomorphic test device described in SAE J963 was objected to by several petitioners, on the grounds that further specifications are needed to ensure repeatability of test results. The Administration finds no sufficient reason to alter its conclusion that the SAE specification is the best available. The NHTSA is sponsoring further research and examining all available data, however, with a view to issuance of further specifications for these devices.

In response to other comments with respect to test conditions, the test devices' hand positions are adjusted to reduce apparent test variability. Also, the frequency filtration criteria of SAE Recommended Practice J211 have been substituted for the filtration criteria employed in the November 3 notice.

III. The notice of proposed rulemaking issued on November 3, 1970, dealt with several aspects of the occupant protection standard for which changes contemplated by the Administration, after review of the comments to the May 7 notice, were thought to require additional opportunity for comment. These aspects included a proposed deletion of the exemption from the rollover requirements previously proposed for open-body type vehicles, the raising of the low-velocity deployment requirement from 10 to 15 m.p.h., the establishment of requirements for the lateral component of head and chest acceleration, and the amendment of the test conditions for the lateral impact and rollover requirements.

Since the subject of low speed deployment and the question of exemptions were also the subjects of petitions for reconsideration under the November 3 rule, the disposition of these matters has been noted in the preceding section. For the reasons given therein, the low-velocity deployment requirement has been omitted, and the exemptions have been expanded to include forward control vehicles, convertibles, walk-in van-type trucks, motor homes, and chassis-mount campers. These type descriptions are in general use among manufacturers to describe vehicles sharing certain well-defined characteristics. Definitions of these types of vehicles may, as found necessary in the future, be added to § 571.3 *Definitions*.

Upon review of the comments and other information available to the Administration, it has been decided that the establishment of requirements for the lateral component of head and chest acceleration is not feasible at this time. However, it is anticipated that biomechanical studies will shortly provide data regarding lateral tolerances on which a requirement can be based and that rulemaking action will thereupon resume.

The conditions proposed for the lateral impact and rollover tests have been adopted as proposed without significant change. Comments on the lateral impact test revealed no significant support for a fixed barrier collision of the type proposed in the May 7 notice, although several recommended use of the moving barrier specified in SAE Recommended Practice J972 and others requested that the height of the barrier be lowered from 65 inches to 36–38 inches as specified in SAE J972. The decision to retain the test and barrier dimensions as proposed in the November 3 notice was made after a full review of the SAE procedures.

The test as adopted is considered to afford greater repeatability than the SAE procedure, which permits a much more complex interaction between the barrier and the impacted vehicle. The height of the barrier has been retained at 65 inches so that it will test the head impact protection afforded by the vehicle when struck by a surface extending to head height. Passenger compartment intrusion of the type that might result from use of a lower barrier is the subject of a separate rulemaking action on side door strength.

Some comments suggested that the wording of the proposed procedures, that the moving barrier undergo no deformation or nonlongitudinal movement, was unduly restrictive. The wording is not, however, intended to describe an actual test, but to establish the condition that the vehicle must be capable of meeting the stated requirements no matter how small the degree of deformation or nonlongitudinal movement of the barrier. This issue, in the case of the moving barrier, is thus analogous to that in the definition of "fixed collision barrier" (35 F.R. 11242, July 14, 1970). To more clearly reflect this position and the legal similarity of the two types of barriers, the word "significant" is added to the conditions relating to movement and deformation of the barrier.

Several comments stated that the rollover test would not produce repeatable results. Although refinements may be made in the procedure before the date on which rollover protection becomes mandatory, the Administration has determined that the test as adopted is more satisfactory than any other suggested thus far. The kinematics of a rollover type accident are such that variability in vehicle behavior may often be more visible than in other test procedures.

A number of other minor issues were raised by the petitions, and each has been carefully evaluated by the Administration. With respect to those objections and suggestions not specifically mentioned elsewhere in this notice, the petitions are hereby denied.

In light of the foregoing, Motor Vehicle Safety Standard No. 208 in § 571.21 of Title 49, Code of Federal Regulations, is amended to read as follows, with effective dates as specified in the text of the standard. This amendment is issued under the authority of sections 103, 108, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1347, 1401, 1403, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on March 3, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

§ 571.21 **Federal Motor Vehicle Safety Standards.**

* * * * *

MOTOR VEHICLE SAFETY STANDARD NO. 208

OCCUPANT CRASH PROTECTION

S1. *Scope.* This standard specifies performance requirements for the protection of vehicle occupants in crashes.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths of vehicle occupants, and the severity of injuries, by specifying vehicle crashworthiness requirements in terms of forces and accelerations measured on anthropomorphic dummies in test crashes, and by specifying equipment requirements for active and passive restraint systems.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S4. *General requirements.*

S4.1 *Passenger cars.*

S4.1.1 *Passenger cars manufactured from January 1, 1972, to August 14, 1973.* Each passenger car manufactured from January 1, 1972, to August 14, 1973, inclusive, shall meet the requirements of S4.1.1.1, S4.1.1.2, or S4.1.1.3. A protection system that meets the requirements of S4.1.1.1 or S4.1.1.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.1.3.

S4.1.1.1 *First option—complete passive protection system.* The vehicle shall meet the crash protection requirements of S5 by means that require no action by vehicle occupants.

S4.1.1.2 *Second option—lap belt protection system with belt warning.* The vehicle shall—

(a) At each designated seating position, have a Type 1 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard;

(b) At each front outboard designated seating position, have a seat belt warning system that conforms to S7.3; and

(c) Meet the frontal crash protection requirements of S5.1, in a perpendicular impact, with respect to anthropomorphic test devices in each front outboard designated seating position restrained only by Type 1 seat belt assemblies.

S4.1.1.3 *Third option—lap and shoulder belt protection system with belt warning.*

S4.1.1.3.1 Except for convertibles and open-body vehicles, the vehicle shall—

(a) At each front outboard designated seating position have a Type 2 seatbelt assembly that conforms to Standard No. 209 and S7.1 and S7.2 of this standard, with either an integral or detachable upper torso portion, and a seatbelt warning system that conforms to S7.3;

(b) At each designated seating position other than the front outboard positions, have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard; and

(c) When it perpendicularly impacts a fixed collision barrier, while moving longitudinally forward at any speed up to and including 30 m.p.h., under the test conditions of S8.1 with anthropomorphic test devices at each front outboard position restrained by Type 2 seatbelt assemblies, experience no complete separation of any load-bearing element of a seatbelt assembly or anchorage.

S4.1.1.3.2 Convertibles and open-body type vehicles shall at each designated seating position have a Type 1 or Type 2 seatbelt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard, and at each front outboard designated seating position have a

sealtbelt warning system that conforms to S7.3.

S4.1.2 *Passenger cars manufactured from August 15, 1973 to August 14, 1975.* Passenger cars manufactured from August 15, 1973, to August 14, 1975, inclusive, shall meet the requirements of S4.1.2.1 or S4.1.2.2. A protection system that meets the requirements of S4.1.2.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.2.

S4.1.2.1 *First option—complete passive protection system.* The vehicle shall meet the crash protection requirements of S5 by means that require no action by vehicle occupants.

S4.1.2.2 *Second option—head-on passive protection system.* The vehicle shall—

(a) At each designated seating position, have a Type 1 seatbelt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard;

(b) At each front designated seating position, meet the frontal crash protection requirements of S5.1, in a perpendicular impact, by means that require no action by vehicle occupants;

(c) At each front designated seating position, meet the frontal crash protection requirements of S5.1, in a perpendicular impact, with a test device restrained by a Type 1 seatbelt assembly; and

(d) At each front outboard designated seating position, have a seatbelt warning system that conforms to S7.3.

S4.1.3 *Passenger cars manufactured on or after August 15, 1975.* Each passenger car manufactured on or after August 15, 1975, shall meet the occupant crash protection requirements of S5 by means that require no action by vehicle occupants.

S4.2 *Trucks and multipurpose passenger vehicles with GVWR of 10,000 pounds or less.*

S4.2.1 *Trucks and multipurpose passenger vehicles, with GVWR of 10,000 pounds or less, manufactured from January 1, 1972, to August 14, 1975.* Each truck and multipurpose passenger vehicle with a gross vehicle weight rating of 10,000 pounds or less, manufactured from January 1, 1972, to August 14, 1975, inclusive, shall meet the requirements of S4.2.1.1 or S4.2.1.2. A protection system that meets the requirements of S4.2.1.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.2.1.2.

S4.2.1.1 *First option—complete passive protection system.* The vehicle shall meet the crash protection requirements of S5 by means that require no action by vehicle occupants.

S4.2.1.2 *Second option—belt system.* The vehicle shall have seat belt assemblies that conform to Standard 209 installed as follows:

(a) A Type 1 or Type 2 seat belt assembly shall be installed for each designated seating position in convertibles, open-body type vehicles, and walk-in van-type trucks.

(b) In all vehicles except those for which requirements are specified in S4.2.1.2(a), a Type 2 seat belt assembly shall be installed for each outboard designated seating position that includes the windshield header within the head impact area, and a Type 1 or Type 2 seat belt assembly shall be installed for each other designated seating position.

S4.2.2 *Trucks and multipurpose passenger vehicles, with GVWR of 10,000 pounds or less, manufactured from August 15, 1975, to August 14, 1977.* Each truck and multipurpose passenger vehicle, with a gross vehicle weight rating of 10,000 pounds or less, manufactured from August 15, 1975, to August 14, 1977, inclusive, shall meet the requirements of S4.1.2 (as specified for passenger cars), except that forward control vehicles, convertibles, open-body type vehicles, walk-in van-type trucks, motor homes, and vehicles carrying chassis-mount campers may instead meet the requirements of S4.2.1.2.

S4.2.3 *Trucks and multipurpose passenger vehicles, with GVWR of 10,000 pounds or less, manufactured on or after August 15, 1977.* Each truck and multipurpose passenger vehicle, with a gross vehicle weight rating of 10,000 pounds or less, manufactured on or after August 15, 1977, shall meet the occupant crash protection requirements of S5 by means that require no action by vehicle occupants, except that forward control vehicles may instead meet the requirements of S4.2.1.2, and convertibles, open-body vehicles, walk-in van-type trucks, motor homes, and vehicles carrying chassis-mount campers may instead meet the requirements of S4.1.2.2.

S4.3 *Trucks and multipurpose passenger vehicles, with GVWR of more than 10,000 pounds.* Each truck and multipurpose passenger vehicle, with a gross vehicle weight rating of more than 10,000 pounds, manufactured on or after January 1, 1972, shall meet the requirements of S4.3.1 or S4.3.2. A protection system that meets the requirements of S4.3.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.3.2.

S4.3.1 *First option—complete passive protection system.* The vehicle shall meet the crash protecton requirements of S5 by means that require no action by vehicle occupants.

S4.3.2 *Second option—belt system.* The vehicle shall, at each designated seating position, have either a Type 1 or a Type 2 seat belt assembly that conforms to Standard No. 209,

S4.4 *Buses.* Each bus manufactured on or after January 1, 1972, shall meet the requirements of S4.4.1 or S4.4.2.

S4.4.1 *First option—complete passive protection system—driver only.* The vehicle shall meet the crash protection requirements of S5, with respect to an anthropomorphic test device in the driver's designated seating position, by means that require no action by vehicle occupants.

S4.4.2 *Second option—belt system—driver only.* The vehicle shall, at the driver's designated seating position, have either a Type 1 or a Type 2 seatbelt assembly that conforms to Standard No. 209.

S4.5 *Other general requirements.*

S4.5.1. *Labeling and driver's manual information.* Each vehicle shall have a label setting forth the manufacturer's recommended schedule, specified by month and year, for the maintenance or replacement, necessary to retain the performance required by this standard, of any crash-deployed occupant protection system. The label shall be permanently affixed to the vehicle within the passenger compartment and lettered in English in block capitals and numerals not less than three thirty-seconds of an inch high. Instructions concerning maintenance or replacement of the system and a description of the functional operation of the system shall be provided with each vehicle, with an appropriate reference on the label. If a vehicle owner's manual is provided, this information shall be included in the manual.

S4.5.2 *Readiness indicator.* An occupant protection system that deploys in the event of a crash shall have a monitoring system with a readiness indicator. The system components monitored shall include all electrical circuits and compressed gases, if present. The indicator shall monitor its own readiness and shall be clearly visible from the driver's designated seating position. A list of the elements of the system being monitored by the indicator shall be included with the information furnished in accordance with S4.5.1, but need not be included on the label.

S5. *Occupant crash protection requirements.*

S5.1 *Frontal barrier crash.* When the vehicle, traveling longitudinally forward at any speed up to and including 30 m.p.h., impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30° in either direction from the perpendicular to the line of travel of the vehicle, under the applicable conditions of S8, with anthropomorphic test devices at each designated seating position, it shall meet the injury criteria of S6.

S5.2 *Lateral moving barrier crash.* When the vehicle is impacted laterally on either side by a barrier moving at 20 m.p.h., with test devices at the outboard designated seating positions adjacent to the impacted side, under the applicable conditions of S8, it shall meet the injury criteria of S6.

S5.3 *Rollover.* When the vehicle is subjected to a rollover test in either lateral direction at 30 m.p.h. with test devices in the outboard designated seating positions on its lower side as mounted on the test platform, under the applicable conditions of S8, it shall meet the injury criteria of S6.1.

S.6 *Injury criteria.*

S6.1 All portions of the test device shall be contained within the outer surfaces of the vehicle passenger compartment throughout the test.

S6.2 The resultant acceleration at the center of gravity of the head shall not

exceed a severity index of 1,000, calculated by the method described in SAE Information Report J885a, October 1966.

S6.3 The resultant accleration at the center of gravity of the upper thorax shall not exceed 60g, except for intervals whose cumulative duration is not more than 3 milliseconds.

S6.4 The force transmitted axially through each upper leg shall not exceed 1,400 pounds.

S7. *Seat belt assembly requirements—passenger cars.*

S7.1 *Adjustment.*

S7.1.1 Except as specified in S7.1.1.1, S7.1.1.2, and S7.1.1.3, any seat belt assembly furnished in accordance with S4.1.1. or S4.1.2 shall adjust to fit persons whose dimensions range from those of a 50th-percentile 6-year-old child to those of a 95th-percentile adult male, with the seat in any position and the seat back in the manufacturer's nominal design riding position, and shall adjust by means of an emergency-locking retractor or an automatic-locking retractor that conforms to Standard No. 209.

S7.1.1.1 A seat belt assembly installed at the driver's seating position shall adjust to fit persons whose dimensions range from those of a 5th-percentile adult female to those of a 95th-percentile adult male.

S7.1.1.2 A seat belt assembly installed at any designated seating position other than the outboard positions shall adjust either by a retractor as specified in S7.1.1 or by a manual adjusting device that conforms to Standard No. 209.

S7.1.1.3 The upper torso portion of a seat belt assembly shall adjust either by an emergency-locking retractor as specified in S7.1.1 or by a manual adjusting device that conforms to Standard No. 209.

S7.1.2 The intersection of the upper torso belt with the lap belt in any Type 2 seatbelt assembly furnished in accordance with S4.1.1 or S4.1.2, adjusted in accordance with the manufacturer's instructions, shall be at least 6 inches from the front vertical centerline of a 50th-percentile adult male occupant, measured along the centerline of the lap belt, with the seat in its rearmost and lowest adjustable position and with the seat back in the manufacturer's nominal design riding position.

S7.1.3 The weights and dimensions of the vehicle occupants specified in this standard are as follows:

	50th-percentile 6-year old child	5th-percentile adult female	50th-percentile adult male	95th-percentile adult male
Weight	47.3 pounds	102 pounds	164 pounds	215 pounds.
Erect sitting height	25.4 inches	30.9 inches	35.7 inches	38 inches.
Hip breadth (sitting)	8.4 inches	12.8 inches	14.5 inches	16.4 inches.
Hip circumference (sitting)	23.9 inches	36.4 inches	42 inches	47.2 inches.
Waist circumference (sitting)	20.8 inches	23.6 inches	33 inches	42.5 inches.
Chest depth		7.5 inches	9 inches	10.5 inches.
Chest circumference:				
(nipple)		30.5 inches	37.7 inches	44.5 inches.
(upper)		29.8 inches		
(lower)		26.6 inches		

S7.2 *Latch mechanism.* A seat belt assembly installed in a passenger car shall have a latch mechanism—

(a) Whose components are accessible to a seated occupant in both the stowed and operational positions;

(b) That releases both the upper torso restraint and the lap belt simultaneously, if the assembly has an upper torso restraint that requires unlatching for release of the occupant; and

(c) That releases at a single point by a pushbutton action.

S7.3 *Seat belt warning system.*

S7.3.1 Seat belt assemblies provided at the front outboard seating positions in accordance with S4.1.1 or S4.1.2 shall have a warning system that activates a continuous or intermittent audible signal and a continuous or flashing warning light, visible to the driver, displaying the words "Fasten seat belts" when and only when condition (a), and either of conditions (b) or (c), exist simultaneously:

(a) The vehicle ignition switch is in the "on" position and the transmission gear selector is in any forward or reverse position.

(b) The pelvic restraint portion of the driver's seat belt assembly is not extended at least to the degree necessary to fit a 5th-percentile adult female, when the seat is in the rearmost and lowest adjustment position.

(c) A person of at least the weight of a 50th-percentile 6-year-old child is seated in the right front designated seating position and the pelvic restraint portion of the seat belt assembly for that position is not extended at least to the degree necessary to fit such a person, when the seat is in the rearmost and lowest adjustment position.

S8. *Test conditions.*

S8.1 *General conditions.* The following conditions apply to the frontal, lateral, and rollover tests.

S8.1.1 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) *Passenger cars.* A passenger car is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus the weight of the necessary anthropomorphic test devices.

(b) *Multipurpose passenger vehicles, trucks, and buses.* A multipurpose passenger vehicle, truck, or bus is loaded to its unloaded vehicle weight plus 50 percent of the difference between its unloaded vehicle weight and its gross vehicle weight rating, secured in the load carrying area and distributed as nearly as possible in proportion to its gross axle weight ratings, plus the weight of the necessary anthropomorphic test devices.

S8.1.2 Adjustable seats are in the adjustment position midway between the forwardmost and rearmost positions, and if separately adjustable in a vertical direction, are at the lowest position.

S8.1.3 Adjustable seat backs are in the manufacturer's nominal design riding position.

S8.1.4 Adjustable steering controls are adjusted so that the steering wheel hub is at the geometric center of the locus it describes when it is moved through its full range of driving positions.

S8.1.5 Movable vehicle windows and vents are in the fully closed position.

S8.1.6 Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

S8.1.7 Doors are fully closed and latched but not locked.

S8.1.8 Anthropomorphic test devices conform to the requirements of SAE Recommended Practice J963, June 1968, and have a pelvic structure that conforms to Figure 1. The weights, dimensions and centers of gravity specified in SAE J963 for the test device segments are determined with all instrumentation in place.

S8.1.9 Each test device is clothed in form-fitting cotton stretch garments.

S8.1.10 Limb joints are set at 1g, barely restraining the weight of the limb when extended horizontally. Leg joints are adjusted with the torso in the supine position. Articulated head, neck, and torso joints do not move at a horizontal acceleration load of 1g, in the test position, but move at a horizontal acceleration load of 2g.

S8.1.11 Each test device is firmly placed in a designated seating position in the following manner.

(a) The head is aligned by placing the test device on its back on a rigid, level surface and by adjusting the head so that it touches the level surface and is laterally centered with respect to the device's axis of symmetry.

(b) The test device is placed in the vehicle in the normal upright sitting posture, and a rigid roller, 6 inches in diameter and 24 inches long, is placed transversely as low as possible against the front of the torso.

(c) The roller is pressed horizontally against the torso with a force of 50 pounds.

(d) Force is applied at the shoulder level to bend the torso forward over the roller, flexing the lower back, and to return the test device to the upright sitting posture.

(e) The roller is slowly released.

S8.1.12 Except as otherwise herein specified, the test devices are not restrained during impacts by any means that require occupant action.

S8.1.13 The hands of the test device in the driver's designated seating position are on the steering wheel rim at the horizontal centerline. The right foot is at 90° to the tibia and rests on the brake pedal with the longitudinal axis of the tibia directed at the geometric center of the brake pedal pad. The left leg is placed as in S8.1.14.

S8.1.14 The hands of each other test device are resting on the seat with the palms touching the legs, and the upper arms are resting against the seat back and flush with the body. Where possible, the legs are outstretched, with the thighs on the seat and the heels touching the floor with the foot at 90° to the tibia. Otherwise, the tibia are vertical with the feet resting on the floor. The left leg of

a test device in the center front designated seating position is on the vehicle centerline, and the right leg is in the right footwell. The left and right legs of a test device in the center rear designated seating position are in the left and right footwells, respectively.

S8.1.15 A load sensing device is installed in each upper leg, 4.25 inches from the knee's axis of rotation, so that all force transmitted from the knee to the upper leg is measured.

S8.1.16 Acceleration sensing devices are installed in each test device to measure orthogonal accelerations at the centers of gravity of the head and upper thorax.

S8.1.17 The output of acceleration and load sensing devices is recorded in individual data channels that conform to the requirements of SAE Recommended Practice J211, October 1970, with channel classes as follows:

(a) Head acceleration—1,000 Hz.

(b) Upper thorax acceleration—180 Hz.

(c) Upper leg force—600 Hz.

S8.1.18 The sensing devices are rigidly attached to the test devices by mountings that have no resonance frequency within the frequency-range of the specified channel class.

S8.1.19 Instrumentation does not affect the motion of test devices during impact or rollover.

S8.2 *Lateral moving barrier crash test conditions.* The following conditions apply to the lateral moving barrier crash test.

S8.2.1 The moving barrier, including the impact surface, supporting structure, and carriage, weighs 4,000 pounds.

S8.2.2 The impact surface of the barrier is a vertical, rigid, flat rectangle, 78 inches wide and 60 inches high, perpendicular to its direction of movement, with its lower edge horizontal and 5 inches above the ground surface.

S8.2.3 During the entire impact sequence the barrier undergoes no significant amount of dynamic or static deformation, and absorbs no significant portion of the energy resulting from the impact, except for energy that results in translational rebound movement of the barrier.

S8.2.4 During the entire impact sequence the barrier is guided so that it travels in a straight line, with no significant lateral, vertical or rotational movement.

S8.2.5 The concrete surface upon which the vehicle is tested is level, rigid and of uniform construction, with a skid number of 75 when measured in accordance with American Society for Testing and Materials Method E-274-65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

S8.2.6 The tested vehicle's brakes are disengaged and the transmission is in neutral.

S8.2.7 The barrier and the test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude;

(b) The barrier is traveling in a direction perpendicular to the longitudinal axis of the vehicle at 20 m.p.h.; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface passes through the driver's seating reference point in the tested vehicle.

S8.3 *Rollover test conditions.* The following conditions apply to the rollover test.

S8.3.1 The tested vehicle's brakes are disengaged and the transmission is in neutral.

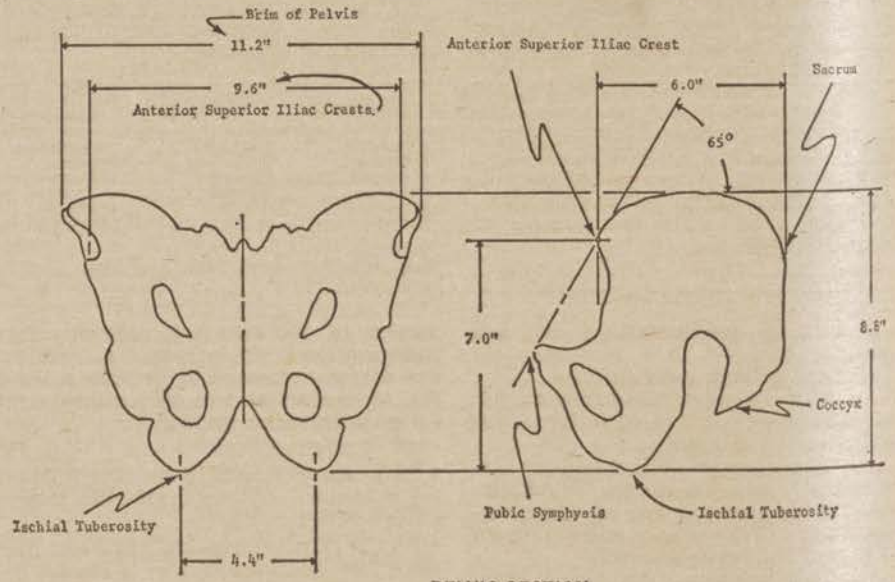
S8.3.2 The concrete surface on which the test is conducted is level, rigid, of uniform construction, and of a sufficient size that the vehicle remains on it throughout the entire rollover cycle. It has a skid number of 75 when measured in accordance with American Society of Testing and Materials Method E-274-65T at 40 m.p.h. omitting water delivery as specified in paragraph 7.1 of that method.

S8.3.3 The vehicle is placed on a device, similar to that illustrated in Figure 2, having a platform in the form of a flat, rigid plane at an angle of 23° from the horizontal. At the lower edge of the platform is an unyielding flange, perpendicular to the platform with a height of 4 inches and a length sufficient to hold in place the tires that rest against it. The intersection of the inner face of the flange with the upper face of the platform is 9 inches above the rollover surface. No other restraints are used to hold the vehicle in position during the deceleration of the platform and the departure of the vehicle.

S8.3.4 With the vehicle on the test platform, the test devices remain as nearly as possible in the posture specified in S8.1.

S8.3.5 Before the deceleration pulse, the platform is moving horizontally, and perpendicularly to the longitudinal axis of the vehicle, at a constant speed of 30 m.p.h. for a sufficient period of time for the vehicle to become motionless relative to the platform.

S8.3.6 The platform is decelerated from 30 to 0 m.p.h. in a distance of not more than 3 feet, without change of direction and without transverse or rotational movement during the deceleration of the platform and the departure of the vehicle. The deceleration rate is at least 20g for a minimum of 0.04 seconds.



PELVIC SECTION

50TH PERCENTILE MALE ANTHROPOMORPHIC TEST DEVICE

FIGURE I

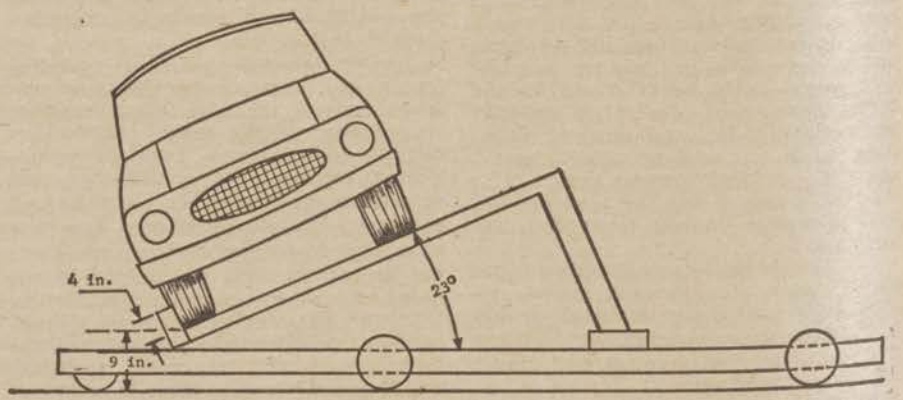


FIGURE 2 - TYPICAL DEVICE FOR ROLLOVER TEST

[FR Doc.71-3258 Filed 3-9-71;8:45 am]

[Docket No. 69-23; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seat Belt Assemblies in Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses

This notice amends Federal Motor Vehicle Safety Standard No. 209 in § 571.21 of Title 49 of the Code of Federal Regulations, to upgrade the requirements for seatbelt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses. As amended, the standard is both an equipment and a vehicle standard. The equipment aspect applies to a seatbelt assembly manufactured on or after the effective date. The vehicle aspect applies to an assembly installed in a vehicle manufactured on or after the effective date, regardless of when the assembly was manufactured.

During the period since the original issuance of Standard No. 209, laboratory tests and experience with actual seatbelt usage have disclosed areas where improvements in performance requirements are necessary. Consequently, a notice of proposed amendments to the standard was published on March 17, 1970 (35 F.R. 4641) to upgrade the performance requirements for seatbelt assemblies. Interested persons were given an opportunity to comment on the contents of the proposed rule. These comments, and other available data, have been carefully considered in the development of these amendments.

Paragraph (S4.1(f)) of the standard is amended to make it clear that a manufacturer may use bolts other than the specified bolts if the substituted bolts are equivalent.

The standard formerly required a Type 1 or Type 2 seatbelt assembly to be adjustable to fit an occupant with the weight and dimensions of a 95th-percentile adult male. To insure that belt assemblies can be adjusted to fit the range of occupants who may use them, paragraph S4.1(g) is amended to require each Type 1 or Type 2 seatbelt assembly to be adjustable to fit occupants whose weight and dimensions range from those of a 5th-percentile adult female to those of a 95th-percentile adult male. A belt assembly installed for an adjustable seat must conform to the requirements regardless of seat position. Several comments noted that no dimensions were specified in the notice for the various occupants which a belt assembly must fit. To remedy the problem, the standard provides a table of weights and dimensions for 5th-percentile adult females and 95th-percentile adult males.

In the notice, it was proposed to reduce the force required to release seat belt buckles from 30 to 22.5 pounds and to require that the release force for pushbutton-type buckles be applied no closer than 0.125 inch from the edge of the pushbutton access opening. In light of comments received, and other available information, the value of 30 pounds has been retained. The procedure for testing the buckle release force of a pushbutton-type buckle has been amended as proposed, however, to insure that the release force will not be applied so close to the edge of the access opening that the button might tilt in a manner unrepresentative of actual use conditions and thereby exaggerate the release force.

The buckle crush release requirements are amended to extend the standard's crush release requirements to all Type 1 and Type 2 seatbelt buckles, and to require application of the test load to areas of a buckle other than directly over the center of the release mechanism. Experience has indicated that non-push-button buckle release mechanisms are also subject to impairment when compressed, and occupants using such buckles are therefore provided equivalent protection by the extension of the buckle crush release requirements. In laboratory tests on pushbutton-type buckles, buckle release or malfunction occurred when a compressive force as low as 275 pounds was applied to a surface area other than the area directly over the pushbutton. The amended test will tend to eliminate buckle designs that are prone to accidental damage, or that release during the initial phase of the accident.

The notice proposed a new buckle latch test procedure in which a specified tensile load was to be applied at 30° to the buckle. In the light of comments received and other information that has become available indicating that the requirement was not justified, the procedure has not been adopted.

In response to comments that the acceleration levels proposed in the notice were too high, the acceleration level above which an emergency-locking retractor must lock has been reduced from 2g, as proposed, to 0.7g, and the acceleration level below which the retractor must not lock has been reduced from 1g to 0.3g. For reasons of occupant convenience, the notice proposed that the required upper limit on acceleration had to be met only when the webbing was extended to the length necessary to fit a 5th-percentile adult female. Upon review it has been determined that the proposed free travel distance could make a belt unsafe for use by a child, and, further, that an adequate measure of convenience is provided by the requirement that a belt not lock at accelerations of less than 0.3g. Accordingly, the standard does not limit the belt withdrawal range within which the acceleration levels must be met. For similar reasons, the retraction force requirements are required to be met regardless of the amount of belt withdrawal.

As stated in the notice, the hex-bar abrasion test does not adequately simulate the type of webbing abrasion caused by some buckles. The standard as amended retains the hex-bar test, but supplements it with an additional abrasion requirement, under which webbing is required to retain at least 75 percent of its breaking strength after being repeatedly passed through the assembly buckle or manual adjustment device.

Effective date: September 1, 1971.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 209 in § 571.21 of Title 49, Code of Federal Regulations, is amended as set forth below. This amendment is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1407 and the delegation of authority at 49 CFR 1.51.

Issued on March 3, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

I. Paragraph S2. is revised as follows:

S2. *Application.*

This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses and to seat belt assemblies for use in those types of vehicles.

II. Subparagraphs (f) and (g) of paragraph S4.1 are revised as follows:

(f) *Attachment hardware.* A seat belt assembly shall include all hardware necessary for installation in a motor vehicle in accordance with SAE Recommended Practice J800B, Motor Vehicle Seat Belt Installations, September 1965. However, seat belt assemblies designed for installation in motor vehicles equipped with seat belt assembly anchorages that conform to Federal Motor Vehicle Safety Standard No. 210 and that do not require anchorage nuts, plates, or washers, need not have such hardware, but shall have 7/16 –20 UNF—2A or ½–13 UNC—2A attachment bolts or equivalent hardware. The hardware shall be designed to prevent attachment bolts and other parts from becoming disengaged from the vehicle while in service. Reinforcing plates or washers furnished for universal floor installations shall be of steel, free from burrs and sharp edges on the peripheral edges adjacent to the vehicle, at least 0.6 inch in thickness and at least 4 square inches in projected area. The distance between any edge of the plate and the edge of the bolt hole shall be at least 0.6 inch. Any corner shall be rounded to a radius of not less than 0.25 inch or cut so that no corner angle is less than 135° and no side is less than 0.25 inch in length.

(g) *Adjustment.* (1) A Type 1 or Type 2 seat belt assembly shall be capable of adjustment to fit occupants whose dimensions and weight range from those of a 5th-percentile adult female to those of a 95th-percentile adult male. The seat belt assembly shall have either an automatic-locking retractor, an emergency-locking retractor, or an adjusting device that is within the reach of the occupant. A Type 3 seat belt assembly shall be capable of adjustment to fit any child capable of sitting upright and weighing not more than 50 pounds, unless it is specifically labeled for use on a child in a smaller weight range.

(2) A Type 1 or Type 2 seat belt assembly for use in a vehicle having seats that are adjustable shall conform to the requirements of S4.1(g)(1) regardless of seat position. However, if a seat has a back that is separately adjustable, the requirements of S4.1(g)(1) need be met only with the seat back in the manufacturer's nominal design riding position.

(3) The adult occupants referred to in S4.1(g)(1) shall have the following measurements:

	5th-percentile adult female	95th-percentile adult male
Weight	102 pounds	215 pounds.
Erect sitting height	30.9 inches	38 inches.
Hip breadth (sitting)	12.8 inches	16.4 inches.
Hip circumference (sitting).	36.4 inches	47.2 inches.
Waist circumference (sitting).	23.6 inches	42.5 inches.
Chest depth	7.5 inches	10.5 inches.
Chest circumference:		
(nipple)	30.5 inches	44.5 inches.
(upper)	29.8 inches	
(lower)	26.6 inches	

III. Subparagraph (d) and (j) of paragraph S4.3 are revised as follows:

(d) *Buckle release.* * * *

(3) The buckle of a Type 1 or Type 2 seat belt assembly shall not release under a compressive force of 400 pounds applied as prescribed in paragraph S5.2(d)(3). The buckle shall be operable and shall meet the applicable requirements of paragraph S4.4 after the compressive force has been removed.

* * * * *

(j) *Emergency-locking retractor.* An emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)—

(i) Shall lock before the webbing extends 1 inch when the retractor is subjected to an acceleration of 0.7g;

(ii) Shall not lock when the retractor is subjected to an acceleration of 0.3g or less.

(iii) Shall exert a retractive force of at least 1.5 pounds under zero acceleration when attached to a pelvic restraint; and

(iv) Shall exert a retractive force of not less than 0.45 pound and not more than 1.1 pounds under zero acceleration upon any strap or webbing that contacts the shoulder when the retractor is attached to an upper torso restraint.

IV. Paragraph S4.2(d) is revised to read as follows:

(d) *Resistance to abrasion.* The webbing of a seatbelt assembly, after being subjected to abrasion as specified in either S5.1(d) or S5.3(d), shall have a breaking strength of not less than 75 percent of the breaking strength listed in S4.2(b) for that type of belt assembly.

V. Subsections (1) and (3) of subparagraph (d) and subparagraph (j) of paragraph S5.2 are revised as follows:

(d) *Buckle release.* (1) Three seatbelt assemblies shall be tested to determine compliance with the maximum buckle release force requirements, following the assembly test in S5.3. After subjection to the force applicable for the assembly being tested, the force shall be reduced and maintained at 150 pounds on the assembly loop of a Type 1 seatbelt assembly, 75 pounds on the components of a Type 2 seatbelt assembly, or 45 pounds on a Type 3 seatbelt assembly. The buckle release force shall be measured by applying a force on the buckle in a manner and direction typical of those which would be employed by a seatbelt occupant. For pushbutton-release buckles, the force shall be applied at least 0.125 inch from the edge of the pushbutton access opening of the buckle in a direction that produces maximum releasing effect. For lever-release buckles, the force shall be applied on the centerline of the buckle level or finger tab in a direction that produces maximum releasing effect.

* * * * *

(3) The buckle of a Type 1 or Type 2 seatbelt assembly shall be subjected to a compressive force of 400 pounds applied anywhere on a test line that is coincident with the centerline of the belt extended through the buckle or on any line that extends over the center of the release mechanism and intersects the extended centerline of the belt at an angle of 60°. The load shall be applied by using a curved cylindrical bar having a cross section diameter of 0.75 inch and a radius of curvature of 6 inches, placed with its longitudinal centerline along the test line and its center directly above the point on the buckle to which the load will be applied. The buckle shall be latched, and a tensile force of 75 pounds shall be applied to the connected webbing during the application of the compressive force. Buckles from three seatbelt assemblies shall be tested to determine compliance with paragraph S4.3(d)(3).

* * * * *

(j) *Emergency-locking retractor.* A retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within plus or minus 2 inches of 75 percent extension shall be determined. The retractor shall be subjected to an acceleration of 0.3g within a period of 50 milliseconds while the webbing is a 75 percent extension, to determine compliance with S4.3(j)(1(ii). The retractor shall be subjected to an acceleration of 0.7g within a period of 50 milliseconds, while the webbing is a 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing retraction while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane. For a retractor sensitive to vehicle acceleration, the retractor shall be accelerated in three directions normal to each other while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane.

VI. Paragraph S5.3 is revised by adding the following new subparagraph:

(d) *Resistance to buckle abrasion.* Seatbelt assemblies shall be tested for resistance to abrasion by each buckle or manual adjusting device normally used to adjust the size of the assembly. The webbing of the assembly to be used in this test shall be exposed for 4 hours to an atmosphere having relative humidity of 65 percent and temperature of 70° F. The webbing shall be pulled back and forth through the buckle or manual adjusting device as shown schematically in Figure 9. The anchor end of the webbing (A) shall be attached to a weight (B) of 3 pounds. The webbing shall pass through the buckle (C), and the other end (D) shall be attached to a reciprocating device so that the webbing forms an angle of 8° with the hinge stop (E). The reciprocating device shall be operated for 2,500 cycles at a rate of 18 cycles per minute with a stroke length of inches. The abraded webbing shall be tested for breaking strength by the procedure described in paragraph S5.1(b).

VII. The following new Figure 9 is added at the end of the standard.

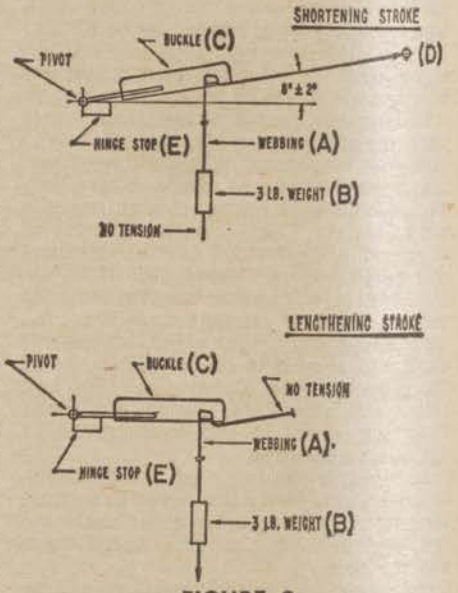


FIGURE 9

[FR Doc.71-3257 Filed 3-9-71;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Muscatatuck National Wildlife Refuge, Ind.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (3-10-71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

INDIANA

MASCATATUCK NATIONAL WILDLIFE REFUGE

Sport fishing on the Muscatatuck National Wildlife Refuge, Seymour, Ind., is permitted only on the areas designated by signs as open to fishing. These open areas comprising 160 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building,

Fort Snelling, Minneapolis, MN 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge shall extend from April 15, 1971, to October 1, 1971, daylight hours only.

(2) Winter fishing through the ice will be permitted on designated areas when it has been determined to be safe and announced by the Refuge Manager.

(3) The use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through October 1, 1971.

CHARLES E. SCHEFFE,
Refuge Manager, Muscatatuck National Wildlife Refuge, Seymour, Ind.

FEBRUARY 22, 1971.

[FR Doc.71-3299 Filed 3-9-71;8:46 am]

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

PART 260—INSPECTION AND CERTIFICATION

Changes in Approved Identification

MARCH 2, 1971.

In the interest of time, this amendment revises only those provisions relating to approved identification contained in Part 260—Inspection and Certification, of Subchapter G—Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products.

This revision is necessary in order to reflect the transfer of fishery standards development and inspection functions, performed under the authority of title II of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), from the Department of the Interior to the Department of Commerce. This transfer was effected by Reorganization Plan No. 4 of 1970 (35 F.R. 15627), which, among other things, abolished the Bureau of Commercial Fisheries in the Department of the Interior, and transferred its functions, including the fishery inspection function dealt with in these regulations, to the Department of Commerce.

Further revisions of other provisions of these regulations will be forthcoming shortly, reflecting the transfer of functions outlined above. However, in recognition of the necessity to provide effective and uninterrupted services to the fish processing industry and to the public, it was determined to proceed immediately with the revision of the approved identification provision. For these reasons and in light of the fact that the changes are technical in nature, notice and public procedure thereon are impracticable, unnecessary, and would be contrary to the public interest.

The amendments are as follows: Section 260.86 is hereby revised (including a new paragraph (f)) to read as follows:

§ 260.86 Approved identification.

(a) Grade marks: The approved grade mark or identification may be used on containers, labels, or otherwise indicated for any processed product that (1) has been packed under inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such grade, quality or classification. The grade marks approved for use shall be similar in form and design to the examples of Figures 1 to 5 of this section.

Shield using red, white, and blue background or other colors appropriate for label.

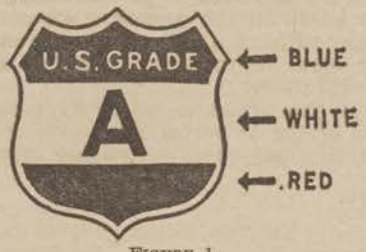


FIGURE 1.

Shield with plain background.

FIGURE 2.

U.S. GRADE A

FIGURE 3.

U.S.
GRADE
B

FIGURE 4.

U.S.
GRADE
C

FIGURE 5.

(b) Inspection marks: The approved inspection marks may be used on containers, labels, or otherwise indicated for any processed product that (1) has been packed under inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such quality or grade classification as may be approved by the Secretary. The inspection marks approved for use shall be similar in form and design to the examples in Figures 6, 7, and 8 of this section.

Statement enclosed within a circle.

FIGURE 6.

Statement without the use of the circle.

PACKED UNDER
FEDERAL
INSPECTION

U.S. DEPARTMENT
OF COMMERCE

FIGURE 7.

Statement without the use of the circle.

PACKED BY

UNDER FEDERAL INSPECTION
U.S. DEPT. OF COMMERCE

FIGURE 8.

(c) Combined grade and inspection marks: The grade marks set forth in paragraph (a) of this section, and the inspection marks, Figures 7 and 8, set forth in paragraph (b) of this section, may be combined into a consolidated grade and inspection mark for use on processed products that have been packed under inspection as provided in this part.

(d) Products not eligible for approved identification: Processed products which have not been packed under inspection as provided in this part shall not be identified by approved grade or inspection

marks, but such products may be inspected on a lot inspection basis as provided in this part and identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) as appropriate, with marks similar in form and design to the examples in Figures 9 and 10 of this section.

FIGURE 9.

FIGURE 10.

(e) Removal of labels bearing inspection marks: At the time a lot of fishery products is found to be mislabeled and the labels on the packages are not removed within ten (10) consecutive calendar days, the following procedure shall be applicable:

(1) The processor, under the supervision of the inspector, shall clearly and conspicuously mark all master cases in the lot by means of a "rejected by USDC Inspector" stamp provided by the Department.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products are properly labeled.

(3) Clearance for the release of the relabeled products shall be obtained by the processor from the inspector.

(f) Users of inspection services having an inventory of labels which bear official approved identification marks stating "U.S. Department of the Interior" or otherwise referencing the Interior Department, will be permitted to use such marks until December 31, 1971, except that upon written request the Director, National Marine Fisheries Service, may extend such period for the use of specific labels.

This amendment shall be effective upon publication in the FEDERAL REGISTER (3–10–71), due to a need to provide effective and uninterrupted service in the use of approved identification.

PHILIP M. ROEDEL,
Director,
National Marine Fisheries Service.

[FR Doc.71–3146 Filed 3–9–71;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 1]

PHOENIX, ARIZ.

Proposed Designation as Customs Port of Entry

MARCH 4, 1971.

In order to provide better Customs service in the Nogales, Ariz., Customs district, it is considered desirable to designate Phoenix, Ariz., as a port of entry. Therefore, notice is hereby given that under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), it is proposed to designate Phoenix, Ariz., as a Customs port of entry in the Nogales, Ariz., Customs district (Region VII).

Data, views, or arguments with respect to the proposed designation of the above-described Customs port of entry may be addressed to the Commissioner of Customs, Washington, D.C. 20226. To insure consideration of such communications, they must be received in the Bureau not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-3340 Filed 3-9-71;8:49 am]

Internal Revenue Service

[26 CFR Parts 201, 252]

DISTILLED SPIRITS PLANTS AND EXPORTATION OF LIQUORS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol, Tobacco and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol, Tobacco and Firearms Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order (1) to implement Public Law 91-659, as it amended the Internal Revenue Code with respect to: (a) Destruction of distilled spirits; (b) losses of distilled spirits; (c) transfer of domestic distilled spirits, without payment of tax or with benefit of drawback, to customs warehouses; (d) involuntary liens; (e) bottling of distilled spirits in bond; and (f) return of tax-determined spirits to bonded premises; (2) to incorporate in the regulations, with a minor change, the provisions of a revenue ruling concerning procedures for the establishment of standard export drawback rates; and (3) to make conforming, editorial, and clarifying changes, the regulations in 26 CFR Parts 201 and 252, are amended as follows:

PARAGRAPH A. 26 CFR Part 201 is amended as follows:

1. Section 201.11 is amended by inserting, in alphabetical order, a definition of "Bottling-in-bond" and by making a clarifying change in the definition of "Bottling-in-bond facilities". The new and amended definitions of § 201.11 read as follows:

§ 201.11 Meaning of terms.

* * * * *

Bottling in bond. When used in Subpart K of this part, the bottling of distilled spirits under section 5233, I.R.C., prior to determination of tax. When used in Subpart Na of this part, the bottling of distilled spirits in accordance with the conditions and requirements of section 5233, I.R.C., and under the supervision provided for in section 5202(g), I.R.C., but after determination of tax. When used elsewhere in this part, either act of bottling defined herein, unless otherwise specifically provided.

Bottling-in-bond facilities. The part of the bonded premises in which spirits are bottled in bond under section 5233, I.R.C., prior to tax determination.

* * * * *

2. Paragraph (a) of § 201.25 is amended by deleting the last sentence, and paragraph (c) is amended to provide for the withdrawal of distilled spirits to a customs bonded warehouse without payment of tax. As amended, paragraphs (a) and (c) of § 201.25 read as follows:

§ 201.25 Persons liable for tax.

(a) *Distilling.* Section 5005, I.R.C., provides that the distiller of spirits is liable for the tax thereon and that every proprietor or possessor of, and any person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced therefrom: *Provided,* That a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of such proprietor, is not liable by reason of such stock ownership or control: *Provided further,* That (1) when spirits are transferred in bond persons so liable for the tax are relieved of such liability if (i) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other and (ii) no person so liable for the tax on the spirits transferred retains any interest in such spirits, and (2) when spirits are withdrawn on determination of tax under withdrawal bond the persons so liable for the tax are relieved of such liability if (i) the person withdrawing such spirits and the person or persons so liable for the tax are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and (ii) all persons so liable for the tax have divested themselves of all interest in the spirits so withdrawn.

* * * * *

(c) *Withdrawals without payment of tax.* Pursuant to section 5005(e), I.R.C., any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in section 5214, I.R.C., shall be liable for the tax on such spirits from the time of such withdrawal. Such persons shall be relieved of any such liability at the time, as the case may be, the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs bonded warehouse or a customs manufacturing bonded warehouse, or laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, as provided by law.

* * * * *

(72 Stat. 1318, 82 Stat. 1328, as amended, 84 Stat. 1965; 26 U.S.C. 5005, 5232, 5066)

3. In § 201.44, paragraph (e) is amended to include requirements relating to alcoholic ingredients other than taxpaid spirits and to delete requirements respecting containers; a new paragraph

(g) is added; and the sentence immediately following paragraph (f) is deleted. As amended, § 201.44 reads as follows:

§ 201.44 Claims in respect of spirits returned to bonded premises.

Claims for credit or refund of tax relating to spirits which have been withdrawn from bonded premises on payment or determination of tax and which are returned thereto under section 5215, I.R.C., as provided in Subpart S of this part, shall be filed with the assistant regional commissioner, and shall set forth the following:

(a) Quantity of spirits so returned;

(b) Amount of tax for which the claim is filed;

(c) Name, number, and address of the plant from which the spirits were so withdrawn, the date of such withdrawal, and purpose for which withdrawn;

(d) Name, address, and plant number of the plant to which the spirits were returned and the date of such return;

(e) A statement as to whether or not any alcoholic ingredients other than fully taxpaid distilled spirits have been added to the product covered by the claim;

(f) The reason for such return and all facts relating thereto; and

(g) The serial number of the Form 2612 and the date of gauge of the returned spirits.

Such claims shall be filed by the proprietor of the plant to which the spirits were returned and within 6 months of the date of the return. If such claim is allowed, refund (without interest) will be made or credit (without interest) will be allowed.

(72 Stat. 1323, as amended, 1364, as amended; 26 U.S.C. 5008, 5215)

4. In § 201.45, paragraph (b) is amended to make its provision comparable to those in section 5008(b), I.R.C., as amended; paragraph (c) is amended to include claims relating to accidental losses amounting to 10 proof gallons or more and to exclude such losses in computing operational losses; and a new paragraph (e) is added with respect to spirits returned to bottling premises. As amended and added, paragraph (b), (c), and (e) of § 201.45 read as follows:

§ 201.45 Claims relating to spirits lost or destroyed after tax determination.

* * * * *

(b) *Claims relating to spirits withdrawn for rectification or bottling and voluntarily destroyed.* Claims for abatement, credit, or refund of tax (including rectification tax, if any) under this part, in the case of spirits withdrawn on payment or determination of tax from bond to bottling premises for rectification or bottling and voluntarily destroyed under the provisions of Subpart R of this part, shall be filed with the assistant regional commissioner by the proprietor of the bottling premises who withdrew the spirits. Such claims shall contain the information required under § 201.43(a) (1), (2), and (3), and in addition, shall state (1) the name, number, and address of plant from which withdrawn; (2) date of destruction, reason therefor, and all facts relative thereto; (3) the date of determination of the tax; (4) the date of payment of the tax (if claim is for refund or credit) or of assessment of the tax (if claim is for abatement); (5) the serial number of the approved application, Form 1577; and (6) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination of tax for removal to bottling premises for rectification or bottling, and whether the spirits covered by the claim were destroyed before removal from his bottling premises.

(c) *Claims relating to losses of spirits withdrawn for rectification or bottling, by reason of accident, flood, fire, or other disaster.* Claims for abatement, credit, or refund of tax under this part, relating to spirits withdrawn for rectification or bottling and lost due to accident, flood, fire, or other disaster, shall be filed with the assistant regional commissioner by the proprietor who withdrew the spirits. The claim shall contain the information required under § 201.43(a) (1), (2), (3), (5), and (6) and, in addition, shall state (1) the date of determination of the tax (if claim is for refund or credit); (2) the date of assessment of the tax (if claim is for abatement); (3) whether or not the claimant is indemnified or recompensed for the tax, and if so, the extent and nature of such indemnification or recompense; (4) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination of tax for removal to bottling premises for rectification or bottling; and (5) whether the spirits covered by the claim were lost due to accident while being removed from bond to bottling premises, due to flood, fire or other disaster before removal from the premises of his distilled spirits plant, or due to accident while on his distilled spirits plant premises and the loss amounts to 10 proof gallons or more in respect of any one accident. Supporting statements as provided in § 201.484 shall be submitted with such claims. Any claim covering a loss by accident while on the distilled spirits plant premises shall contain a statement that the loss covered thereby has not and will not be included in computing total losses for filing claims under the provisions of paragraph (d) of this section.

* * * * *

(e) *Claims relating to taxpaid spirits returned to bottling premises.* The provisions of paragraphs (b), (c), and (d) of this section shall apply to spirits withdrawn from bond on payment or determination of tax for rectification or bottling, which, after removal, where returned to the bottling premises to which removed from bond. Claims covering losses or destruction of such returned spirits shall include the name and address of the person from whom the spirits were returned, the date of the return, and, in the case of claims covering losses, the date and serial number of the notice of gauge and the date of gauge of the spirits on return to the bottling premises.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

5. Section 201.89 as amended to provide that the proprietor's schedule of operations shall include activities relating to bottling in bond after determination of tax. As amended, § 201.89 reads as follows:

§ 201.89 Proprietor's schedule of operations.

The proprietor of each plant qualified for the production, bonded storage, or bottling in bond of spirits shall furnish the assigned officer a written schedule of operations. The schedule shall be given at least 1 day in advance of the operations and shall show, for the period covered by the schedule, all activities related to such production, bonded storage (including denaturation and bottling in bond before determination of tax), and bottling in bond after determination of tax, which the provisions of this part require to be conducted under supervision of an internal revenue officer.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

6. Paragraph (d) of § 201.95 is amended for clarification as it relates to spirits bottled in bond after determination of tax. As amended, paragraph (d) of § 201.95 reads as follows:

§ 201.95 Adjustment of proof.

* * * * *

(d) *Bottling after tax determination.* The proof of spirits to be bottled or packaged after tax determination shall be adjusted to a whole degree prior to determination of the rectification tax, if any, and the filling of packages or bottles: *Provided,* That when such spirits (except those to be bottled in bond for domestic use, which must be adjusted to 100° of proof) are to be bottled and labeled in tenths of a degree of proof, the proof shall be adjusted to such tenths of a degree, and the fractional degree of proof shall be used in determining the rectification tax, if any.

7. Section 201.114 is amended to prescribe conditions under which a proprietor may elect to use facilities on his bottling premises for bottling tax-determined spirits in bond. As amended, § 201.114 reads as follows:

§ 201.114 Facilities for bottling in bond.

Bottling-in-bond facilities may be established only in a separate room or building on bonded premises by a proprietor of a plant qualified under this part to store spirits on such bonded premises in casks, packages, cases, or similar portable approved containers. Notwithstanding the provisions of § 201.116, such bottling-in-bond facilities shall not be used for the storage of spirits. The proprietor of a plant qualified under this part to store spirits in casks, packages, cases, or similar portable approved containers on bonded premises may, if bonded and bottling premises are within the same distilled spirits plant, elect to use facilities on his bottling premises for

the bottling in bond of spirits after determination of tax. Tanks and pipelines conforming to the requirements of § 201.327 may be used alternately for bottling in bond before tax determination as provided in § 201.175.

(72 Stat. 1353, as amended; 26 U.S.C. 5178)

8. Paragraph (j)(4) of § 201.132 is amended to provide for a statement concerning bottling in bond after tax determination. As amended, paragraph (j)(4) of § 201.132 reads as follows:

§ 201.132 Data for application for registration.

* * * * *

(j) * * *

(4) With respect to the business of bottling after tax determination:

(i) Statement of the name, address, and plant number of a plant qualified by the applicant for production or bonded warehousing. (Not required if the plant being registered is qualified for production, bonded warehousing, or rectification, or if the applicant is a State or political subdivision thereof.)

(ii) Statement whether operations involving bottling in bond after tax determination, as provided in § 201.114, will be conducted.

* * * * *

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

9. Section 201.173 is amended to include a new proviso at the end of the section. As amended, § 201.173 reads as follows:

§ 201.173 Encumbrance.

Where any of the property subject to lien under section 5004(b)(1), I.R.C., becomes encumbered by any judgment, or other lien, the proprietor shall thereupon file (a) an application to amend the registration of his plant (b) a consent on Form 1602 or an indemnity bond on Form 3A (if such bond in sufficient penal sum is not on file), and (c) consent of surety on Form 1533 or a new qualification bond: *Provided*, That where such property is to be voluntarily subjected to an encumbrance, the documents shall be filed and approved before the property is encumbered: *And provided further*, That where such property is involuntarily subjected to an encumbrance and an indemnity bond, Form 3A, is not on file, the proprietor may file an indemnity bond on Form 4737 in lieu of Form 3A, as provided in § 201.203a.

(72 Stat. 1349, as amended; 26 U.S.C. 5172, 5173)

10. Paragraph (d) of § 201.174 is amended to provide that spirits to be bottled in bond after tax determination may not be transferred to an incoming proprietor and that such spirits may be retained under Government lock on the premises being alternated. As amended, paragraph (d) of § 201.174 reads as follows:

§ 201.174 Procedure for alternating proprietors.

* * * * *

(d) *Bottling premises.* Operations on bottling premises shall be completely finished and all spirits and wines removed from such premises prior to the change in proprietorship: *Provided*, That (1) except for spirits to be bottled in bond after tax determination, spirits and wines on hand, including those in the process of rectification, may be transferred to the incoming proprietor, or (2) all spirits and wines may be retained, under lock (Government lock as to spirits to be bottled in bond), but in such case the outgoing proprietor shall (unless qualification bond is not required for the plant) execute a consent of surety on Form 1533 to continue the liability on the qualification bond for the tax on such spirits and wines retained on the premises notwithstanding the change in proprietorship. Products subject to tax under the provisions of sections 5021 and 5022, I.R.C. (including partially rectified products), which are being transferred to a successor shall be taxpaid by the outgoing proprietor.

* * * * *

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

11. Section 201.175 is amended to make a clarifying change in the last sentence. As amended, § 201.175 reads as follows:

§ 201.175 Alternating use of bonded and bottling premises.

Subject to the provisions of this section, a portion of the bonded premises may be alternately used as bottling premises and a portion of the bottling premises may be alternately used as bonded premises. Such alternate use of premises is subject to the filing by the proprietor, and the approval by the assistant regional commissioner, of (a) an application for registration, Form 2607, to cover such operation, and (b) a special plat to designate the premises which are to be alternated. The proprietor shall also file a drawing or diagram, in triplicate, clearly depicting all buildings, rooms, tanks, and spirits lines which are to be subject to such alternation, in their relative operating sequence. All such buildings, rooms, and equipment shall be individually identified by number or letter. Once such qualifying documents have been approved, the premises as described on such documents may be alternated pursuant to approval by the assigned officer of the proprietor's application on Form 2610. Before alternation is effected, all spirits on which the tax has not been determined shall be removed from the portion of the premises to be alternated to bottling premises, and all spirits on which the tax has been determined and other ingredients used in rectifying processes (if any), as the case may be, shall be removed from the portion of the premises to be alternated to bonded premises.

(72 Stat. 1349; 26 U.S.C. 5172)

12. Section 201.192 is amended to include reference to a bond given under new § 201.203a. As amended, § 201.192 reads as follows:

§ 201.192 Additional condition of distiller's bond.

In addition to the requirements of § 201.191, the distiller's bond shall be conditioned that he shall not suffer the property, or any part thereof, subject to lien under section 5004(b)(1), I.R.C., to be encumbered by any lien during the time in which he shall carry on such business, except that this condition shall not apply during the term of an indemnity bond given under the provisions of § 201.200 or to any judgment or other lien covered by a bond given under the provisions of § 201.203a.

(72 Stat. 1349, as amended; 26 U.S.C. 5173)

13. Section 201.198 is amended to include, in the last sentence, a reference to a bond filed under new § 201.203a. As amended, § 201.198 reads as follows:

§ 201.198 Disapproval of bonds or consents of surety.

The assistant regional commissioner may disapprove any bond or consent of surety submitted in respect to the business of a distiller, bonded warehouseman, or rectifier, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or

(b) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

Further, no bond of a distiller shall be approved unless the assistant regional commissioner is satisfied that the situation of the land and any building which will constitute his bonded premises (as described in his application for registration, Form 2607) is not such as would enable the distiller to defraud the United States, and unless: (1) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land subject to lien under section 5004(b)(1), I.R.C.; or (2) the distiller files a consent, Form 1602, of the owner of the fee, and of any mortgagee, judgment creditor, or other person having a lien thereon, in accordance with the provisions of §§ 201.151 and 201.152; or (3) the distiller files an indemnity bond Form 3A, in accordance with the provisions of § 201.200, or with respect to a judgment or other involuntary lien, files a bond in accordance with the provisions of § 201.203a.

(72 Stat. 1349, as amended, 1394; 26 U.S.C. 5173, 5551)

14. Section 201.200 is amended to include reference to new bond, Form 4737. As amended, § 201.200 reads as follows:

§ 201.200 Indemnity bond, Form 3A.

A proprietor of a plant qualified for the production of spirits may furnish bond on Form 3A to stand in lieu of future liens imposed under section 5004(b)

(1), I.R.C., and no lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus by reason of distilling done during any period included within the term of any such bond. Where an indemnity bond has been furnished on Form 3A in respect of a plant, the requirements of this part relating to the filing of consents on Forms 1602 and bonds on Forms 1617 and Forms 4737 are not applicable in respect to such plant.

(72 Stat. 1317, 1349, as amended; 26 U.S.C. 5004, 5173)

15. A new section, § 201.203a, to prescribe requirements for an indemnity bond to cover judgments or other involuntary liens, is inserted immediately following § 201.203 to read as follows:

§ 201.203a Indemnity bond for involuntary lien.

Where a judgment or other involuntary lien is imposed on any of the property specified in section 5004(b)(1), I.R.C., on which the United States has a first lien for taxes and an indemnity bond on Form 3A has not been furnished under § 201.200, the proprietor of the distilled spirits plant may, in lieu of filing Form 3A, file with the assistant regional commissioner an indemnity bond on Form 4737. Bond on Form 4737 shall be in a penal sum equal to the full amount of any judgments or other involuntary liens, or portions thereof unsatisfied at the time the bond is filed, and which are to be covered by the bond.

(72 Stat. 1317, 1349, as amended; 26 U.S.C. 5004, 5173)

16. In § 201.211, the list of bonds and the footnotes are amended by redesignating paragraphs (h), (i), and (j) as paragraphs (i), (j), and (k) and inserting a new paragraph (h), and by redesignating footnotes 1 and 2 as footnotes 2 and 3 and adding a new footnote 1. As amended and added, paragraphs (h), (i), (j), and (k), and footnotes 1, 2, and 3, read as follows:

§ 201.211 Bonds and penal sums of bonds.

* * * * *

Bond	Penal Sum		
	Basis	Minimum	Maximum
* * *	* * *	* * *	* * *
(h) Indemnity Bond, Form 4737	The amount of involutary liens against property.	(1)	(1)
(i) Withdrawal Bond, Form 2613	The amount of tax which, at any one time, is chargeable against such bond but has not been paid.	1,000	1,000,000
(j) Withdrawal Bond, Form 2614	do	1,000	1,000,000
(k) Blanket Withdrawal Bond, Form 2615:			
(1) Bonded and bottling premises on same plant premises.	Sum of penal sums of bonds, Forms 2613 and 2614, in lieu of which given.	2,000	1,000,000
(2) Two or more plants in a region qualified for bonded and/or bottling operations.	Sum of the penal sums of all the bonds, Forms 2613 and/or 2614, in lieu of which given.	(2)	(3)

[1] Sum of outstanding involuntary lien or liens covered by the bond.
[2] Sum of the minimum penal sums required for each plant covered by the bond.
[3] Sum of the maximum penal sums required for each plant covered by the bond. (The maximum penal sum for one plant is $1,000,000.)

(68A Stat. 847, 72 Stat. 1349, as amended, 1352; 26 U.S.C. 7102, 5173, 5174, 5175)

17. Paragraph (c) of § 201.221 is amended to include reference to new bond, Form 4737. As amended, paragraph (c) reads as follows:

§ 201.221 Relief of surety from bond.

* * * * *

(c) *Bond, Form 1617 or Form 4737.* The surety on a bond given on Form 1617 or Form 4737 shall be relieved from his liability when the bond has been canceled as provided for in § 201.223.

* * * * *

(72 Stat. 1317, 1349, as amended, 1352, 1353; 26 U.S.C. 5004, 5173, 5174, 5176)

18. Section 201.223 is amended to provide conditions for termination of liability under bond, Form 4737. As amended § 201.223 reads as follows:

§ 201.223 Cancellation of indemnity bond.

Any indemnity bond will be canceled by the assistant regional commissioner, on application by the principal or surety, if he determines that the liability for which such bond was given has ceased to exist. Liability under any bond on Form 1617, given under the provisions of this part or under any other prior provisions of law or regulations, will be deemed to have ceased to exist: (a) When a superseding bond is approved; (b) when the proprietor furnishes a consent, Form 2602, on an indemnity bond, Form 3A, as provided in § 201.201; or (c) when it is established to the satisfaction of the assistant regional commissioner that all spirits produced, while the property covering which the indemnity bond was filed formed a part of the distillery premises and equipment, have been tax-paid or that the producer thereof has been relieved from liability for payment of such tax under the provisions of chapter 51, I.R.C. Liability under any bond on Form 4737 will be deemed to have ceased to exist when the conditions stated in paragraph (a) or (b) of this section have been met or when the judgment or involuntary lien for which the bond was filed has been satisfied.

(72 Stat. 1317, 1349, as amended, 1353; 26 U.S.C. 5004, 5173, 5176)

19. Section 201.241 is amended to specifically provide that it relates only to the bottling of spirits before determination of tax, and to update the citation. As amended, § 201.241 reads as follows:

§ 201.241 Bottling facilities on bonded premises.

Where the proprietor is authorized to bottle spirits in bond before determination of tax he shall provide a separate room or building of his bonded warehouse for such purpose. Such room or building shall be constructed as provided in § 201.231, arranged, and equipped so as to be suitable for the intended purpose. When authorized by the assistant regional commissioner, bottling-in-bond facilities, when not in use for bottling in bond before determination of tax, may be used for bottling alcohol before determination of tax.

(72 Stat. 1353, as amended, 1369; 26 U.S.C. 5178, 5235)

20. Paragraph (c) of § 201.243 is amended to provide that tanks used for bottling in bond on bottling premises shall be equipped for securing with Government locks or seals. As amended, paragraph (c) of § 201.243 reads as follows:

§ 201.243 Tanks.

* * * * *

(c) *Bottling premises.* All openings in storage, receiving, bottling, and package filling tanks on bottling premises shall be equipped for securing with locks or seals, and all tanks to be used for spirits to be bottled in bond on such premises, shall be so equipped that the flow of spirits in or out of the tanks may be controlled by Government locks or seals: *Provided,* That the Director may approve other devices or methods affording comparable protection.

21. Section 201.371 is amended to provide that Form 179 shall show the purpose of withdrawal where spirits are withdrawn for bottling in bond after tax determination and to specify certain conditions under which spirits will not be eligible for bottling in bond after tax determination. As amended, § 201.371 reads as follows:

§ 201.371 Application.

Spirits to be withdrawn from bonded premises on determination of the tax thereon shall be in such containers or cases as are prescribed in this part. The proprietor of the bottling premises to which the spirits are to be removed or the proprietor of the bonded premises from which the spirits are to be withdrawn, shall make application on Form 179 for tax determination and withdrawal. Where spirits are to be withdrawn on determination of tax, the tax thereon shall be paid before removal of the spirits from the bonded premises unless the proprietor making application for the withdrawal has furnished bond on Form 2613, 2614, or 2615 to secure payment of tax. Where the spirits are to be withdrawn by the proprietor of bottling premises from bonded premises not on the same plant premises, he shall, on execution of his portion of the application on Form 179, deliver one copy to the assigned officer at the bottling premises and forward the remaining copies of the form to the proprietor of the bonded premises. Where the proprietor

of bottling premises intends to withdraw spirits which are to be bottled in bond after tax determination as provided in § 201.114, he shall specify on Form 179 the purpose for which the spirits are being withdrawn. On completion of the application the proprietor of the bonded premises shall deliver all copies of the application to the assigned officer at his premises. Where spirits in packages are to be gauged in bulk gauging tanks, the proprietor of the bonded premises shall attach to Form 179 a list (one copy) of the serial numbers of the packages. Where an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling facilities at a specified future time, he may apply for the withdrawal of spirits from bond on Form 179 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance or bottling in bond after tax determination unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such premises.

(72 Stat. 1363; 26 U.S.C. 5213)

22. Section 201.385 is amended to add provisions for spirits withdrawn for bottling in bond after tax determination and to make a clarifying change relating to spirits bottled in bond before determination of tax. As amended, § 201.385 reads as follows:

§ 201.385 Release of spirits.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his certificate of tax determination. The assigned officer shall not execute his certificate of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not in the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown on Form 179 as charged against his bond. Where Form 2521 has been filed with the district director, as required by § 201.383 (b), the certificate regarding tax determination shall not be executed before the assigned officer has received a receipted copy of the return from the district director. Where a proprietor of bottling premises has made application for withdrawal of spirits for bottling in bond after tax determination, the assigned officer shall not execute his certificate of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the certificate of tax determination the assigned officer shall issue distilled spirits stamps for packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, the assigned officer shall release the spirits. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the certificate of tax determination shall be attached to the gauge tank before the spirits are released by the assigned officer. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits, and also executes, in advance of withdrawal, the statement required by § 201.372. In such case the assigned officer shall execute the certificate of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at time of bottling and that the Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn; such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form.

23. Section 201.386 is amended to provide for the withdrawal of distilled spirits to a customs bonded warehouse without payment of tax. As amended, § 201.386 reads as follows:

§ 201.386 Authorized withdrawals without payment of tax.

Spirits may be withdrawn from bonded premises, without payment of tax, for—

(a) Export, as authorized under section 5214(a)(4), I.R.C.;

(b) Transfer to customs manufacturing bonded warehouses, as authorized under section 5522(a), I.R.C.;

(c) Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c;

(d) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309;

(e) Transfer to customs bonded warehouses, as authorized under section 5066, I.R.C.;

(f) Use in wine production, as authorized under section 5373, I.R.C.; or

(g) Transfer to any university, college of learning, or institution of scientific research for experimental or research use, as authorized under section 5312(a), I.R.C.

The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in Part 252 of this chapter.

(72 Stat. 1362, 1375, 1382, 1393, 84 Stat. 1965; 26 U.S.C. 5214, 5312, 5373, 5522, 5066)

24. The heading of Subpart N immediately preceding § 201.421 is amended to read as follows:

Subpart N—Operations on Bottling Premises Other Than Bottling in Bond

25. Section 201.422 is amended to provide a cross-reference to Part 252 with regard to preparing Forms 27–B Supplemental when a proprietor wishes to have a standard export drawback rate established. As amended, § 201.422 reads as follows:

§ 201.422 Form 27–B Supplemental.

Every rectifier shall file with the Director a statement on Form 27–B Supplemental of each formula and process by which he intends to rectify spirits or wines. A rectifier shall not use a formula or process in the manufacture of any rectified product until he has received approval therefor. When an intermediate product is made for use in manufacturing a finished product (or products) a separate Form 27–B Supplemental (designating the product as an intermediate) shall be filed for the intermediate product; such intermediate product shall be shown as such and by formula number as an ingredient in the formula for the finished product in which it is to be used. Each formula shall: (a) Be serially numbered in sequence beginning with the number "1"; (b) describe the kind of products in accordance with the appropriate class and type designation prescribed by 27 CFR Part 4 or Part 5, if applicable; (c) state the process completely and concisely in step by step sequence, and (d) designate all ingredients composing the formula in sufficient detail to enable a proper determination as to the tax classification and labeling of the finished product. Alcoholic flavoring materials containing spirits on which drawback has been or may be claimed shall be identified in the formula as such, and shall be separately shown by kind, quantity (by volume) to be used, and the percentage of alcohol (by volume) contained therein; approval of formulas shall be conditioned on compliance with the provisions of § 201.424. The Director may require a diagram, drawing or other pictorial depiction of the process to supplement the statement of process on Form 27–B Supplemental. Formulas which show an alternate use of ingredients which would result in a different tax or labeling classification will not be approved. Form 27–B Supplemental for products on which the proprietor wishes to have a standard export drawback rate established will be prepared as provided in Part 252 of this chapter.

(72 Stat. 1328, 1356, 1370; 26 U.S.C. 5025, 5201, 5251)

26. Section 201.425 is amended to include provisions relating to the establishment of standard export drawback rates. As amended, § 201.425 reads as follows:

§ 201.425 Changes in formulas.

The addition or elimination of ingredients, changes in quantities of ingredients used (where the percentages are required to be disclosed), and changes in the process of rectification are permissible only after approval of a new Form 27–B Supplemental: *Provided*, That where such change of ingredients or process does not result in altering the class or type of the finished product or the tax applicable, and, in the case of formulas on which a standard drawback rate has been established, does not affect such rate, the change may be accomplished by filing, with the Director, a rider to the formula. The rider, in quadruplicate, will clearly identify the original formula by number, date of approval, name of the product, and by name and number of the plant, will specify the ingredients to be added or eliminated, or the change in process, and will be signed and processed in the same manner as the original formula. Such change in ingredients or process is permissible only after approval of the rider. Riders submitted to obtain a standard export drawback rate for an approved formula will be filed with the assistant regional commissioner as provided in Part 252 of this chapter. A new Form 27–B Supplemental or rider will not be required to cover changes in brand names. Once an approved formula is superseded by a new formula, the original formula shall no longer be used and will be surrendered to the Director.

(72 Stat. 1356; 26 U.S.C. 5201)

27. Section 201.461 is amended to limit its application to bottles filled under the provisions of Subpart N. As amended, § 201.461 reads as follows:

§ 201.461 Strip stamps.

The proprietor shall affix to each bottle of spirits filled on bottling premises under the provisions of this subpart a red strip stamp. Such stamp shall be procured, overprinted (when required), affixed, and accounted for as provided in Subpart Q of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

28. A new Subpart Na is added, immediately following § 201.470, to prescribe requirements concerning bottling in bond after tax determination. As added, Subpart Na reads as follows:

Subpart Na—Bottling in Bond After Tax Determination

Sec.

Subpart Na—Bottling in Bond After Tax Determination

§ 201.470a General.

A proprietor who is qualified to use facilities on his bottling premises for bottling in bond shall conduct operations relating to such bottling pursuant to the provisions of this subpart. Spirits which have been withdrawn for bottling in bond shall be transferred, dumped, gauged, bottled, stamped, and labeled by the proprietor under the direct supervision of the assigned officer. Spirits to be bottled in bond shall, at the time of withdrawal from bond, meet the aging and packaging requirements prescribed by § 201.321. Spirits may be bottled in bond under the provisions of this subpart only if they have been withdrawn from bonded premises on the same distilled spirits plant as the bottling premises in which they are to be bottled.

(72 Stat. 1353, as amended; 26 U.S.C. 5178)

§ 201.470b Withdrawal.

Proprietors shall make application for withdrawal of spirits for bottling in bond on Form 179 in accordance with the provisions of Subpart L of this part. Spirits which are not specifically withdrawn for bottling in bond may not be so bottled.

(72 Stat. 1363; 26 U.S.C. 5213)

§ 201.470c Handling of spirits.

The proprietor shall inspect containers of spirits at the time of their receipt in accordance with § 201.430. Unless spirits are held under the provisions of § 201.430, spirits to be bottled in bond which are received on bottling premises shall be promptly dumped for bottling. No more spirits shall be received and dumped at any one time than can be bottled expeditiously. If any lot, or part of a lot, of spirits which have been withdrawn for bottling in bond are to be otherwise bottled, packaged, or removed, the proprietor shall give written notice to that effect to the assigned officer showing the serial numbers of the Form 179, the Form 122, and the Form 2637, as applicable, and make appropriate notation on the forms involved.

§ 201.470d Filtering and stabilizing.

Spirits withdrawn for bottling in bond may be treated as provided in §§ 201.324 and 201.445.

§ 201.470e Rinsing of packages.

All wooden packages containing spirits to be bottled in bond shall be rinsed, and the rinsings disposed of, in accordance with the provisions of § 201.434. The provisions of § 201.436 prohibiting the extraction of spirits from wooden packages applies to packages emptied under this subpart.

§ 201.470f Record of use.

Whenever any spirits intended for bottling in bond are to be dumped or received by pipeline on bottling premises for bottling (or are to be reduced in proof, filtered, or stabilized for such bottling), the proprietor shall prepare Form 122. Each Form 122 shall (a) identify the spirits to be dumped, (b) show the trade name under which the distiller produced and warehoused the spirits, if any, in addition to the real name of the distiller, (c) be prominently marked in the top margin with the words "Spirits to be bottled in bond", and (d) be serially numbered within the same series as Forms 122 covering spirits dumped for other purposes. When the proprietor has completed all entries required on Form 122, he shall submit one copy to the assigned officer and retain the remaining copy for his files.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.470g Reduction in proof.

The proof of spirits to be bottled in bond shall be reduced in accordance with the provisions of § 201.326.

§ 201.470h Bottling.

Spirits may be bottled in bond only from approved bottling tanks. On completion of any filtration, stabilization, and reduction of spirits to be bottled in bond, the proprietor shall determine the quantity and proof of the spirits deposited in each bottling tank and shall prepare Part I of Form 2637. Form 2637 shall be attached to the bottling tank. Where two or more lots of spirits are to be bottled in bond at the same time, or where a lot of spirits to be bottled in bond is to be bottled simultaneously with a lot of spirits to be otherwise bottled, the bottling shall be conducted in such manner as to prevent any mingling of the different lots. Where part of a lot of spirits are to be bottled in bond for export and the proof is further reduced, the proprietor shall determine the quantity and proof of the spirits after further reduction and enter the results of the gauge in the first unused line of Part II of Form 2637. No spirits (including spirits further reduced for export) shall be bottled in bond until the assigned officer has verified the quantity and proof of the spirits and has released the spirits for bottling at the specified proof. Bottling tanks and pipelines shall be so equipped that the flow of spirits through the tanks may be controlled by Government locks. Tanks containing spirits to be bottled in bond shall be locked with Government locks at all times except when bottling-in-bond operations, or the activities related thereto, are being conducted and the assigned officer is on the premises.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

§ 201.470i Liquor bottle and label requirements.

The proprietor shall comply with the provisions of Subpart Pa of this part and § 201.328 respecting the use of liquor bottles. He shall also comply with the provisions of Subpart Pa of this part and §§ 201.329, 201.331, and 201.332 respecting label requirements.

§ 201.470j Labels to agree with contents of tanks and bottles.

Before bottling a lot of spirits in bond, the proprietor shall affix a copy of the (approved or exempted) label he proposes to use for such bottling, which label shall agree with the spirits in the tank, to the Form 2637 to be attached to the tank: *Provided,* That, on application therefor, the Director may approve the entering on Form 2637 of code symbols, identifying the labels to be used, in lieu of affixing the labels. Labels affixed to bottles shall be identical with the label affixed to (or with the label identified by the code symbol entered on) Form 2637 attached to the tank from which the bottles are to be filled. If the assigned officer finds that the label and spirits do not agree in every respect, he shall not permit the spirits to be bottled until the proprietor submits to him a proper label correctly describing the spirits to be bottled, or, if the spirits are labeled with labels which do not agree with the spirits in every respect, he shall cause the proprietor to relabel the spirits with a proper label.

(72 Stat. 1353, as amended, 1374; 26 U.S.C. 5178, 5301)

§ 201.470k Filling of bottles.

Bottles of bottled-in-bond spirits shall be so labeled (a) that the label in use is identical with the label attached to (or with the label identified by the code symbol entered on) Form 2637, and properly describes the spirits, and (b) that the bottled spirits agree in proof with the data on the label; and shall be so filled that the quantity agrees with the data on the label, stamp, or bottle. If the contents do not agree as to quantity (except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice and there is substantially as much overfill as underfill for each lot of spirits bottled) or as to proof (subject to a normal drop in proof occurring during bottling operations, but not to exceed three-tenths of a degree) with the respective data on the label, stamp, or bottle, the assigned officer will withhold release of the bottled spirits and require the proprietor to rebottle, recondition, or relabel the spirits in such manner that the label will correctly described the contents.

(72 Stat. 1353, as amended, 1374; 26 U.S.C. 5178, 5301)

§ 201.470l Strip stamps.

The proprietor shall affix to each bottle of spirits bottled in bond a domestic or export strip stamp, as appropriate. Such stamps shall be procured, overprinted (when required), affixed, and accounted for as provided in Subpart Q of this part.

§ 201.470m Cases.

On completion of bottling, the filled bottles, with labels and strip stamps properly affixed, shall be placed in cases in accordance with the provisions of § 201.462. Where there is less than a case of bottled-in-bond spirits remaining from a lot of spirits bottled, either for domestic use or for exportation, the remnant will be placed in a case and such case shall be marked as a remnant case as provided in Subpart P of this part: *Provided,* That where spirits, of the same kind and proof, produced by the same distiller at the same distillery during the same distilling season as the remnant, are to be bottled on the same or following business day, and are eligible for inclusion in the remnant case, such remnant case may be given the next serial number and filled with such spirits. The bottles contained in any case of bottled-in-bond spirits marked as a remnant case which has not been removed from the plant premises may, when the next lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season is to be bottled (a) be used for filling a complete case, if of the same proof and otherwise eligible, or (b) be dumped into the bottling tank and mingled with such other spirits for bottling. Where any remnant spirits are handled in a manner prescribed or authorized by the provisions of this section, the pertinent Forms 2637 shall be appropriately marked to show the disposition of the spirits.

(72 Stat. 1356, 1360; 26 U.S.C. 5201, 5206)

§ 201.470n Salvaged spirits.

Spirits to be bottled in bond which are salvaged from the filtering or bottling operation may be added, under the direct supervision of the assigned officer, to a tank on bottling premises containing the same spirits or another lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season which are also to be bottled in bond. Such spirits may also be mingled with homogeneous spirits or added to heterogeneous spirits in accordance with the provisions of Subpart N of this part. Salvaged spirits shall be reported on the Form 122 covering the lot to which they were added, unless they are returned to the lot from which they were salvaged.

(72 Stat. 1356, 1366; 26 U.S.C. 5201, 5233)

§ 201.470o Domestic use of spirits bottled for export.

Cases (full or remnant) of spirits bottled in bond for export shall not be used for domestic purposes unless the spirits are contained in bottles in the sizes provided in 27 CFR Part 5 which bear the indicia required under Part 173 of this chapter and the spirits are properly relabeled. If the proprietor desires to convert full or remnant cases of spirits bottled in bond for export to domestic use as bottled-in-bond spirits (where eligible), the export strip stamps shall be replaced by domestic bottled-in-bond strip stamps. All rebottling, relabeling, and restamping of such spirits shall be performed in accordance with the provisions of § 201.470q. If the proprietor desires to convert full or remnant cases of spirits bottled in bond for export to domestic use as other than bottled-in-bond spirits, the rebottling, relabeling, and restamping, as applicable, shall be conducted in accordance with the requirements of § 201.466.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.470p Use of trade name.

Before a proprietor may bottle or label bottled-in-bond spirits under a trade name, he shall secure approval of such name in the manner prescribed by Subpart F of this part. When any such name is to be used, it shall be entered in the appropriate space on Form 2637.

(72 Stat. 1366; 26 U.S.C. 5233)

§ 201.470q Rebottling, relabeling, or restamping.

(a) *General.* Spirits bottled in bond before determination of tax and spirits bottled in bond after determination of tax may be rebottled, relabeled, or restamped in accordance with the applicable provisions of Subpart K of this part by the proprietor of a bonded warehouse who is qualified for bottling in bond before determination of tax. Such spirits may also be rebottled, relabeled, or restamped in accordance with paragraphs (b), (c), and (d) of this section by the proprietor of bottling premises who is qualified for bottling in bond after determination of tax.

(b) *Application.* Application to rebottle, relabel, or restamp spirits identified in paragraph (a) of this section on bottling premises shall be filed in duplicate, with the assigned officer, and state specifically (1) the reason for the rebottling, relabeling, or restamping, (2) the serial numbers of the cases, (3) the name and plant or registry number of the producing distiller, (4) the season and year of production, (5) the name and plant or registry number of the premises where the spirits were bottled, and (6) the season and year of original bottling. If the spirits were originally bottled by a person other than the applicant, the application shall be accompanied by written authorization from such person consenting to the rebottling or relabeling. No such spirits shall be rebottled, relabeled, or restamped until the assigned officer has approved the application.

(c) *Applicable provisions.* The provisions of § 201.346 relating to supervision of operations and to mingling and expeditious processing of spirits; § 201.349 relating to strip stamps, liquor bottles, and cases (including marking thereof); § 201.350 relating to filtering and stabilizing; and § 201.351 relating to reduction in proof and withdrawal with benefit of drawback of domestic spirits for exportation; shall be applicable to the rebottling, relabeling, or restamping of spirits under the provisions of this section. Where spirits are relabeled, the proprietor shall comply with the provisions of § 201.470j, and Subpart Pa of this part.

(d) *Forms 122 and 2637.* Forms 122 and 2637 shall be prepared in accordance with the provisions of this subpart to cover the rebottling of spirits under this section by the proprietor of bottling premises. Form 2637, appropriately modified, shall be prepared to cover the relabeling or restamping of such spirits by the proprietor bottling premises.

29. Section 201.482 is amended to provide for accidental losses of 10 proof gallons or more, and losses of spirits after return to bottling premises. As amended, § 201.482 reads as follows:

§ 201.482 Allowable losses.

Where spirits withdrawn from internal revenue or customs bond on payment or determination of tax for rectification or bottling are lost, the tax imposed on such spirits under section 5001(a)(1), I.R.C., may be abated, remitted, or, without interest, refunded or credited to the proprietor who so withdrew the spirits for removal to his bottling premises, if it is established to the satisfaction of the assistant regional commissioner that:

(a) Such loss occurred (1) by reason of accident while being removed from bond to bottling premises, or (2) by reason of flood, fire, or other disaster before removal from the premises of the distilled spirits plant to which removed from bond, or (3) by reason of accident while on the distilled spirits plant premises and amounts to 10 proof gallons or more in respect of any one accident, or

(b) Such loss occurred before the completion of the bottling and casing or other packaging of the spirits for removal from the bottling premises to which removed from bond by reason of, and was incident to, authorized rectifying, packaging, bottling, or casing operations (including losses by leakage or evaporation occurring during removal from bond to the bottling premises and during storage on bottling premises pending rectification or bottling).

Paragraphs (a) (2), and (3) and (b) of this section shall apply to spirits returned to the bottling premises to which withdrawn from bond as provided in § 201.495. Abatement, remission, credit, or refund of tax shall not be made in respect of the losses described in this section to the extent that the claimant is indemnified or recompensed for the tax, and in the case of the losses described under paragraph (b) of this section, abatement, remission, credit, or refund shall not be made in excess of the limitations set forth in this subpart. No allowance is made in section 5008(c), I.R.C., in respect to loss of spirits by theft. Spirits lost by theft in transit to, or while on, bottling premises shall be reflected as losses by theft in the records and reports prepared by the proprietor but shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C. Spirits used up in bona fide analysis and testing on bottling premises shall be considered as lost by reason of, and incident to, authorized operations within the meaning of this section. Spirits removed as samples from the bottling premises before completion of bottling and casing or other packaging of such spirits for removal from the bottling permises shall be reflected as proprietor samples or Government samples in the records and reports prepared by the proprietor, and shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

30. Section 201.485 is amended to clarify its provisions as to accidental losses of 10 proof gallons or more. As amended, § 201.485 reads as follows:

§ 201.485 Operating losses.

Losses of spirits by reason of the conditions stated in § 201.482(b) may be computed and claimed by the proprietor and tentatively allowed as provided in §§ 201.488 and 201.489, but shall be adjusted and finally allowed on a fiscal year basis; the proprietor shall promptly report to the assigned officer any such loss which is substantial and unusual in nature. Losses of spirits under this section (except losses incurred in the manufacture of gin and vodka in a closed system which are provided for in § 201.487) shall be allowed in an amount no greater than the excess of losses over gains and not to a greater extent than is set forth below:

If total completions during the fiscal year in proof gallons are—	The maximum allowable loss in proof gallons is—
Not over 24,000	2 percent of completions.
Over 24,000 but not over 120,000	480 proof gallons plus 1 percent of excess over 24,000.
Over 120,000 but not over 600,000	1,440 proof gallons plus 0.6 percent of excess over 120,000.
Over 600,000 but not over 2,400,000	4,320 proof gallons plus 0.3 percent of excess over 600,000.
Over 2,400,000	9,720 proof gallons plus 0.2 percent of excess over 2,400,000.

Accidental losses of less than 10 proof gallons in respect of any one accident, occurring before completion and in the course of authorized rectifying, packaging, bottling, or casing operations, are includable in losses under this section subject to the limitations herein. Accidental losses of 10 proof gallons or more in respect of any one accident if claimed under the provisions of § 201.45(c), shall not be included as operating losses under this section.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

§ 201.493 [Deleted]

31. Section 201.493 is deleted.

32. Section 201.494 is amended to delete obsolete material and to provide for the gauge of returned spirits. As amended, § 201.494 reads as follows:

§ 201.494 Gauge of spirits.

Where spirits are gauged to determine (a) losses as provided by § 201.484, (b) losses as provided by § 201.485 which occur before dumping, (c) quantities of ineligible alcoholic ingredients dumped for rectification or bottling, (d) quantities entered into or removed from the closed system, as provided in § 201.487, or (e) quantities of returned spirits as provided in § 201.496, such gauge shall be made by the proprietor by weight and proof unless the assistant regional commissioner approves another method of gauging.

(72 Stat. 1358; 26 U.S.C. 5204)

33. An undesignated center heading and new §§ 201.495 and 201.496, are added immediately following § 201.494, to read as follows:

TAXPAID SPIRITS RETURNED TO BOTTLING PREMISES

§ 201.495 Application of loss provisions to returned spirits.

Distilled spirits withdrawn from bond on payment or determination of tax for rectification or bottling which are removed from bottling premises and subsequently returned to the premises from which removed may be dumped and gauged after such return as provided in § 201.496, and subsequent to such gauge shall be eligible for allowance of loss under section 5008(c), I.R.C., as though they had not been removed from such bottling premises.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

§ 201.496 Notice of gauge.

A proprietor desiring to apply the loss provisions to returned spirits as authorized in § 201.495 shall submit a notice, on Form 4738, to the assigned officer, if any; to another internal revenue officer on the premises; or to the assistant regional commissioner. The notice shall specify a date on which the proprietor intends to dump and gauge the returned spirits. Where the notice is given to an assigned officer the dumping and gauging may be done at any time convenient to that officer. Where it is filed with another internal revenue officer or with the assistant regional commissioner, such date shall be not less than 12 days following the date on which the notice is filed: *Provided*, That if it is filed with another internal revenue officer and it is convenient for him to supervise the dumping and gauging of the spirits before he leaves the plant, the spirits may be immediately dumped and gauged. Where the notice is filed with another internal revenue officer and it is not convenient for him to supervise the operations before he leaves the plant, he will forward the notice to the assistant regional commissioner. If the notice is sent to the assistant regional commissioner and, before the date specified, he has not notified the proprietor to the contrary, the proprietor may dump and gauge the returned spirits and enter the gauge on the form. He shall attach to his retained completed copy of Form 4738 the applicable Forms 122 and 2637, or other documentation establishing the extent of eligibility for loss allowance on the returned product.

34. Section 201.502 is amended by adding a reference to Subpart Na for bottling spirits in bond after determination of tax for export and by making related

changes. As amended, § 201.502 reads as follows:

§ 201.502 Containers of 1 gallon or less.

The provisions of Subpart K of this part govern the containers to be used in bottling spirits in bond before determination of tax for export under section 5233, I.R.C., and bottling alcohol on bonded premises under section 5235, I.R.C. The provisions of Subpart Na of this part govern the containers to be used in bottling spirits in bond for export in accordance with the conditions and requirements of section 5233, I.R.C., but after determination of tax. The provisions of Subpart Pa of this part govern the containers to be used in bottling spirits in bond for domestic use under, or in accordance with, section 5233, I.R.C. The provisions of Subpart N of this part govern the bottling of spirits, other than spirits bottled in bond, and wines on bottling premises. Denatured spirits may be filled on bonded premises into metal or glass containers of a capacity of 1 gallon or less. Liquor bottles shall not be used for bottling denatured spirits. Spirits in bottles of a capacity of 1 gallon or less, except anhydrous spirits and spirits to be withdrawn from bond free of tax, are deemed to be for nonindustrial use.

(72 Stat. 1315, 1360, 1374; 26 U.S.C. 5002, 5206, 5301)

35. Paragraph (b) of § 201.514 is amended to provide for a separate series of numbers for cases of spirits bottled in bond on bottling premises. As amended, paragraph (b) of § 201.514 reads as follows:

§ 201.514 Numbering of packages and cases.

* * * * *

(b) Cases of spirits bottled in bond on bonded premises, cases of spirits bottled in bond on bottling premises, and cases of spirits otherwise bottled shall be numbered in separate series. The proprietor may establish more than one series of serial numbers for cases on either bonded or bottling premises where more than one bottling unit is used and each series is distinguished from each other by the use of alphabetical prefixes or suffixes. Further, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written application (in triplicate) to, and approval of, the assistant regional commissioner. Remnant cases shall be given the serial number of the last full case followed by the letter R.

* * * * *

(72 Stat. 1360; 26 U.S.C. 5206)

36. Paragraph (a) of § 201.527 is amended to add provisions for marking cases of spirits bottled in bond after tax determination, to specify that cases transferred to a customs bonded warehouse shall bear the additional marks required by Part 252, and to make related changes. As amended, paragraph (a) of § 201.527 reads as follows:

§ 201.527 Marks on cases of bottled-in-bond spirits.

(a) *Mandatory marks.* The following information shall be plainly marked at the time of bottling on the Government side of each case of spirits bottled in bond:

(1) Serial number;

(2) The words "Bottled in Bond" if bottled under the provisions of Subpart K of this part, or the words "Bottled in Bond TP" if bottled under the provisions of Subpart Na of this part;

(3) Kind of spirits;

(4) Proof gallons;

(5) Plant number of bottler;

(6) Proof (if bottled in bond for export);

(7) Date filled.

In addition, on the date tax is determined on cases of spirits bottled in bond under the provisions of Subpart K of this part, such cases shall be marked with the words "Tax Determined", followed by the date of tax determination. Cases, at the time of transfer in bond, shall be marked to show such purpose, the date, and the plant number of the consignee, as, for example, "Trans. 8–1–60, DSP–Ky–4." Cases withdrawn for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter. Cases otherwise withdrawn or removed shall be marked to show the purpose and the date of withdrawal.

* * * * *

(72 Stat. 1360, 1366, 84 Stat. 1965; 26 U.S.C. 5206, 5233, 5066)

37. Section 201.528 is amended to exclude cases of spirits bottled in bond after tax determination from its provisions, and to specify that cases transferred to a customs bonded warehouse shall bear the additional marks required by Part 252. As amended, § 201.528 reads as follows:

§ 201.528 Marks on cases filled on bottling premises.

(a) *Mandatory marks.* The following information shall be plainly marked on the Government side of each case of spirits, except cases of spirits bottled in bond under the provisions of Subpart Na of this part, or wine filled on bottling premises:

(1) Serial number;

(2) Kind of wine, or kind of spirits;

(3) Plant number where bottled;

(4) Proof gallons (for spirits and rectified wines);

(5) Wine gallons (for unrectified wines);

(6) Proof (for spirits);

(7) Percent of alcohol by volume (for wines);

(8) Date filled.

Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter.

(b) *Other marks.* In addition to the required marks on cases, other than cases of spirits bottled in bond under the provisions of Subpart Na of this part, filled on bottling premises, the proprietor may include on the Government side of cases marks as follows:

(1) Name or trade name, and location, if desired, of the bottler, and in conjunction therewith the word "Bottler";

(2) For products actually distilled or rectified by the proprietor, his name or trade name, and location, if desired, and in conjunction therewith the words "Distiller" or "Rectifier" as applicable;

(3) For products actually imported and bottled by the proprietor, the words "Imported and Bottled By", followed by his name or trade name, and location if desired;

(4) For products bottled for a dealer, the words "Bottled For", followed by the name of such dealer;

(5) Other material required by Federal or State law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(72 Stat. 1360, 1381, 84 Stat. 1965; 26 U.S.C. 5206, 5363, 5066)

38. Section 201.540b is amended to provide that spirits bottled in bond after tax determination may not be packaged in 4-ounce liquor bottles. As amended, § 201.540b reads as follows:

§ 201.540b Bottles authorized.

Liquor bottles shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than ½-pint capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the packaging of distilled spirits for domestic purposes, except that 4-ounce liquor bottles may be used for packaging any distilled spirits, other than spirits bottled in bond after determination of tax, on bottling premises for sale in intrastate commerce only. Bottles bearing the indicia required under Part 173 of this chapter may be used, but need not be used, in bottling spirits for export.

39. Section 201.540m is amended to provide that both spirits bottled in bond before determination of tax and spirits bottled in bond after determination of tax shall have a caution notice affixed thereto. As amended, § 201.540m reads as follows:

§ 201.540m Caution notice, spirits bottled in bond.

Each bottle of spirits bottled in bond under the provisions of Subpart K or Na of this part (except for export) shall

have affixed thereto a caution notice (clearly legible) reading as follows:

This bottle has been filled and stamped under the provisions of sections 5205 and 5233, Internal Revenue Code. Any person who shall reuse the stamp affixed to this bottle or remove the contents of this bottle without so breaking the stamp affixed thereto as to prevent reuse, or who shall sell this bottle, or reuse it for distilled spirits, will be liable to the penalties prescribed by law.

Bottles containg spirits bottled for export may have affixed thereto such caution notice.

(72 Stat. 1366; 26 U.S.C. 5233)

40. Paragraphs (a) and (b) of § 201.541 are amended to provide that bottles of spirits bottled in bond after tax determination shall be stamped with the prescribed bottled-in-bond strip stamp. As amended, paragraphs (a) and (b) of § 201.541 read as follows:

§ 201.541 General.

(a) *Spirits bottled in bond.* Except as provided in paragraph (c) of this section, every bottle of spirits bottled in bond pursuant to the provisions of Subpart K or Na of this part shall, when filled, be stamped by the proprietor with a prescribed bottled-in-bond strip stamp evidencing the bottling of such spirits in bond. The prescribed stamp is serially numbered (except stamps of less than ½ pint denomination), and shows that the spirits were bottled in bond under supervision of the U.S. Government, and, in the case of spirits bottled in bond for domestic use, the quantity of spirits in the container and the proof of the spirits. Green strip stamps are prescribed for spirits bottled in bond for domestic use, and blue for export. Blue export strip stamps, applied to bottles of spirits bottled in bond for export with benefit of drawback, shall be overprinted with the word "Drawback". Where bottled-in-bond spirits, originally intended for domestic use, are to be exported with benefit of drawback, the word "Export" shall be overprinted on the green strip stamp.

(b) *Spirits bottled on bottling premises.* Every bottle or other immediate container of less than five wine gallons of taxpaid spirits, except spirits bottled in bond pursuant to the provisions of Subpart Na of this part, filled on bottling premises for removal therefrom shall, when filled, be stamped by the proprietor with a prescribed red strip stamp, evidencing the determination of tax or indicating compliance with the provisions of chapter 51, I.R.C., and this part. The prescribed stamps shall be issued in a standard size, serially numbered, for bottles or containers of ½-pint capacity or more and in a small size for bottles or containers of less than ½-pint capacity. Where bottled spirits bearing red strip stamps are to be exported with benefit of drawback, the word "Export" shall be overprinted on such stamps.

* * * * *

(72 Stat. 1358, 1369; 26 U.S.C. 5205, 5235)

41. Section 201.547 is amended to provide that bottles of bottled-in-bond spirits may be restamped under the provisions of Subpart K or Na of § 201.532 and to make related changes. As amended, § 201.547 reads as follows:

§ 201.547 Restamping of spirits.

Bottles of alcohol filled on bonded premises may be restamped under the provisions of Subpart K of this part. Bottles of bottled-in-bond spirits may be restamped under the provisions of Subpart K or Na of this part. Bottles or other containers to which red strip stamps have been affixed may be restamped under the provisions of Subpart N of this part. Bottles of alcohol and bottled-in-bond spirits, and bottles or other containers to which red strip stamps have been affixed, may also be restamped under the provisions of § 201.532. Replacement of mutilated or missing stamps by persons other than proprietors of plants shall be made in accordance with the provisions of Part 194 of this chapter.

(72 Stat. 1358, 1366; 26 U.S.C. 5205, 5233)

42. Paragraph (b) of § 201.561 is amended to delete material no longer applicable and to add provisions for returned spirits and for refund or credit of rectification taxes. As amended, paragraph (b) reads as follows:

§ 201.561 General.

* * * * *

(b) By the proprietor who withdrew the spirits on payment or determination of tax for rectification or bottling, if the spirits are destroyed on the bottling premises to which they were removed from bond before removal from, or after return to, such premises. A corporation and any of its affiliated or subsidiary corporations who conduct successive operations at the same bottling premises may qualify, as provided in § 201.490, to be treated as one proprietor for the purposes of this subpart. This paragraph applies to the distilled spirits tax imposed under section 5001(a)(1), I.R.C., and, as applicable, the rectification tax imposed under sections 5021, 5022, and 5023, I.R.C. This paragraph applies only in respect of such taxes on the quantity actually destroyed.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

43. Section 201.562 is amended to require supporting documents to be attached to Form 1577. As amended, § 201.562 reads as follows:

§ 201.562 Application, Form 1577.

Application for destruction of spirits (including denatured spirits) shall be filed by the proprietor of a plant on Form 1577 with the assigned officer or, if none is regularly assigned, the assistant regional commissioner. If the proprietor desires to destroy spirits in bond at some place other than on bonded premises, the assistant regional commissioner may require that the spirits be moved to a more convenient location. The quantity of spirits to be destroyed shall be determined by an assigned officer, who shall supervise the destruction thereof and prepare his report on Form 1577; denatured spirits may, at the discretion of the approving officer, be destroyed without supervision. The original of Form 1577 covering the destruction of spirits on taxpaid premises shall have attached thereto the related Forms 122, 179, and 2637, or other supporting documents, as appropriate.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

44. Section 201.563 is amended to clarify the provisions as to refund or credit of the rectification tax. As amended, § 201.563 reads as follows:

§ 201.563 Claims.

Claims for refund or credit of tax on spirits voluntarily destroyed under this subpart shall be filed pursuant to the provisions of Subpart C of this part. Where spirits destroyed on bottling premises contain alcoholic ingredients which were not withdrawn by the proprietor from bonded premises on tax determination, the tax on such ingredients is not allowable; however, this does not preclude, where applicable, refund or credit of the rectification tax on the entire quantity destroyed. The quantity of all spirits and alcoholic ingredients subject to the operational loss provisions of this part and which are destroyed on bottling premises shall be reported on Form 2611. All claims under this subpart must be filed within 6 months from the date of destruction.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

45. Section 201.581 is amended to conform to changes in law and for clarification. As amended, § 201.581 reads as follows:

§ 201.581 Return of taxpaid spirits to bonded premises.

Subject to the provisions of this subpart, spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such spirits have been added) may be returned to the bonded premises of a distilled spirits plant. The returned spirits shall be:

(a) Destroyed in accordance with § 201.562;

(b) Denatured;

(c) Redistilled; or

(d) Mingled as follows:

(1) If 190° or more of proof, with other spirits of 190° or more of proof;

(2) If eligible for denaturation, with other spirits to be immediately denatured;

(3) If eligible to be removed from bond for an authorized tax-free purpose, with other spirits eligible to be immediately so removed;

(4) If eligible to be redistilled at the same or at another plant, with other spirits for immediate redistillation; or

(5) With heterogeneous spirits under the provisions of § 201.298.

Prior to disposition as provided in paragraphs (a) through (d) of this section, such returned spirits may be accumulated for short periods of time (but not longer than 6 months) so that the destruction, denaturation, redistillation, or

mingling may be accomplished in quantities sufficiently large to make the operations economically worthwhile. Spirits so accumulated shall be kept separate and apart from other spirits and shall be appropriately identified. All provisions of Chapter 51, I.R.C., and this part, applicable to spirits in internal revenue bond shall be applicable to spirits returned to bonded premises under this section on such return. The provisions of this subpart do not apply to taxpaid spirits returned to the bottling-in-bond facility for rebottling, relabeling, or restamping under the provisions of Subpart K of this part.

(72 Stat. 1364, as amended; 26 U.S.C. 5215)

46. Section 201.583 is amended to require supporting forms to be forwarded with Form 2612 rather than the related claim. As amended, § 201.583 reads as follows:

§ 201.583 Receipt of returned taxpaid spirits.

On receipt of taxpaid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and deliver all the copies to the assigned officer who shall, on execution on the form of his verification of the receipt and gauge of the spirits, return two copies to the proprietor. The assigned officer shall forward the original of Form 2612, with related Forms 179, 122, and 2637, as applicable, or other supporting documents, to the assistant regional commissioner, and shall retain one copy for his files. The proprietor shall retain one copy of Form 2612 for his files. When containers of such spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531.

(72 Stat. 1364, as amended; 26 U.S.C. 5215)

47. Section 201.586 is amended to include reference to a customs bonded warehouse. As amended, § 201.586 reads as follows:

§ 201.586 Return of spirits withdrawn without payment of tax.

Spirits lawfully withdrawn without payment of tax under the provisions of Part 252 of this chapter for exportation, or for deposit in a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and Part 252 of this chapter, (a) to the bonded premises of any plant authorized to produce distilled spirits, for redistillation, or (b) to the bonded premises from which withdrawn, for storage pending subsequent removal for a lawful purpose. Wine spirits withdrawn pursuant to § 201.387 for use in wine production, and not so used, may be returned to the bonded premises of a plant; the consignee proprietor shall obtain approval, as provided in § 201.366, and the wine spirits shall be removed from the winery in accordance with the provisions of Part 240 of this chapter.

(72 Stat. 1362, 1365, 1382, 84 Stat. 1965; 26 U.S.C. 5214, 5223, 5373, 5066)

48. In § 201.623, paragraphs (k) and (l) and the text immediately following paragraph (l) are amended to read as follows:

§ 201.623 Daily bottling premises records.

* * * * *

(k) The voluntary destruction of spirits, showing separately (1) spirits destroyed before completion (including spirits returned to the bottling premises and dumped for reprocessing or rebottling), and (2) spirits destroyed after completion (including spirits returned to the bottling premises and not dumped for reprocessing or rebottling).

(l) The losses which occur (1) by reason of accident while being removed from bond to bottling premises (where such losses occur, the actual quantity of spirits received shall be reported in the record required by paragraph (a) of this section), (2) by reason of accident while on the bottling premises and that amount to 10 proof gallons or more in respect of any one accident, (3) by theft, or (4) by reason of flood, fire, or other disaster.

The records required by paragraphs (a)(1), (b), (e), (g), and (h)(3) of this section shall show separately spirits for bottling in bond after tax determination and spirits for other bottling. The records required by paragraph (a) of this section shall also show the name and plant number of the producer or rectifier (bonded warehouseman in the case of blended beverage rums or brandies or spirits of 190° or more of proof received from storage facilities) for domestic spirits, the name of the importer and the country of origin for imported spirits, and the name and address of the producer of wines and alcoholic flavoring materials. In addition to the above requirements separate records shall be maintained for spirits entered into the closed system (under the provisions of § 201.487) for the production of gin or vodka and the spirits removed therefrom; alcoholic flavoring materials which, under § 201.424, must be procured direct from the manufacturer and covered by an affidavit from him, shall be distinguished in the records from other alcoholic flavoring materials; and spirits stamped and marked, or restamped and marked (if in cases) or marked (if in packages) for exportation with benefit of drawback, shall be appropriately identified in the records. Where proprietors' copies of prescribed transaction forms reflect details of the transactions required by this section, such copies may constitute the records of such details required under this section.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. B. 25 CFR Part 252 is amended as follows:

1. Section 252.1 is amended to include the withdrawal of distilled spirits to a customs bonded warehouse. As amended, § 252.1 reads as follows:

§ 252.1 General.

The regulations in this part relate to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class 6, of distilled spirits (including specially denatured spirits), beer, and wine, and in the case of distilled spirits only, transfer to a customs bonded warehouse as provided for in section 5066, I.R.C., whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

2. In § 252.11, the definition of "Assistant regional commissioner" is updated and a definition of "Customs bonded warehouse" as added, in alphabetical order. The new and amended definitions in § 252.11 read as follows:

§ 252.11 Meaning of terms.

* * * * *

Assistant regional commissioner. An assistant regional commissioner (alcohol, tobacco, and firearms) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

* * * * *

Customs bonded warehouse. A customs bonded warehouse, class 2, 3, or 8, established under the provisions of Customs Regulations (19 CFR Ch. I).

* * * * *

3. Section 252.25 is amended to include withdrawals of distilled spirits for transfer to a customs bonded warehouse. As amended, § 252.25 reads as follows:

§ 252.25 General.

Any manufacturer who manufactures the products designated in section 5522, I.R.C., at a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR Chapter I, may withdraw distilled spirits or wines from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax, for use in the manufacture of such products for export, or for rectification and export, or shipment in bond to Puerto Rico, or, in the case of distilled spirits, for transfer to a customs bonded warehouse, as provided for in section 5066, I.R.C. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions §§ 252.63 and 252.64.

(46 Stat. 691, as amended, 72 Stat. 1362, 1380, 1392, 1393, 1394, 84 Stat. 1965; 19 U.S.C. 1311, 26 U.S.C. 5214, 5362, 5521, 5522, 5523, 5066)

4. Immediately following § 252.25, an undesignated center head and two new sections, §§ 252.26 and 252.27, are added to read as follows:

CUSTOMS BONDED WAREHOUSES

§ 252.26 Entry into customs bonded warehouses.

(a) *Distilled spirits bottled in bond for export.* Distilled spirits bottled in bond for export may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 252.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of section 5214(a)(4), I.R.C.

(b) *Bottled distilled spirits eligible for export with benefit of drawback.* Bottled distilled spirits stamped or restamped, and marked, especially for export with benefit of drawback may, subject to this part, be transferred to customs bonded warehouses in which imported distilled spirits are permitted to be stored, and entered pending withdrawal as provided in § 252.27, as if such spirits were for exportation.

(c) *Time deemed exported.* For the purpose of this part, distilled spirits entered into a customs bonded warehouse as provided in this section shall be deemed exported at the time so entered.

(84 Stat. 1965; 26 U.S.C. 5066)

§ 252.27 Withdrawal from customs bonded warehouses.

Distilled spirits entered into customs bonded warehouses as provided in § 252.26 may, under the appropriate provisions of 19 CFR Chapter I, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Distilled spirits transferred to customs bonded warehouses as provided in § 252.26 shall be entered, stored, and accounted for in such warehouses under the appropriate provisions of 19 CFR Chapter I.

(84 Stat. 1965; 26 U.S.C. 5066)

5. Section 252.42 is amended to include evidence of the deposit of distilled spirits in a customs bonded warehouse. As amended, § 252.42 reads as follows:

§ 252.42 Evidence of deposit.

The deposit of distilled spirits in a customs bonded warehouse or distilled spirits and wines in a foreign-trade zone with benefit of drawback may be evidenced by a copy of the transportation bill of lading obtained under the provisions of § 252.250.

(48 Stat. 999, as amended, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5066)

6. In § 252.58, paragraph (a) is amended to provide for the filing of a new bond, Form 2601, or a consent of surety, to cover removals to customs bonded warehouses and the statutory citation at the end of § 252.58 is amended. As amended, paragraph (a) of § 252.58 and the statutory citation read as follows:

§ 252.58 Bond, Form 2601.

(a) *Spirits.* Where spirits are withdrawn without payment of tax, as authorized in § 252.91, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the bond, Form 2601, given by the proprietor and approved under the provisions of Part 201 of this chapter, shall cover such withdrawals: *Provided,* That where a proprietor desires to remove distilled spirits to a customs bonded warehouse as provided in § 252.91(e) and the terms of his bond on Form 2601, then in force, do not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2601.

* * * * *

(72 Stat. 1349, 1352, 1362, 84 Stat. 1965; 26 U.S.C. 5173, 5175, 5214, 5066)

7. Section 252.61 is amended to include a reference to § 252.91(e). As amended § 252.61 reads as follows:

§ 252.61 Bond, Form 2734.

If a specific lot of distilled spirits or wines is to be withdrawn without payment of tax, as authorized in § 252.91 (a), (b), (c), or (e), or § 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a specific bond on Form 2734 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(72 Stat. 1352, 1362, 1380, 84 Stat. 1965; 26 U.S.C. 5175, 5214, 5362, 5066)

8. Paragraph (a) of §§ 252.62 and 252.65, are amended to provide for the filing of a new bond, or a consent of surety, to cover removals to customs bonded warehouses and the statutory citations at the end of § 252.62 and at the end of § 252.65 are amended. As amended, paragraph (a) of §§ 252.62 and 252.65, and the statutory citations at the end of §§ 252.62 and 252.65, read as follows:

§ 252.62 Bond, Form 2735.

(a) *General.* If distilled spirits and/or wines are to be withdrawn from time to time without payment of tax, as authorized in §§ 252.91 (a), (b), (c), or (e), and 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a continuing bond on Form 2735 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines that may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000: *Provided further,* That where the exporter desires to remove distilled spirits to a customs bonded warehouse as provided in § 252.91(e) and the terms of his bond on Form 2735, then in force, do not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2735. Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or transfer to a foreign-trade zone, or distilled spirits withdrawn for transfer to a customs bonded warehouse, shall remain unaccounted for until the evidence of exportation, use, transfer, or loss in transit, as required by this part, has been filed with the assistant regional commissioner. The exporter shall, at the time of executing Form 2735, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2735, such premises shall be located in the same internal revenue region.

* * * * *

(72 Stat. 1352, 1362, 1380, 84 Stat. 1965; 26 U.S.C. 5175, 5214, 5362, 5066)

§ 252.65 Bond, Form 2738.

Whenever, under the provisions of this part, the claimant desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, or, in the case of distilled spirits, transferred to a customs bonded warehouse, as authorized in §§ 252.171, 252.201, and 252.211, prior to the receipt by the assistant regional commissioner of the certified copy of Form 1582, 1629, or 1582–A, as the case may be, as prescribed by this part, he shall file bond on Form 2738 with the assistant regional commissioner as provided in § 252.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond: *Provided,* That the maximum penal sum shall not exceed $200,000, but in no case shall the penal sum be less than $1,000: *Provided further,* That where the claimant desires to remove distilled spirits to a customs bonded warehouse as provided in § 252.171(d) and the terms of his bond on Form 2738, then in force, do not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2738.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

9. Section 252.91 is amended by adding thereto a new paragraph (e). As amended, § 252.91 reads as follows:

§ 252.91 General.

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a

distilled spirits plant without payment of tax for:

(a) Exportation;

(b) Use on the vessels or aircraft described in § 252.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation;

(d) Transportation to and deposit in a manufacturing bonded warehouse; or

(e) Transfer to and deposit in a customs bonded warehouse as provided for in § 252.26.

All such withdrawals shall be made under the applicable bond prescribed in Subpart D of this part.

(48 Stat. 999, as amended, 72 Stat. 1362, 1393, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5214, 5522, 5066)

10. Paragraph (a) of § 252.92 is amended to provide for the use of Form 206 as an application to withdraw distilled spirits without payment of tax for transfer to a customs bonded warehouse, and the citation following the section is amended. As amended, paragraph (a) of § 252.92 and the citation read as follows:

§ 252.92 Application, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, he shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62(b), all copies of Form 206 shall be submitted to the internal revenue officer at the designated distilled spirits plant as provided in that section.

* * * * *

(72 Stat. 1362, 1393, 84 Stat. 1965; 26 U.S.C. 5214, 5522, 5066)

11. Section 252.93 is amended to provide for the name of the carrier or carriers on the application for withdrawals from the bonded premises of a distilled spirits plant to a customs bonded warehouse. As amended, § 252.93 reads as follows:

§ 252.93 Carrier to be designated.

The name of the carrier or carriers to be used in transporting the distilled spirits from the bonded premises of the distilled spirits plant to the port of export, or to the customs bonded warehouse, or to the manufacturing bonded warehouse, or to the foreign-trade zone, as the case may be, shall be shown in the application. If the spirits are shipped on a through bill of lading and all carriers handling the spirits while in transit are not known, the name of the carrier to whom the distilled spirits are to be delivered at the shipping premises shall be shown.

(72 Stat. 1362, 1393, 84 Stat. 1965; 26 U.S.C. 5214, 5522, 5066)

12. Paragraph (d) of § 252.103 is amended by adding an "or" at the end thereof; a new paragraph (e) is added to specify the additional marks and brands to be placed on cases of distilled spirits withdrawn without payment of tax for deposit in a customs bonded warehouse; and the citation following the section is amended. As amended and added, paragraphs (d) and (e) of § 252.103, and the citation read as follows:

§ 252.103 Marks and brands.

* * * * *

(d) Where the spirits are to be withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone; or

(e) "Deposit in C.B.W." followed by the address (city or town and State) of the customs bonded warehouse—where the spirits are to be withdrawn for deposit in a customs bonded warehouse as provided for by § 252.56.

* * * * *

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1362, 1393, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5214, 5522, 5066)

13. Section 252.110 is amended to extend the provisions for losses in transit to distilled spirits withdrawn from bonded premises without payment of tax and transported to a customs bonded warehouse. As amended, § 252.110 reads as follows:

§ 252.110 Losses.

Where there has been a loss of distilled spirits while in transit from the bonded premises of a distilled spirits plant to a port of export, a customs bonded warehouse, a manufacturing bonded warehouse, a vessel or aircraft, or a foreign-trade zone, the provisions of Subpart O of this part, with respect to losses of spirits after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

14. Section 252.115 is amended to provide for the return to bonded premises of spirits withdrawn without payment of tax for deposit in a customs bonded warehouse. As amended, § 252.115 reads as follows:

§ 252.115 General.

On application of the proprietor of a distilled spirits plant, spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or for use on vessels and aircraft may, for good cause, be returned:

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided*, That such spirits are returned before they are exported, deposited in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(72 Stat. 1362, 1365, 84 Stat. 1965; 26 U.S.C. 5214, 5223, 5066)

15. Paragraph (c) of § 252.171 is amended by adding an "or" at the end thereof; a new paragraph (d) is added to provide for the withdrawal of distilled spirits to a customs bonded warehouse; and the citation following the section is amended. As amended and added paragraphs (c) and (d) of § 252.171 and the citation read as follows:

§ 252.171 General.

* * * * *

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation; or

(d) Transferred to and deposited in a customs bonded warehouse as provided for in § 252.26.

* * * * *

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

16. An undesignated center head and a new section, § 252.173, are added immediately following § 252.171, to read as follows:

STANDARD EXPORT DRAWBACK RATES

§ 252.173 General.

Products which derive all of their alcoholic content from fully taxpaid spirits, such as unrectified spirits and gin and vodka produced exempt from rectification tax, are considered, without further action by the bottler or packager, to be subject to a standard drawback rate. In the case of rectified products, other than gin and vodka produced exempt from the rectification tax, rectifiers may submit to the Director, Alcohol, Tobacco and Firearms Division, formulas on Form 27–B Supplemental prepared as provided in Part 201 of this chapter and which (a) are precise as to the quantity or percentage of the ingredients to be used, including the alcoholic content of the ingredients, and (b) permit no variation except in the proof of the finished product due to increases or decreases in the quantity or percentage of water or other non-alcoholic ingredients used. Each such formula submitted shall include the following statement immediately above the signature of the rectifier:

For the purpose of having a standard export drawback rate established, I agree to adhere strictly to the formula set forth above and to accept the rate of drawback established for this product.

Rectifiers may also submit formulas on Forms 27–B Supplemental for products

in which the quantities, proof, and alcoholic content of spirits, wines, and alcoholic flavoring materials vary between specified limits in arriving at the specific proof. The drawback rate will be computed on the basis of the maximum quantity and highest alcoholic content of wine and alcoholic flavoring material permissible under the formula, even though such wine and flavoring material were used in the minimum quantity and/or the lowest alcoholic content. Each such formula submitted shall include the following statement immediately above the signature of the rectifier:

For the purpose of having a standard export drawback rate established, I agree to accept the rate of drawback established, based on the largest quantity and the highest alcoholic content of wine and alcoholic flavoring material that might be used in any product produced under this formula.

Returned bottled goods and dregs and remnants produced under a formula on which a standard drawback rate has been established may be added to a batch of the identical formula, provided that the approved formula specifies that return bottled goods and dregs and remnants may be added and that such returned bottled goods and dregs and remnants can be identified as having been produced under the identical formula. On all formulas containing alcoholic flavoring materials the rectifier shall state whether nonbeverage drawback has been or will be claimed on the alcoholic flavoring material to be used. In the case of existing approved formulas which meet the above criteria, the rectifier may, in lieu of submitting a new formula, file with his Assistant Regional Commissioner, Alcohol, Tobacco and Firearms, a signed rider, in quadruplicate, identifying the formula, and any previously approved riders, and containing the statement, as applicable, that he agrees to accept the rate of drawback established. Such riders shall pertain solely to the establishment of a standard drawback rate and shall not make any change in the existing formula.

17. Section 252.190 is amended to provide for the use of Form 1582 as a notice of shipment of distilled spirits to a customs bonded warehouse. As amended, § 252.190 reads as follows:

§ 252.190 Notice, Form 1582.

Notice of shipment of distilled spirits for export, for use as supplies on vessels or aircraft, for deposit in a foreign-trade zone, or for deposit in a customs bonded warehouse, shall be prepared by the exporter on Form 1582, in quadruplicate: *Provided,* That where the withdrawal is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Each Form 1582 shall be given, by the exporter, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat., 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

18. Section 252.193 is amended to specify the additional marks and brands to be placed on cases of distilled spirits withdrawn with benefit of drawback for deposit in a customs bonded warehouse. As amended, § 252.193 reads as follows:

§ 252.193 Export marks.

In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 201 of this chapter, the exporter shall place additional marks, as herein specified, on each such container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone or a customs bonded warehouse:

(a) "Export—Drawback Claimed"—Where the spirits are to be removed for export from the United States; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—Where the spirits are to be removed for use on vessels or aircraft; and

(c) Where the spirits are removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone; or

(d) "Deposit in C.B.W.—Drawback Claimed" followed by the address (city or town and State) of the customs bonded warehouse—where the spirits are removed for deposit in a customs bonded warehouse as provided for by § 252.26.

All such markings shall be placed on the containers in the same manner and in the same area as is prescribed in Part 201 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81C, 26 U.S.C. 5062, 5066)

19. Section 252.195a is amended to provide that where a standard export drawback rate has been established, the bottler or packager shall show the formula number and date of approval in Part II of Form 1582; and further provide that the assistant regional commissioner may waive the filing of certain supporting forms with a claim for drawback. As amended, § 252.195a reads as follows:

§ 252.195a Claim.

The bottler or packager of the spirits shall compute the drawback rate, unless the assistant regional commissioner has, under the provisions of § 252.173, established a standard drawback rate, and shall complete Parts II and III on both copies of Form 1582. If a standard drawback rate has been established for a rectified product other than gin and vodka produced exempt from rectification tax, the date of approval of the formula and the number shall be shown in any available space in Part II of Form 1582. The bottler or packager shall file one copy as the claim for drawback of tax with the assistant regional commissioner for the region in which the claimant's premises are located, and retain one copy for his files. Each claim on Form 1582 shall be supported, as applicable, by a copy of each related Form 122, Form 2630, and Form 2637 covering the dumping and bottling or packaging of the spirits; and in the case of spirits bottled in bond on bonded premises, a copy of each Form 179 covering the taxpayment. If substitute records are maintained as provided in § 201.432(d) of this chapter, the claimant shall prepare from such record, and submit with the claim, a batch record on Form 122 and shall certify that the transcript accurately reflects the original record. Upon application, and a finding by the assistant regional commissioner that dumping, bottling, or packaging records are not essential, he may waive the requirement for the filing of supporting forms with each claim for drawback except the requirement for filing Form 179 covering taxpayment of spirits bottled in bond on bonded premises: *Provided,* That in the case of any such waiver, the claimant shall insert in Part II the formula number, if any, or a statement that the alcoholic content of the product is derived solely from fully taxpaid spirits. In lieu of a waiver of the filing of supporting forms, the assistant regional commissioner may approve an alternate method of furnishing information. The authorization shall provide that the authority may be withdrawn if, in the opinion of the assistant regional commissioner, there is a need for the supporting forms.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

20. Section 252.196 is amended to include transfers to a customs bonded warehouse. As amended, § 252.196 reads as follows:

§ 252.196 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits removed under this subpart for export, use on vessels or aircraft, transfer to a customs bonded warehouse, or transfer to a foreign-trade zone, shall be in accordance with the applicable provisions of Subpart M of this part.

(72 Stat. 1336, 84 Stat. 1965; 26 U.S.C. 5062, 5066)

21. A new § 252.244a is added, immediately following § 252.244, to read as follows:

§ 252.244a Shipment to customs bonded warehouse.

Distilled spirits withdrawn for shipment to a customs bonded warehouse shall be consigned in care of the customs officer in charge of the warehouse.

(84 Stat. 1965; 26 U.S.C. 5066)

22. Section 252.250 is amended by changing the text preceding paragraph (a) to require submission of a transportation bill of lading in the case of shipment of distilled spirits to a customs bonded warehouse; and by amending the citation. As amended, such text of § 252.250 and the citation read as follows:

§ 252.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the

foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained and filed by the claimant or exporter with the assistant regional commissioner with whom the application, notice, or notice and claim is filed. Where the shipment consists of distilled spirits for deposit in a customs bonded warehouse, or distilled spirits or wines, for deposit in a foreign-trade zone, with benefit of drawback, and the principal has filed bond, Form 2738, a copy of the transportation bill of lading covering the shipment shall be obtained and filed by the claimant or exporter with the assistant regional commissioner with whom the notice and claim is filed: *Provided,* That such transportation bill of lading will not be required when delivery is made directly to the foreign-trade zone or the customs bonded warehouse by the shipper. Bills of lading shall be signed by the carrier or by an agent of the carrier and shall contain the following minimum information:

* * * * *

(72 Stat. 1334, 1335, 1336, as amended, 1362, 1380, 84 Stat. 1965; 26 U.S.C. 5053, 5055, 5062, 5214, 5362, 5066)

23. Section 252.265 is amended to include detention of distilled spirits transferred to a customs bonded warehouse where a customs inspection discloses evidence of fraud. As amended, § 252.265 reads as follows:

§ 252.265 Evidence of fraud.

If the customs inspection discloses evidence of fraud, the customs officer shall detain the merchandise and notify the director of customs who shall report the facts forthwith to the assistant regional commissioner within whose region the port of export is located. The assistant regional commissioner shall make investigation and take such action as the facts may warrant. Where the detained merchandise has been withdrawn for transfer and deposit in a manufacturing bonded warehouse, the merchandise shall be deemed not to have been deposited in said warehouse, and the designated officer shall hold in abeyance the processing of Form 206 until advised by the director of customs that the detained merchandise may be entered for deposit. Where the detained merchandise has been withdrawn or entered for deposit in a foreign-trade zone or a customs bonded warehouse, it shall be deemed to not have been deposited in the zone of the warehouse and the customs officer shall hold in abeyance the processing of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and Zone Form D, until advised by the director of customs that the detained merchandise may be entered for deposit.

(48 Stat. 999, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380, 1393, 84 Stat. 1965; 19 U.S.C. 81c, 26 U.S.C. 5053, 5055, 5062, 5214, 5362, 5522, 5066)

24. An undesigned center head and new § 252.286 are added, immediately following § 252.285, to read as follows:

RECEIPT IN CUSTOMS BONDED WAREHOUSE

§ 252.286 Receipt in customs bonded warehouse.

On receipt of the distilled spirits and the related Form 206 or 1582, as the case may be, the customs officer in charge of the customs bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on the appropriate form. The customs officer shall note on each copy of the Form 206 or 1582, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected and that described on the form. Where the inspection discloses no loss, or where a loss is disclosed and there is no evidence to indicate fraud, the officer shall execute his certificate of deposit on both copies of the form, forward the original to the assistant regional commissioner, and retain the remaining copy for his files.

(84 Stat. 1965; 26 U.S.C. 5066)

25. Section 252.301 is amended to extend the provisions for losses in transit to distilled spirits withdrawn from bonded premises without payment of tax and transported to a customs bonded warehouse. As amended, § 252.301 reads as follows:

§ 252.301 Loss of distilled spirits in transit.

The tax on distilled spirits withdrawn without payment of tax under this part and which are lost during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, (b) the manufacturing bonded warehouse, (c) the vessel or aircraft, (d) the foreign-trade zone, or (e) the customs bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the assistant regional commissioner establishes that such distilled spirits have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided,* That such remission in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

26. Sections 252.331 and 252.333 are amended to include the processing of claims for drawback of tax on distilled spirits shipped to a customs bonded warehouse. As amended, §§ 252.331 and 252.333 read as follows:

§ 252.331 Claims supported by bond, Form 2738.

On receipt of a claim for drawback of tax on distilled spirits or wines on which the tax has been determined, and of the evidence of exportation required by § 252.40, or of lading for use on vessels or aircraft required by §252.41, or of deposit in a foreign-trade zone or of deposit of distilled spirits in a customs bonded warehouse, as required by § 252.42, as the case may be, the assistant regional commissioner shall, if a good and sufficient bond has been filed as provided in § 252.65, and the notice of removal has been properly completed, allow the claim in accordance with the rate of drawback established in respect of the particular spirits or wines on which claim is based and charge the amount allowed against the bond. On receipt of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, and, in the case of claims on Form 1582–A, the certificate of tax determination, Form 2605, the assistant regional commissioner shall give appropriate credit to the bond.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

§ 252.333 Where no bond is filed.

Where a claim for drawback of tax on distilled spirits or wines on Form 1582, Form 1582–A, or Form 1629, is not supported by a bond on Form 2738, and in all cases where claim for drawback of tax on beer is made on Form 1582–B, the assistant regional commissioner shall, on receipt by him of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, examine the claim to determine that it has been properly completed. He shall then, on receipt of the evidence of exportation required by § 252.40, or of lading for use on vessels or aircraft required by § 252.41, or of deposit in a foreign-trade zone or a customs bonded warehouse as required by § 252.42, as the case may be, and, in the case of claims on Form 1582–A, the certificate of tax determination, Form 2605, allow the claim in the amount of the tax paid on the beer or the tax paid or determined on the distilled spirits or wines on which the claim is based and which were exported, laden as supplies on vessels or aircraft, or deposited in a foreign-trade zone of a customs bonded warehouse, as the case may be.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1327, 1335, 1336, 84 Stat. 1965; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5009, 5055, 5062, 5066)

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-16]

PHOSPHORUS PENTASULFIDE

Proposed Classification as Inflammable Solid

The Coast Guard is considering amending the dangerous cargoes regulations to

identify phosphorus pentasulfide by name as an inflammable solid and to prescribe general packaging conditions for its transportation by water.

Interested persons are invited to submit written data, views or comments regarding the proposal to the Commandant (MHM), U.S. Coast Guard, Washington, D.C. 20591. Communications should identify the notice number, CGFR 71–16, any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commentator. The Coast Guard will hold an informal hearing on Tuesday, May 4, 1971, at 9:30 a.m. in Conference Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. Comments received on or before May 11, 1971, or at the hearing, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

By a separate document published at page 4626 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposed amendments to Parts 172 and 173 of Title 49, Code of Federal Regulations, relating to the identification of phosphorus pentasulfide as a flammable solid and the prescription of general packaging conditions for its transportation. For reasons fully stated in that document, the Board reached the conclusion as to the suitability of the amendment in view of the properties of phosphorus pentasulfide and of some accidents that have occurred.

The proposed amendment of the hazardous materials regulations of the Department of Transportation in Title 49 would apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make these regulations governing phosphorus pentasulfide applicable to carriers by water.

In consideration of the foregoing, it is proposed to amend Part 146 of Title 46, Code of Federal Regulations, as follows:

Subpart 146.04—List of Explosives or Other Dangerous Articles Containing the Shipping Name or Description of Articles Subject to the Regulations in This Subchapter

1. Section 146.04–5 will be amended by adding in proper alphabetical sequence, the article "Phosphorus pentasulfide", to read as follows:

§ 146.04–5 List of explosives and other dangerous articles and combustible liquids.

Article	Classed as—	Label required
* * *	* * *	* * *
Phosphorus pentasulfide	Inf. S.	Yellow.
* * *	* * *	* * *

Subpart 146.22—Detailed Regulations Governing Inflammable Solids and Oxidizing Materials

§ 146.22–100 [Amended]

2. Section 146.22–100 will be amended by adding in proper alphabetical sequence, the article "Phosphorus pentasulfide", to read as follows:

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation			
			Cargo vessel	Passenger vessel	Ferry vessel, passenger or vehicle	R.R. car ferry, passenger or vehicle
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Phosphorus pentasulfide.	*Light-yellow or greenish-yellow crystalline mass peculiar odor.* *Reacts with water to produce phosphoric acid and highly toxic hydrogen sulfide.* *Ignitable by friction or struck sparks.* *Contact with skin mildly irritating.* Do not stow with oxidizing materials (yellow label). Stow away from all living quarters and foodstuffs. Keep cool and dry.	Yellow.	Stowage: "On deck protected." "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: (DOT–6A, 6B, 6C) not over 30 gal. cap. (DOT–37A, 37B) STC, not over 425 lb. gr. wt. Wooden boxes: (DOT–15A, 15B) with airtight inside metal containers not over 250 lb. gr. wt. Tight sift-proof packaging complying with DOT regulations.	Not permitted.	Not permitted.	Not permitted.
* * *	* * *	* * *	* * *	* * *	* * *	* * *

3. Section 146.22–100 will also be amended by adding in the column headed "Required conditions for transportation-cargo vessel" the words "Tight sift-proof packaging complying with DOT regulations" for the article "Phosphorus sesquisulfide."

This proposal is made under authority of R.S. 4405, as amended, R.S. 4417a, as amended, R.S. 4462, as amended, R.S. 4472, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 391a, 416, 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: February 24, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71–3305 Filed 3–9–71;8:47 am]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173]

[Docket No. HM–80; Notice 71–7]

TRANSPORTATION OF HAZARDOUS MATERIALS

Phosphorus Pentasulfide

The Hazardous Materials Regulations Board is considering amending §§ 172.5 and 173.225 to identify phosphorus pentasulfide by name as a flammable solid and to prescribe general packaging conditions for its transportation.

The question of regulating this commodity has been raised several times and confusion may exist regarding its classification, i.e., whether or not the product is subject to the Department's Hazardous Materials Regulations.

In view of the properties of this material and its accident history, the Board believes that the product should be identified and classed as a flammable solid and hazard warnings should be provided during transportation. The Board also considers the additional placarding described in § 177.823(c) appropriate. On the basis of the information the Board has available, it appears that any tight, sift-proof packaging meeting the requirements of § 173.24 would be adequate.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 172 and 173 as follows:

I. Part 172: In § 172.5 paragraph (a), Commodity List, would be amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemption and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(add)				
Phosphorus pentasulfide	F.S.	173.153, 173.225	Yellow	11 pounds.
* * *	* * *	* * *	* * *	* * *

* * * * * * *

II. Part 173: (A) In Part 173 Table of Contents, § 173.225 would be amended to read as follows:

Sec.
173.225 Phosphorus sesquisulfide and phosphorus pentasulfide.

(B) In § 173.225 the heading would be amended; paragraph (b) would be added to read as follows:

§ 173.225 Phosphorus sesquisulfide and phosphorus pentasulfide.

* * * * *

(b) Phosphorus pentasulfide must be packed as follows:

(1) Tight, sift-proof packaging complying with § 173.24.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before May 11, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on March 4, 1971.

W. F. REA, III,
Read Admiral, .S. Coast Guard, By direction of Commandant, U.S. Coast Guard.

CARL V. LYON,
Acting Administrator, Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

SAM SCHNEIDER,
Board Member, for the Federal Aviation Administration.

[FR Doc.71-3304 Filed 3-9-71;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-1; Notice 2]

GLAZING MATERIALS

Extension of Time for Comments

A notice of proposed rule making to amend Motor Vehicle Safety Standard No. 205, "Glazing Materials," was published January 9, 1971 (36 F.R. 326). The notice established a closing date of March 9, 1971, for the submission of comments. In response to petitions from Rohm & Haas Co. and Donnelly Mirrors, Inc., to extend the comment period, the closing date for comments is hereby extended to April 8, 1971.

This notice is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. secs. 1392, 1401, 1403, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on March 5, 1971.

RODOLFO A. DIAZ,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.71-3337 Filed 3-9-71;8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[Docket No. 23166; EDR-196]

CREDIT LIMITATIONS FOR CERTIFICATED ROUTE AIR CARRIERS

Advance Notice of Proposed Rule Making

FEBRUARY 25, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration the question of whether it should propose regulations which would limit the extent credit may be extended for air transportation by all certificated route air carriers and whether it should propose related Part 241 amendments.

The rules which may be proposed are described and discussed in the Explanatory Statement set forth below and the proposals are set forth in the draft rule. The notice is issued pursuant to the authority of sections 204(a), 401, 403, 404 (b), and 1001 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754, 758 (as amended by 74 Stat. 445), 760, 788; 49 U.S.C. 1324, 1371, 1373, 1374, 1481).

Interested persons may participate in the rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before April 9, 1971, will be considered before taking action on the proposal. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. Section 221.38 (i) of the Board's economic regulations (14 CFR 221.38(i)) prescribes rules and regulations pertaining to the construction, publication, filing and posting of tariffs governing the carriers' extension of credit. No rules or regulations presently exist limiting the amount of credit which may be extended by any carrier. However, the magnitude of credit extended by the air transport industry has been increasing sharply. Thus over the 10-year period, December 31, 1959, to December 31, 1969, the aggregate outstanding receivables from transportation sales less intercarrier payables increased from substantially $132 million to $489 million, or approximately 271 percent for trunkline, Pan American and local service carriers. Annual transportation revenues increased substantially threefold, or from $2.6 billion to $8.3 billion annually. In percentage terms, the ratio of receivables to revenues increased accordingly, from about five to six. Over the same 10-year span the carriers' provisions to expense for uncollectible receivables increased from $1.4 million in 1960 to $15.2 million in 1969. While sizable amounts in absolute terms, such provisions for losses approximated only 0.05 and 0.18 percent of total transportation revenues, for 1960 and 1969, respectively. They also approximated one and three percent of the net consumer receivables reported as outstanding at the end of each of these years.

These data do not disclose a drastic growth in the relative magnitude of credit being financed by the industry. However, information is not available in the regular reports to the Board of either the absolute degree to which credit is being extended or of the rate at which such credit may be turning over. The Board has therefore collected informally through special questionnaire information concerning the age of those receivables outstanding as of December 31, 1969. On the basis of this survey, substantially 93 percent of all receivables outstanding at that date were less than 60 days old, about 5 percent were less than 180 days old, and less than 3 percent were more than 180 days old.

None of the foregoing would indicate that in relation to revenues the volume of credit carried by the industry to date has constituted a serious drain on available resources. Nevertheless, the current absolute magnitude is sizable and can be expected to grow in concert with the further anticipated growth of air transportation. Moreover, the industry is at the present time undergoing severe financial strains. In light of these circumstances and in the interest of preventing adverse circumstances which may otherwise materialize, the establishment of minimum standards with respect to the extension and monitoring of credit may be desirable.

For purposes of eliciting comment concerning the desirability for and the terms of a rule limiting the amount and duration of credit which may be extended to

any customer, there is hereinafter set forth a draft of rule which would limit an extension of credit to any customer to not more than $1,000 or for longer than 60 days unless standards are established by the carrier to provide reasonable assurance that the indebtedness will be paid if greater. This regulation would not tell each carrier how it must regulate the extension of credit, but would merely require it to establish reasonable controls within its own business practices.

The adoption of such a rule also would make desirable an amendment to Part 241 to provide for an annual report schedule from each certificated route carrier which would set forth basic information concerning the scope and age of outstanding credit.

Draft rule. The Civil Aeronautics Board has under consideration the possible promulgation of a new part to the Economic Regulations and related amendments to Part 241 (14 CFR Part 241) as follows:

1. Establish a new part as follows:

PART ____—TARIFFS OF AIR CARRIERS: CREDIT PRACTICES

Sec.
____.1 Applicability.
____.2 Definitions.
____.3 Conditions governing the extension of credit.

§ ____.1 Applicability.

This part applies to all certificated route air carriers.

§ ____.2 Definitions.

For the purpose of this part:

(a) "Person" means any individual, corporation, firm, or any other society, association, or group of individuals operating as a single entity for purposes of billing by and reimbursing the air carrier for transportation and incidental services received.

(b) "Credit" means an extension of time allowed any person, other than the U.S. Government, to pay for air transportation or its incidental services beyond the date of performance by the air carrier.

§ ____.3 Conditions governing the extension of credit.

(a) Credit shall not be extended to any person for air transportation, or services in connection with such air transportation, in excess of $1,000 or for longer than a period of 60 days.

(b) Notwithstanding the provisions of paragraph (a) of this section, a carrier may extend credit in greater amounts and for longer periods pursuant to written agreements with individual customers in accordance with standards contained in its tariffs which provide reasonable assurance that incurred indebtedness will be paid as scheduled and which specify the procedures to be followed for correction in the event of default.

Part 241. 2. Amend section 22—General Reporting Instructions by inserting a new Schedule B–15, as shown in Exhibit A attached,[1] in the list of schedules under paragraph (a) so that the list in pertinent part reads:

Schedule No.		Filing: Frequency	Filing: Postmark Interval (days)
* * *		* * *	* * *
B–10	Developmental and preoperating costs.	Quarterly	40
B–15	Analysis of basic sales elements.	Annually	90
B–41	Investments held by, or for the account of, respondent.	do	90

3. Amend section 23—Certification and Balance Sheet Elements by inserting instructions for new Schedule B–15 as follows:

Schedule B–15—Analysis of Basic Sales Elements.

(a) This schedule shall be filed by all certificated route air carriers.

(b) Gross sales data shall be separately identified as between credit sales and cash sales and credit sales shall be further identified as to type of credit plan in the appropriate columns of this schedule.

(c) The receivables data shall be separately identified as between interline receivables and other general traffic receivables. The amounts reported shall agree in total with the balance of Account 1240 Accounts Receivable-General Traffic Reported on Schedule B–1 Balance Sheet. Other general traffic receivables shall be reported as overdue for periods of less than 60 days, 60 to 120 days, and over 120 days, respectively.

(d) The data reported for uncollectible accounts shall include the reserve balance at the beginning period, credits or charges to the reserve, the reserve balance at the end period and uncollectible accounts charged directly to expense during the year, together with the identities of the persons who owe more than $1,000 for a period in excess of 60 days or who are not in compliance with the terms of an agreement executed pursuant to § ____.3(b) and the steps taken to collect such sums.

[FR Doc.71-3362 Filed 3-9-71;8:49 am]

[1] Exhibit A filed as part of the original document.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1300]

[Ex Parte No. 273]

SUBSTITUTION OF MOTOR FOR RAIL SERVICE AND PUBLICATION OF JOINT MOTOR-RAIL RATES ON EXEMPT COMMODITIES

Notice of Proposed Rule Making

Substitution of motor for rail service and publication of joint motor-rail rates on grain, etc. (exempt commodities).

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of February 1971.

Upon consideration (1) of certain rules of Tariff Circular No. 20 which apparently reflect views set forth in the decision in Ex Parte No. 230, "Substituted Service—Piggyback," 322 I.C.C. 301, 354, and related findings in Ex Parte No. 129, "Substituted Freight Service," 232 I.C.C. 683, and other decisions, that substituted service is in fact a joint service, and that tariffs setting forth through rates or charges for joint intermodal service may be published only with respect to commodities the transportation of which is subject to economic regulation throughout the entire movement provided for in such tariffs; (2) of the granting of past applications of railroads for special permission in emergency situations (a) to establish tariff provisions with respect to the substitution of motor for rail service on commodities exempt from rate regulation under part II of the Interstate Commerce Act, and (b) to establish joint motor-rail rates for the transportation of such commodities; and (3) of the fact that applications relating to substitution of motor for rail service have been granted only for limited periods, and that where the continuance of such service has proven to be desirable in the public interest, the filing of successive requests for extensions of the expiration dates has been necessary; and for good cause shown:

It is ordered, That, under the authority of part I of the Interstate Commerce Act, 49 U.S.C. 1, and more specifically sections 1, 6, 8, 15, and 16 thereof, and pursuant to 5 U.S.C. 553 and 559 (the Administrative Procedure Act), a proceeding be, and it is hereby, instituted to determine whether the Commission, without the necessity of the filing by the carriers of special permission applications, may accept for filing tariff provisions with respect to substituted motor-for-rail service and joint motor-rail rates for the transportation of commodities exempt from rate regulation under part II of the act, and whether rules prescribed in Ex Parte No. 230, and related findings in Ex Parte No. 129 and other decisions, and the rules in Tariff Circular No. 20 reflecting those rules and findings, should be changed in any respect.

It is further ordered, That no oral hearings be scheduled for the taking of testimony in this proceeding unless a need therefor should later appear, but that any interested person may participate by submitting for consideration written statements of verified facts, if any, views, and arguments regarding the subject of this proceeding, as hereinafter provided.

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements or reply statements shall notify the Status Branch of the Office of Proceedings of this Commission, Washington, D.C. 20423, within 30 days of the date of publication hereof in the FEDERAL REGISTER, by filing the original and one copy of a statement of his intention (only) to participate; and that this Commission shall thereafter prepare and make available to all such persons a list of the names and addresses of the parties upon whom copies of all statements must be filed and

shall fix the times within which initial and reply statements must be filed.

And it is further ordered, That a copy of this order be posted in the office of the Secretary of this Commission for public inspection, and that a copy be delivered to the Director, Office of the Federal Register, for publication therein as notice to all interested persons. It is not contemplated that there will be any further general public notification of the succeeding handling of this proceeding, or that service of subsequent notices and orders will be served upon persons other than those responding to this notice and order.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-3325 Filed 3-9-71;8:48 am]

Notices

POST OFFICE DEPARTMENT

MAIL TO GREAT BRITAIN

Termination of Embargo and Termination of Suspension of Private Express Statutes

On March 8, 1971, the Postmaster General issued the following order:

The British postal administration has advised that the strike of British postal workers has ended and that British domestic and international mail services are being resumed. In view of the foregoing, the embargo placed by the Post Office Department on mail to Great Britain is terminated as follows:

Air mail at midnight March 8, 1971;

Surface parcels at midnight March 9, 1971;

Surface letter mail at midnight March 10, 1971; and

All other mail at midnight March 11, 1971.

In view of the strike I issued an order dated January 22, 1971, suspending the operation of paragraphs (1) through (6) of 39 United States Code 901(a) in respect to any carriage of letters out of the mails destined for delivery to Great Britain. The order of January 22, 1971, is revoked and the suspension of the provisions of the Private Express Statutes contained therein is terminated effective March 17, 1971.

The suspension of the provisions of the Private Express Statutes involved in the foregoing order and the restoration of the requirements of those statutes that were in effect immediately prior to the British postal strike are a consequence of actions taken by the Post Office Department at the request of the British postal administration. Under the foregoing circumstances public proceedings and greater advance notice of effective dates is unnecessary and contrary to the public interest.

(5 U.S.C. 301; 39 U.S.C. 501, 505, 901, and 6106)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-3418 Filed 3-9-71;10:07 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

INTERAGENCY COMMITTEE ON POPULATION RESEARCH

Establishment and Functions

Notice is hereby given that the Interagency Committee on Population Research was established by a directive of the Secretary dated October 5, 1970.

The Interagency Committee on Population Research has operated on an informal basis since November 1969 under the auspices of the Center for Population Research, National Institute of Child Health and Human Development. The Interagency Committee on Population Research is the successor to the Ad Hoc Group on Population Research of the Federal Council for Science and Technology, which was established in October 1968. It concluded its activities with the submission to the Federal Council for Science and Technology of its report of July 1, 1969 entitled, "The Federal Program in Population Research." This report recommends the establishment of a standing committee on population research.

The Deputy Assistant Secretary for Population Affairs has directed the Center for Population Research, National Institute of Child Health and Human Development, to assume the responsibility for providing energy and direction to the research activities of all Federal agencies with interests in population in accordance with recent Presidential Messages, including the President's Message on the Problems of Population Growth, delivered in 1969, which states:

Utilizing its Center for Population Research, the Department of Health, Education, and Welfare should take the lead in developing, with other Federal agencies, an expanded research effort, one which is carefully related to those of private organizations, university research centers, international organizations, and other countries.

In this function, the Center for Population Research will utilize the Interagency Committee on Population Research in carrying out its responsibility.

The Chairman of the Committee shall be the Director of the Center for Population Research, who shall be a permanent member of the Committee. Other permanent members shall be representatives of the Administrator of the Agency for International Development, the Chairman of the Atomic Energy Commission, the Secretary of Agriculture, the Director of the Bureau of the Census, the Secretary of Commerce, the Secretary of Defense, the Administrator of the Environmental Protection Agency, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Director of the Office of Economic Opportunity, the Director of the Office of Management and Budget, the Director of the Smithsonian Institution, the Secretary of State, the Secretary of Transportation, the Director of the U.S. Information Agency, and the Administrator of the Veterans Administration. Representatives shall be designated by the head of the agency or department concerned and shall be authorized to speak for the agency or department on matters relating to the functions of the Committee.

Functions of the Committee. The Committee will strive to facilitate the exchange of information and ideas among the various Federal agencies interested in population research; to provide a means of improved coordination of research relevant to the solution of human population problems; to assess how effectively research findings are communicated and utilized; and to prepare periodic reports on Federal activities, progress, and plans regarding population research with recommendations concerning additional Federal efforts needed.

Termination. The Committee will terminate on June 30, 1972.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

MARCH 3, 1971.

[FR Doc.71-3318 Filed 3-9-71;8:48 am]

Social Security Administration

DIRECTOR, BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

Redelegation of Authority to Certify Benefits and Administrative Expenses for Payment

Authority to certify to the Department of the Treasury that individuals are entitled to benefit payments or payments attributable to the costs of administering the Social Security program, as vested in the Secretary of Health, Education, and Welfare by sections 205(i), 201(g)(1)(A), 1817(h), and 1841(g) of the Social Security Act, as amended (42 U.S.C. 401 et seq.), has been delegated by the Secretary to the Commissioner of Social Security (section 8-D.1. of the HEW Statement of Organization, Functions and Delegations of Authority, 33 F.R. 5836). Notice is hereby given that authority to certify that individuals are entitled to such payments has been redelegated to the Director of the Bureau of Retirement and Survivors Insurance, Social Security Administration, with authority to redelegate. Redelegations by the Director of the Bureau of Retirement and Survivors Insurance shall become effective upon receipt of formal concurrence from the Assistant Commissioner for Administration, Social Security Administration.

Dated: March 1, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

[FR Doc.71-3298 Filed 3-9-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT CORP.

Appointment of Member of Board of Directors

Pursuant to section 729(b) of the Housing and Urban Development Act of 1970 (Public Law 91–609), there is hereby appointed as a member of the Board of Directors of the Community Development Corporation, John G. Heimann of New York City.

Dated: March 3, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71-3285 Filed 3-9-71;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that, pursuant to an Order of the Atomic Energy Commission (the Commission), dated March 1, 1971, which noted the withdrawal of the joint petition for leave to intervene of David Dinsmore Comey and BPI Action Fund, Inc., and denied the amended petition for leave to intervene of Harriet Sherman, dated January 25, 1971; and upon finding that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, (the Act) and the Commission's regulations in 10 CFR Chapter I, the Commission has issued, effective as of the date of issuance, Amendment No. 1 to Facility Operating License No. DPR–25 which was issued to Commonwealth Edison Co. (the licensee) on January 12, 1971. The license authorized the licensee to possess, use, and, with specific restrictions, to operate the Dresden Nuclear Power Station Unit 3, a single cycle, forced circulation, boiling, light water reactor (the reactor), located on the licensee's site in Grundy County, Ill. The license restricted the licensee to initial fuel loading, low power testing and operation of the reactor at 1 megawatt (thermal) without the reactor vessel head in place.

Amendment No. 1 authorizes the licensee to operate the reactor at steady state power levels not in excess of 2,527 megawatts (thermal), in accordance with the provisions of the license and the Technical Specifications, as modified by Change No. 1 issued February 16, 1971; however, operation at power levels in excess of 5 megawatts (thermal) is subject to the satisfactory completion of modifications and final testing (as verified by the Commission in writing) of the station output transformer, the auto-depressurization interlock, and the feedwater system, as described in the licensee's telegrams dated February 26, 1971.

The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. Prior notice of the proposed issuance of a facility operating license for operation of the Dresden Nuclear Power Station Unit 3 at steady state power levels not in excess of 2,527 megawatts (thermal) was published in the FEDERAL REGISTER on November 20, 1970, 35 F.R. 17876.

The Commission's regulatory staff has inspected the facility and has determined that, for operation as authorized by the amendment, the facility has been constructed in accordance with the application, as amended, the provisions of Provisional Construction Permit No. CPPR–22, the Act, and the Commission's regulations.

For further details with respect to this amendment, see (1) the withdrawal of the joint petition for leave to intervene of David Dinsmore Comey and BPI Action Fund, Inc., (2) the amended petition for leave to intervene of Harriet Sherman, dated January 25, 1971, (3) the Commission's order dated March 1, 1971, (4) Change No. 1 to the Technical Specifications, dated February 16, 1971, and (5) Commonwealth Edison Co.'s telegrams dated February 26, 1971, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the license amendment and Change No. 1 to the Technical Specifications may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 2d day of March 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Deputy Director,
Division of Reactor Licensing.

[FR Doc.71-3287 Filed 3-9-71;8:45 am]

[Docket No. 50-113]

UNIVERSITY OF ARIZONA

Extension of Completion Date of Construction Permit

The University of Arizona, having filed a request dated February 22, 1971, for extension of the latest completion date specified in Construction Permit No. CPRR–111, which authorizes modification of the existing reactor facility located on the University's campus at Tucson, Ariz., and good cause having been shown for extension of said date, pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.55 of the Commission's regulations:

It is hereby ordered, That the latest completion date for Construction Permit No. CPRR–111 is extended from March 1, 1971, to September 1, 1971.

Date of issuance: March 1, 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[FR Doc.71-3288 Filed 3-9-71;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Notice of Proposed Issuance of Amendment to Provisional Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR–17 which presently authorizes the Niagara Mohawk Power Corp. to possess, use and operate the Nine Mile Point Nuclear Power Station located on the southeast corner of Lake Ontario in Oswego County, N.Y., at steady-state power levels up to a maximum of 1,538 megawatts (thermal). The amendment would authorize Niagara Mohawk to operate the Nine Mile Point Nuclear Power Station at steady-state power levels up to a maximum of 1,850 megawatts (thermal) in accordance with Niagara's application dated April 20, 1970, and amendments thereto.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I. The license amendment will be issued after the Commission makes the findings relating to its review of the application, which are set forth in the proposed amendment, and concludes that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within 30 days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the application for license amendment dated April 20, 1970, Amendments 1 through 5 thereto, and letter dated November 23, 1970; (2) the Report of the Advisory Committee on Reactor Safeguards dated February 6, 1971; (3) the proposed amendment to the provisional operating license; (4) the

proposed changes to the Technical Specifications which are incorporated in the proposed license amendment; and (5) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of each of items (3) through (5) above may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 3d day of March 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-3442 Filed 3-9-71;10:24 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22925; Order 71-3-30]

MOHAWK AIRLINES, INC.

Order Dismissing Complaint Regarding Group Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of March 1971.

By tariff revisions[1] which became effective January 11, 1971, Mohawk Airlines, Inc. (Mohawk), established round-trip fares for groups of 10 or more between Chicago/Minneapolis and 19 other points. The discounts from normal coach fares are in the range of 33 to 35 percent and the fares are to be available from June 21, 1971, through September 10 of that year. The group need not have affinity, must travel together on the going portion with individual travel permitted on return; and ticketing and reservations must be accomplished at least 48 hours prior to departure. There is no tour requirement or travel limitations as to time of day or day of week, and no restriction as to combinability with other fares.

Northwest Airlines, Inc. (Northwest), filed a complaint requesting investigation and suspension, alleging that the peak period availability of the fares together with the lack of travel restrictions or tour requirements will create extensive self-diversion and dilution of yields, particularly since the fares are combinable and thus would have an impact far beyond the specific markets in which they are published.

In answer to the complaint, Mohawk alleged that the fares are needed for the specific and limited movement of the Boy Scouts of America who will be conducting summer camping programs for their members, and that the tour program is scheduled to begin on June 21 and will continue throughout the summer on a back-to-back basis with groups of scouts arriving daily at each encampment and staying for approximately 2 weeks before returning home. It is further alleged that because of the variations in the tours and travel arrangements which are involved, it would be difficult to further restrict the applicability of these fares.

Upon consideration of the complaint and answer thereto, the limited scope and duration of the tariff, and other relevant matters, the Board finds that the complaint does not set forth facts sufficient to warrant investigation. The request therefore, and consequently the request for suspension, will be denied, and the complaint dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

It is ordered, That:

1. The complaint of Northwest Airlines, Inc., in Docket 22925 is hereby dismissed; and

2. A copy of this order be served on Mohawk Airlines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-3335 Filed 3-9-71;8:49 am]

[Docket No. 22364; Order 71-3-27]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of March 1971.

By tariff revisions[1] marked to become effective March 15, 1971, Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), United Air Lines, Inc. (United), and Western Air Lines, Inc. (Western), proposed to increase west coast gateway-Hawaii fares as follows: Coach fares—$5 peak and $6 offpeak; economy fares—$10 peak and offpeak.

In support of the proposed increases, the carriers allege that interim fare relief is necessary pending decision in the U.S. Mainland-Hawaii Fare Investigation, Docket 22364, in view of the mounting losses experienced by all carriers operating in the market. The carriers assert that they are incurring such losses even though they are experiencing reasonable load factors, and that the problem lies in the present fare yields which are well below carrier costs.

Continental Air Lines, Inc. (Continental), has filed a complaint against the proposals on the basis that they would increase third-class fares twice as much as coach fares and thus reduce the fare differential between the two classes of service. Continental contends that this would result in the elimination of third-class service—a very key issue in the U.S. Mainland-Hawaii Fare Investigation.

The existing and proposed Hawaii fares are currently under investigation in Docket 22364 and their lawfulness will ultimately be decided there. The immediate question is whether or not to suspend the instant filings pending completion of that proceeding.

The carriers have all reported substantial losses in their Hawaiian services in recent periods and all parties to the investigation, including the Board's Bureau of Economics, advocate fare increases, albeit in different amounts. Against this background, the proposed fare increases in and of themselves do not appear unreasonable. However, we are concerned with the fact that the resulting structure would provide a differential of only $5 between the two classes of service, and that this might result in elimination of the lowest fare service. This is essentially the same concern which prompted us to suspend certain fare proposals in July 1970 (Order 70-7-69), and to institute the current proceeding. Thus, the question of fare structure, as well as fare level, in the mainland-Hawaii market is a major issue in the pending investigation now well in progress, and the evidence adduced therein reveals general agreement among the parties that a differential of this magnitude would in fact result in elimination of the lower fare service. We are not herein attempting to resolve the issue of whether or not there should be three-tier structure in the Hawaii market, or if so what the appropriate differential in fares should be, based on cost and value of service considerations. However, we do not believe it would be in the public interest to permit fares which could jeopardize the existence of the lowest normal fare service to become effective without investigation. Accordingly, the Board has concluded to suspend the proposed economy fare increases.

In view of the above and upon consideration of all relevant matters, the Board has determined that the proposed economy-fare increases between the U.S. Mainland and Hawaii may be unjust or unreasonable or unjustly discriminatory or unduly preferential or unduly prejudicial or otherwise unlawful and should be suspended. These fares are already under investigation in Docket 22364.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[2] are suspended and their use deferred to and including June 12, 1971, unless otherwise ordered

[1] Revisions to Airline Tariff Publishers, Inc., Agent Tariff CAB Nos. 136 and 142.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

[2] Appendix A filed as part of original document.

by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Except to theextent granted herein, the complaint in Docket 23082 is dismissed; and

3. A copy of this order will be filed with the aforesaid tariff and be served on Continental Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-3336 Filed 3-9-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on April 13, 1971, the following applications by stations KPST and KVIC for increases in daytime power of their Class IV standard broadcast stations, will be considered as ready and available for processing:

BP-18976 KPST, Preston, Idaho.
Voice of the Rockies, Inc.
Has: 1340 kc., 250 w., S.H.
Req: 1340 kc., 250 w., 1 kw.-LS, S.H.

BP-18978 KVIC, Victoria, Tex.
Pioneer Broadcasting Co.
Has: 1340 kc., 250 w., U.
Req: 1340 kc., 250 w, 1 kw.-LS, U.

The purpose of this notice is not to invite applications which may conflict with the listed applications, but to apprise any party in interest who desires to file pleadings concerning the applications pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, of the necessity of complying with § 1.580(i) of the Commission's rules governing the time of filing and other requirements relating to such pleadings.

Adopted: March 2, 1971.

Released: March 4, 1971.

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

[FR Doc.71-3323 Filed 3-9-71;8:48 am]

[1] Concurring and dissenting statement of Vice Chairman Whitney Gillilland filed as part of original document.

[Docket No. 19080, etc.; FCC 71-183]

NIAGARA COMMUNICATIONS, INC., ET AL.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In the matter of application of Niagara Communications, Inc., for a construction permit for a new public Class III-B coast station to be located at Bay Shore, N.Y., Docket No. 19080; et al., Docket Nos. 19081-19085; application of Great Eastern Communications Co. for extension of the construction permit for a new public Class III-B coast station to be located at Bridgeport, Conn., Docket No. 19156, File No. 538-M-MP-21.

1. On March 14, 1969, Great Eastern Communcations Co., Inc., was initially granted a construction permit (CP) for a Class III-B public coast station at Bridgeport, Conn. This initial CP was extended on November 20, 1969, and on May 21, 1970. The last extension was specified to expire at 3:00 a.m., e.s.t., on Sunday, November 1, 1970. The permittee submitted another application for extension of the CP, which application was dated and postmarked on October 29, 1970, from Fairfax, Va. This application was not received by the Commission until Monday, November 2, 1970, and was accompanied by a $10 filing fee rather than the $20 amount required by the new fee schedule. The application was not, therefore, timely filed in accordance with § 81.32(c) of the rules which requires filing of such applications 30 days prior to the expiration date of a CP, or, if good cause is shown, within the 30 day period preceding expiration. The permittee has made no showing why the request for extension was not filed 30 days prior to expiration. Section 1.1103(a) of the rules prohibits acceptance for filing of any application prior to payment of the full amount of the fee specified and permits return of the application when no fee or an insufficient fee accompanies the application. The subject application was returned to the permittee on the grounds that it was not timely filed and was unaccompanied by the proper filing fee. The permittee, however, resubmitted the application stating (a) that he was unaware of the recent increase in the fee schedule and therefore thought he had submitted the proper fee, and (b) that by mailing the application from Fairfax, Va., on October 29, he thought it would arrive in the Offices of the Commission in Washington prior to the expiration date 3 days after he mailed it. The applicant has since tendered the full amount of the specified fee.

2. The permittee is also a party to the proceeding in Dockets 19080-19085, a consolidated hearing to determine the need, if any, for additional Public Coast III-B facilities in the Long Island, New York area. In that proceeding, the applicant has petitioned to deny an application for a proposed station at Bay Shore, Long Island, N.Y., on the grounds that such station would overlap the coverage area of and electrically interfere with the applicant's proposed station at Bridgeport. In submitting this latest application for extension of the CP, the applicant made representations concerning why he had not completed construction prior to the expiration of the last extension of its CP. It is uncertain, however, whether these representations constitute good cause for not completing construction of the station within the time already allowed. Thus there is a question of whether the CP of Great Eastern should in the public interest be extended.

3. In view of the circumstances in this case, we believe the application of Great Eastern should be accepted for filing, but designated for hearing in this Docket for resolution of the question of whether good cause exists for granting a further extension of the CP. If the CP is extended, Great Eastern will retain its standing as a permittee and a petitioner to deny in this proceeding. If the CP is not extended, then Great Eastern will cease to have standing as a party in interest in this proceeding with respect to the Bridgeport station and the issues contained in our earlier designation order must be modified as hereinafter specified.

4. *Accordingly, it is ordered,* That §§ 1.1103(a) and 81.32(c) of the rules are waived and the above-captioned application for extension of a CP is accepted for filing.

5. *It is further ordered,* That the above-captioned application of Great Eastern is designated for hearing with the other applications listed in our memorandum opinion and order adopted November 10, 1970, in the above-captioned Dockets to determine whether good cause exists for failure to complete construction of station KLU785 at Bridgeport, Conn., and that the burden of proof and proceeding with the introduction of evidence on this issue is on Great Eastern.

6. *It is further ordered,* That if it is found that good cause exists for failure to complete construction of station KLU785, the application of Great Eastern for extension of its CP will be granted and the standing of, and burdens placed on, Great Eastern by our order of November 10, 1970, referred to above, will remain unchanged.

7. *It is further ordered,* That if it is found that good cause does not exist for failure to complete construction of station KLU785, the subject application of Great Eastern will be denied and dismissed and Great Eastern will cease to be a party in this proceeding insofar as issues in Dockets 19080-19085 depend on the existence of a CP for KLU785.

Adopted: February 24, 1971.

Released: March 4, 1971.

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

[FR Doc.71-3320 Filed 3-9-71;8:48 am]

[Dockets Nos. 19157-19159; FCC 71-189]

PETTIT BROADCASTING CO. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard application of Claud M. Pettit and Margaret E. Pettit, doing business as Pettit Broadcasting Co., Brush, Colo., Docket No. 19157, File No. BP-18125, requests: 1190 kc., 5 kw., Day; A. V. Bamford, Colorado Springs, Colo., Docket No. 19158, File No. BP-18467, requests: 1190 kc., 50 kw., DA, Day; and Enid C. Pepperd and Dona B. Weber, doing business as Brocade Broadcasting Co., Boulder, Colo., Docket No. 19159, File No. BP-18470, requests: 1190 kc., 1 kw., Day; for construction permits.

1. The Commission has before it the above-captioned applications which are mutually exclusive in that simultaneous operation of the stations as proposed would result in prohibited overlap of contours as defined by § 73.37 of the Commission's rules.

2. According to information in the application, A. V. Bamford would require $159,350 to construct and operate his proposed station. Bamford plans to finance this amount with his own funds. Although he appears to have a sufficient net worth to do so, his balance sheet shows only $18,000 in liquid assets. Accordingly, a financial issue will be specified.

3. Boulder is located 16 miles from the northernmost city limits of Denver, Colo. The centers of the cities are approximately 25 miles apart. The 1970 census figures place Denver's population at 514,678 and Boulder's at 66,870. Since Brocade Broadcasting's proposed 5 mv/m contour penetrates the geographical limits of Denver, a presumption that Brocade Broadcasting is realistically proposing to serve the larger city is raised under the Commission's Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190, 6 RR 2d 1901. Brocade Broadcasting, however, has submitted considerable data in an effort to establish that Boulder has its own distinct community needs and is autonomous from Denver. After examination of this data, together with the Commission's own study, the Commission finds that the policy statement presumption has been effectively rebutted and that for 37(b) purposes Brocade Broadcasting should be considered as proposing a local transmission service to Boulder. Boulder is the largest city in Boulder County as well as its county seat. Boulder has its own government independent of the local government of Denver and has been operating autonomously with a city manager form of government since 1918. Moreover, it has its own school system which, again, is in no way connected with the school system of Denver. This system consists of 21 elementary, five junior high, and two high schools as well as three parochial schools. In addition to being the home of the University of Colorado, there is a vocational and technical center for post-high school education and training. Boulder has its own municipal airport and its own transportation facilities. It is also noted that Boulder has three aural broadcast stations licensed or under construction and a daily newspaper—The Boulder Daily Camera. In addition to numerous stores, restaurants and various business establishments, major companies and institutions located in the Boulder area include Ball Brothers Research Corp., Beech Aircraft Corp., Dow Chemical Co., and International Business Machines. Thus, it appears that Boulder is both politically and economically independent of Denver.[1] Brocade Broadcasting proposes to locate its transmitter and antenna system 0.45 mile south of the Boulder city limits in a direction towards Denver. The area and population involved in the 5 mv/m contour penetration into Denver amounts to 8.36 percent and 41,300, respectively. According to Brocade Broadcasting, the penetration involved is a direct result of its inability to locate a site from which it could avoid 5 mv/m penetration of Denver and, at the same time, meet the coverage requirements for Boulder. Brocade Broadcasting has enumerated factors which restrict the site location, which are: (a) Interference considerations with respect to Environmental Sciences Services Administration (ESSA) located to the north of Boulder; (b) an airport northeast of Boulder; (c) the Rocky Mountains rise very abruptly, to the west of Boulder; (d) zoning restrictions in built-up areas around Boulder; and (e) the unwillingness of landowners to the east and southeast to sell a piece of land for the transmitter site. In support of its allegations, Brocade Broadcasting has submitted letters from the local realtors describing unsuccessful efforts to obtain tracts of land suitable for a transmitter site.

4. Engineering factors have been afforded decisional significance in most of those cases in which the Commission found, prior to hearing, that the aforementioned presumption had been effectively rebutted, e.g., Clay Broadcasters, Inc., 4 FCC 2d 932, 8 RR 2d 687; Du Page County Broadcasting, Inc., 5 FCC 2d 557, 8 RR 2d 930; Donnelly C. Reeves, 6 FCC 2d 531, 9 RR 2d 448; Major Market Stations, Inc. (KREL), 8 FCC 2d 13, 9 RR 2d 1368; Woods and Watkins, FCC 68-56, released January 23, 1968, 12 RR 2d 97; KACY, Inc. (KACY), 15 FCC 2d 33, 14 RR 2d 618; and Howard L. Burris, et al., —— FCC 2d ——, FCC 71-17, released January 12, 1971. Upon examination of the applicant's showing, the Commission finds, as alleged by Brocade, that the 5 mv/m penetration is not occasioned by a desire to serve the larger city, but is a direct result of the necessity of meeting the coverage requirements for Boulder. In this connection, Commission studies indicate that one kilowatt is needed from the proposed site to place a 25 mv/m contour over the business district of Boulder as required by § 73.188. If a transmitter site could have been acquired on any side of Boulder other than to the south, at a distance of about only 2.5 miles from the proposed site, 5 mv/m penetration could have been avoided. This fact lends convincing support to the applicant's assertions regarding the unavailability of a site to the north, east, or west of Boulder and leads us to conclude, as a practical matter, that the 5 mv/m penetration is due to technical considerations beyond the applicant's control. Thus, we find that Brocade Broadcasting has effectively rebutted the aforementioned presumption and that for 307(b) purposes should be considered as proposing a local transmission service for Boulder.

5. Since no determination has yet been reached on whether the antenna proposed by A. V. Bamford would constitute a hazard to air navigation, an issue regarding this matter is required.

6. The Colorado Springs and Boulder proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the three proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the applicants and the availability of other primary aural (1 mv/m or greater in the case of FM) service to such areas and populations.

(2) To determine with respect to the application of A. V. Bamford:

(a) How the applicant will obtain sufficient additional funds to construct and operate the proposed station for 1 year without revenue; and

[1] Standard Rate and Data Service estimates total retail sales for Boulder and Boulder County to be approximately $150 million and $300 million, respectively. Thus, it appears there is sufficient broadcast revenue potential to support Brocade's operation without reliance on revenue from Denver.

(b) Whether in light of the evidence adduced pursuant to (a), above, the applicant is financially qualified.

(3) To determine whether there is a reasonable possibility that the tower height and location proposed by A. V. Bamford would constitute a hazard to air navigation.

(3) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(5) To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would best serve the public interest.

(6) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

9. *It is further ordered,* That, the Federal Aviation Administration is made a party to the proceeding.

10. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594 (g) of the rules.

Adopted: February 24, 1971.

Released: March 3, 1971.

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

[FR Doc.71-3321 Filed 3-9-71;8:48 am]

[Docket Nos. 19026, 19027; FCC 71R-74]

TRI COUNTY BROADCASTING CO. AND RADIO TUPELO

Memorandum Opinion and Order

In regard applications of Olvie E. Sisk, Ivous T. Sisk and Joel E. Camp, doing business as Tri County Broadcasting Co., Eupora, Miss., Docket No. 19026, File No. BP-18016; and Ralph Mathis and Aubrey Freeman, doing business as Radio Tupelo, Tupelo, Miss., Docket No. 19027, File No. BP-18220; for construction permits.

1. The above-captioned applications were designated for hearing by Order, FCC 70-1038, 35 F.R. 15864, released October 2, 1970. On October 23, 1970, Ralph Mathis and Aubrey Freeman, doing business as Radio Tupelo filed a motion to enlarge issues.[1] Radio Tupelo requests that the issues in the proceeding be enlarged to determine whether Tri County Broadcasting Co. (Tri County): (1) Will comply with § 73.189 of the rules; (2) has sufficient land available to effectuate its proposal; (3) is financially qualified; and (4) has a staff adequate to carry out its proposal. The requests will be treated seriatim.

Section 73.189 issue. 2. Radio Tupelo alleges that the Tri County proposal fails to comply with § 73.189 of the rules, which requires a proposed radiation system to radiate a minimum of 175 mv./m./kw. Tri County's proposed antenna height, according to Radio Tupelo's reading of Figure 8 of the rules, would produce 180 mv./m./kw. if the ground system were adequate. However, petitioner purports to show that Tri County's ground system is inadequate and, thus, that the resulting radiation falls below minimum efficiency.

3. Radio Tupelo relates that three possible sizes for the Tri County site have been indicated by Tri County: (1) Land records indicate that Tri County has acquired only 4.2 acres of land at the proposed site; (2) the engineering portion of the Tri County application contains a sketch which indicates that the required size is 5.326 acres; and (3) the financial portion of the application states that 4.75[2] acres are owned. Radio Tupelo's engineer calculates the resulting radiation efficiency for each of the abovementioned site sizes to be the following: (1) 166 mv./m./kw. for the 4.2 acre site; (2) 168 mv./m./kw. for the 4.75 acre site; and (3) 170 mv./m./kw. for the 5.326 acre site. Since all three values are less than the required minimum, Radio Tupelo requests—in addition to the stated issue—that Tri County be directed to make a complete field intensity survey.[3]

4. In opposition, Tri County submits calculations[4] based on the ground system proposed in the engineering portion of its application, consisting of 240 copper wire radials 200' to 300' in length spread over a 5.326 trapezoidal plot of ground. According to these calculations, based on a method by Frank R. Abbott published in the Proceedings of the I.R.E., July 1952, the radiation system would produce 176 mv./m./kw.

5. The Broadcast Bureau, in its comments, notes that Radio Tupelo failed to indicate the method of determining the various radiation efficiencies for the different Tri County sites.[5] In the Bureau's opinion, the 4.2 or 4.75 acre sites would raise only a "borderline" question of Tri County being able to meet the minimum efficiency requirement, and, if Tri County proves the availability of 5.326 acres, the ground system would be adequate. Therefore, the Bureau would include a condition to require a proof-of-performance in the event of a Tri County grant.

6. In reply, Radio Tupelo attacks the validity of the method used by Tri County's engineer to calculate the proposed efficiency, contending that the Abbott method is "inconsistent with Figure 8 of § 73.190 of the Commission's rules and, in fact, contradicts it." Furthermore, Radio Tupelo points out that the Abbott method requires that the soil conductivity for the area in question must be known and that Tri County's engineer assumed the conductivity to be that indicated by Figure M-3. In contrast, Radio Tupelo alleges that the method used by its engineer is the method used by the Broadcast Bureau in its processing of applications and "well-known to consulting engineers." Thus, Radio Tupelo concludes, sufficient question of fact exists to merit resolving the dispute in hearing. Further, petitioner states that the Bureau gives no basis for its statement that the 5.326 acre site would be adequate, and contends that the Bureau's suggested condition is not sufficient to resolve the matter.

7. In the Board's view, sufficient questions exist as to whether or not Tri County's proposed antenna system meets the requirements of § 73.189 to warrant the addition of an issue. This situation can readily be distinguished from that in The Edgefield-Saluda Radio Co., FCC 66R-372, 5 FCC 2d 148, relied on by Tri County, in which the Review Board denied a request to add an issue to determine compliance with § 73.189. In that case, the Commission had considered the problem prior to designation for hearing, and, therefore, the designation order included a condition requiring the submission of proof-of-performance data, establishing that the proposal would meet the radiation requirements prior to authorization of program tests. The Review Board held that the disputed amount of departure from the rule requirement was not sufficient to indicate that the applicant would be unable to comply. In contrast, the designation order in this proceeding does not establish that the problem of whether Tri County's

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[1] Other related pleadings before the Board for consideration are: (a) Opposition, filed Nov. 16, 1970, by Tri County; (b) Broadcast Bureau comments, filed Nov. 16, 1970; (c) reply, filed Dec. 16, 1970, by Radio Tupelo; (d) motion for leave to file supplemental pleading, filed Dec. 23, 1970, by Tri County; (e) supplemental pleading, filed Dec. 23, by Tri County; and (f) comment on (d), filed Jan. 4, 1971, by Radio Tupelo. No objection to the acceptance of Tri County's supplemental pleading has been filed, and the motion for leave to file the supplement will be granted.

[2] Correcting a typographical error, Tri County in its opposition (paragraph 10) states that this figure should be 4.25 acres.

[3] Further, in light of the alleged uncertainty about the amount of land owned, petitioner requests the addition of a site availability issue. This request will be considered in later paragraphs.

[4] The proposal is found in Figure 5 of the Tri County application.

[5] In its reply pleading, Radio Tupelo furnishes additional information as to the methods it used.

proposed operation would meet the radiation requirements has been considered prior to designation; nor is it clear that the requirement of 175 mv./m./kw. could be met through use of the 5.326 acre trapezoidal plot of ground, which is the significant area here, see paragraph 11, infra. Thus, the addition of an issue is warranted in order to afford the parties an opportunity to resolve the matter on the record. Childress Broadcasting Corporation of West Jefferson (WKSK), 71R–17, ____ FCC 2d ____.

Site availability. 8. Radio Tupelo alleges that the land records of Webster County—the location of the Tri County site—do not support Tri County's assertion that it owns 4.75 acres; rather the record indicates that Tri County owns only 4.2 acres. This disprecancy assumes importance as a basis for inquiring into site adequacy, Radio Tupelo reasons, in view of Tri County's engineering proposal which shows that it intends to use a tract of 5.326 acres. Moreover, petitioner contends, since the applicant has asserted that all the land it requires is "on hand", sufficient basis exists for inquiring into site availability. Radio Tupelo requests a broad type of issue with regard to Tri County's site; rather than merely inquiring into site availability and adequacy, petitioner requests that all the circumstances surrounding Tri County's prior and present sites be examined. In this connection, Radio Tupelo alleges that Tri County submitted proposals containing unexplained inconsistencies as to site dimensions with respect to its prior site;[6] similarly, at the time Tri County made its representation as to the acreage of the present site, it, in fact, owned only 1-acre.[7]

8. In opposition, Tri County asserts that it had actually purchased a 4.2 acres of land for its site from two vendors as of December 1969, but that, as a result of personal circumstances affecting one vendor and the inability to conduct an accurate field survey until spring, the deed for a portion of this land (3.2 acres) was neither executed nor recorded until June of 1970. Tri-County asserts that, at the time the engineering amendment was submitted to the Commission in February of this year, it reasonably believed it owned 4.25 acres.[8] The engineering proposal, Tri County continues, was not only based on the ownership of approximately 4.25 acres, but also on an option for an additional 3 acres of land.[9] Tri County argues that, not only are the circumstances surrounding its former site not relevant to its present proposal, but that even if those circumstances could appropriately be considered, they constituted reasonable assurance, inasmuch as the prospective vendor had assured Tri County that it could purchase any portion of 22 acres needed for the station.

9. In reply, Radio Tupelo alleges that, although Tri County has bought a 1.1-acre tract of land lying to the north of its existing tract, the new acquisition does not lie immediately to the north; consequently, the boundaries are not continuous from the new to the formerly purchased tract. As a result, Radio Tupelo contends, serious questions still exist as to the exact amount of land available to Tri County, the dimensions of the land, and whether or not the land will accommodate the antenna and ground system proposed in the application.

10. In a supplemental pleading, Tri County concedes that according to the formal boundary descriptions contained in its warranty deed and easement, Radio Tupelo's observations concerning the gaps in boundaries are accurate. However, Tri County alleges, the gaps, rather than being actual, are the result of error in recording the respective "point of beginning" reference points in warranty and easement documents. These erroneous figures have been corrected to conform with the true figures; consequently Tri County submits, the corrected documents accurately indicate that the boundaries are contiguous, thereby obviating the need for a site availability issue.

12. In the Board's view, the site issue requested by Radio Tupelo is not warranted. Tri County sought to substitute a new engineering proposal, Figure 5, by amendment. However, by Order, FCC 70M–1731, released December 21, 1970, the Examiner rejected the proposed new Figure 5. Consequently, Tri County must continue to rely on its original Figure 5, which proposes a trapezoidal-shaped site of 5.326 acres, rather than inclusion of easements submitted. In any event, Tri County has shown the availability of 5.326 acres in accordance with its pending proposal. Consequently, no site availability issue is warranted. Further, Tri County has shown that the boundaries of its site are contiguous, thereby obviating any possible question of site suitability.

Financial qualifications. 13. In its application, Tri County shows the availability of $55,740 to meet construction costs of $14,373.64 and first year operating costs of $29,242.71. Radio Tupelo, in its petition to enlarge, contends that substantial and material questions of fact exist about both these estimates, and proceeds to discuss allegedly inadequate specific estimates. However, in opposition, Tri County states that it has tendered an amendment which would increase certain cost estimates, as well as increase the total amount of available funds. According to this amendment, Tri County's first-year costs would total $52,018.91 and the amount available to it would total $123,172.22. Petitioner, in reply, concedes that the amendment eliminates the necessity for a financial issue. In view of the acceptance of Tri County's financial amendment, no question presently exists as to the financial ability of Tri County to construct and operate its proposal.

Staff adequacy. 14. Radio Tupelo first notes that Tri County proposes a staff of four employees, the full time participation of Joel E. Camp, and the part-time participation of Olvie E. and Ivous T. Sisk. Petitioner alleges that since Camp and the Sisks have time-consuming obligations with other broadcast facilities, a serious staff adequacy issue is raised with respect to Tri County's operation. Although it is not clear that the proposal for four staff members includes the Sisks, Radio Tupelo contends that their participation is considered essential by the applicant and, thus, that their other broadcast obligations are significant. Specifically, petitioner notes that Joel E. Camp is currently the full-time General Manager of Station WSVA, Vernon, Ala., and contends that he therefore cannot possibly serve as full-time manager of the proposed facility, as well. Mr. Sisk, petitioner states, is currently General Manager and Chief Engineer of Station WFTO,[10] Fulton, Miss., devotes time to Station WSVA, and additionally, intends to devote three days a week to the proposed facility; Mrs. Sisk devotes full time (with the exception of 1 hour a day to be devoted to bookkeeping for another station) to Station WFTO as Station Manager and intends to devote 1 hour a week to the proposed station. Both the Sisks are already heavily committed, petitioner claims, and therefore will not be able to devote sufficient time to the proposed station.

15. In opposition, Tri County states that its proposal for four employees includes Mr. Camp, but does not include either of the Sisks. Further, Tri County denies that there is any requirement for either of the Sisks to commute between broadcast facilities on a daily basis. With respect to Mr. Camp, Tri County submits his affidavit, in which he states that he intends to move to Eupora upon grant of the instant application, and terminate his working relationship with Station WSVA at that time. Finally, Tri County contends that four employees are sufficient to maintain a small daytime-only station. In reply, Radio Tupelo asserts that four employees is a barebone proposal and that, in view of the other broadcast commitments of the Sisks, little actual relief can be anticipated from either of them.

16. In the Board's view, an adequacy of staff issue is not warranted. Radio Tupelo's allegations are not supported by

[6] Specifically, petitioner alleges, the original application, filed Nov. 2, 1967, differed without explanation, from an amendment filed 1 month later.

[7] Tri County had an option to purchase three additional acres at that time, which it subsequently exercised.

[8] The use of the figure 4.75 in a Feb. 18, 1970, amendment as inadvertent, Tri County explains, the result of a typographical error.

[9] Tri County states that it was assured that it could use and/or purchase any additional land that might be needed; that it has exercised this option and, additionally, has obtained an easement on a 300 feet by 700 feet plot of land; and that it presently has a site with dimensions which accord with its engineering proposal, namely 5.326 acres.

[10] Petitioner claims that Mr. Sisk will be required to inspect the proposed station once a day, five days a week at twelve hour intervals (citing § 73.93(e) of the rules) and thus will have to commute between Fulton and Eupora, Miss., twice a day, which would consume approximately 3½ hours a day.

affidavits of a person or persons having personal knowledge, as required by § 1.229(c) of the Commission's rules. Moreover, Radio Tupelo's pleadings do not contain specific allegations of fact which are sufficient to support its contention that a proposed staff of four is inadequate.[11] Finally, no question concerning the size of Tri County's staff exists in light of Tri County's explanation contained in its opposition—the Sisks will be part-time, rather than full-time, employees, and Mr. Camp will sever his working relationship with Station WSVA upon grant of the proposal, thereby giving Tri County the full complement of four full-time employees. Finally, petitioner has not shown that the Sisks will be unable to perform their proposed duties at the station proposed by Tri County.

17. *Accordingly, it is ordered,* That the motion for leave to file supplemental pleading, filed December 23, 1970, by Tri County Broadcasting Co., is granted; and

18. *It is further ordered,* That the motion to enlarge issues, filed October 23, 1970, by Radio Tupelo, is granted to the extent indicated hereinafter, and in all other respects is denied; and

19. *It is further ordered,* That the issues in the proceeding are enlarged by the addition of the following issue: To determine whether the antenna system proposed by Tri County Broadcasting Co. will be able to achieve the minimum efficiency requirement (175 mv./m./kw.) of § 73.189(b)(2)(ii) of the Commission's rules.

20. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under the above issue will be on Tri County Broadcasting Co.

Adopted: March 1, 1971.

Released: March 4, 1971.

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

[FR Doc.71-3322 Filed 3-9-71;8:48 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-20]

CAL-HAWAIIAN FREIGHT, INC.

General Increase in Rates in U.S. Pacific Coast/Hawaii Trade; Order of Investigation and Suspension

Cal-Hawaiian Freight, Inc., has filed with the Federal Maritime Commission First Revised Page 4, Fourth Revised Page 27, Fourth Revised Page 28 and Original Page 29, to its Tariff FMC-F No. 1 to become effective March 8, 1971, which generally increase rates and charges between U.S. Pacific Coast ports and ports in the Hawaiian Islands.

Upon consideration of said publications, the Commission is of the opinion that the above-designated tariff matter 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, and good cause appearing therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased rates and charges with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, First Revised Page 4, Fourth Revised Page 27, Fourth Revised Page 28 and Original Page 29 to Tariff FMC-F No. 1 are suspended and the use thereof deferred to and including July 7, 1971, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Cal-Hawaiian Freight Inc., a consecutively numbered supplement to the aforesaid tariff 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 July 8, 1971, unless otherwise authorized by the Commission; and the rates and charges 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 suspended, nor 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 the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admission of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That Cal-Hawaiian Freight Inc., be named as respondent in this proceeding;

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 a place to be determined and announced by the presiding examiner;

It is further ordered, That (1) a copy of this order shall forthwith be served on the respondent herein and published in the FEDERAL REGISTER; and (2) the said respondent be duly served with notice of 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.

[FR Doc.71-3312 Filed 3-9-71;8:47 am]

FEDERAL RESERVE SYSTEM

FIRST UNION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Union, Inc., St. Louis, Mo., for approval of the acquisition of 80 percent or more of the voting shares of Rolla State Bank, Rolla, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Union, Inc., St. Louis, Mo. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Rolla State Bank, Rolla, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri and requested his views and recommendation. The Commissioner advised that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on January 6, 1971 (36 F.R. 189), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

[11] See Fred Kaysbier, 19 FCC 2d 636, 17 RR 2d 389 (1969).

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the third largest banking organization and third largest bank holding company in Missouri, has four subsidiary banks with aggregate deposits of $738.5 million, representing 7.3 percent of the total commercial bank deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company acquisitions and formations approved by the Board to date.) Consummation of the proposed acquisition would increase Applicant's control to 7.4 percent of statewide deposits.

Bank ($14.5 million of deposits) is the largest of three banks in Rolla and the largest of five banks in Phelps County, which approximates the relevant banking market. The Rolla competitors of Bank have experienced good growth and demonstrated competitive viability and aggressiveness; and it appears that Bank does not dominate the market. Applicant's closest subsidiary to Bank is located more than 100 miles from Rolla, and none of Applicant's subsidiaries appears to compete with Bank to any significant extent. In the light of the facts before the Board, notably the distance between Applicant's present subsidiaries and Bank and Missouri's restrictive branching laws, it seems unlikely that consummation of the proposal herein would foreclose any significant potential competition.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Considerations relating to financial and managerial resources and prospects, as they relate to Applicant, its subsidiaries, and Bank, are regarded as satisfactory and consistent with approval of the application. Applicant proposes to assist Bank in providing additional consumer and business loans, trust services, and specialized mortgage financing. Such additional services should contribute to the economic growth of the community. Considerations relating to the convenience and needs of the communities to be served lend some weight in support of approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the Board's findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period shall be extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[1] March 4, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-3289 Filed 3-9-71;8:45 am]

MARINE CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The Marine Corp., Milwaukee, Wis., for approval of acquisition of 90 percent or more of the voting shares of Farmers State Bank, Beaver Dam, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of The Marine Corp., Milwaukee, Wis. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of Farmers State Bank, Beaver Dam, Wis. (Farmers Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Wisconsin Commissioner of Banking, and requested his views and recommendation. The Commissioner responded that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on January 16, 1971 (36 F.R. 809), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant is the third largest banking organization in Wisconsin by virtue of its control of 14 banks with aggregate deposits of approximately $563 million, representing 6.5 percent of all deposits of commercial banks in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company acquisitions approved by the Board through January 31, 1971.) Upon acquisition of Farmers Bank ($19 million of deposits), Applicant would increase its share of statewide deposits to 6.7 percent, making it the second largest banking organization in the State.

On the basis of deposits, Farmers Bank is the smallest of the three comparable-sized banks in Beaver Dam and, with about 24 percent of market deposits, third in size among the eight banks located in the relevant market, defined as approximately the western portion of Dodge County (except Waupun).

Applicant's two subsidiary banks located closest to Farmers Bank are, respectively, 36 miles east and 40 miles southwest of Farmers Bank and are not in Dodge County. It appears that there is no significant competition between Farmers Bank and either of these two banks or any of Applicant's other subsidiary banks, and none is likely to develop in the future because of the distances involved, the number of other banks located in the intervening areas, and the restrictive provisions of Wisconsin law on branch banking. There appears to be little likelihood that Applicant would establish a de novo office in the area served by Farmers Bank. Thus, it appears that consummation of Applicant's proposal would not eliminate significant existing competition nor foreclose potential competition. Affiliation with Applicant may enable Farmers Bank to compete more aggressively with the two larger banks in the market without having any adverse effect on the smaller banks located there.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area. The financial and managerial resources and prospects of Applicant, its subsidiaries, and Farmers Bank are regarded as consistent with approval of the application. Applicant proposes to assist in providing customers of Farmers Bank with a number of new, expanded, and improved services with respect to loans, fiduciary services, and computer facilities. Thus considerations relating to the convenience and needs of the communities involved lend some support to approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time is extended for good cause by the Board, or by the

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Deane, and Maisel.

Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] March 4, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-3290 Filed 3-9-71;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

KINGS STATION COAL CORP. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.³) have been received as follows:

(1) ICP Docket No. 10214, Kings Station Coal Corp., Kings Mine, USBM ID No. 12 00323 0, Princeton, Gibson County, Ind., Section ID No. 004 (Main Northwest Cross Entry). Section ID No. 006 (Main North Entry).

(2) ICP Docket No. 10216, Old Ben Coal Corp., Mine No. 26, USBM ID No. 11 00590 0, Sesser, Franklin County, Ill., Section ID No. 002 (12th through 20th East-South Cross Entry Group). Section ID No. 003 (1st through 11th East-South Cross Entry Group).

(3) ICP Docket No. 10654, Peabody Coal Co., Mine No. 10, USBM ID No. 11 00585 0, Pawnee, Christian County, Ill., Section ID No. 006 (West Aircourse off Main South).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is avaliable for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MARCH 4, 1971.

[FR Doc.71-3310 Filed 3-9-71;8:47 am]

SMALL BUSINESS ADMINISTRATION

BONZER INVESTMENT CO.

Notice of License Surrender

Notice is hereby given that Bonzer Investment Co. (Bonzer), 7505 Highway 7, Minneapolis, MN 55426, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107).

Bonzer was licensed as a small business investment company on March 21, 1962, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of Bonzer's license is hereby accepted and all rights, privileges, and franchises derived therefrom are canceled and terminated.

A. H. SINGER,
Associate Administrator for Investment.

FEBRUARY 24, 1971.

[FR Doc.71-3300 Filed 3-9-71;8:46 am]

PROGRESS VENTURE CAPITAL CORP.

Notice of Issuance of License to Operate as Minority Enterprise Small Business Investment Company

On February 5, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 2541) stating that Progress Venture Capital Corp., 1501 North Broad Street, Philadelphia, PA 19122, had filed an application with the Small Business Administration, pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (33 F.R. 326.13 CFR Part 107), for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business February 15, 1971, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 03/03-5065 to Progress Venture Capital Corporation, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

A. H. SINGER,
Associate Administrator for Investment.

FEBRUARY 23, 1971.

[FR Doc.71-3301 Filed 3-9-71;8:46 am]

TARIFF COMMISSION

[TEA-F-20]

BERNIE SHOE CO.

Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Bernie Shoe Co., Haverhill, Mass., the U.S. Tariff Commission, on March 4, 1971, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's footwear of the type produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

Inspection of petition. The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: March 5, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-3316 Filed 3-9-71;8:48 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year.

Annes Department Store, variety-department store; 4810-20 North Michigan Avenue, Chicago, IL; 10-28-71.

Any Time Inn, restaurant; Eppley Airfield,

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

Omaha, Nebr.; 10-29-70 to 2-27-71 (replacement).

Bass Memorial Baptist Hospital, hospital; Enid, Okla.; 11-11-71.

Ben Franklin Store, variety-department store; No. 5416, Tucson, Ariz.; 11-16-70 to 10-31-71.

Buck's Supermarket, foodstore; 504 Elm Street, Marked Tree, AR; 10-27-71.

Butler's Department Store, variety-department store; 54 Main Street, Waterville, ME; 11-7-71.

Community Memorial Hospital, Inc., hospital; Burwell, Nebr.; 11-2-71.

Concord Manor Inc., nursing home; 1375 Division Street, Garner, IA; 10-26-71.

Dan Purvis Drugs, drugstore; 725 Broadway, New Haven, IN; 11-8-71.

Duckwall Stores Co., variety-department stores: No. 28, Council Grove, Kans., 10-28-71; No. 43, Scott City, Kans., 11-12-71; No. 58, Topeka, Kans., 11-2-71.

Exira Super Valu, foodstore; Exira, Iowa; 11-19-71.

Fandel Co., variety-department store; 602 St. Germain Street, St. Cloud, MN; 11-3-71.

George's Market, Inc., foodstore; No. 2, Morristown, Tenn.; 10-31-71.

Gindlers Department Store, variety-department store; 419 St. George, Gonzales, TX; 11-16-71.

Glen & Dee's Foodland, foodstore; 6007 Richfield Road, Flint, MI; 11-11-71.

Goldblatt Bros., Inc., variety-department store; 3311 West 26th Street, Chicago, IL; 10-27-71.

W. T. Grant Co., variety-department stores: No. 243, Galesburg, Ill., 10-27-71; No. 259, New Albany, Ind., 10-22-71; No. 761, El Paso, Tex., 10-26-71.

Haines Super Market, foodstores, 10-25-71: 551 State Street, Clairton, PA; Route 51, Pleasant Hills, Pittsburgh, PA.

Hart's Department Store, variety-department store: 955 Fourth Avenue, New Kensington, PA; 10-24-71.

Harvey's Dime Store, Inc., variety-department store; 108 North Broad, Griffith, IN; 10-28-71.

S. H. Heironimus Co. Inc., variety-department store; 405 South Jefferson Street, Roanoke, VA; 10-31-71.

Hilley's Pharmacy, Inc., drugstore; Brazos Shopping Center, Mineral Wells, Tex.; 10-20-71.

Jewish Home for Aged, nursing home; 158 North Street, Portland, ME; 11-2-71.

Kientz IGA, foodstore; 1016 West Sixth, Junction City, KS; 11-17-71.

Kistler-Collister Co., variety-department store; 1100 San Mateo Northeast, Albuquerque, NM; 11-11-71.

S. S. Kresge Co., variety-department stores: No. 88, Belleville, Ill., 10-31-71; No. 101, South Bend, Ind., 10-23-71; No. 127, Leavenworth, Kans., 11-9-70 to 9-2-71; No. 1039, Newport, Ky., 11-3-71; No. 6, Bay City, Mich., 10-21-71; No. 453, Clawson, Mich., 10-23-71; No. 490, Dearborn, Mich., 10-24-71; No. 696, Farmington, Mich., 10-27-71; No. 203, Milford, Ohio, 11-17-71.

Lalonde's Super Market, foodstore; Port Sulphur, La.; 10-25-71.

McCaskill-Burke Tractor Co., Inc., farm equipment; corner South Green and Jackson, Marianna, FL; 8-10-70 to 7-16-71.

McCrory-McLellan-Green Stores, variety-department stores: No. 660, Flagstaff, Ariz., 11-8-70 to 10-31-71; No. 692, Ionia, Mich., 11-8-71; No. 313, Natchez, Miss., 10-21-71; No. 576, Raleigh, N.C., 11-13-70 to 11-9-71; No. 109, Monongahela, Pa., 10-26-71; No. 322, Dallas, Tex., 10-22-71; No. 1020, Fort Worth, Tex., 10-26-71; No. 1208, Houston, Tex., 10-26-71.

McDonald's Hamburgers, restaurant; No. 1, Columbia, S.C.; 10-22-71.

Middletown Merchandise Mart, variety-department store; 3751 East Harrisburg Pike, Middletown, PA; 10-26-71.

Morgan & Lindsey, Inc., variety-department store; No. 3060, Westwego, La.; 11-17-71.

M. E. Moses Co., variety-department store; No. 29, Dallas, Tex.; 10-29-71.

Neisner Brothers, Inc., variety-department store; No. 172, Port Arthur, Tex.; 11-15-71.

J. J. Newberry Co., variety-department stores: No. 85, Calais, Maine, 10-21-71; No. 360, Alma, Mich., 9-11-71; No. 411, Richmond Heights, Mo., 11-9-71; No. 17, New Brunswick, N.J., 10-24-71; No. 13, Newport, Pa., 10-25-71; No. 218, Newport, Vt., 11-8-71; No. 169, Fredericksburg, Va., 10-22-71.

Piggly Wiggly, foodstore; 3110 Grand Avenue, Fort Smith, AR; 10-11-71.

Radcliff Department Store, Inc., variety-department store; 374 North Dixie Boulevard, Radcliff, KY; 10-21-71.

Rodenberg's Inc., foodstore; Montague & Mixon, North Charleston, S.C.; 8-25-70 to 8-23-71.

Ronk's Variety Store, Inc., variety-department store; Covington, Tenn.; 11-12-71.

Schaper's IGA Foodliner, foodstore; 526 West Main Street, Jackson, MO, 11-5-71.

Scurlock's Inc., foodstore; 725 North Sunshine Strip, Harlingen, TX; 11-7-71.

Silver Lining, restaurant; Eppley Airfield, Omaha, Nebr.; 10-29-70 to 2-27-71 (replacement).

O. P. Skaggs, foodstore; 543 North Broad Street, Fremont, NE; 11-14-71.

Spurgeon's, variety-department stores: 113 First Street, Dixon, IL, 11-7-71; 604 Broadway, Lincoln, IL, 11-14-71; 723 Washington Street, Mendota, IL, 11-7-71; 227 South Main Street, Monmouth, IL, 11-14-71; 519 South Main, Princeton, IL, 11-5-71; 429 Lincoln Highway, Rochelle, IL, 11-5-71; 310 North 12th Street, Centerville, IA, 10-26-71; 1201 Second Street, Perry, IA, 10-25-71; 216-218 Bush Street, Red Wing, MN, 11-14-71.

T. G. & Y. Stores Co., variety-department store; No. 127, Kansas City, Kans.; 11-6-71.

Ted Maier Drug Co., drugstores, 10-6-71: 78 East Third and Miracle Mall, Winona, MN.

The Webber Co., Inc., variety-department store; 39 North Perry Street, Montgomery, AL; 10-24-71.

William C. Wiechmann Co., variety-department store; 116 South Jefferson, Saginaw, MI; 11-8-71.

Wolf Super Market, foodstore; Main Street, Yorktown, TX; 11-6-71.

Worth's, apparel store; 95 Bank Street, Waterbury, CT; 11-17-71.

H. Zimmerman & Sons, Inc., 118 West Third Street, Marion, IN; 11-9-71.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

A & R Food Store, Inc., foodstore; 930 Oxmoor Road, Birmingham, AL; stock clerk, produce clerk, meat clerk, carryout; 9 to 12 percent; 11-15-71.

Breen's Market, Inc., foodstore; 334 North Main Street, Milford, MI; carryout, stock clerk; 13 to 20 percent; 11-15-71.

Crest Stores Co., variety-department store; Villa Park Shopping Center, Conover, N.C.; salesclerk, stock clerk; 10 to 45 percent; 11-9-71.

Duckwall Stores, Inc., variety-department store; No. 4, Clay Center, Kans.; salesclerk, stock clerk; 8 to 35 percent; 11-9-71.

Economy Super Market, foodstore; 1875 Perry Boulevard NW, Atlanta, GA; carryout; 8 to 11 percent; 10-27-70 to 10-19-71.

Erdman Supermarkets, Inc., foodstore; Highway 65 South, Owatonna, MN; checker, stock clerk, carryout, cleanup; 10 percent 11-19-71.

Froshin's, Inc., variety-department store; 68 Broad Street, Alexander City, AL; salesclerk, wrapper; 13 to 32 percent; 10-26-71.

W. T. Grant Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, cashier, except as otherwise indicated: No. 174, Mishawaka, Ind., 7 to 37 percent, 11-19-71; No. 1100, Cedar Falls, Iowa, 2 to 14 percent, 10-27-70 to 10-23-71 (salesclerk, stock clerk); No. 945, Union, N.J., 8 to 33 percent, 10-26-71; No. 926, Cleveland, Ohio, 6 to 12 percent, 11-1-71; No. 235, Shamokin Dam, Pa., 5 to 25 percent, 11-12-71.

Hales Super Market, foodstores, for the occupations of stock clerk, carryout, 6 to 28 percent: Highway 13, Gallatin, Mo., 10-26-70 to 10-20-71; Hamilton, Mo., 10-20-71.

Handy-Andy, Inc., foodstores, for the occupations of package clerk, dairy stock clerk, produce clerk, office cashier, stock clerk, bottle sorter, bakery clerk, janitorial, checker, 11-2-71: No. 28, San Antonio, Tex., 23 to 31 percent; No. 29, San Antonio, Tex., 18 to 27 percent.

S. H. Heironimus Co. Inc., variety-department stores, for the occupations of salesclerk, stock clerk, gift wrapper, 2 to 6 percent, 10-3-71: Crossroads Mall and Towers Shopping Center, Roanoke, Va.

Jenny Lee Bakery, bakery; Fort Couch and Washington Road, Pittsburgh, Pa.; salesclerk; 16 to 22 percent; 11-1-71.

S. S. Kresge Co., variety-department stores, for the occupations of stock clerk, maintenance, office clerk, food preparation, salesclerk, checker-cashier, counter clerk, customer service, 10 percent, 11-1-71, except as otherwise indicated: No. 4538, Detroit, Mich. (9 to 10 percent, 9-2-71); No. 4283, Jacksonville, Fla. (salesclerk, stock clerk, office clerk, checker-cashier, maintenance, customer service, 7 to 21 percent, 11-2-71); No. 4279, Lauderhill, Fla. (salesclerk, 1 to 12 percent, 11-13-71); No. 4245, Tampa, Fla. (salesclerk, 7 to 24 percent, 11-2-70 to 10-30-71); No. 4230, Atlanta, Ga. (salesclerk, 4 to 13 percent, 11-15-71); No. 4135, Augusta, Ga. (salesclerk, 4 to 14 percent, 11-19-71); No. 4189, Savannah, Ga. (salesclerk, 4 to 14 percent, 10-25-71); No. 4337, Addison, Ill. (salesclerk, maintenance, stock clerk, office clerk, cashier, customer service, 12 to 20 percent, 10-28-71); No. 4030, Danville, Ill. (salesclerk, stock clerk, checker-cashier, office clerk, 7 to 29 percent, 10-25-71); No. 4097, Elgin, Ill. (salesclerk, stock clerk, checker-cashier, office clerk, 5 to 10 percent, 10-31-71); No. 4322, Kankakee, Ill. (salesclerk, stock clerk, maintenance, checker-cashier, customer service, office clerk, 18 to 34 percent, 10-28-71); No. 4107, Peoria, Ill. (salesclerk, stock clerk, checker-cashier, office clerk, 9 to 16 percent, 10-23-71); No. 4048, Springfield, Ill. (salesclerk, stock clerk, checker-cashier, office clerk, 9 to 16 percent, 10-20-71); No. 4035, Anderson, Ind. (salesclerk, stock clerk, checker-cashier, office clerk, 10-30-71); No. 4067, Fort Wayne, Ind. (salesclerk, stock clerk, checker-cashier, office

clerk, 5 to 10 percent, 11–8–71); No. 4124, Terre Haute, Ind. (salesclerk, stock clerk, checker-cashier, office clerk, 11–6–71); No. 4314, Cedar Rapids, Iowa (salesclerk, stock clerk, office clerk, checker-cashier, customer service, maintenance, 13 to 25 percent, 10–29–71); No. 4315, Iowa City, Iowa (salesclerk, stock clerk, office clerk, checker-cashier, customer service, maintenance, 13 to 25 percent, 10–29–71); No. 4105, Ann Arbor, Mich. (11–8–71); No. 4065, Battle Creek, Mich. (3 to 10 percent, 11–10–71); No. 4118, Grand Rapids, Mich. (4 to 10 percent); No. 4098, Monroe, Mich.; No. 4145, Mount Clemens, Mich. (11–8–71); No. 4099, Mount Morris, Mich.; No. 4535, Owosso, Mich. (11–7–71); No. 4096, Saginaw, Mich.; No. 4059, Taylor, Mich. (11–14–71); No. 115, Troy, Mich. (8 to 10 percent, 11–5–71); No. 4106, Ypsilanti, Mich. (10–30–71); No. 135, Minneapolis, Minn. (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service, counter clerk, 18 to 30 percent, 11–16–71); No. 4310, Fayetteville, N.C. (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service, 11 to 22 percent, 11–9–71); No. 4150, Altoona, Pa. (salesclerk, 3 to 10 percent, 11–15–71); No. 4275, Mechanicsburg, Pa. (salesclerk, bagger, stock clerk, office clerk, 6 to 29 percent, 11–15–71); No. 4064, North Versailles, Pa. (stock clerk, salesclerk, bagger, 6 to 29 percent, 11–18–71); No. 4300, Dallas, Tex. (salesclerk, 7 to 27 percent, 10–30–71); No. 4267, Hurst, Tex. (salesclerk, 7 to 27 percent, 10–30–71); No. 4025, Tyler, Tex. (salesclerk, 7 to 27 percent, 10–20–71); No. 4255, Janesville, Wis. (salesclerk, stock clerk, office clerk, checker-cashier, customer service, counter clerk, 5 to 10 percent, 10–31–71).

Lerner Shops, apparel stores, for the occupations of salesclerk, credit clerk, cashier, except as otherwise indicated: No. 197, Gainesville, Fla., 3 to 25 percent, 11–8–71; No. 199, Titusville, Fla., 3 to 22 percent, 11–10–71 (salesclerk, office clerk, stock clerk, maintenance); No. 254, Omaha, Nebr., 10 to 17 percent, 11–15–71 (salesclerk, stock clerk, office clerk); No. 331, Houston, Tex., 4 to 11 percent, 10–20–71.

Martin's, variety-department store; 1219 Wilmer Avenue, Anniston, Ala.; salesclerk, stock clerk; 9 to 19 percent; 11–19–71.

May's Drug Store, drugstore; No. 201, Peru, Ill.; salesclerk, stock clerk; 5 to 8 percent; 11–17–71.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, except as otherwise indicated: No. 331, East Dover, Del., 27 to 38 percent, 11–14–71 (salesclerk, cashier); No. 392, North Riverside, Ill., 10 to 27 percent, 11–1–71; No. 382, Fall River, Mass., 7 to 15 percent, 10–22–71; No. 374, Framingham, Mass., 7 to 15 percent, 11–8–71; No. 253, Grand Rapids, Mich., 10 to 27 percent, 10–21–71; No. 238, Menominee, Mich., 10 to 33 percent, 11–8–71; No. 393, Southgate, Mich., 10 to 27 percent, 10–21–71; No. 260, Oxford, Miss., 7 to 27 percent, 11–15–71 (salesclerk, stock clerk); No. 1306, Bricktown, N.J., 11 to 32 percent, 11–3–71; No. 708, Grants, N. Mex., 4 to 25 percent, 10–24–71 (salesclerk, office clerk, stock clerk, maintenance); No. 257, Norwood, Ohio, 6 to 20 percent, 10–22–71; No. 224, Hazelton, Pa., 19 to 32 percent, 11–15–71 (salesclerk, stock clerk, office clerk, maintenance); No. 332, Shavertown, Pa., 12 to 23 percent, 11–14–71; No. 165, Dallas, Tex., 11 to 15 percent, 11–19–71.

McDonald's Hamburgers, restaurant; 1110 Camp Jackson Road, Cahokia, IL; general restaurant worker; 8 to 25 percent; 11–6–71.

Morgan & Lindsey, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, except as otherwise indicated: No. 3065, Baton Rouge, La., 8 to 27 percent, 10–15–71; No. 3123, Monroe, La., 6 to 31 percent, 11–6–71 (salesclerk, stock clerk); No. 3129, Natchitoches, La., 12 to 45 percent, 11–18–71; No. 3125, Ruston, La., 12 to 45 percent, 11–14–71; No. 3114, Long Beach, Miss., 4 to 22 percent, 10–31–71; No. 3059, Conroe, Tex., 10 to 27 percent, 10–31–71.

M. E. Moses Co., variety-department store; No. 22, Mesquite, Tex.; salesclerk, checker, store clerk; 28 to 40 percent; 11–15–71.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, janitorial, 10–27–71: No. 329, Ashland, Ky., 17 to 27 percent; No. 327, Indiana, Pa., 14 to 26 percent.

J. J. Newberry Co., variety-department store; No. 476, Macon, Ga.; salesclerk; 10 percent; 10–31–71.

Pence Food Center, foodstore; 122 South Sixth, Osage City, Kans.; sacker, carryout, stock clerk, checker, cleanup; 8 to 25 percent; 10–27–71.

Piggly Wiggly, foodstores, for the occupations of bagger, stock clerk, checker, 18 to 25 percent, 10–11–71, except as otherwise indicated: 2222 Midland Boulevard, 3500 Jenny Lind and Phoenix Village Shopping Center, Fort Smith, Ark.; 710 East Blackhawk Avenue, Prairie Du Chien, Wis. (bagger, carryout, 17 to 22 percent, 11–9–71).

R & R Farms, Inc., agriculture; Carthage, Miss.; general agricultural work; 5 to 21 percent; 9–27–71.

Ream's Bargain Annex, foodstore; 1350 North Second West, Provo, Utah; cleanup, stock clerk, carryout; 26 to 33 percent; 10–27–71.

Rose's Stores, Inc., variety-department store; No. 3, Louisburg, N.C.; salesclerk, stock clerk; 5 to 27 percent; 11–18–71.

Schensul's Cafeteria, cafeteria; East Grand River Avenue, Okemos, Mich.; bus boy (girl), coffee girl (boy), counter worker, dish washer, food preparation, short order cook; 49 to 77 percent; 9–30–71.

Schradzki Co., apparel stores, for the occupations of salesclerk, office clerk, marking clerk, 3 to 12 percent, 11–9–71; 213–215 Southwest Adams and 4125 Sheridan Road, Peoria, IL.

Shady Oaks, nursing home; Lake City, Iowa; nurse's aid, kitchen helper; 9 to 13 percent; 10–29–71.

Spee-D-Foods, Inc., foodstores, for the occupations of carryout, checker, stock clerk, 20 percent, 11–1–71, except as otherwise indicated: 1207 12th Street NW., Canton, OH; 6304 North Market, North Canton, OH; 4075 Portage Road, North Canton, OH (stock clerk, carryout, cleanup); 4730 Cleveland Avenue South, North Industry, OH.

Sterling's Inc., variety-department store; 1119 South Bellevue at McLemore, Memphis, TN; janitorial, salesclerk, stock clerk; 12 to 43 percent; 10–31–71.

T. G. & Y. Stores Co., variety-department stores, for the occupations of office clerk, salesclerk, stock clerk, 24–30 percent, 11–13–71, except as otherwise indicated: No. 21, Shawnee, Okla. (20 to 30 percent); Nos. 467 and 469, Tulsa, Okla. (11–7–71); No. 340, Houston, Tex. (30 percent); No. 779, Nederland, Tex. (30 percent); No. 822, Odessa, Tex. (6 to 21 percent, 11–14–71).

Town & Country Supermarket, foodstore; 818 North Elm, Hoisington, KS; carryout, checker, produce clerk; 18 to 48 percent; 10–26–71.

Van Arsdell's Inc., variety-department store; 37 Signal Hills, West St. Paul, MN; salesclerk, stock clerk, office clerk, gift wrapper, marking clerk; 3 to 14 percent; 10–21–71.

Wakefield's, Inc., variety-department store; 1212 Quintard Avenue, Anniston, AL; salesclerk, stock clerk; 9 to 19 percent; 11–19–71.

Wood's 5 & 10¢ Stores, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, 11–15–71, except as otherwise indicated: Conway Shopping Center, Conway, S.C., 9 to 20 percent; East Gate Shopping Center, Chapel Hill, N.C., 9 to 34 percent (10–31–71); Biggs Park Shopping Center, Lumberton, N.C., 6 to 19 percent.

Younker Brothers, Inc., variety-department store; 901 East 27th Street, Cedar Falls, IA; salesclerk, stock clerk, office clerk, marker, delivery clerk, messenger, wrapper, porter, cleanup; 9 to 16 percent; 11–14–71.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 1st day of March 1971.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.71–3313 Filed 3–9–71;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 270]

ALABAMA POWER CO. ET AL.

Investigation of Railroad Freight Rate Structure

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 1st day of March 1971.

Upon consideration of the record, the joint petition filed on February 16, 1971, by Alabama Power Co.; American Electric Power Co.; Central Illinois Public Service Co.; The Cleveland Electric Illuminating Co.; Coal Traffic Bureau of Northern West Virginia, Ohio & Western Pennsylvania; Commonwealth Edison Co.; Consumers Power Co.; Electric Energy, Inc.; Georgia Power Co.; Gulf Power Co.; Illinois Power Co.; Iowa Electric Light and Power Co.; Iowa Power and Light Co.; Madison Gas and Electric Co.; Missouri Public Service Co.; Newera Corp.; Niagara Mohawk Power Corp.; Otter Tail Power Co.; Pennsylvania Power & Light Co.; Property Owners Committee; Public Service Electric & Gas Co.; Rochester Gas & Electric Co.; The Toledo Edison Co.; Wisconsin Electric Power Co.; and Wisconsin Power & Light Co., and the petition filed February 16, 1971, by the Allied Chemical Corp., for additional time in

which to submit supplementary views, and for a prehearing conference; and for good cause appearing:

It is ordered, That the time within which the petitioners may file statements setting forth their views be, and it is hereby, extended to April 1, 1971.

It is further ordered, That the requests for a prehearing conference be, and they are hereby, denied at this time in view of the extension of time herein granted as additional time will be required to evaluate all statements submitted.

By the Commission, Division 2.

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

[FR Doc.71-3326 Filed 3-9-71;8:48 am]

[Notice 7]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 5, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 579), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland OH 44113, filed February 23, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express* and newspapers in the same vehicle with passengers, over a deviation route as follows: From Birmingham, Ala., over Interstate Highway 59 to junction Alabama County Road 65 (Wiebel Road), thence over Alabama County Road 65 to junction U.S. Highway 11, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 11 via Bucksville and Box Springs, Ala., to New Orleans, La., and return over the same route.

By the Commission.

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

[FR Doc.71-3328 Filed 3-9-71;8:48 am]

[Notice 8]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 5, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-18320 (Deviation No. 1), YORK TRANPORTATION COMPANY, INC., Post Office Box 707, York Pa. 17405, filed February 25, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From York, Pa., over Interstate Highway 83 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 78 (U.S. Highway 22), thence over Interstate Highway 78 (U.S. Highway 22) to New York, N.Y., and (2) from York, Pa., over Interstate Highway 83 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 78 (U.S. Highway 22), thence over Interstate Highway 78 (U.S. Highway 22) to junction Interstate Highway 287, thence over Interstate Highway 287 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction Interstate Highway 278, thence over Interstate Highway 278 to New York, N.Y., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent regular routes as follows: (1) From York, Pa., over U.S. Highway 30 to Philadelphia, Pa., thence over U.S. Highway 1 to New York, N.Y.; and (2) from Paoli, Pa., over U.S. Highway 202 to junction Pennsylvania Highway 43, thence over Pennsylvania Highway 43 to junction U.S. Highway 1, and return over the same routes.

No. MC-89723 (Deviation No. 18), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, MO 63103, filed February 23, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 67 and Missouri Highway 110 (east of De Soto, Mo.), over U.S. Highway 67 to junction Missouri Highway 49 (near Williamsville, Mo.), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from junction U.S. Highway 67 and Missouri Highway 110 over Missouri Highway 110 to De Soto, Mo., thence over Missouri Highway 21 to junction Missouri Highway 8 (at or near Potosi, Mo.), thence over Missouri Highway 32 to junction County Road "N", (at or near Leadwood, Mo.), thence over County Road "M" to junction County Road "BB", thence over County Road "BB" to junction Missouri Highway 32, thence over Missouri Highway 32 to Bismarck, Mo., thence over Missouri Highway 32 to junction County Road "N", thence over County Road "N" to junction County Road "W", thence over County Road "W" to junction Missouri Highway 21, thence over Missouri Highway 21 to junction Missouri Highway 49, thence over Missouri Highway 49 to Piedmont, Mo., thence over Missouri Highway 34 to junction Missouri Highway 34 to junction Missouri 49, thence over Missouri Highway 49 to junction U.S. Highway 67 (near Williamsville, Mo.), and return over the same route.

By the Commission.

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

[FR Doc.71-3329 Filed 3-9-71;8:48 am]

[Notice 17]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 5, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 74416 (Sub-No. 8) (Republication), filed December 15, 1969, published in the FEDERAL REGISTER issue of January 29, 1970, and republished this issue. Applicant: LESTER M. PRANGE, INC., Post Office Box 1, Kirkwood, PA 17536. Applicant's representative: Bernard N. Gingerich, 110 West State Street, Quarryville, PA 17566. A decision and order of the Commission, Review Board No. 2, dated February 3, 1971, and served February 9, 1971, upon consideration of the record in the proceeding, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of fabricated sheet metal products, (2) of heating and air conditioning systems, and (3) of equipment, materials, and supplies used in the installation of fabricated sheet metal products and heating and air conditioning systems, from the plantsites and facitities utilized by Berger Brothers Co. in Lower South Hampton Township (Bucks County), Pa., and Penn Supply and Metal Corp., Adelta Manufacturing Co., Inc., Acme Manufacturing Co., and Southwark Metal Manufacturing Co., of Philadelphia, Pa., to points in Virginia, North Carolina, South Carolina, and Georgia, restricted (a) against the transportation of commodities which because of size or weight require the use of special equipment, and (b) to the transportation of shipments originating at the above-named origin points and destined to points in the above-named destination States. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113024 (Sub-No. 94) (Republication), filed July 29, 1970, published in the FEDERAL REGISTER issue of August 20, 1970, and republished this issue. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Du Pont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated February 2, 1971, and served February 26, 1971, finds: That applicant's proposed operations do not meet the definition of a contract carrier by motor vehicle as defined in section 203(a)(15) of the Interstate Commerce Act; and that the proposed operations are those of a *common carrier* by motor vehicle; and (2) It further finds; That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of fiber, from Yorklyn, Del., to St. Paul, Minn., and Memphis, Tenn.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder and that an appropriate certificate, should be issued concurrently with or subsequent to the issuance to applicant of appropriate certificates and the cancellation of applicant's outstanding permits in No. MC-113024 and subnumbers thereunder, and, that should the pending conversion proceedings be disapproved by the Commission, the instant application will stand denied in its entirety. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 60756 (Sub-No. 4) (Notice of Filing of Petition To Modify Certificate), filed February 11, 1971. Petitioner: CRESCENT MOTOR LINE, Spartanburg, S.C. Petitioner's representative: Frank B. Hand, Jr., 740 15th Street NW., Washington, DC 20005. Petitioner holds a certificate in MC 60756 (Sub-No. 4), authorizing the transportation of, among other things, General commodities, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, in shipments weighing not less than 5,000 pounds each from any one consignor, between Spartanburg and Lyman, S.C., on the one hand, and, on the other, points in Georgia, North Carolina, and South Carolina within 100 miles of Spartanburg. The purpose of this petition is to seek the elimination of the restriction: "in shipments weighing not less than 5,000 pounds each from any one consignors * * *." Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 69096 (Notice of Filing of Petition to Waive Deviation Rules and for Revision of Operating Rights), filed February 9, 1971. Petitioner: C. STANLEY F. LOUTTIT, doing business as LOUTTIT TRANSFER, Monongahela, Pa. Petitioner's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Petitioner states that it is authorized to transport, as a contract carrier, over regular routes: Glass, glass products, and machinery, materials and supplies used in the conduct of glass manufacture: 1. between Fairmont, W. Va., and Bridgeton, N.J., serving the intermediate points of Harpers Ferry, W. Va., and Baltimore, Md., from Fairmont over U.S. Highway 250 to junction U.S. Highway 50, thence over U.S. Highway 50 to Winchester, Va., thence over U.S. Highway 340 to Frederick, Md., thence over U.S. Highway 40 to junction New Jersey Highway 49, thence over New Jersey Highway 49 to Bridgeton, and return over the same route; 2. Between Fairmont, W. Va., and Clairon, Pa., over specified regular routes, serving no intermediate points; 3. Between Fairmont, W. Va., and Chicago Heights, Ill., over specified regular routes, serving the intermediate point of Columbus, Ohio, and the off-route points of Zanesville, Ohio, and Gas City, Ind.; 4. Between Fairmont, W. Va., and Streator, Ill., over specified regular routes, serving the intermediate points of Columbus, Ohio, and the off-route points of Gas City, Ind., and Zanesville, Ohio, and 5. Between Fairmont, W. Va., and Alton, Ill., over specified regular routes, serving the intermediate points of Terre Haute, Ind., and Columbus, Ohio, and the off-route point of Zanesville, Ohio. By the instant application, petitioner seeks revision of its permit so as to authorize operations over irregular routes, rather than over regular routes. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of or against the petition, within 30 days from the date of publication in the FEDERAL REGISTER.

FREIGHT FORWARDER

TRANSFER APPLICATION UNDER SECTION 410(g), INTERSTATE COMMERCE ACT, DESIGNATED FOR ORAL HEARING

Finance Docket No. 26358. Application filed September 23, 1970. CUSTOMS FORWARDERS, INC., CHICAGO, ILL., Transferee, and J. E. BERNARD & CO., INC., CHICAGO, ILL., Transferor. Attorneys for applicants: Harold E. Spencer and Thomas F. McFarland, Jr., 20 North Wacker Drive, Chicago, IL 60606. The application filed under section 410(g) of the Act, seeking transfer of the freight forwarded operating rights specified in the Amended Permit and Order issued January 26, 1951, in Nos. FF-119 and FF-119 (Sub-No. 1) in the name of transferor herein, to transferee herein, Customs Forwarders, Inc., covering the transportation of: Commodities generally, (1) from points in the New York, N.Y., commercial zone to points in the Chicago, Ill. commercial zone; and (2) when consigned for export, from points in the Chicago commercial zone to New York, N.Y.; and (3) when imported or consigned for export,

between points in the Chicago, Ill., commercial zone, on the one hand, and, on the other, San Francisco, Calif., New Orleans, La., Seattle, Wash., and Vancouver, British Columbia, Canada (insofar as the transportation takes place within the United States), was approved by order of the Commission, Motor Carrier Board, entered November 30, 1970.

Petitions for reconsideration and/or oral hearing were filed by Lyons Transport, Inc., and Import Freight Carriers, Inc., C. S. Greene and Co., Inc., and D. C. Andrews International, Inc., all freight forwarders, and by Navajo Freight Lines, Inc., et al, motor carriers.

By order entered February 11, 1971, Division 3, acting as an Appellate Division, vacated and set aside the approval order of the Motor Carrier Board entered November 30, 1970, reopened the proceeding, and assigned the matter for oral hearing at a time and place to be hereafter fixed.

Interested parties have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence.

APPLICATIONS UNDER SECTIONS 5(a) AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11081 (Correction) (SAM TANKSLEY TRUCKING, INC.—Purchase—JOHN SEPHTON, doing business as JOHN SEPHTON PRODUCE CO.) (WESLEY M. HOLSTON, Executor of the estate), published in the February 10, 1971, issue of the FEDERAL REGISTER on page 2848. The docket number shown should have read *"MC-F-11081,* in lieu of *"MC-11081"*.

No. MC-F-11102. Authority sought for control and merge by THE AETNA FREIGHT LINES, INCORPORATED, 2507 Youngstown Road SE., Post Office Box 350, Warren, OH 44400, of the operating rights and property of WATSON BROS. VAN LINES AND HEAVY HAULING CO., 3514 South 25th Street, Omaha, NE 68105, and for acquisition by J. PHIL FELBURN, Post Office Box 427, Middletown, OH, of control of such rights and property through the transaction. Applicants' attorney: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Operating rights sought to be controlled and merged: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, as a common carrier over irregular routes, between points and places in Nebraska, on the one hand, and, on the other, points and places in Illinois, Iowa, Kansas, Missouri, and South Dakota, between Omaha, Nebr., and points and places in Nebraska within 100 miles of Omaha, on the one hand, and, on the other, points and places in Wisconsin, Minnesota, and Colorado; *commodities* which, because of size or weight, require special handling or special equipment, and *contractors' machinery, equipment, and supplies* not requiring special handling or special equipment because of size or weight, between points and places in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota and Wyoming; *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota and Wyoming; (1) *material handling equipment, winches, compaction and roadmaking equipment, rollers, mobile cranes, and highway freight trailers,* and (2) *parts, attachments and accessories* of the commodities described in (1) above, between the plantsites of Hyster Co., located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wyoming.

Hydraulic systems and power units for hydraulic systems, and *equipment, parts, and accessories* used in the installation and operation of hydraulic systems and power units for hydraulic systems, between Omaha, Nebr., on the one hand, and, on the other, Orange, Calif., St. Petersburg, Fla., and Tacoma, Wash., between Omaha, Nebr., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wyoming, and Wisconsin; *self-propelled trench excavating machines* each weighing less than 15,000 pounds, from the plant sites of and storage facilities utilized by Omsteel Products Corp. (a subsidiary of Omsteel Industries, Inc.), at Omaha, Nebr., to points in the United States (except Alaska and Hawaii), with restrictions; *steel bar joists and accessories,* from Norfolk, Nebr., to points in Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, the Upper Peninsula of Michigan, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming. THE AETNA FREIGHT LINES, INCORPORATED, is authorized to operate as a *common carrier* in Michigan, Pennsylvania, West Virginia, Ohio, New York, Indiana, Illinois, Kentucky, Iowa, Wisconsin, Alabama, Arkansas, Louisiana, Mississippi, Tennessee, Delaware, District of Columbia, Maryland, and New Jersey. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11103. Authority sought for continuance in control by KENNETH R. NORTON, Post Office Box 249, Crete, NE 68333, of INTERSTATE CONTRACT CARRIER CORPORATION, 12060 Sable Boulevard, Brighton, CO 80601, upon issuance of the permit authorized to said carrier by recommended order of January 15, 1971, in No. MC-134599. Applicants' attorney: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority to be granted covers the transportation of iron and steel articles, under contract with National Industries, Inc. and subsidiaries, from Chicago, Ill., to points in Kansas, Colorado, Tennessee, and Kentucky. The operations are now being performed by said carrier under temporary authority. KENNETH NORTON presently controls CRETE CARRIER CORPORATION, which holds authority as a motor contract carrier under permit No. MC-128375 and Subs, to transport various specified commodities, under contracts with normal shippers, from and to points in all States in the United States (except Alaska and Hawaii).

By the Commission.

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

[FR Doc.71-3330 Filed 3-9-71;8:49 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 5, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. (Unknown) filed February 22, 1971. Applicant: H. GEORGE RIPLEY & DOROTHY R. RIPLEY, doing business as BUTTE-BOZEMAN DELIVERY SERVICE, a partnership, 712 East Main, Bozeman, MT 59715. Applicant's representative: Hugh Sweeney, Post Office Box 1321, Billings, MT 59101. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except commodities in bulk or in tank vehicles; and excepting heavy machinery, equipment and supplies requiring special equipment), between Bozeman, Mont., and all points and places located

on Highway 191 between Bozeman, Mont., and the Wyoming State Line; between West Yellowstone, Mont., and all points and places located on Highway 191 between West Yellowstone, Mont., and the Wyoming State Line, and serving the off-route point of the Big Sky Complex. Both intrastate and interstate authority sought.

HEARING: Date, place, and time unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Board of Railroad Commissioners of the State of Montana, Helena, MT 59601 and should *not* be directed to the Interstate Commerce Commission.

State Docket No. 71084–CCT, filed February 19, 1971. Applicant: UNITED FREIGHT, INC., Suite 1212, 25 West Flagler Street, Miami, FL 33130. Applicant's Attorney: John W. McWhirter, Jr., Post Office Box 2150, Tampa, FL 33601. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *perishable commodities, frozen commodities and such merchandise* as is dealt in by wholesale and retail chain stores, food businesses, department stores and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business restricted against liquid and dry commodities in bulk and classes A and B explosives, from and between all points in Florida in intrastate commerce and in interstate and foreign commerce moving wholly within the state of Florida, upon demand of shippers. Both intrastate and interstate authority sought.

HEARING: 9:30 a.m., Tuesday, March 9, 1971, at Winter Park, Fla. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, Tallahassee, Fla. 32304 and should not be directed to the Interstate Commerce Commission.

State Docket No 16378, filed February 24, 1971. Applicant: KING MOTOR LINE, INC., 1540 North Ripley Street, Montgomery, AL 36104. Applicant's representative: Euel A. Screws, Jr., Post Office Box 347, Montgomery, AL. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities* (except Classes A and B explosives, household goods as defined by the Interstate Commerce Commission, commodities in bulk, in tank vehicles and those requiring special equipment), between the following points and over the following described routes. From all locations, cities, points and intermediate points being presently served by the holder of certificate 550 (except the cities of Montgomery and Mobile) to Birmingham, Ala., and return over the following routes: Over U.S. Highway 31 (I–65) and over Alabama Highway 22 and U.S. Highway 31 (I–65). That is, applicant seeks authority to haul said general commodities from all intermediate points lying between Mobile and Montgomery, Ala., along U.S. Highway 31 to Birmingham, Ala., and return and from all intermediate points lying between Mobile and Selma, Ala., along U.S. Highway 31 and Alabama Highways Nos. 21 and 41 to Birmingham, Ala., and return. This proposed extension is filed with the restriction prohibiting applicant from serving any intermediate points along the proposed extended routes. This proposed extension is filed with the further restriction prohibiting applicant from transporting any freight originating at or interchanged in the cities of Montgomery or Mobile, Ala., destined to Birmingham, Ala., or originating at or interchanged in the city of Birmingham, Ala., destined to Montgomery or Mobile, Ala. Applicant seeks to extend its authority to handle interstate shipments over said extended intrastate routes in the same manner and to the same extent as its existing authority heretofore granted, except as restricted by the proposed restrictions.

HEARING: Contact the Alabama Public Service Commission for this information. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Alabama Public Service Commission, Montgomery, Ala. 36102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.71-3327 Filed 3-9-71;8:48 am]

[Notice 258]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 5, 1971.

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 it 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 2310 (Sub-No. 4 TA), filed March 1, 1971. Applicant: SIGNAL TRANSPORT, INC., Post Office Box 681, 620 Boston Street, La Porte, IN 46350. Applicant's representative: Irving Stillerman, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and caps and covers relating thereto*, from St. Louis, Mo., to Fort Wayne, Ind., for 180 days. Supporting shipper: American Can Co., 200 South Michigan Avenue, Chicago, IL 60604. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 104210 (Sub-No. 65 TA), filed March 1, 1971. Applicant: THE TRANSPORT COMPANY, INC., Post Office Box 151, 2728 Agnes, Corpus Christi, TX 78403. Applicant's representative: E. C. Dodds (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fat*, liquid, in bulk, in tank vehicles, from Amarillo, Tex., to Clayton, N. Mex., for 150 days. Supporting shipper: Sunray Meats, Inc., 2700 East Third Street, Amarillo, TX 79104. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 116073 (Sub-No. 153 TA), filed March 1, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar (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 the plantsite and storage facilities of Marietta Homes, Crimson Homes, Winston Homes, and Monterey Mobile Homes, Inc., all Divisions of Winston Industries, Inc., in Double Springs, Guin, and Addison, Ala., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Texas, Virginia, Oklahoma, Tennessee, and West Virginia, for 180 days. Supporting shipper: Winston Industries, Inc., Post Office Box 347, Double Springs, Ala. 35553. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 119302 (Sub-No. 13 TA), filed February 24, 1971. Applicant: MILLER TRANSFER & RIGGING CO. (Del. Corp.), Office Box 6077, Akron, OH, 3911 State Route 183, Edinburg, OH 58227. Applicant's representative: John J. Brutvan (same address as above).

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric tools and component parts*, from Hampstead, Md., to Fayetteville, and Tarboro, N.C., (2) *Electric tools and lawn and garden equipment*, from Fayetteville and Tarboro, N.C., to Hampsted, Md. The operations under the foregoing authority are to be limited to a transportation service to be performed under a continuing contract or contracts with the Black & Decker Manufacturing Co., at Towson, Md., for 180 days. Supporting shipper: The Black & Decker Manufacturing Co., Towson, Md. 21204. Send protests to: District Supervisor Baccei, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 119777 (Sub-No. 203 TA), filed March 1, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, KY 42431. Applicant's representative: William G. Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Wallboard, insulation board, paneling vinyl film, shelving, siding, moulding, display cases, and display case assemblies, crated and uncrated new furniture, and door and door assemblies*, from Sedalia, Mo., to points in the United States, and *return and rejected shipments thereof on return*, for 180 days. Supporting shipper: Dan A. Gaw, Truck Traffic Supervisor, Permaneer Corp., 145 Weldon Parkway, Maryland Heights, MO 63042. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, KY 40202.

No. MC 128007 (Sub-No. 32 TA), filed March 1, 1971. Applicant: HOFER, INC., Post Office Box 583, 4032 Parkview Drive, Pittsburg, KS 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry zinc sulfate, fertilizer grade; dry zinc oxide, fertilizer grade*, from the plantsite and/or warehouse facilities of Sherwin Williams Chemicals, a division of Sherwin-Williams Co., at or near Coffeyville, Kans., to points in Oklahoma, Texas, Colorado, Nebraska, Iowa, Missouri, Wisconsin, Minnesota, and Michigan, for 180 days. Supporting shipper: Sherwin Williams Chemicals, Division of the Sherwin-Williams Co., Post Office Box 855, Coffeyville, KS 67337. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, KS 67202.

No. MC 134853 (Sub-No. 3 TA), filed March 1, 1971. Applicant: CHARLES M. WILSON AND RICHARD R. REEVES, a partnership, doing business as W-R TRUCKING CO., 9003 Westhervane Garth, Baltimore, MD 21234. Applicant's representative: Harold P. Boss, 1100—17th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty cylinders*, used for propane and/or other liquefied petroleum gas, between the plantsites and facilities of Cyl-Con, Inc., at or near Catonsville, Md., on the one hand, and, on the other, points in New York and North Carolina, limited to a service to be performed under a continuing contract or contracts with Cyl-Con, Inc., for 150 days. Supporting shipper: Cyl-Con, Inc., 1014 Leslie Avenue, Catonsville, MD 21228. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, MD 21201.

No. MC 135065 (Sub-No. 2 TA) (Correction), filed February 16, 1971, and published FEDERAL REGISTER issue of February 26, 1971, and republished in part as corrected this issue. Applicant: EARL G. DUBOSE, doing business as DUBOSE TRUCKING CO., Route 1, Box 257, Denham Springs, LA 70726. Applicant's representative: Cordell H. Hayman, Suite 301, Baton Rouge Saving & Loan Building, 101 St. Ferdinand Street, Baton Rouge, LA 70801. NOTE: The purpose of this partial republication is to show "Indiana" as a destination State in lieu of Idaho. The rest of the application remains the same.

No. MC 135253 (Sub-No. 1 TA), filed March 1, 1971. Applicant: RALPH NEFF TRUCKING, Post Office Box 724, Rapid City, SD 57701. Applicant's representative: Ralph Neff (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from Rapid City, S. Dak., and a 20-mile radius thereof to Denver, Colo., for 180 days. Supporting shipper: Patrick Farrar, coowner, Speede Car Crusher, 2406 38th Street, Rapid City, SD 57701. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, SD 57501.

No. MC 135318 (Sub-No. 1 TA), filed March 1, 1971. Applicant: CRANE TRUCKING COMPANY, INC., 1001 South Laramie Avenue, Chicago, IL 60644. Applicant's representative: Themis N. Anastos, Suite 614–616, 120 West Madison Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products and such commodities* as are sold by or used in operating retail gasoline stations (except commodities in bulk), between the plantsite of the Mobil Oil Corp. at Cicero, Ill., on the one hand, and, on the other, points in Indiana on and north of U.S. Highway 136 from the Illinois-Indiana State line to Indianapolis, thence U.S. Highway 40 to the Ohio-Indiana State line; all points in Iowa on and east of U.S. Highway 218 from the Illinois-Iowa border at Keokuk, north to Cedar Rapids thence U.S. 151 to Dubuque; all points in Michigan on and east of U.S. Highway 27 beginning at the Indiana-Michigan State line to Alma and all points south and east of Michigan Highway 46 to Lake Michigan, for 180 days. Supporting shipper: Mobil Oil Corp., 150 East 42d Street, New York, NY 10017. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 135345 (Sub-No. 1 TA), filed March 1, 1971. Applicant: C. E. WOOD, doing business as C. E. WOOD DELIVERY, Route 7, Box 414, Roanoke, VA 24108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and such commodities as are dealt in by wholesale and retail drug business houses*, from Roanoke, Va., to points in Rockingham County, N.C., with no transportation for compensation on return except as otherwise authorized. Restriction: The transportation service specified immediately above must be performed under special and individual contracts or agreements with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate wholesale drug business houses, the business of which is the manufacture, compounding, and sale of drugs, for the commodities specified and in the manner indicated. From Roanoke, Va., to (1) points in North Carolina on the west of a line extending from the Virginia-North Carolina State line along U.S. Highway 501 to Durham, N.C., on and north of a line extending along U.S. Highway 70 from Durham through Greensboro, Salisbury, Statesville, N.C., to Hickory, N.C., and on and east of a line extending along U.S. Highway 321 from Hickory to Boone, N.C., and thence along U.S. Highway 421 from Boone to the North Carolina-Virginia State line, exclusive of points in Rockingham County, N.C., (2) points in Washington, Sullivan, Carter, and Johnson Counties, Tenn., and (3) points in McDowell, Wyoming, and Mercer Counties, W. Va., points in Raleigh County, W. Va., on and east of West Virginia Highway 16, and points in West Virginia, on and north of a line extending from the West Virginia-Virginia State line along the northern boundary of Mercer County to the junction with Raleigh County and thence along the northern boundary of Raleigh County to the junction of U.S. Highway 19, thence on and east of a line extending along U.S. Highway 19 to the junction of U.S. Highway 60, and thence on and south of a line extending along U.S. Highway 60 from its junction with U.S. Highway 19 to the West Virginia-Virginia State line, for 180 days. Supporting shipper: McKesson & Robbins Drug Co., 914 Rhodes Avenue NE., Post Office Box 1631, Roanoke, VA 24008. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 135349 TA, filed March 1, 1971. Applicant: R T S DELIVERY SERVICE, INC., 325 Jeliff Avenue, Newark, NJ 07108. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, from New York, N.Y., and Newark, N.J., to points in Connecticut, New York, New Jersey, and Pennsylvania within 60 miles of New York, N.Y., and Newark, N.J. The above restricted: (a) Against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any 1 day, and (b) in leased vehicles with drivers under continuing contracts with A. I. Freidman, Inc., 25 West 45th Street, New York, NY 10036; Arrow Photo Service, Inc., 22 West 32d Street, New York, NY 10001; Arthur Brown & Bros., Inc., 2 West 46th Street, New York, NY 10036; Ever-Last Floor Supply Co., 864 Clinton Avenue, Newark, NJ 07108; Managistics, Inc., 379 DeKalb Avenue, Brooklyn, NY 11205; and Meco Press, Inc., 16 West 45th Street, New York, NY 10036 and (2) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, from Philadelphia, Pa., to points and places in New Jersey and Delaware within 60 miles of Philadelphia, Pa. The above restricted: (a) Against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any 1 day, and (b) in leased vehicles with drivers under continuing contracts with Charles Bruning Co., 7790 Duncan Road, Philadelphia, PA 19111, for 180 days. Supporting shippers: Application supported by the contracting shippers named above. Send protests to: District Supervisor, Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 135351 TA, filed March 1, 1971. Applicant: GRONDIN TRANSPORT, INC., St. Frederic, Beauce County, PQ, Canada. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos*, from ports of entry on the International boundary line between the United States and Canada, located in Maine, New Hampshire, Vermont, and Rouses Point, N.Y., to points in Massachusetts, Connecticut, and Rhode Island, restricted to traffic originating at points in Beauce County, Quebec, Canada, for 180 days. Supporting shipper: Carey-Canadian Mines, Ltd., Post Office Box 190, East Broughton Station, PQ. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, NH 03301.

No. MC 135352 TA, filed March 3, 1971. Applicant: VANDER HART TRANSFER & STORAGE, INC., 1207 Franklin Street, Pella, IA 50219. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires*, from Memphis, Tenn., to Pella, Iowa; under a continuing contract with Schiebout Tire Co., Inc., Pella, Iowa, for 180 days. Supporting shipper: Schiebout Tire Co., Inc., Pella, Iowa 50219. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC. 135353 TA, filed March 1, 1971. Applicant: BARSTOW TRANSFER & STORAGE CO., INC., Post Office Box 639, Barstow-Daggert Airport, Barstow, CA 92311. Applicant's representative: Alan F. Wohlstetter, One Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in San Bernardino, Calif., and between Barstow, Calif., and Long Beach and San Pedro harbors and the Los Angeles International Airport, Calif. Restricted to the transportation of traffic having a prior or subsequent movement in containers, 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, for 180 days. Supporting shippers: H C & D Moving & Storage Co., Inc., Overseas Division, 321 Valencia Street, San Francisco, CA 94103; Asiatic Forwarders, Inc., 335 Valencia Street, San Francisco, CA 94103 (a subsidiary of Domestic Air Express, Inc.). Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-3331 Filed 3-9-71;8:49 am]

[Notice 658]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 5, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date or 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-72277. By order of February 10, 1971, the Motor Carrier Board approved the transfer to Frick Transfer, Inc., Easton, Pa., of the operating rights in certificate No. MC-61693, issued June 16, 1941, to Harvey J. Miller, Bangor, Pa., authorizing the transportation of household goods and other specified commodities between Bangor, Pa., and specified points in New Jersey. S. Maxwell Flitter, 200 South Seventh Street, Easton, PA 18042, attorney for applicants.

No. MC-FC-72588. By order of February 11, 1971, the Motor Carrier Board approved the transfer to Short's Garage, Inc., Causeway and South Market Street, Wilmington, DE 19801, of the operating rights in certificate No. 118983 (Sub-No. 1) issued April 16, 1963, to Robert S. Short, doing business as Short's Garage, Wilmington, Del., authorizing the transportation of disabled, repossessed, stolen, or wrecked motor vehicles, by use of wrecker equipment only, between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

No. MC-FC-72616. By order of February 9, 1971, the Motor Carrier Board approved the transfer to L. E. Yoho, doing business as L. E. Yoho Excavating Service, Proctor, W. Va., of certificate No. MC-94431, issued to William C. Bonnette, Edward C. Bonnette, and Chester Bonnette, doing business as Chester Bonnette and Sons, Moundsville, W. Va., authorizing the transportation of: Such bulk commodities, coal, sand, gravel, etc., usually transported in dump trucks, between specified points and areas in Ohio and West Virginia. D. L. Bennett, practitioner, 129 Edginton Lane, Wheeling, WV 26003. John T. Madden, attorney, 635 Courth Avenue, Moundsville, WV 26041.

No. MC-FC-72631. By order of February 10, 1971, the Motor Carrier Board approved the transfer to R. D. Brown, doing business as Dan Brown Trucking, Greybull, Wyo., of certificates Nos. MC-107452, and MC-107452 (Sub-No. 1), issued to Robert F. Hansen, doing business as Hansen Trucking, Lovell, Wyo., authorizing the transportation of: Livestock, feeds, seeds, rock, and stone, between specified points and areas in Wyoming and Montana. Jerome Anderson, attorney, Post Office Box 1215, Billings, MT 59103.

No. MC-FC-72640. By order of February 9, 1971, the Motor Carrier Board approved the transfer to K. G. Moore, Inc., Nashua, N.H., of the certificate No. MC-308 issued to Wrentham Motor Lines, Inc., Wrentham, Mass., authorizing the transportation of: General commodities, usual exceptions; paper and asbestos products, between specified points and areas in New Hampshire, New

York, Massachusetts, and New Jersey. Frederick T. O'Sullivan, attorney at law, 372 Granite Avenue, Milton, MA 02186.

No. MC–FC–72651. By order of February 10, 1971, the Motor Carrier Board approved the transfer to James C. Ferraro, doing business as Bridal Veil Tours, 121 79th Street, Niagara Falls, NY 14304, of certificate No. MC–116661 (Sub-No. 1), issued to Charles C. Ferraro, doing business as Bridal Veil Tours, 121 79th Street, Niagara Falls, NY 14304, authorizing the transportation of: Passengers and their baggage in special operations, beginning and ending at Niagara Falls, N.Y., and extending to ports of entry of the Canadian-United States boundary line at Niagara Falls and Lewiston, N.Y.

No. MC–FC–72657. By order of February 9, 1971, the Motor Carrier Board approved the transfer to Roland D. Sellers, doing business as Sellers Truck Lines, 804 North Cedar Street, Abilene, KS 67410, of the operating rights in certificates Nos. MC–42326 and MC–42326 (Sub-No. 4), issued October 14, 1958, and January 31, 1958, respectively, in the name of Charles W. Sellers, doing business as Sellers Truck Line, 1007 North Olive Street, Abilene, KS, authorizing the transportation of general commodities between specified points in Kansas and Missouri.

No. MC–FC–72661. By order of February 10, 1971, the Motor Carrier Board approved the transfer to Service Warehouse Co., Inc., Newark, N.J., of certificate No. MC–3717, issued to Interstate Refrigerated Foods, Inc., Phila., Pa., authorizing the transportation of: Frozen foods, Sea foods, and machinery and equipment, and supplies therefore, and petroleum products, between specified points and areas in New York, New Jersey, Massachusetts, New Hampshire, Maryland, Rhode Island, and Connecticut. James J. Farrell, practitioner, 206 North Boulevard, Belmar, NJ 07719.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–3332 Filed 3–9–71;8:49 am]

[Notice 658–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 5, 1971.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–72711. By application filed March 3, 1971, N.J. & N.Y. AIRPORT LIMOUSINE, INC. (a New Jersey corporation), 1 Polifly Road, Hackensack, NJ 07601, seeks temporary authority to lease the operating rights of N.J. & N.Y. AIRPORT LIMOUSINE, INC. (a Connecticut corporation), c/o James A. Curtis, 657 High Street, Newark, NJ 07102, under section 210a(b). The transfer to N.J. & N.Y. AIRPORT LIMOUSINE, INC. (a New Jersey corporation), of the operating rights of N.J. & N.Y. AIRPORT LIMOUSINE, INC. (a Connecticut corporation), is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–3333 Filed 3–9–71;8:49 am]

CUMULATIVE LISTS OF PARTS AFFECTED—MARCH

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during March.

3 CFR

5 CFR

7 CFR

7 CFR—Continued

9 CFR

10 CFR

12 CFR

14 CFR

15 CFR

16 CFR

17 CFR

18 CFR

19 CFR

20 CFR

21 CFR

24 CFR

25 CFR

26 CFR

26 CFR—Continued

PROPOSED RULES:

	Page
1	3899, 4387, 4388, 4547
194	4048, 4393
196	4048, 4393
197	4048, 4393
201	4048, 4393, 4611
240	4393
245	4048, 4393, 4398
252	4611

29 CFR

1	4045
5	4045

PROPOSED RULES:

602	4551
603	4551
608	4551
609	4551
610	4551
611	4551
612	4551
614	4551
615	4551
687	4551

30 CFR

PROPOSED RULES:

11	4652
12	4652
13	4652
14	4652
14a	4652
70	4547
75	4406, 4548
90	3900

33 CFR

117	4381
207	4599

PROPOSED RULES:

117	4298

36 CFR

	Page
311	4494

38 CFR

3	4599
6	4382
8	4382

39 CFR

Ch. I	4117

41 CFR

1–5	3971
5A–14	4259
6–1	4377, 4599
18–5	3972
18–6	3980
18–7	3988
101–47	3894

42 CFR

4	3894
481	4543

PROPOSED RULES:

37	4420
55	4421

43 CFR

PUBLIC LAND ORDERS:

725 (revoked in part by PLO 5026)	4378
4983 (corrected by PLO 5027)	4379
5024	4378
5025	4378
5026	4378
5027	4379
5028	4498

45 CFR

70	4498

46 CFR

201	4377
528	4292
542	4293

46 CFR—Continued

PROPOSED RULES:

146	4625
Ch. II	4420

47 CFR

2	4264, 4500
21	4600
73	3966, 4284, 4503
73	3966, 4284, 4503
97	4264

PROPOSED RULES:

1	3902
25	4062
73	3902, 4062, 4064, 4068, 4511
74	4068
97	4069, 4511

49 CFR

9	4290
393	4545
571	4290, 4291, 4600, 4606
1033	3896, 3897, 3968, 3969, 4385, 4504
1048	4505

PROPOSED RULES:

172	4626
173	4626
571	3928, 4627
574	4061
1056	4072
1300	4628
1307	4072

50 CFR

28	3898
33	4545, 4608
260	4609
280	4505
351	3970

PROPOSED RULES:

230	3925
253	4506
254	4506
280	4550
401	4506

LIST OF FEDERAL REGISTER PAGES AND DATES—MARCH

Pages	*Date*
3875–3953	March 2
3955–4106	3
4107–4357	4
4359–4456	5
4457–4532	6
4533–4583	9
4585–4680	10

FEDERAL REGISTER

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PART II

DEPARTMENT OF THE INTERIOR

Bureau of Mines

•

Respiratory Protective Devices; Tests for Permissibility; Fees

Notice of Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Parts 11, 12, 13, 14, 14a]

RESPIRATORY PROTECTIVE DEVICES; TESTS FOR PERMISSIBILITY; FEES

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior under section 508 of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, 30 U.S.C. 801), and 36 Stat. 369, as amended 37 Stat. 681, 30 U.S.C. 3, 5, and 7, and after consultation and agreement with the Secretary of Health, Education, and Welfare, it is proposed that Parts 11, 12, 13, 14, and 14a of Subchapter B (Bureau of Mines Schedules 13E, 14F, 19B, 21B, and 23B), Chapter I of Title 30, Code of Federal Regulations be rescinded in their entirety and that Subchapter B of Chapter I be amended by substituting the following Part 11, as set forth below, which prescribes the approval procedures, establishes the fees, and consolidates and extends the requirements for obtaining joint approval of respirators by the Bureau of Mines, Department of the Interior and the Bureau of Occupational Safety and Health, Department of Health, Education, and Welfare.

Interested persons may submit comments, suggestions, or objections to the Director, Bureau of Mines, Washington, D.C. 20240, or the Director, Bureau of Occupational Safety and Health, Rockville, MD 20852, no later than 45 days following publication of this notice in the FEDERAL REGISTER.

ROGERS C. B. MORTON,
Secretary of the Interior.

FEBRUARY 25, 1971.

Subpart H—Dust, Fume, and Mist Respirators

Subpart I—Chemical Cartridge Respirators

Subpart J—Pesticide Respirators

AUTHORITY: The provisions of this Part 11 issued under sec. 508 of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, 30 U.S.C. 801) and 36 Stat. 369, as amended, 37 Stat. 681, 30 U.S.C. 3, 5, and 7.

Subpart A—General Provisions

§ 11.1 Purpose.

The purpose of the regulations contained in this Part 11 is (a) to establish procedures and prescribe requirements which must be met in filing applications for the joint approval of respirators or changes or modification of approved respirators; (b) to specify minimum requirements and to prescribe methods to be employed by the Bureau and by the applicant in conducting inspections, examinations and tests to determine the effectiveness of respirators used during entry into or escape from hazardous atmospheres; (c) to establish a schedule of fees to be charged each applicant for the inspections, examinations, and testing conducted by the Bureau under the provisions of this part; and, (d) to provide for the issuance of certificates of approval or extensions of certificates of approval for respirators which have met the minimum requirements for performance and respiratory protection set forth in this part.

§ 11.2 Approved respirators.

(a) On and after March 30, 1974, respirators or combinations of respirators shall be considered to be approved for use during entry into hazardous mine atmospheres, escape from hazardous mine atmospheres, or both, only where such respirators or combinations of respirators are; (1) the same in all respects as those respirators which have been approved after meeting the minimum requirements for performance and respiratory protection prescribed in this part 11, or have been approved under a Bureau of Mines schedule listed in paragraph (b) of this section, and (2) which are maintained in an approved condition.

(b) On and after March 30, 1971, respirators fabricated, assembled, or built under any approval, or any extension thereof, issued by the U.S. Bureau of Mines, Department of the Interior, in accordance with the schedules set forth below shall be considered to be approved for use during entry into hazardous mine atmospheres, escape from hazardous mine atmospheres, or both, where such respirators are maintained in an approved condition:

(1) Self-contained breathing apparatus, Bureau of Mines Schedule 13E, July 19, 1968.

(2) Supplied-air respirators, Bureau of Mines Schedule 19B, April 19, 1955.

(3) Filter-type dust, fume, and mist respirators, Bureau of Mines Schedule 21B, January 19, 1965.

(c) On or before March 30, 1974, gas masks and chemical cartridge respirators shall be considered to be approved for use during entry into hazardous mine atmospheres, escape from hazardous mine atmospheres, or both, where such respirators are; (1) fabricated, assembled or built under any approval, or any extension thereof, issued by the U.S. Bureau of Mines, Department of the Interior, in accordance with the schedules set forth below, and (2) are maintained in an approved condition:

(i) Gas masks, Bureau of Mines Schedule 14F, April 23, 1955.

(ii) Nonemergency gas respirators, Bureau of Mines Schedule 23B, August 4, 1959.

§ 11.2–1 Selection, use, and maintenance of approved respirators.

Approved respirators shall, where applicable, be selected, used and maintained in accordance with the provisions of the American National Standard Practices for Respiratory Protection, Z88.2.

§ 11.3 Definitions.

As used in this part——

(a) An "air purifying respirator with attached blower" is a device equipped with a facepiece, hood, or helmet, breathing tube, canister, cartridge, filter, canister with filter, or cartridge with filter, and blower.

(b) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or controls the assembly of a respirator and who seeks to obtain a certificate of approval for such respirator.

(c) "Approval" means a certificate or formal document issued by the Bureau stating that an individual respirator or combination of respirators has met the minimum requirements of this Part 11, and that the applicant is authorized to use and attach an approval label to any respirator, respirator container, or instruction card for any respirator manufactured or assembled in conformance with the plans and specifications upon which the approval was based, as evidence of such approval.

(d) "Approved" means conforming to the minimum requirements of this Part 11.

(e) "Auxiliary equipment" means a self-contained breathing apparatus whose use is limited in underground mine rescue and recovery operations to situations in which the wearer has ready access to fresh air and at least one crew of five or six men equipped with approved self-contained breathing apparatus preferably of 2 hours or longer rating, is in reserve at a fresh-air base.

(f) "Bureau" means the U.S. Bureau of Mines, Department of the Interior, and the Bureau of Occupational Safety and Health, Department of Health, Education, and Welfare.

(g) "Compressed breathing gas" means oxygen or air stored in a respirator in a compressed state and supplied to the wearer in gaseous form.

(h) "Concentration limits for radionuclides" means the concentration limits set forth in Appendix B, Table 1,

Column I of Title 10 CFR Part 20 by the Atomic Energy Commission.

(i) "dBA" means sound pressure levels in decibels, as measured with the A-weighted network of a standard sound level meter using slow response.

(j) "DOP" means a homogenous liquid aerosol, having a particle diameter of 0.3 micron, which is generated by vaporization and condensation of dioctyl phthalate.

(k) "Dust" means a solid mechanically produced particle with a size ranging from submicroscopic to macroscopic.

(l) Respirators "for entry into and escape from" means respiratory devices providing protection during entry into or escape from hazardous atmospheres, or both.

(m) Respirators "for escape only" means respiratory devices providing protection only during emergency escape from hazardous atmospheres.

(n) A "facepiece" or "mouthpiece" is a respirator component designed to make a gas-tight or dust-tight fit with the face and may include headbands, valves, and connections for canisters, cartridges, filters, or respirable gas source.

(o) "Fume" means a solid condensation particle, generally less than 1 micron in diameter.

(p) "Gas" means an aeroform fluid which is in the gaseous state at ordinary temperature and pressure.

(q) "Hazardous atmosphere" means any atmosphere containing a toxic or disease producing gas, vapor, dust, fume, mist, or pesticide, either immediately or not immediately dangerous to life or health, and any oxygen-deficient atmosphere, or both.

(r) A "hood" or "helmet" covers the wearers head and neck, or head, neck, and shoulders, and contains incoming respirable air for the wearer to breathe. It may include a headharness and connection for a breathing tube.

(s) "Immediately dangerous to life or health" means conditions that pose an immediate threat to life or health and conditions that pose an immediate threat of severe exposure to contaminants such as radioactive materials which are likely to have adverse delayed effects on health.

(t) "Liquefied breathing gas" means oxygen or air stored in liquid form and supplied to the wearer in a gaseous form.

(u) "Mist" means a liquid condensation particle with a size ranging from submicroscopic to macroscopic.

(v) "Not immediately dangerous to life or health" means any hazardous atmosphere which may produce physical discomfort immediately, chronic poisoning after repeated exposure, and acute adverse physiological symptoms after prolonged exposure.

(w) "Pesticide" means (1) any substance or mixture of substances (including solvents and impurities) intended to prevent, destroy, repel, or mitigate any insect, rodent, nematode, fungus, weed, or other form of plant or animal life or virus, and (2) any substance or mixture of substances (including solvents and impurities) intended for use as a plant regulator, defoliant, or dessicant, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1947, as amended (7 U.S.C. 135–135K), except for fumigants which are applied as gasses or vapors.

(x) "Protection factor" means the ratio of the concentration of dust, fume, or mist present in the ambient atmosphere to the concentration of dust, fume, or mist within the facepiece while the respirator is being worn.

(y) "Radionuclide" means an atom identified by the constitution of its nucleus (specified by the number of protons Z, number of neutrons N, and energy, or, alternatively, by the atomic number Z, mass number $A=(N+Z)$, and atomic mass) which exists for a measurable time; decays or disintegrates spontaneously, emits radiation and results in the formation of new nuclides.

(z) "Respirable dust" means a dust particle aerodynamically capable of reaching the terminal airways of the lung.

(aa) "Respirator" means any device designed to provide the wearer with respiratory protection against inhalation of a hazardous atmosphere.

(bb) "TLV" means the Threshold Limit Values of Airborne Contaminants adopted by the American Conference of Governmental Industrial Hygienists or the standards for atmospheric hazards prescribed by the Secretary of Labor in accordance with the provisions of the Occupational Safety and Health Act of 1970.

(cc) "Vapor" means the gaseous state of a substance that is solid or liquid at ordinary temperature and pressure.

Subpart B—Application for Approval

§ 11.10 Application procedures.

(a) Inspection, examination, and testing leading to the approval of the types of respirators classified in Subpart C of this part shall be undertaken by the Bureau only pursuant to written applications which meet the minimum requirements set forth in this Subpart B.

(b) Applications shall be submitted in duplicate to Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213, and shall be accompanied by a check, bank draft, or money order in the amount specified in Subpart K of this part payable to the order of the U.S. Bureau of Mines.

(c) Except as provided in § 11.34, the examination, inspection, and testing of all respirators shall be conducted at Approval and Testing, Bureau of Mines, Pittsburgh, PA 15213.

(d) Applicants, manufacturers, or their representatives may visit or communicate with Approval and Testing in order to discuss the requirements for approval of any respirator or to obtain criticism of proposed designs, however, no charge shall be made for such consultation and no written report shall be issued by the Bureau as a result of such consultation.

§ 11.11 Contents of application.

(a) Each application for approval shall contain a complete written description, in duplicate, of the respirator for which approval is requested together with a set of drawings, in duplicate, showing full details of construction of the respirator.

(b) Drawings shall include title, number, and date, any revision dates shall be shown on the drawings, and the purpose of each revision shall be shown on the drawing or described on an attachment to the drawing to which it applies.

(c) Each application for approval shall contain a proposed plan for quality control which meets the minimum requirements set forth in subpart M of this part.

(d) Each application for approval shall contain, as appropriate, a statement indicating whether or not the apparatus is being marketed or the date on which it will be marketed.

(e) Each application shall contain a statement that the respirator has been pretested by the applicant as prescribed in § 11.34.

§ 11.12 Delivery of respirators by applicant; requirements.

(a) Each applicant shall, when an application is filed pursuant to § 11.10, deliver at his own expense, the number of completely assembled respirators, required for testing, to Approval and Testing, Bureau of Mines, Pittsburgh, PA 15213.

(b) The applicant will be advised by the Bureau, upon request, of the total number of respirators and component parts required for testing.

(c) Each respirator delivered in accordance with this section shall be labeled distinctly to show the name of the applicant, and the name and letters or numbers by which the respirator is designated for trade purposes.

(d) One completely assembled respirator approved under the provisions of this part may be retained by the Bureau as a laboratory exhibit; the remaining respirators may be returned to the applicant following the issuance of such approval.

(e) Where a respirator fails to meet the requirements for approval set forth in this part, all respirators and components delivered in accordance with this section may be returned to the applicant at his own expense, upon written request within 30 days after notice of disapproval.

Subpart C—Classification of Approved Respirators; Scope of Approval; Entry and Escape; Atmospheric Hazards; Service Time

§ 11.20 Types of respirators to be approved; scope of approval.

Approvals shall be issued for the types of respirators which have been classified pursuant to this Subpart C, have been inspected, examined and tested by the Bureau in accordance with the provisions of Subparts D through J of this part, and have been found to provide respiratory protection for fixed periods of time against the hazards specified in such approval.

§ 11.21 Entry and escape; classification.

Respirators described in Subparts E through J of this part shall be classified for use during entry and escape or escape only as follows:

(a) *Entry and escape.* Respirators designed and approved for use during entry into a hazardous atmosphere, or escape from a hazardous atmosphere, or both; or,

(b) *Escape only.* Respirators designed and approved for use only during emergency escape from a hazardous atmosphere.

§ 11.22 Atmospheric hazards; classification.

Respirators described in Subparts E through J of this part shall be classified as approved for use against any or all of the following respiratory hazards:

(a) Oxygen deficiency;

(b) Gases and vapors;

(c) Particulates, including dusts, fumes and mists; and

(d) Pesticides.

§ 11.23 Periods of protection; service time; classification.

(a) Respirators described in Subparts E through J of this part shall be classified, where applicable, as approved for use during the following prescribed service times:

(1) Four hours;

(2) Three hours;

(3) Two hours;

(4) One hour;

(5) Forty-five minutes;

(6) Thirty minutes;

(7) Fifteen minutes;

(8) Ten minutes;

(9) Five minutes;

(10) Three minutes.

(b) Time classifications established in accordance with paragraph (a) of this section shall not limit the use of escape apparatus as provided in § 11.21(b).

Subpart D—General Construction and Performance Requirements

§ 11.30 Construction and performance requirements; general.

(a) The Bureau shall accept applications and issue approvals for the types of respirators described in Subparts E through J of this part which have met the minimum requirements set forth for such respirators in this Part 11.

(b) In addition to the types of respirators specified in paragraph (a) of this section, the Bureau will accept applications and issue approvals for other respiratory devices not specifically described in this Part 11, however, the Bureau reserves the right to require, as a condition of such approval, any minimum requirements it deems necessary for approval of such devices as specified in § 11.33(c).

§ 11.31 General construction requirements.

(a) All respirators accepted by the Bureau for examination, inspection and testing shall be designed on sound engineering and scientific principles, constructed of suitable materials and evidence good workmanship.

(b) Respirator components which come into contact with the wearer's body shall be made of nonirritating materials.

(c) Components replaced during or after use shall be constructed of materials which will not be damaged by normal handling.

(d) Mouthpieces, hoods, helmets, and facepieces, except those employed in single-use respirators, shall be constructed of materials which will withstand repeated disinfection as recommended by the applicant in his instructions for use of the device.

(e) The components of each respirator accepted by the Bureau for examination, inspection and testing and approved for use where permissibility is required shall meet the requirements for permissibility and intrinsic safety set forth in Part 18, Subchapter D of this chapter (Bureau of Mines Schedule 2G).

§ 11.32 Component parts; minimum requirements.

(a) The component parts of each respirator shall be:

(1) Designed, constructed and fitted to ensure against creation of any hazard to the wearer;

(2) Assembled to permit easy access for inspection and repair of functional parts; and

(3) Assembled to permit easy access to parts which require periodic cleaning and disinfecting.

(b) Replacement parts shall be designed and constructed to permit easy installation and to maintain the effectiveness of the respirator.

§ 11.33 Test requirements; general.

(a) Each respirator and respirator component shall, where applicable, when tested by the applicant and by the Bureau, meet the applicable requirements set forth in Subparts E through J of this part.

(b) Where a combination respirator is assembled from two or more types of respirators, as described in this part, each of the individual respirator types which have been combined shall, as applicable, meet the minimum requirements for such respirators set forth in Subparts E through J of this part, and such combination respirators except as specified in paragraph (c)(2) of § 11.40 will be classified by the type of respirator in the combination which provides the least protection to the user.

(c) In addition to the minimum requirements set forth in Subparts E through J of this part, the Bureau reserves the right to require, as a further condition of approval, any additional or other minimum requirements it deems necessary to establish the quality, effectiveness and safety of any respirator used as protection against hazardous atmospheres.

(d) Where it is determined after receipt of an application that additional or other minimum requirements will be required for approval, the Bureau will notify the applicant in writing of these additional requirements stating generally its reasons for conducting additional or other examinations, inspections, or tests.

§ 11.34 Pretesting by applicant; approval of test methods by the Bureau.

(a) Prior to any application for approval or extension of approval, the applicant shall conduct, or cause to be conducted, examinations, inspections, and tests of respirator performance which are equal to or exceed the severity of those conducted by the Bureau.

(b) With the application, the applicant shall provide a statement to the Bureau showing the results of the tests required under paragraph (a) of this section and state that the respirator meets the minimum requirements of Subparts E through J of this part, as applicable.

(c) Where the Bureau has determined that the examinations, inspections, and tests specified by the applicant are acceptable, the Bureau will approve them in writing.

(d) The Bureau may, upon written request by the applicant, provide drawings and descriptions of its test equipment and otherwise assist the applicant in establishing a test laboratory or securing the services of a testing agency.

(e) The Bureau will not issue an approval to the applicant for any assembly or component tested until it has validated the applicant's test results.

§ 11.35—Conduct of examinations, inspections, and tests by the Bureau; assistance by applicant; observers; recorded data; public demonstrations.

(a) All examinations, inspections, and tests conducted pursuant to Subparts E through J of this part will be under the sole direction and control of the Bureau.

(b) The Bureau may, as a condition of approval, require the assistance of the applicant or his agents during the assembly, disassembly, or preparation of any respirator or respirator component prior to testing or in the operation of such equipment during testing.

(c) Only Bureau personnel, persons assisting the Bureau pursuant to paragraph (b) of this section, and such other persons as may be mutually agreed upon by the Bureau and the applicant as observers, shall be present during any examination, inspection, or test conducted prior to the issuance of an approval by the Bureau for the equipment under consideration.

(d) Applicants shall be solely responsible for any agent or observer present during any examination, inspection, or test, and each applicant shall hold the Bureau harmless against any claim for damage to the equipment being tested and against any claim for personal injury suffered by any agent of the applicant or observer admitted by mutual agreement.

(e) The Bureau shall hold as confidential any analyses, drawings, specifications, or materials submitted by the applicant and it shall not disclose any principles or patentable features of such equipment.

(f) As a condition of each approval issued for any respirator, the Bureau reserves the right, following the issuance of such approval, to conduct such public tests and demonstrations of the approved respiratory equipment as it deems appropriate.

§ 11.36 Withdrawal of applications; refund of fees.

(a) Any applicant may, upon a written request submitted to the Bureau, withdraw any application for approval of any respirator.

(b) Upon receipt of a written request for the withdrawal of an application, the Bureau shall determine the total man days expended and the amount due for services already performed during the course of any examinations, inspections, or tests conducted pursuant to such application. The total amount due shall be determined in accordance with the provisions of § 11.162 and assessed against the fees submitted by the applicant. If the total amount assessed is less than the fees submitted, the Bureau shall refund the balance together with a statement of the charges made for services rendered.

Subpart E—Self-Contained Breathing Apparatus

§ 11.40 Self-contained breathing apparatus; description.

(a) Self-contained breathing apparatus, including all completely assembled, portable, self-contained devices designed for use as respiratory protection during entry into and escape from or escape only from hazardous atmospheres, are described as follows:

(1) *Closed-circuit apparatus.* An apparatus of the following types in which the exhaled air is rebreathed by the wearer after the carbon dioxide has been effectively removed and a suitable oxygen concentration restored from the indicated sources:

(i) Compressed oxygen;

(ii) Solid-chemical oxygen;

(iii) Liquid-oxygen.

(2) *Open circuit apparatus.* An apparatus of the following types from which exhaled air is vented to the atmosphere and not rebreathed:

(i) *Demand-type apparatus.* An apparatus in which the pressure inside the facepiece in relation to the immediate environment is positive during exhalation and negative during inhalation.

(ii) *Pressure-demand-type apparatus.* An apparatus having positive pressure inside the facepiece in relation to the immediate environment during both inhalation and exhalation.

(b) The following devices may be classified as designed and approved for use during emergency entry into a hazardous atmosphere: A combination respirator which includes a self-contained breathing apparatus and a Type "C" or Type "CE" supplied air respirator, where (1) the self-contained breathing apparatus is classified for 3-, 5-, or 10-minute, service time and the air line supply is used during entry, or (2) the self-contained breathing apparatus is classified for 15 minutes or longer service time and not more than 20 percent of the rated capacity of the air supply is used during entry.

(c) Self-contained breathing apparatus classified for less than 1 hour service time will not be approved for use during underground mine rescue and recovery operations except as auxiliary equipment.

(d) Self-contained breathing apparatus classified for less than 30 minutes service time will not be approved for use as auxiliary equipment.

§ 11.41 Self-contained breathing apparatus; required components.

(a) Each self-contained breathing apparatus described in § 11.40 shall, where its design requires, contain the following component parts:

(1) Facepiece or mouthpiece;

(2) Respirable breathing gas container;

(3) Supply of respirable breathing gas;

(4) Gas pressure or liquid level gages;

(5) Timer;

(6) Remaining service life indicator or warning device;

(7) Hand-operated valves;

(8) Breathing bag;

(9) Safety relief valve or safety relief system; and,

(10) Harness.

(b) The components of each self-contained breathing apparatus shall, where applicable, meet the minimum construction requirements set forth in Subpart D of this part.

§ 11.42 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with breathing apparatus shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces and mouthpieces;

(3) Interference with the wearer's activities; and,

(4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.43 Harnesses; installation and construction; minimum requirements.

(a) Each apparatus shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the apparatus in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of apparatus parts, and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.44 Apparatus containers; minimum requirements.

(a) Apparatus may be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains, and all appropriate approval labels.

(b) Containers supplied by the applicant for carrying or storing self-contained breathing apparatus will be inspected, examined, and tested as components of the respirator for which approval is sought.

(c) Containers for self-contained breathing apparatus shall be designed and constructed to permit easy removal of the apparatus.

§ 11.45 Half-mask facepieces and full facepieces; mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for the optional use of corrective spectacles which shall not reduce the respiratory protective qualities of the apparatus.

(c) Mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece and provide an airtight seal.

(d) Facepieces shall be designed to minimize eyepiece fogging.

§ 11.46 Facepieces; eyepieces; minimum requirements.

(a) Facepieces shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces shall be designed and constructed to meet the impact and penetration requirements specified in the American National Standard for Occupational and Educational Eye and Facepiece Protection, Z87.

§ 11.47 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against distortion.

(b) Exhalation valves shall be designed and constructed with covers to protect against damage and external influence and to provide a dead airspace to prevent the inward leakage of contaminated air.

§ 11.48 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable head harnesses designed and constructed to hold the mouthpiece in place.

§ 11.49 Breathing gas; minimum requirements.

(a) Breathing gas used to supply apparatus shall be respirable and contain

no less than 20.0 (dry atmosphere) volume percent of oxygen.

(b) Oxygen, including liquid oxygen, shall meet the minimum requirements for medical or breathing oxygen set forth in the United States Pharmacopeia.

(c) Compressed, gaseous breathing air shall meet the minimum requirements for Type 1, Grade D gaseous air set forth in the Compressed Gas Association Commodity Specification for Air, G–7.1.

(d) Compressed, liquefied breathing air shall meet the minimum requirements for Type II, Grade B liquid air set forth in the Compressed Gas Association Commodity Specification for Air, G–7.1.

§ 11.49–1 Interchangeability of oxygen and air prohibited.

Approvals shall not be issued by the Bureau for any apparatus, combination of respirator assemblies or any apparatus or respirator component which is designed or constructed to permit the interchangeable use of oxygen and air.

§ 11.50 Gas and liquid containers; minimum requirements.

(a) Compressed-breathing gas containers shall meet the minimum requirements for such containers set forth in applicable Department of Transportation or Interstate Commerce Commission Specifications, and shall be acceptable for interstate shipment when fully charged.

(b) Containers normally removed from the apparatus for refilling shall be permanently and legibly marked to identify their contents, e.g., compressed-breathing air, compressed-breathing oxygen, liquefied-breathing air, or liquefied-breathing oxygen.

(c) Containers, normally removed from apparatus for refilling shall be equipped with a dial indicating gage which shows the pressure in the container.

(d) Compressed-breathing gas container valves or a separate charging system or adapter provided with each apparatus shall be equipped with outlet threads specified for the service by the American National Standard for Compressed Gas Cylinder Valve Outlet and Inlet Connections, B57.1 (1965).

§ 11.51 Gas pressure gages; minimum requirements.

(a) Gas pressure gages, except those employed on compressed-breathing gas containers, shall be calibrated in:

(1) Pounds per square inch, or

(2) In fractions of the total container capacity, or

(3) Both in pounds per square inch and fractions.

(b) Gas pressure gages employed on compressed-breathing gas containers shall be calibrated in pounds per square inch; however, they may also be calibrated in fractions of total container capacity.

(c) Liquid-level gages shall be calibrated fractions of the total container capacity; however, they may also be calibrated in units of liquid volume.

(d) (1) Dial-indicating gages shall be reliable to within 5 percent of full scale when tested both up and down the scale at each of 10 equal intervals.

(2) The full scale graduation of dial-indicating gages shall not exceed 150 percent of the maximum cylinder pressures specified for the container in Department of Transportation or the Interstate Commerce Commission Specification 3AA.

(e) (1) Stem-type gages shall be readable by sight and by touch and shall have a stem travel distance of not less than one-fourth inch between each graduation.

(2) A minimum of five graduations shall be engraved on the stem of each gage and these graduations shall include readings for empty, one-quarter, one-half, three-quarters, and full.

(3) Stem gage readings shall not vary from true readings by more than one-sixteenth inch per inch of stem travel.

(f) The loss of gas through a broken gage or severed gage connection shall not exceed 70 liters per minute when the cylinder pressure is 6,900 kN/m.^{2} (1,000 pounds per square inch gage) or the liquid level at one-half.

(g) Where gages are connected to the apparatus through a gage line, the gage and line shall be capable of being isolated from the apparatus except where the failure of the gage or line would not impair the performance or service life of the apparatus.

(h) Oxygen pressure gages shall have the words, "Use No Oil," marked prominently on the gage.

(i) (1) Apparatus using compressed-breathing gas, except apparatus classified for escape only, shall be equipped with gages visible to the wearer which indicate the remaining gas content in the container.

(2) Apparatus using liquefied breathing gas, except apparatus classified for escape only, shall be equipped with gages visible to the wearer which indicate the remaining liquid content in the container; however, where the liquid content cannot be rapidly vented, and the service time of the device begins immediately after filling, a timer shall be provided in place of a visible gage.

§ 11.52 Timers; remaining service life indicators; minimum requirements.

(a) A means for indicating elapsed time shall be provided for apparatus with a solid chemical oxygen source, except apparatus used for escape only, and on liquefied breathing gas apparatus. The timer or other indicator shall be accurately calibrated in minutes of remaining service life.

(b) Timers shall be discernible by sight and by touch during use by the wearer.

(c) Timers shall be equipped with automatically preset alarms which will warn the wearer for a period of 7 seconds or more after the present time has elapsed.

(d) (1) Remaining service-life indicators or warning devices shall be provided in addition to a pressure gage on compressed gas self-contained breathing apparatus, except apparatus used for escape only, and shall operate automatically without preadjustment by the wearer.

(2) Each remaining service-life indicator or warning device shall give an alarm when the remaining service-life of the apparatus is reduced to between 20 and 25 percent of its rated service time.

(3) Where the apparatus protected by an automatic warning device depends upon gas flow, the maximum flow rate of gas vented to the atmosphere shall not exceed 4 liters per minute; and, when used on a closed circuit apparatus, not more than 1 liter per minute of actuating gas shall be allowed to escape from the breathing circuit.

§ 11.53 Hand-operated valves; minimum requirements.

(a) Hand-operated valves shall be designed and constructed to prevent removal of the stem from the valve body during normal usage and to ensure against a sudden release of the full pressure of the container when the valve is opened.

(b) Valves shall be installed in locations where they will be protected from damage by external forces and shall be designed or positioned to prevent accidental closing.

(c) Valves operated during use of the apparatus shall be installed in locations where they can be readily adjusted by the wearer.

(d) Main-line valves, designed and constructed to conserve gas in the event of a regulator or demand valve failure, shall be provided in addition to gas container valves where necessary.

(e) Hand-operated bypass systems designed and constructed to permit the wearer to breathe and to conserve his gas supply in the event of a regulator or demand valve failure, shall be provided where necessary.

(f) Valves installed on apparatus shall be clearly distinguishable from one another.

(g) The bypass system valve control shall be colored red.

(h) A main-line or bypass valve or system will not be required on apparatus for escape only.

(i) (1) Safety relief valves or systems, designed and constructed to release excess pressure in the breathing circuit, shall be provided on closed-circuit apparatus.

(2) The relief valve or system shall operate automatically when the pressure in the breathing circuit on the inhalation side of the breathing bag reaches 13 mm. (½ inch) water-column height of pressure above the minimum pressure required to fill the breathing bag, within the resistance requirements for the apparatus.

(3) The relief valve or system shall be designed to prevent external atmospheres from entering the breathing circuit.

(4) The relief valve or system shall be designed to permit manual overriding for test purposes and in the event of a failure in the valve or system.

§ 11.54 Breathing bags; minimum requirements.

(a) Breathing bags shall have sufficient volume to prevent gas waste during exhalation and to provide an adequate reserve for inhalation.

(b) Breathing bags shall be constructed of materials which are flexible and resistant to gasoline vapors.

(c) Breathing bags shall be installed in a location which will protect them from damage or collapse by external forces, except on apparatus classified for escape only.

§ 11.55 Self-contained breathing apparatus; performance requirements; general.

Self-contained breathing apparatus and the individual components of each such device shall as appropriate meet the minimum requirements specified in the tests described in §§ 11.55–1 through 11.55–19.

§ 11.55–1 Component parts exposed to oxygen pressures; minimum requirements.

Each applicant shall certify that the materials employed in the construction of component parts exposed to oxygen pressures above atmospheric pressure are safe and compatible for their intended use.

§ 11.55–2 Compressed gas filters; minimum requirements.

All self-contained breathing apparatus using compressed gas shall have a filter downstream of the gas source to effectively remove particles from the gas stream.

§ 11.55–3 Breathing bag test.

(a) Breathing bags will be tested in an air atmosphere saturated with gasoline vapor at room temperature (24°–30° C./75°–85° F.) for a continuous period of twice the rated time of the apparatus (except for apparatus for escape only where the test period shall be the rated time of the apparatus).

(b) The bag will be operated during this test by a breathing machine with 24 respirations per minute and a minute-volume of 40 liters.

(c) A breathing machine cam with a work rate of 622 kg.-m./min.[1] will be used.

(d) The air within the bag(s) shall not contain more than 100 parts per million of gasoline vapor at the end of the test.

§ 11.55–4 Weight requirement.

(a) The completely assembled and fully charged apparatus shall not weigh more than 16 kg. (35 pounds); however, where the weight decreases by more than 25 percent of its initial charge weight during its rated service life, the maximum allowable weight of a completely assembled and fully charged apparatus shall be 18 kg. (40 pounds).

(b) Where an apparatus employs equipment which contributes materially to the wearer's comfort, e.g., a cooling system, the completely assembled and fully charged apparatus shall not weigh more than 18 kg. (40 pounds) regardless of the decrease in weight during use.

§ 11.55–5 Breathing resistance test; inhalation.

(a) Resistance to airflow will be measured at the facepiece while the apparatus is operated by a breathing machine as described in § 11.55–3.

(b) The inhalation resistance of open-circuit apparatus shall not exceed 32 mm. (1.25-inch) water-column height.

(c) The inhalation resistance of closed-circuit apparatus shall not exceed the difference between exhalation resistance (§ 11.55–6(e)) and 10 cm. (4 inches) water-column height.

§ 11.55–6 Breathing resistance test; exhalation.

(a) Resistance to airflow at the facepiece of open-circuit apparatus will be measured with air flowing at a continuous rate of 85 liters per minute.

(b) The exhalation resistance of demand apparatus shall not exceed 25 mm. (1 inch) water-column height.

(c) The exhalation resistance of pressure-demand apparatus shall not exceed the static pressure in the facepiece by more than 51 mm. (2 inches) water-column height.

(d) The static pressure (at zero flow) in the facepiece shall not exceed 38 mm. (1.5 inches) water-column height.

(e) Resistance to airflow at the facepiece of closed-circuit apparatus will be measured with a breathing machine as described in § 11.55–3, and the exhalation resistance shall not exceed 51 mm. (2 inches) water column height.

§ 11.55–7 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and the valve seat shall not exceed 30 millimeters per minute.

§ 11.55–8 Gas flow test; open-circuit apparatus.

(a) A static-flow test will be performed on all opening circuit apparatus.

(b) The flow from the apparatus shall be greater than 200 liters per minute when the facepiece pressure of demand-apparatus is lowered by 51 mm. (2 inches) water-column height when full container pressure is applied.

(c) Where pressure demand apparatus are tested, the flow will be measured at zero facepiece pressure.

(d) Where compressed-breathing-gas containers are used, the flow test shall also be made with 3,550 kN/m.[2] (500 p.s.i.g) container pressure applied.

§ 11.55–9 Gas flow test; closed circuit apparatus.

(a) Where oxygen is supplied by a constant-flow device only, the rate of flow shall be at least 3 liters per minute for the entire rated service time of the apparatus.

(b) Where constant flow is used in conjunction with demand flow, the constant flow shall be greater than 1.5 liters per minute for the entire rated service time.

(c) All demand-flow devices shall provide at least 30 liters of oxygen per minute when in the fully open position.

§ 11.55–10 Rated service time test; open-circuit apparatus.

(a) Rated service time will be measured with a breathing machine as described in § 11.55–3.

(b) The apparatus will be rated according to the length of time it supplies air or oxygen to the breathing machine.

(c) The rated service time obtained on this test will be used to classify the apparatus in accordance with § 11.23.

§ 11.55–11 Rated service time test; closed-circuit apparatus.

(a) The apparatus will be rated according to the length of time it supplies adequate breathing gas to the wearer during breathing tests, and during man test No. 4 described in Table 4.

(b) The service time obtained on man test No. 4 will be used to classify the apparatus in accordance with § 11.23.

§ 11.55–12 Test for carbon dioxide in inspired gas; open and closed circuit apparatus; maximum allowable limits.

(a) Open circuit apparatus:

(1) The concentration of carbon dioxide in inspired gas in open circuit apparatus will be measured at the mouth while the apparatus mounted on a dummy head is operated by a breathing machine.

(2) The breathing rate will be 14.5 respirations per minute with a minute-volume of 10.5 liters.

(3) A sedentary breathing machine cam[3] will be used.

(4) The apparatus will be tested at a temperature of 27°±2° C. (80°±5° F.).

(5) A concentration of 5 percent carbon dioxide in air will be exhaled into the facepiece.

(6) Tested in this manner, the presence of carbon dioxide shall not exceed the maximum allowable limits set forth in paragraph (c) of this section.

(b) Closed-circuit apparatus:

(1) The concentration of carbon dioxide in inspired gas in closed-circuit apparatus will be measured at the mouth while the parts of the apparatus contributing to dead-air space are mounted on a dummy head and operated by the breathing machine as in paragraph (a) of this section.

(2) Tested in this manner, the presence of carbon dioxide shall not exceed the maximum allowable limits set forth in paragraph (c) of this section.

(c) The concentration of carbon dioxide in inspired gas at the mouth will be continuously recorded, and the maximum average concentration during the

[1] Silverman, L., G. Lee, T. Plotkin, L. Amory, and A. R. Yancey, Fundamental Factors in Design of Protective Equipment, O.S.R.D. Report No. 5732, issued Apr. 1, 1945.

[2] Work cited in footnote 1.

inhalation portion of the breathing cycle shall not exceed the following limits:

Where the rated service time is:	*Maximum allowable average concentration of carbon dioxide in inspired air, percent by volume*
Not more than 30 minutes	2.5
1 hour	2.0
2 hours	1.5
3 hours	1.0
4 hours	1.0

(d) (1) In addition to the test requirements set forth in paragraph (b) of this section, gas samples will be taken during the course of the man tests described in Tables 1, 2, 3, and 4.

(2) These gas samples will be taken from the closed-circuit apparatus at a point downstream of the carbon dioxide sorbent.

(3) These samples shall not contain more than 0.5 percent carbon dioxide at any time.

§ 11.55–13 Tests during low temperature operation.

(a) The applicant shall specify the minimum temperature for safe operation and two persons will perform the tests described in paragraphs (c) and (d) of this section, wearing the apparatus according to applicant's directions. At the specified temperature, the apparatus shall meet all the requirements described in paragraph (e) of this section.

(b) The apparatus will be precooled at the specified minimum temperature for 4 hours, but in no case below −32° C. (— 25° F.).

(c) The apparatus will be worn in the low temperature chamber for 30 minutes, or for the rated service time of the apparatus, whichever is less.

(d) During the test period, alternate 1 minute periods of exercise and rests will be required with the exercise periods consisting of stepping onto and off a box 21.5 cm. (8½ inches) high at a rate of 30 cycles per minute.

(e) (1) The apparatus shall function satisfactorily at the specified minimum temperature on duplicate tests.

(2) The wearer shall have sufficient unobscured vision to perform the work.

(3) The wearer shall not experience undue discomfort because of airflow restriction or other physical or chemical changes in the operation of the apparatus.

(f) Where necessary, auxiliary low-temperature parts which are commercially available to the user may be used on the apparatus to meet the requirements of this test.

§ 11.55–14 Man tests; testing conditions; general requirements.

(a) The man tests described in tables 1, 2, 3, and 4 represent the workload performed by a person wearing the apparatus tested in the mining, mineral, or allied industries.

(b) The apparatus tested will be worn by Bureau personnel trained in the use of self-contained breathing apparatus, and the wearer will, before participating in these tests, pass a physical examination conducted by a qualified physician.

(c) All man tests will be conducted by the Bureau in an appropriate gallery.

(d) The apparatus will be examined before each man test to ensure that it is in proper working order.

(e) Breathing resistance will be measured within the facepiece or mouthpiece and the wearer's pulse and respiration rate will be recorded during each 2 minute sample period prescribed in tests 1, 2, 3, and 4.

(f) Man tests 1, 2, 3, 4, 5, and 6 will be conducted in duplicate.

(g) If man tests are not completed through no fault of the apparatus, the test will be repeated.

§ 11.55–15 Man tests 1, 2, 3, and 4; requirements.

(a) Man tests 1, 2, 3, and 4, set forth in tables 1, 2, 3, and 4 respectively, prescribe the duration and sequence of specific activities. These tests will be conducted to:

(1) Familiarize the wearer with the apparatus during use;

(2) Provide for a gradual increase in activity;

(3) Evaluate the apparatus under different types of work and physical orientation; and,

(4) Provide information on the operating and breathing characteristics of the apparatus during actual use.

§ 11.55–16 Man test 5; requirements.

(a) Test 5 will be conducted to determine the maximum length of time the apparatus will supply the respiratory needs of the wearer while he is sitting at rest.

(b) The wearer will manipulate the devices controlling the supply of breathing gas to the advantage of the apparatus.

(c) Samples of the atmosphere from within the respirator will be taken once every 15 minutes for respirators with rated service times of 1 hour, or less, and once every 30 minutes for apparatus rated over 1 hour.

(d) One sample will be taken in the case of 3-, 5-, and 10-minute apparatus.

§ 11.55–17 Man test 6; requirements.

(a) Man test 6 will be conducted with respect to liquefied-breathing gas apparatus only.

(b) This test will be conducted to evaluate operation of the respirator in other than vertical positions.

(c) The wearer shall lie face downward for one-fourth the service life of the apparatus with both full and one-quarter full charges of liquefied gas.

(d) The test will be repeated with the wearer lying on each side and on his back.

(e) The oxygen content of the gas supplied to the wearer by the apparatus will be continuously measured.

§ 11.55–18 Man tests; performance requirements.

(a) The apparatus shall satisfy the respiratory requirements of the wearer for the rated-service time.

(b) Fogging of the eyepiece shall not obscure the wearer's vision, and the wearer shall not experience undue discomfort because of fit or other characteristics of the apparatus.

(c) When the ambient temperature during testing is 24±6° C. (75±10° F.), the concentration of oxygen shall not be less than 20.5 volume-percent, and the maximum temperature of inspired air recorded during man tests shall not exceed the following, after correction for deviation from 24° C. (75° F.):

Where service life of apparatus is—	Where percent relative humidity of inspired air is—	Maximum permissible temperature of inspired air shall not exceed—	
		° F.	° C.
½ hour or less	0–50	125	52
	50–100	[1] 110	[1] 43
1 to 2 hours	0–50	115	46
	50–100	[1] 105	[1] 41
3 hours	0–50	110	43
	50–100	[1] 100	[1] 38
4 hours	0–50	105	41
	50–100	[1] 95	[1] 35

[1] Where percent relative humidity is 50–100 and apparatus is designed for escape only, these maximum permissible temperatures may be increased by 5° C. (10° F.).

§ 11.55–19 Gas tightness test; minimum requirements.

(a) Each apparatus will be tested for tightness by persons wearing it in an atmosphere of 1,000 p.p.m. isoamyl acetate.

(b) Each apparatus with a full facepiece will also be tested for tightness by persons wearing it in an atmosphere of 2 volume-percent of phosgene.

(c) Six persons will each wear the apparatus in the test concentrations specified in paragraphs (a) and (b) of this section for 2 minutes and none shall detect the odor or taste of the test gases.

TABLE 1.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 1, IN MINUTES

(30 CFR Part 11, Subpart E, § 11.55, et seq.)

Activity	Rated service time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3, and 4 hours
Sampling and readings				2	2	2	2	Perform 1 hour test 2, 3, or 4 times, respectively.
Walks at 3 miles per hour	3	5	3	4	8	12	18	
Sampling and readings			2	2	2	2	2	
Walks at 3 miles per hour			3	5	8	12	18	
Sampling and readings			2	2	2	2	2	
Walks at 3 miles per hour					6	13	16	
Sampling and readings					2	2	2	

TABLE 2.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 2, IN MINUTES

(30 CFR Part 11, Subpart E, § 11. 55, et seq.)

Activity	Rated service time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3, and 4 hours [1]
Sampling and readings				2	2	2	2	2.
Walks at 4.8 km. (3 miles) per hour			1	1	3	4	6	10.
Carries 23 kg. (50 pounds) weight overcast.			1 time in 2 minutes.	1 time in 2 minutes.	2 times in 4 minutes.	3 times in 6 minutes.	4 times in 8 minutes.	5 times in 10 minutes.
Walks at 4.8 km. (3 miles) per hour				1	3	3	3	5.
Climb svertical treadmill [2] (or equivalent)	1	1	1	1	1	1	1	1.
Walks at 4.8 km. (3 miles) per hour		1	1			2	3	5.
Climbs vertical treadmill (or equivalent)		1				1	1	1.
Sampling and readings					2	2	2	2.
Walks at 4.8 km. (3 miles) per hour				2	2	3	5	11.
Climbs vertical treadmill (or equivalent)				1	1	1	1	1.
Carries 23 kg. (50 pounds) weight overcast.				1 time in 2 minutes.	3 times in 6 minutes.	4 times in 8 minutes.	5 times in 10 minutes.	5 times in 10 minutes.
Sampling and readings			2			2	2	2.
Walks at 4.8 km. (3 miles) per hour				1	3	3	3	
Climbs vertical treadmill (or equivalent)			1		1	1	1	Then repeat above activities once.
Walks at 4.8 km. (3 miles) per hour			2			2	3	
Climbs vertical treadmill (or equivalent)						1	1	
Carries 20 kg. (45 pounds) weight and walks at 4.8 km. (3 miles) per hour.	1						2	
Walks at 4.8 km. (3 miles) per hour	1	2				1	4	
Sampling and readings				2	2	2	2	

[1] Total test time for Test 2 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.
[2] Treadmill shall be inclined 15° from vertical and operated at a speed of 1-foot per second.

TABLE 3.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 3, IN MINUTES

(30 CFR Part 11, Subpart E, § 11.55, Et Seq.)

Activity	Rated service time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3, and 4 hours [1]
Sampling and readings				2	2	2	2	Perform test No. 3 for 1 hour apparatus, then perform test No. 1 for 1 hour apparatus.
Walks at 4.8 km. (3 miles) per hour			1	1	2	2	3	
Runs at 9.7 km. (6 miles) per hour	1	1	1	1	1	1	1.	
Pulls 20 kg. (45 pounds) weight to 5 feet		15 times in 1 minute.		30 times in 2 minutes.	30 times in 2 minutes.	30 times in 2 minutes.	60 times in 6 minutes.	
Lies on side	½	1	1	2	3	4	5.	
Lies on back	½	1	1	2	2	3	3.	
Crawls on hands and knees	1	1	1	2	2	2	2.	
Sampling and readings			2		2	2	2.	
Runs at 4.7 km. (6 miles) per hour				1	1	1	1.	
Walks at 4.8 km. (3 miles) per hour					2	8	10.	
Pulls 20 kg. (45 pounds) weight to 5 feet			30 times in 2 minutes.		60 times in 6 minutes.	60 times in 6 minutes.	60 times in 6 minutes.	
Sampling and readings				2		2	2.	
Walks at 4.8 km. (3 miles) per hour			1		3	4	10.	
Lies on side						2	4.	
Lies on back						2	1.	
Sampling and readings					2	2	2.	

[1] Total test time for Test 3 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.

TABLE 4.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 4, IN MINUTES

(30 CFR Part 11, Subpart E, § 11.55, et seq.)

Activity	Rated service time—									
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2 hours	3 hours	4 hours
Sampling and reading				2	2	2	2	Perform test No. 1 for 30-minute apparatus, then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 30-minute apparatus.	Perform test No. 1 for 1-hour apparatus then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 1-hour apparatus.	Perform test No. 1 for 1-hour apparatus, then perform test No. 4 for 1-hour apparatus, then perform test No. 1 for 1-hour apparatus, twice (i.e., two 1-hour tests).
Walks at 4.8 km. (3 miles) per hour.				1	2	2	2.			
Climbs vertical treadmill [1] (or equivalent).	1	1	1	1	1	1	1.			
Walks at 4.8 km. (3 miles) per hour.		1	1	1	2	2	2.			
Pulls 20 kg. (45 pounds) weight to 5 feet.		30 times in 2 minutes.	30 times in 2 minutes.	30 times in 2 minutes.	60 times in 5 minutes.	60 times in 5 minutes.	60 times in 5 minutes.			
Walks at 4.8 km. (3 miles) per hour.			1	1	1	2	3.			
Carries 23 kg. (50 pounds) weight over overcast.				1 time in 1 minute.	1 time in 1 minute.	2 times in 3 minutes.	4 times in 8 minutes.			
Sampling and reading			2		2	2	2.			
Walks at 4.8 km. (3 miles) per hour.				1	3	3	4.			
Runs at 9.7 km. (6 miles) per hour.		1	1	1	1	1	1.			
Carries 23 kg. (50 pounds) weight over overcast.			1 time in 1 minute.	1 time in 1 minute.	2 times in 3 minutes.	4 times in 6 minutes.	6 times in 9 minutes.			
Pulls 20 kg. (45 pounds) weight to 5 feet.	15 times in 1 minute.			15 times in 1 minute.	60 times in 5 minutes.	30 times in 2 minutes.	36 times in 3 minutes.			
Sampling and readings				2	2	2	2.			
Walks at 4.8 km. (3 miles) per hour.	1		1			2	6.			
Pulls 20 kg. (45 pounds) weight to 5 feet.						60 times in 5 minutes.	60 times in 5 minutes.			
Carries 20 kg. (45 pounds) weight and walks at 4.8 km. (3 miles) per hour.						3	3.			
Sampling and readings						2	2.			

[1] Treadmill shall be inclined 15 degrees from vertical and operated at a speed of 30 cm. (1 foot) per sceond.

Subpart F—Gas Masks

§ 11.60 Gas masks; description.

(a) Gas masks including all completely assembled, air purifying masks which are designed for use as respiratory protection during entry into and escape or escape only from hazardous atmospheres containing adequate oxygen to support life are described as follows:

(1) *Front-mounted or back-mounted gas mask.* A gas mask which consists of a full facepiece, a breathing tube, a canister at the front or back, a canister harness and associated connections.

(2) *Type "N" gas mask.* A gas mask specifically designed to protect against acid gases, ammonia, carbon monoxide, organic vapors and particulate contaminants which consist of a full facepiece, breathing tube, a canister at the front or back, a canister harness, and associated connections.

(3) *Chin-style gas mask.* A gas mask which consists of a full facepiece, a canister which is usually attached to the facepiece, and associated connections.

(4) *Escape gas mask.* A gas mask designed for use during escape only from hazardous atmospheres which consists of a half-mask facepiece or mouthpiece, a canister, and associated connections.

(b) Gas masks shall be further described according to the specific gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of front-mounted or back-mounted gas mask:	*Maximum use concentration, percent by volume*
Acid gas [3 4]	[6] 2
Ammonia [3]	3
Carbon monoxide [3]	2
Organic vapors [3 4]	[6] 2

Type of chin-style gas mask:	*Maximum use concentration, percent by volume*
Acid gas [3 4]	[5] 0.5
Ammonia	0.5
Organic vapors [3 4]	[5] 0.5

Type of escape gas mask:	*Maximum use concentration, parts per million*
Acid gas [3 4 6]	[5] 1,000
Ammonia [6]	5,000
Carbon monoxide	10,000
Organic vapors [3 4 6]	[5] 5,000

(1) Gas masks for respiratory protection against other gases and vapors may be approved. The applicant shall submit a request for approval, in writing, to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, PA 15213, listing the gas or vapor and suggested maximum use concentration for the specific type of gas mask. The Bureau will consider the application and accept, reject, or modify the application on the basis of effect on the wearer's health and safety and any field experience in use of gas masks for such exposures.

[3] Approval may be for acid gases or organic vapors as a class or for specific acid gases, ammonia, or organic vapors. Approval may also be granted for combinations of acid gases and organic vapors.

[4] Not for use against acid gases or organic vapors with poor warning properties or which generate high heats of reaction with sorbent materials in the canister.

[5] Suggested maximum use concentrations are lower than these for some acid gases and organic vapors.

[6] Eye protection may be required in certain concentrations of acid gases, ammonia, and organic vapors.

§ 11.61 Gas masks; required components.

(a) Each gas mask described in § 11.60 shall, where its design requires, contain the following component parts:

(1) Facepiece or mouthpiece and noseclip;

(2) Canister;

(3) Canister harness; and,

(4) External check valve.

(b) The components of each gas mask shall, where applicable, meet the minimum construction requirements set forth in Subpart D of this part.

§ 11.62 Canisters and cartridges in parallel; resistance requirements.

Where two or more canisters or cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.63 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges shall conform with the requirements of the American National Standard for Identification of Gas Mask Canisters, K13.1.

§ 11.64 Filters used with canisters and cartridges; location; replacement.

(a) Particulate matter filters used in conjunction with a canister or cartridge shall be located on the inlet side of the canister or cartridge.

(b) Filters shall be incorporated into or firmly attached to the canister or cartridge and each filter assembly shall, where applicable be designed to permit its easy removal from and replacement on the canister or cartridge.

§ 11.65 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with gas masks shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;

(3) Interference with the wearer's activities; and,

(4) Shut-off of airflow due to kinking, or from chin or arm pressure.

§ 11.66 Harnesses; installation and construction; minimum requirements.

(a) Each gas mask shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the gas mask in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of gas mask parts, and where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.67 Gas mask containers; minimum requirements.

(a) Gas masks shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of mask it contains, and all appropriate approval labels.

(b) Containers for gas masks shall be designed and constructed to permit easy removal of the mask.

§ 11.68 Half-mask facepieces, full facepieces and mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles, which shall not reduce the respiratory protective qualities of the gas mask.

(c) Mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece and provide an airtight seal.

(d) Facepieces shall be designed to minimize eyepiece fogging.

§ 11.69 Facepieces; eyepieces; minimum requirements.

(a) Facepieces shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces shall be designed and constructed to meet the impact and penetration requirements specified in the American National Standard for Occupational and Educational Eye and Facepiece protection, Z87.

§ 11.70 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be protected against distortion.

(b) Inhalation valves shall be designed and constructed and provided where necessary to prevent excessive exhaled air from adversely affecting cartridges, canisters, and filters.

(c) Exhalation valves shall be provided where necessary and shall be designed and constructed with covers to protect against damage and external influence and to provide a dead airspace to prevent the inward leakage of taminated air.

§ 11.71 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses, designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable head harnesses designed and constructed to hold the respirator in place.

§ 11.72 Gas masks; performance requirements; general.

Gas masks and the individual components of each such device shall meet the minimum requirements for performance and protection specified in the tests described in §§ 11.72–1 through 11.72–5.

§ 11.72–1 Breathing resistance test; minimum requirements.

(a) The gas mask facepiece will be mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute.

(b) Resistance of the entire mask to airflow shall be measured at the facepiece both before and after each test conducted in accordance with §§ 11.72–3, 11.72–4, and 11.72–5.

(c) The maximum allowable resistance requirements for gas masks are as follows:

MAXIMUM ALLOWABLE RESISTANCE
(mm. water-column height)

Type of gas mask	Inhalation		Exhalation
	Initial	Final [1]	
Front-mounted or back-mounted (without particulate filter)	55	70	20
Front-mounted or back-mounted (with approved particulate filter)	65	80	20
Chin-style (without particulate filter)	35	50	20
Chin-style (with approved particulate filter)	50	70	20
Escape (without particulate filter)	45	60	20
Escape (with approved particulate filter)	60	75	20

[1] Measured at end of the service life specified in tables 5, 6, and 7.

§ 11.72–2 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.72–3 Facepiece tests; minimum requirements.

(a) The complete gas mask will be fitted to the face of three persons having varying facial shapes and sizes.

(b) Where the applicant specifies a facepiece size or sizes for his gas mask with accompanying approximate measurements of faces they are designed to fit, the Bureau will provide test subjects to suit those facial measurements.

(c) Gas mask parts or components which must be removed to perform the facepiece or mouthpiece fit tests required under this section shall be replaceable without special tools and without disturbing the facepiece or mouthpiece fit.

(d) The facepiece or mouthpiece fit test, using positive or negative pressure recommended by the applicant and described in his instructions will be used to fit the facepiece.

(e) The facepiece or mouthpiece fit test will be performed by each person prior to conducting each test described in this section.

(f) (1) Each person wearing a gas mask will enter a chamber containing 1,000 p.p.m. isoamyl acetate vapor, and remain in the chamber for 8 minutes while performing the following work during the time specified:

(i) Two minutes, nodding and turning head.

(ii) Two minutes, calisthenic arm movements;

(iii) Two minutes, running in place; and

(iv) Two minutes, pumping with a tire pump into a 28 liter (1 cubic foot) cylinder.

(2) The facepiece or mouthpiece may be adjusted, if necessary, in the test chamber before starting the tests.

(3) Each person performing the test shall not detect the odor of isoamyl acetate during the test.

(g) (1) Each of three persons wearing two different gas masks comfortably fitted to his face (a total of 6 wearings and 6 different gas masks) will enter a chamber containing 5,000 p.p.m. dichlorodifluoromethane for a full facepiece or mouthpiece or 1,000 p.p.m. dichlorodifluoromethane for a half-mask facepiece and perform the following work during the time specified: [7]

(i) Two minutes, nodding and turning head and coughing;

(ii) One minute, smiling;

(iii) One minute, frowning;

(iv) Two minutes, reciting alphabet;

(v) Two minutes, talking;

(vi) Two minutes, deep and shallow breathing; and

(vii) Two minutes, pumping with a tire pump into a 28-liter (1 cubic-foot) cylinder.

(2) Air samples shall be taken continuously from inside the facepiece or mouthpiece.

[7] Test will be performed as described in the following: Watson, H. A., P. M. Gussey, and A. J. Beckert, Evaluation of Chemical-cartridge Respirator Face Fit. BuMines Report of Investigations 7431, 1970, 9 pp.

(3) The average concentration of dichlorodifluoromethane in the sample measured shall not exceed 0.5 percent of the test concentration for a full facepiece, 0.25 percent of the test concentration for a mouthpiece, or 5 percent of the test concentration for a half-mask facepiece.

§ 11.72–4 Dust, fume, mist and smoke tests; canisters containing filters; minimum requirements.

(a) Gas mask canisters containing filters for protection against dusts, fumes, mists, and smokes in combination with gases, vapors, or gases and vapors, will be tested for this purpose, as prescribed in § 11.110.

(b) Gas mask canisters designed for protection against smokes will be tested in an atmospheric concentration of 100 micrograms of dioctyl phthalate per liter of air at continuous flow rates of 32 and 85 liters per minute for a period of 5 to 10 seconds, and the DOP leakage through the canister shall not exceed 0.03 percent of the test concentration.

§ 11.72–5 Canister bench tests; minimum requirements.

(a) (1) Bench tests will, except for carbon monoxide tests, be made on an apparatus that allows a test atmosphere at 50±5 percent relative humidity and room temperature (25±2.5° C.) to enter the canister continuously at predetermined concentrations and rates of flow, and that is designed to determine the test life of the canister.

(2) Three canisters will be bench tested as received.

(3) Two canisters will be equilibrated at room temperature by passing 25 percent relative humidity air through them at 64 liters per minute for 6 hours.

(4) Two canisters will be equilibrated at room temperature by passing 85 percent relative humidity air through them at 64 liters per minute for 6 hours.

(5) The equilibrated canisters will be resealed, kept in an upright position at room temperature, and tested within 18 hours.

(b) Front-mounted and back-mounted gas mask canisters will be tested and shall meet the minimum requirements set forth in Table 5.

(c) (1) Front-mounted and back-mounted canisters designated as Type N canisters shall have a window or other indicator to warn the gas mask wearer when the canister will no longer satisfactorily remove carbon monoxide from the inhaled air.

(2) Other types of front and back-mounted canisters may also be equipped with a window or other indicator to warn of imminent leakage of other gases or vapors.

(3) The window indicator canisters will be tested as regular canisters, but shall show a satisfactory indicator change or other warning before the allowable canister penetration has occurred.

(d) Chin-style gas mask canisters shall meet the minimum requirements set forth in Table 6.

(e) Escape gas mask canisters shall meet the minimum requirements set forth in Table 7.

TABLE 5.—CANISTER BENCH TESTS AND REQUIREMENTS FOR FRONT AND BACK-MOUNTED GAS MASK CANISTERS

(30 CFR Part 11, Subpart F, § 11.72–4)

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration, p.p.m.	Test atmosphere: Flow rate, l.p.m.	Number of tests	Maximum allowable penetration, p.p.m.	Minimum life, minutes [1]
Acid gas	As received	SO_2	20,000	64	3	5	12
		Cl_2	20,000	64	3	5	12
		NO_x	20,000	64	3	5	12
	Equilibrated	SO_2	20,000	32	4	5	12
		Cl_2	20,000	32	4	5	12
		NO_x	20,000	32	4	5	12
Organic vapors	As received	CCl_4	20,000	64	3	5	12
	Equilibrated	CCl_4	20,000	32	4	5	12
Ammonia	As received	NH_3	30,000	64	3	50	12
	Equilibrated	NH_3	30,000	32	4	50	12
Carbon monoxide	As received	CO	20,000	[2] 64	2	[3]	60
		CO	5,000	[4] 32	3	[3]	60
		CO	3,000	[2] 32	3	[3]	60
Type N	As received	SO_2	20,000	64	3	5	6
		Cl_2	20,000	64	3	5	6
		NO_x	20,000	64	3	5	6
		CCl^4	20,000	64	3	5	6
		NH_3	30,000	64	3	5	6
		CO	20,000	[2] 64	2	[3]	60
		CO	5,000	[4] 32	3	[3]	60
		CO	3,000	[2] 32	3	[3]	60
	Equilibrated	SO^2	20,000	32	4	5	6
		Cl_2	20,000	32	4	5	6
		NO_x	20,000	32	4	5	6
		CCl_4	20,000	32	4	5	6
		NH^3	30,000	32	4	5	6

[1] Minimum life will be determined at the indicated penetration.
[2] Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere will be 25±2.5°.
[3] Maximum allowable CO penetration will be 385 cc. during the minimum life. The penetration shall not exceed 500 p.p.m. during this time.
[4] Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere entering the test fixture will be 0+2.5° C.−0° C.

TABLE 6.—CANISTER BENCH TESTS AND REQUIREMENTS FOR CHIN-STYLE GAS MASK CANISTERS

(30 CFR Part 11, Subpart F, § 11.72–4)

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration, p.p.m.	Test atmosphere: Flow rate, l.p.m.	Number of tests	Maximum allowable penetration, p.p.m.	Minimum life, minutes [1]
Acid gas	As received	SO_2	5,000	64	3	5	12
		Cl_2	5,000	64	3	5	12
		NO_x	5,000	64	3	5	12
	Equilibrated	SO_2	5,000	32	4	5	12
		Cl_2	5,000	32	4	5	12
		NO_x	5,000	32	4	5	12
Organic vapors	As received	CCl_4	5,000	64	3	5	12
	Equilibrated	CCl_4	5,000	32	4	5	12
Ammonia	As received	NH_3	5,000	64	3	50	12
	Equilibrated	NH_3	5,000	32	4	50	12

[1] Minimum life will be determined at the indicated penetration.

TABLE 7. CANISTER BENCH TESTS AND REQUIREMENTS FOR ESCAPE GAS MASK CANISTERS

(30 CFR Part 11, Subpart F, § 11.72–4)

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration, p.p.m.	Test atmosphere: Flow rate, l.p.m.	Number of tests	Maximum allowable penetration, p.p.m.	Minimum life, minutes [1]
Acid gas	As received	SO_2	5,000	64	3	5	12
		Cl_2	5,000	64	3	5	12
		NO_x	5,000	64	3	5	12
	Equilibrated	SO_2	5,000	32	4	5	12
		Cl_2	5,000	32	4	5	12
		NO_x	5,000	32	4	5	12
Organic vapors	As received	CCl_4	5,000	64	3	5	12
	Equilibrated	CCl_4	5,000	32	4	5	12
Ammonia	As received	NH_3	5,000	64	3	50	12
	Equilibrated	NH_3	5,000	32	4	50	[4] 60
Carbon monoxide	As received	CO	10,000	[2] 32	2	[3]	60
		CO	5,000	[5] 32	3	[3]	60
		CO	3,000	[2] 32	3	[3]	60

[1] Minimum life will be determined at the indicated penetration.
[2] Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere will be 25±2.5° C.
[3] Maximum allowable CO penetration will be 385 cc. during the minimum life. The penetration shall not exceed 500 p.p.m. during this time.
[4] If effluent temperature exceeds 100° C. during this test, the escape gas mask shall be equipped with an effective heat exchanger.
[5] Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere entering the test fixture will be 0+2.5° C.−0° C.

Subpart G—Supplied-Air Respirators

§ 11.80 Supplied-air respirators; description.

(a) Supplied-air respirators, including all completely assembled respirators designed for use as respiratory protection during entry into and escape from hazardous atmospheres are described as follows:

(1) *Type "A" supplied-air respirators.* A hose mask respirator, for entry into and escape from hazardous atmospheres, which consists of a motor-driven or hand operated blower that permits the free entrance of air when the blower is not operating, a strong large-diameter hose having a low resistance to airflow, a harness to which the hose and the lifeline are attached and a tight-fitting facepiece.

(2) *Type "AE" supplied-air respirators.* A Type "A" supplied air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion, and with shielding material such as plastic, glass, woven wire or sheet metal to protect the window(s) of facepieces, hoods and helmets which do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

(3) *Type "B" supplied-air respirators.* A hose mask respirator, for entry into and escape from atmospheres not immediately dangerous to life or health, which consists of a strong large-diameter hose with low resistance to airflow, a harness to which the hose is attached, and a tight-fitting facepiece.

(4) *Type "BE" supplied-air respirators.* A Type "B" supplied-air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion, and with shielding material such as plastic, glass, woven wire or sheet metal to protect the window(s) of facepieces, hoods and helmets which do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

(5) *Type "C" supplied-air respirators.* An airline respirator, for entry into and escape from atmospheres not immediately dangerous to life or health, which consists of a source of respirable breathing air, a hose, a detachable coupling, a control valve, orifice, a demand valve or pressure demand valve, an arrangement for attaching the hose to the wearer, and a facepiece, hood or helmet.

(6) *Type "CE" supplied-air respirators.* A Type "C" supplied-air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion, and with shielding material such as plastic, glass, woven wire, or sheet metal to protect the window(s) of facepieces, hoods, and helmets which do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

§ 11.81 Supplied-air respirators; required components.

(a) Each supplied-air respirator described in § 11.80 shall, where its design requires, contain the following component parts:

(1) Facepiece, hood or helmet;

(2) Air supply valve, or demand or pressure-demand regulator;

(3) Hand operated or motor driven air blower;

(4) Air supply hose;

(5) Detachable couplings;

(6) Flexible breathing tube; and

(7) Respirator harness.

(b) The component parts of each supplied-air respirator shall, where applicable, meet the minimum construction requirements set forth in Subpart D of this part.

§ 11.82 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with supplied-air respirators shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets.

(3) Interference with the wearer's activities; and

(4) Shut-off of airflow due to kinking, or from chin or arm pressure.

§ 11.83 Harnesses; installation and construction; minimum requirements.

(a) Each supplied-air respirator shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.84 Respirator containers; minimum requirements.

Supplied-air respirators shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains, and all appropriate approval labels.

§ 11.85 Half-mask facepieces and full facepieces; hoods and helmets; mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles, which shall not reduce the respiratory protective qualities of the respirator.

(c) Mouthpieces shall be designed and constructed with noseclips which are securely attached to the mouthpiece and provide an airtight seal.

§ 11.86 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

(a) Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces except those on Types B, BE, C, and CE supplied-air respirators shall be designed and constructed to meet the impact and penetration requirements specified in the American National Standard for Occupational and Educational Eye and Facepiece Protection, Z87.

(c) (1) The eyepieces of AE, BE, and CE type supplied-air respirators shall be shielded by plastic, glass, woven wire, sheet metal, or other suitable material which does not interfere with the vision of the wearer.

(2) Shields shall be mounted and attached to the facepiece to provide easy access to the external surface of the eyepiece for cleaning.

§ 11.87 Inhalation and exhalation valves; check valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against distortion.

(b) Exhalation valves shall be provided with covers to protect against damage and external influence and to provide a dead air space where necessary to prevent the inward leakage of contaminated air.

(c) Check valves designed and constructed to allow airflow toward the facepiece only shall be provided in the connections to the facepiece or in the hose fitting near the facepiece of all Type A, AE, B, and BE supplied-air respirators.

§ 11.88 Head harnesses; minimum requirements.

Headharnesses shall be adjustable and replaceable and shall be designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

§ 11.89 Head and neck protection; supplied-air respirators; minimum requirements.

Type AE, BE, and CE supplied-air respirators shall be designed and constructed to provide protection against impact and abrasion to the wearer's head and neck.

§ 11.90 Air velocity and noise levels; hoods and helmets; minimum requirements.

(a) Hoods and helmets shall be designed and constructed to protect against harmful noise levels during use.

(b) Noise levels will be measured inside the hood or helmet at maximum airflow obtainable within pressure and hose length requirements and shall not exceed 80 dBA.

§ 11.91 Breathing gas; minimum requirements.

(a) Breathing gas used to supply supplied-air respirators shall be respirable breathing air and contain no less than 20.5 volume-percent of oxygen.

(b) Compressed, gaseous breathing air shall meet the minimum requirements for Type 1, Grade D gaseous air set forth in the Compressed Gas Association Commodity Specification for Air, G–7.1.

(c) Compressed, liquefied breathing air shall meet the minimum requirements for Type II, Grade B liquid air set forth in the Compressed Gas Association Commodity Specification for Air, G–7.1.

(d) The air supply for supplied-air respirators shall be the responsibility of the user, and may be a contaminant-free air inlet supply for hose masks, an air-compressing system, or a reservoir of compressed air.

§ 11.92 Air supply source; hand-operated or motor driven air blowers; Type A supplied-air respirators; minimum requirements.

(a) Blowers shall be designed and constructed to deliver an adequate amount of air to the wearer with either direction of rotation, unless constructed to permit rotation in one direction only, and to permit the free entrance of air to the hose when the blower is not operated.

(b) No multiple systems, whereby more than one user is supplied by one blower, will be approved, unless each hose line is connected directly to a manifold at the blower.

§ 11.93 Terminal fittings or chambers; Type B supplied-air respirators; minimum requirements.

(a) Blowers or connections to air supplies providing positive pressures shall not be approved for use on Type B supplied-air respirators.

(b) Terminal fittings or chambers employed in Type B supplied-air respirators, shall be:

(1) Installed in the inlet of the hose;

(2) Designed and constructed to provide for the drawing of air through an arrangement capable of removing material larger than 0.149 mm. in diameter (149 microns, 100-mesh, U.S. Standard sieve of corrosion resisting material).

(3) Installed to provide a means for fastening or anchoring the fitting or chamber in a fixed position in a zone of respirable air.

§ 11.94 Supplied-air respirators; performance requirements; general.

Supplied-air respirators and the individual components of each such device shall, as appropriate, meet the minimum requirements for performance and protection specified in the tests described in §§ 11.94–1 through 11.94–29.

§ 11.94–1 Hand-operated blower test; minimum requirements.

(a) Hand-operated blowers shall be tested by attaching them to a mechanical drive and operating them 6 to 8 hours daily for a period of 100 hours at a speed necessary to deliver 50 liters of air per minute through each completely assembled respirator. Each respirator shall be equipped with the maximum length of hose with which the device is to be approved and the hose shall be connected to each blower or manifold outlet designed for hose connections.

(b) The crank speed of the hand-operated blower shall not exceed 50 revolutions per minute in order to deliver the required 50 liters of air per minute to each facepiece.

(c) The power required to deliver 50 liters of air per minute to each wearer through the maximum length of hose shall not exceed one-fiftieth horsepower, and the torque shall not exceed a force of 2.3 kg. (5 pounds) on a 20 cm. (8-inch crank, as defined in § 11.94–3.

(d) The blower shall operate throughout the period without failure or indication of excessive wear of bearings or other working parts.

§ 11.94–2 Motor-operated blower test; minimum requirements.

(a) Motor-operated blowers shall be tested by operating them at their specified running speed 6 to 8 hours daily for a period of 100 hours when assembled with the kind and maximum length of hose for which the device is to be approved and when connected to each blower or manifold outlet designed for hose connections.

(b) The connection between the motor and the blower shall be so constructed that the motor is disengaged automatically from the blower when the blower is operated by hand.

(c) The blower shall operate throughout the period without failure or indication of excessive wear of bearings or other working parts.

(d) Where a blower, which is ordinarily motor driven, is operated by hand, the power required to deliver 50 liters of air per minute to each wearer through the maximum length of hose shall not exceed one-fiftieth horsepower, and the torque shall not exceed a force of 2.3 kg. (5 pounds) on a 20 cm. (8-inch) crank, as defined in § 11.94–3.

(e) Where the respirator is assembled with the facepiece and 15 m. (50 feet) of the hose for which it is to be approved, and when connected to one outlet with all other outlets closed and operated at a speed not exceeding 50 revolutions of the crank per minute, the amount of air delivered into the respiratory-inlet covering shall not exceed 150 liters per minute.

§ 11.94–3 Method of measuring the power and torque required to operate blowers.

As shown in Figure 1, the blower crank is replaced by a wooden drum, *a* (13 cm. (5 inches) in diameter is convenient). This drum is wound with about 12 m. (40 feet) of No. 2 picture cord, *b*. a weight, *c*, of sufficient mass to rotate the blower at the desired speed is suspended from this wire cord. A mark is made on the cord about 3 to 4.5 m. (10 to 15 feet) from the weight, *c*. another mark is placed at a measured distance (6–9 cm./20–30 feet is convenient) from the first. These are used to facilitate timing. To determine the torque or horsepower required to operate the blower, the drum is started in rotation manually at or slightly above the speed at which the power measurement is to be made. The blower is then permitted to assume constant speed, and then as the first mark on the wire leaves the drum, a stopwatch is started. The watch is stopped when the second mark leaves the drum. From these data the foot-pounds per minute and the torque may be calculated.

§ 11.94–4 Type B supplied-air respirator; minimum requirements.

No Type B supplied-air respirator shall be approved for use with a blower or with connection to an air supply device at positive pressures.

§ 11.94–5 Type C supplied-air respirator, continuous flow class; minimum requirements.

(a) Respirators tested under this section shall be approved only when they supply respirable air at the pressures and quantities required.

(b) The pressure at the hose connection to the blower or manifold shall not exceed 863 kN/m.^{2} (125 pounds per square inch gage).

(c) Where the pressure at any point in the supply system exceeds 863 kN/m.^{2} (125 pounds per square inch gage), the respirator shall be equipped with a pressure-release mechanism that will prevent the pressure at the hose connection from exceeding 863 kN/m.^{2} (125 pounds per square inch gage) under any conditions.

§ 11.94–6 Type C supplied-air respirator, demand and pressure demand class; minimum requirements.

(a) Respirators tested under this section shall be approved only when used to supply respirable air at the pressures and quantities required.

(b) The manufacturer shall specify the range of air pressure at the point of attachment of the air-supply hose to the air-supply system, and the range of hose length for the respirator. For example, he might specify that the respirator be used with compressed air at pressures ranging from 280–550 kN/m.^{2} (40 to 80 pounds per square inch) with from 6 to 76 m. (15 to 250 feet) of air-supply hose.

(c) The specified air pressure at the point of attachment of the hose to the air-supply system shall not exceed 863 kN/m.^{2} (125 pounds per square inch gage).

(d) (1) Where the pressure in the air-supply system exceeds 863 kN/m.^{2} (125 pounds per square inch gage), the respirator shall be equipped with a pressure-release mechanism that will prevent the pressure at the hose connection from exceeding 863 kN/m.^{2} (125 pounds per square inch gage).

(2) The pressure-release mechanism shall be set to operate at a pressure not more than 20 percent above the manufacturer's highest specified pressure. For

example, if the highest specified pressure is 550 to 863 kN/m.² (80 to 125 pounds per square inch), the pressure-release mechanism would be set to operate at a maximum of 1,035 kN/m.² (150 pounds per square inch).

§ 11.94–7 Air-supply line tests; minimum requirements.

Air supply lines employed on Type A, Type B, and Type C supplied-air respirators shall meet the minimum test requirements set forth in Table 8.

§ 11.94–8 Harness test; minimum requirements.

(a) (1) Shoulder straps employed on Type A supplied-air respirators shall be tested for strength of material, joints, and seams and must separately withstand a pull of 113 kg. (250 pounds) for 30 minutes without failure.

(2) Belts, rings, and attachments for life lines must withstand a pull of 136 kg. (300 pounds) for 30 minutes without failure.

(3) The hose shall be firmly attached to the harness so as to withstand a pull of 113 kg. (250 pounds) for 30 minutes without separating, and the hose attachments shall be arranged so that the pull or drag of the hose behind an advancing wearer does not disarrange the harness or exert pull upon the facepiece.

(4) The arrangement and suitability of all harness accessories and fittings will be considered.

(b) (1) The harness employed on Type B supplied-air respirators shall not be uncomfortable, disturbing, or interfere with the movements of the wearer.

(2) The harness shall be easily adjustable to various sizes.

(3) The hose shall be attached to the harness in a manner that will withstand a pull of 45 kg. (100 pounds) for 30 minutes without separating or showing signs of failure.

(4) The design of the harness and attachment of the line shall permit dragging the maximum length of hose considered for approval over a concrete floor without disarranging the harness or exerting a pull on the facepiece.

(5) The arrangement and suitability of all harness accessories and fittings will be considered.

(c) The harness employed on Type C respirators shall be similar to that required on the Type B respirator, or, it may consist of a simple arrangement for attaching the hose to a part of the wearer's clothing in a practical manner that prevents a pull equivalent to dragging the maximum length of the hose over a concrete floor from exerting pull upon the respiratory-inlet covering.

(d) Where supplied-air respirators have a rigid or partly rigid head covering, a suitable harness shall be required to assist in holding this covering in place.

§ 11.94–9 Breathing tube test; minimum requirements.

(a) (1) One or two flexible breathing tubes of the nonkinking type shall be employed on Type A supplied-air respirators which extend from the facepiece to a connecting hose coupling attached to the belt or harness.

(2) The breathing tubes employed shall permit free head movement, insure against closing off by kinking or by chin or arm pressure, and they shall not create a pull that will loosen the facepiece or disturb the wearer.

(b) Breathing tubes employed on Type B supplied-air respirators shall meet the minimum requirements set forth in paragraph (a) of this section.

(c) Breathing tubes employed on Type C supplied-air respirators of the continuous flow class shall meet the minimum requirements set forth in paragraph (a) of this section, however, an extension of the connecting hose may be employed in lieu of the breathing tubes required.

(d) (1) A flexible, nonkinking type breathing tube shall be employed on Type G supplied-air respirators of the demand and demand-pressure class shall extend from the facepiece to the demand or pressure-demand valve, except where the valve is attached directly to the facepiece.

(2) The breathing tube shall permit free head movement, insure against closing off by kinking or by chin or arm pressure, and shall not create a pull that will loosen the facepiece or disturb the wearer.

§ 11.94–10 Airflow resistance test, Type A and Type AE supplied-air respirators; minimum requirements.

(a) Resistance to airflow will be determined when the respirator is completely assembled with the respiratory-inlet covering, the air-supply device, and the maximum length of air-supply hose coiled for one-half its length in loops 1.5 to 2.1 m. (5 to 7 feet) in diameter.

(b) The resistance to inhalation shall not exceed the following amounts to air drawn at the rate of 85 liters (3 cubic feet) per minute when the blower is not operating or under any practical condition or blower operation:

Maximum length of hose for which respirator is approved		Maximum resistance, water column height	
Feet	Meters	Inches	Millimeters
75	23	1.5	38
150	46	2.5	64
250	76	3.5	89
300	91	4.0	102

(c) Resistance of the exhalation valve shall not exceed 25 mm. (1 inch) of water column height at a flow rate of 85 liters (3 cubic feet) per minute when the blower is operating or under any practical condition of blower operation.

§ 11.94–11 Airflow resistance test; Type B and Type BE supplied-air respirators; minimum requirements.

(a) Resistance to airflow shall be determined when the respirator is completely assembled with the respiratory-inlet covering and the hose in the maximum length to be considered for approval, coiled in loops 1.5 to 2.1 m. (5 to 7 feet) in diameter.

(b) Resistance shall not exceed 38 mm. (1.5 inches) of water-column height to air drawn at the rate of 85 liters (3 cubic feet) per minute.

(c) The resistance of the exhalation valve shall not exceed 25 mm. (1.0 inch) of water-column height at this flow rate.

§ 11.94–12 Airflow resistance test; Type C supplied-air respirator, continuous flow class and Type CE supplied-air respirator; minimum requirements.

The resistance to air flowing from the respirator shall not exceed 25 mm. (1 inch) of water-column height when the air flow into the respiratory-inlet covering is 115 liters (4 cubic feet) per minute.

§ 11.94–13 Airflow resistance test; Type C supplied-air respirator, demand class; minimum requirements.

(a) The resistance to inhalation shall not exceed 50 millimeters (2 inches) of water at an air flow of 115 liters (4 cubic feet) per minute.

(b) The exhalation resistance to a flow of air at a rate of 85 liters (3 cubic feet) per minute shall not exceed 25 millimeters (1 inch) of water.

§ 11.94–14 Airflow resistance test; Type C supplied-air respirator, pressure-demand class; minimum requirements.

(a) The static pressure in the facepiece shall not exceed 38 mm. (1.5 inches) of water-column height.

(b) The pressure in the facepiece shall not fall below atmospheric at inhalation flows not exceeding 115 liters (4 cubic feet) per minute.

(c) The resistance of the facepiece-exhalation valve to a flow of air at a rate of 85 liters (3 cubic feet) per minute shall not exceed the static pressure in the facepiece by more than 50 mm. (2 inches) of water-column height.

§ 11.94–15 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.94–16 Man tests for gases and vapors; supplied-air respirators; general performance requirements.

(a) Man tests will be made in duplicate.

(b) The wearer will enter a chamber containing a gas or vapor as prescribed in §§ 11.94–17, 11.94–18, 11.94–19, and 11.94–20, and put on (wear) the respirator to be tested; gas tight goggles will be used where necessary to protect the eyes against irritation.

(c) After the respirator is properly fitted, the man will spend 10 minutes in work to provide observations on freedom of the device from leakage. The freedom and comfort allowed the wearer will also be considered.

(d) Time during the test period will be divided as follows:

(1) Five minutes—Walking, turning head, dipping chin; and

(2) Five minutes—Pumping air with a tire pump into a 28-liter (1 cubic-foot) cylinder to a pressure of 172 kN/m.² (25 pounds per square inch) or equivalent work.

(e) No odor of the test gas or vapor shall be detected by the wearer in the air breathed during any such test, and the wearer shall not be subjected to any undue discomfort or encumbrance because of the fit, air delivery, or other features of the respirator during the testing period.

§ 11.94–17 Man test for gases and vapors; Type A and Type AE respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1±0.025 percent isoamylacetate in air, and the blower, the intake of the hose, and not more than 25 percent of the hose length will be located in isoamylacetate-free air.

(b) The man in the isoamylacetate atmosphere will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operating).

(c) The 10-minute work test will be repeated with the blower in operation at any practical speed up to 50 revolutions of the crank per minute.

§ 11.94–18 Man test for gases and vapors; Type B and Type BE respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1±0.025 percent isoamyl acetate vapor, and the intake of the hose, and not more than 25 percent of the hose length will be located in isoamyl acetate free air.

(b) The man in the chamber will draw his inspired air through the hose and connections by means of his lungs alone.

§ 11.94–19 Man test for gases and vapors; Type C respirators, continuous-flow class and Type CE supplied-air respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1±0.025 percent isoamyl acetate vapor, the intake of the hose will be connected to suitable source of respirable air, and not more than 25 percent of the hose length will be located outside the chamber.

(b) The minimum flow of air required to maintain a positive pressure in the respiratory-inlet covering throughout the entire breathing cycle will be supplied to the wearer, provided however, that airflow shall not be less than 115 liters per minute for tight-fitting and not less than 170 liters per minute for loose-fitting respiratory inlet-coverings.

(c) The test will be repeated with the maximum rate of flow attainable within specified operating pressures.

§ 11.94–20 Man test for gases and vapors; Type C supplied-air respirators, demand and pressure-demand classes; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1±0.025 percent isoamyl acetate vapor, the intake of the hose will be connected to a suitable source of respirable air, and not more than 25 percent of the hose length will be located outside the chamber.

(b) The test will be conducted at the minimum pressure with the maximum hose length and will be repeated at the maximum pressure with the minimum hose length.

§ 11.94–21 Man tests for particulate matter; Type A, Type B and Type C respirators; general performance requirements.

(a) The man tests prescribed in §§ 11.94–22, 11.94–23, 11.94–24, and 11.94–25 will be made in duplicate, however, the respirators may be tested simultaneously or consecutively.

(b) The respirators will be worn in a test atmosphere which contains:

(1) 40 to 70 percent relative humidity;

(2) A temperature of approximately 25° C.; and

(3) A test suspension of 50± 10 mg. per cubic meter of ground flint, air-floated (99+percent through 325 standard mesh sieve), and consisting of 99+ percent free silica (SiO_2) and,

(4) A particle size distribution of the test suspension which does not exceed a geometric mean of 0.6 micrometer and a standard geometric deviation of 2.

(c) The respirator will be worn in the test atmosphere for 30 minutes, and the time during the test period shall be divided as follows:

(1) Five minutes—Walking, turning head, and dipping chin;

(2) Five minutes—Pumping air with a tire pump into a 28-liter (1 cubic-foot) cylinder to a pressure of 173 kN/m.² (25 pounds per square inch) or equivalent work;

(3) Five minutes—Resting;

(4) Five minutes—Walking, turning head, and dipping chin;

(5) Five minutes—Pumping air with a tire pump into a 28-liter (1 cubic-foot) cylinder to a pressure of 173 kN/m.² (25 pounds per square inch) or equivalent work; and

(6) Five minutes—Resting.

(d) During the test period, air will be withdrawn continuously at the rate of 32 liters (1.13 cubic feet) per minute from:

(1) The respiratory-inlet covering at a point as near as convenient to the wearer's nostrils; and,

(2) The source of air entering the intake to the hose of the respirator.

(e) Respirators tested in accordance with §§ 11.94–22, 11.94–23, 11.94–24, and 11.94–25 shall meet the following minimum requirements: (1) Undue encumbrance and discomfort shall not be experienced by the wearer because of the fit, air delivery, or other features of the respirator; (2) the amount of particulate matter collected from the air withdrawn from the respiratory-inlet covering of the respirators shall not exceed that collected from the air withdrawn simultaneously from the source of air supplied to the respirator by more than 0.5 mg. for the 30-minute test period.

§ 11.94–22 Man test for particulate matter; Type A supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–17.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operating).

(c) The 30-minute test will be repeated with the blower in operation at any practical speed up to 50 revolutions of the crank per minute.

§ 11.94–23 Man test for particulate matter; Type B supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–18.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone.

§ 11.94–24 Man test for particulate matter; Type C supplied-air respirator, continuous flow class; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–19.

(b) The rates of air flow will be the same as in the tests for protection against gases, except that the minimum rates will be increased by 32 liters per minute.

§ 11.94–25 Man test for particulate matter; Type C supplied-air respirator, demand and pressure-demand classes; test requirements.

No specific test will be made to determine the protection afforded by these classes of respirators against particulate matter, however, two men will wear the respirator at both extremes of the specified ranges of air pressure and hose length, while performing the required schedule of exercise, in order to appraise the comfort and practicability of the respirator.

§ 11.94–26 Tests for protection during abrasive blasting; Type AE, Type BE, and Type CE supplied-air respirators; general performance requirements.

(a) Duplicate tests will be made under conditions of typical abrasive-blasting operation.

(b) The tests prescribed in §§ 11.94–27, 11.94–28, and 11.94–29 will be conducted under the following conditions:

(1) A suction-feed abrasive blasting outfit will be used by the wearer;

(2) The diameter of the air jet shall be 5 mm. (3/16 inch);

(3) Air pressure will be 276–483 kN/m.² (40–70 pounds per square inch);

(4) The abrasive used will contain a composition of 99+percent free silica (SiO_2);

(5) The size properties of the abrasive used will be a mixture of 90 percent by weight of essentially No. 1 sandblast sand and 10 percent air-floated fines.

(6) The No. 1 sand used will meet a size specification of not more than 10 percent on a 20-mesh sieve and not more than 10 percent through a 35-mesh sieve; 99+percent of the fines will be able

to pass through a 325-mesh sieve. All size determinations will be made by standard-mesh sieves.

(c) Tests will be conducted for 30 minutes continuously or in 5-, 10-, or 15-minute intervals with 5-minute periods between work periods.

(d) (1) The person wearing the respirator will sandblast the inside surface of a common iron kettle of approximate hemispherical shape (about 76 cm. (30 inches) in diameter, and 113.6 liters (30 gallons) capacity).

(2) The kettle will be placed with the plane of the opening inclined 45° from a vertical position and with the lowest point of the rim at about the height of the person's hips.

(3) The wearer will stand at one position in front of the kettle and lean over until the upper part of the body is inclined to parallel the face of the kettle.

(4) The wearer will blast the entire inner surface of the kettle with the blast at all times directed approximately at right angles to the surface with the nozzle of the gun approximately 15 cm. (6 inches) from the surface, and with his head approximately 46 cm. (18 inches) from the nozzle.

(5) The wearer will move his head forward, backward, and sideways during each blasting operation.

(e) (1) Air will be withdrawn continuously during test at the rate of 32 liters (1.13 cubic feet) per minute from the respiratory-inlet covering at a point as near as convenient to the wearer's nostrils.

(2) Simultaneously air will be drawn at the same rate from the source of intake air to the respirator.

(f) Respirators tested in accordance with §§ 11.94–27, 11.94–28, and 11.94–29 shall meet the following minimum requirements:

(1) The amount of particulate matter in the air withdrawn from the respiratory-inlet covering shall not exceed that from the respirator intake air by more than 0.5 mg. for the 30-minute test period;

(2) The wearer of the respirator in this test shall not experience undue encumbrance and discomfort because of the fit, air delivery, or other features of the respirator; and,

(3) The head and shoulder covering shall adequately protect the wearer from discomfort or injury due to impact or abrasion from the rebounding material during the test.

§ 11.94–27 Test for protection during abrasive blasting; Type AE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–17.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operating).

(c) The test will be repeated with the blower in operation at any practical speed up to 50 revolutions per minute of the crank.

§ 11.94–28 Test for protection during abrasive blasting; Type BE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–18.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone.

§ 11.94–29 Test for protection during abrasive blasting; Type CE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.94–19.

(b) The rates of air flow will be the same as in the tests for protection against gases, except that the minimum rates will be increased by 32 liters per minute.

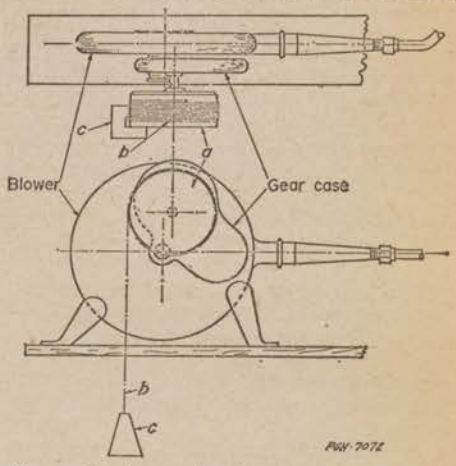

Figure 1.—Apparatus for measuring power required to operate blower. (30 CFR Part 11, Subpart G, § 11.94–3)

TABLE 8.—AIR-SUPPLY-LINE REQUIREMENTS AND TESTS

(30 CFR Part 11, Subpart G, § 11.94–7)

Specific requirements	Requirements for the air-supply lines of the indicated types of supplied-air respirators		
	Type A	Type B	Type C
Length of hose	Maximum of 91 m. (300 feet), in multiples of 7.6 m. (25 feet).	Maximum of 23 m. (75 feet) in multiples of 7.6 m. (25 feet).	Maximum of 91 m. (300 feet) in multiples of 7.6 m. (25 feet). It will be permissible for the applicant to supply hose of the approved type of shorter length than 7.6 m. (25 feet) provided it meets the requirements of the part.
Air flow	None	None	The air-supply hose with air regulating valve or orifice shall permit a flow of not less than 115 liters (4 cubic feet) per minute to tight-fitting and 170 liters (6 cubic feet) per minute to loose-fitting respiratory-inlet coverings through the maximum length of hose for which approval is granted and at the minimum specified air-supply pressure. The maximum flow shall not exceed 425 liters (15 cubic feet) per minute at the maximum specified air-supply pressure with the minimum length of hose for which approval is granted. The air-supply hose, detachable coupling, and demand valve of the demand class or pressure-demand valve of the pressure-demand class for Type C supplied-air respirators, demand and pressure-demand classes, shall be capable of delivering respirable air at a rate of not less than 115 liters (4 cubic feet) per minute to the respiratory-inlet covering at an inhalation resistance not exceeding 50 millimeters (2 inches) of water-column height measured at the respiratory-inlet covering with any combination of air-supply pressure and length of hose within the applicant's specified range of pressure and hose length. The air-flow rate and resistance to inhalation shall be measured while the demand or pressure-demand valve is actuated 20 times per minute by a source of intermittent suction. The maximum rate of flow to the respiratory-inlet covering shall not exceed 425 liters (15 cubic feet) per minute under the specified operating conditions.

TABLE 8.—AIR-SUPPLY-LINE REQUIREMENTS AND TESTS—Continued

(30 CFR Part 11, Subpart G, § 11.94-7)

Specific requirements	Requirements for the air-supply lines of the indicated types of supplied-air respirators		
	Type A	Type B	Type C
Air-regulting valve.	None	None	If an air-regulating valve is provided, it shall be so designed that it will remain at a specific adjustment, which will not be affected by the ordinary movement of the wearer. The friction developed between the packing and a valve stem will not be considered as meeting this requirement. The valve must be so constructed that the air supply with the maximum length of hose and at the minimum specified air-supply pressure will not be less than 115 liters (4 cubic feet) of air per minute to tight-fitting and 170 liters (6 cubic feet) of air per minute of loose-fitting respiratory inlet coverings for any adjustment of the valve. If a demand or pressure-demand valve replaces the air-regulating valve, it shall be connected to the air supply at the maximum air pressure for which approval is sought by means of the minimum length of air-supply hose for which approval is sought. The outlet of the demand or pressure-demand valve shall be connected to a source of intermittent suction so that the demand or pressure-demand valve is actuated approximately 20 times per minute for a total of 100,000 inhalations. To expedite this test, the rate of actuation may be increased if mutually agreeable to the applicant and the Bureau. During this test the valve shall function without failure and without excessive wear of the moving parts. The demand or pressure-demand valve shall not be damaged in any way when subjected at the outlet to a pressure or suction of 25cm (10 inches) of water gage for 2 minutes.
Noncollapsibility.	The hose shall not collapse or exhibit permanent deformation when a force of 90 kg. (200 pounds) is applied for 5 minutes between 2 planes 76 cm. (3 inches) wide on opposite sides of the hose.	Same as Type A	None.
Nonkinkability.	None	None	A 7.6 m. (25 foot) section of the hose will be placed on a horizontal-plane surface and shaped into a one-loop coil with one end of the hose connected to an airflow meter and the other end of the hose supplied with air at the minumim specified supply pressure. The connection shall be in the plane of the loop. The other end of the hose will be pulled tangentially to the loop and in the plane of the loop until the hose straightens. To meet the requirements of this test the loop shall maintain a uniform near-circular shape and ultimately unfold as a spiral, without any localized deformation that decreases the flow of air to less than 90 percent of the flow when the hose is tested while remaining in a straight line.
Strength of hose and couplings.	Hose and couplings shall not separate or fail when tested with a pull of 113 kg. (250 pounds) for 5 minutes.	Same as Type A	Hose and couplings shall not exhibit any separation or failure when tested with a pull of 45 kg. (100 pounds) for 5 minutes and when tested by subjecting them to an internal air pressure of 2 times the maximum respirator-supply pressure that is specified by the applicant or at 173 kN/m.² (25 pounds per square inch) gage, whichever is higher.
Tightness	No air leakage shall occur when the hose and couplings are joined and the joint(s) are immersed in water and subjected to an internal air pressure of 35 kN/m.² (5 pounds per square inch) gage.	None	Leakage of air exceeding 50 cc. per minute at each coupling shall not be permitted when the hose and couplings are joined and are immersed in water, with air flowing through the respirator under a pressure of 173 kN/m.² (25 pounds per square inch) gage applied to the inlet end of the air-supply hose, or at twice the maximum respirator-supply pressure that is specified by the applicant, whichever is higher.
Permeation of hose by gasoline.	The permeation of the hose by gasoline will be tested by immersing 7.6 m. (25 feet) of hose and one coupling in gasoline, with air flowing through the hose at the rate of 8 liters per minute for 6 hours. The air from the hose shall not contain more than 0.01 percent by volume of gasoline vapor at the end of the test.	Same as for Type A.	Same as for Type A, except the test perio ·1 allbe 1 hour.
Detachable coupling.	None	None	A hand-operated detachable coupling by which the wearer can readily attach or detach the connecting hose shall be provided at a convenient location. This coupling shall be durable, remain connected under all conditions of normal respirator use, and meet the preseribed tests for strength and tightness of hose and couplings.

Subpart H—Dust, Fume, and Mist Respirators

§ 11.100 Dust, fume, and mist respirators; description.

Dust, fume, and mist respirators, including all completely assembled respirators designed for use as respiratory protection during entry into and escape from hazardous particulate atmospheres which contain adequate oxygen to support life, are described as follows:

(a) Respirators designed as respiratory protection against dusts (1) having a TLV not less than 0.05 milligram per cubic meter of air, including but not limited to arsenic, cadmium, chromium, lead, and manganese; or (2) dusts having a TLV not less than 2 million particles per cubic foot of air, including but not limited to aluminum, asbestos, coal, flour, iron ore, and free silica, resulting principally from the disintegration of a solid, e.g., dust clouds produced in mining, quarrying, and tunneling, and in dusts produced during industrial operations, such as grinding, crushing, and the general processing of minerals and other materials where the contaminant concentration is known not to exceed 20 times the TLV where a half-mask facepiece is employed or 200 times the TLV where a full facepiece is employed.

(b) Respirators designed as respiratory protection against fumes of various metals having a TLV not less than 0.05 milligram per cubic meter, including but not limited to aluminum, antimony, arsenic, cadmium, chromium, copper, iron, lead, magnesium, manganese, mercury (except mercury vapor), and zinc, which result from the sublimation or condensation of their respective vapors, or from the chemical reaction between their respective vapors and gases.

(c) Respirators designed as respiratory protection against mists of materials having a TLV not less than 0.05 milligram per cubic meter or 2 million particles per cubic foot, e.g., mists produced by spray coating with vitreous enamels, chromic acid mist produced during chromium plating, and other mists of materials whose liquid vehicle does not produce harmful gases or vapors where the contaminant concentration is known not to exceed 20 times the TLV where a half-mask facepiece is employed or 200 times the TLV where a full facepiece is employed.

(d) Respirators designed as respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligrams per cubic meter, including but not limited to lithium hydride and beryllium, and against radionuclides where the contaminant concentration is known not to exceed 10 times the TLV or 10 times the concentration limits for the radionuclides invovled (protection factor of 10).

(e) Respirators designed as respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligrams per cubic meter, including but not limited to lithium hydride and beryllium, and against radionuclides where the contaminant concentration is known not

to exceed 100 times the TLV or 100 times the concentration limits for the radionuclides involved (protection factor of 100).

(f) Respirators designed as respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligrams per cubic meter, including but not limited to lithium hydride and beryllium, and against radionuclides where the contaminant concentration is known not to exceed 1,000 times the TLV or 1,000 times the concentration limits for the radionuclides involved (protection factor of 1,000).

(g) Respirators designed as respiratory protection against radon daughters, radon daughters attached to dusts, fumes and mists, and asbestos dusts and mists.

(h) Respirators designed as protection against various combinations of particulate matter.

(i) Single-use dust respirators designed as respiratory protection against pneumoconiosis- and fibrosis-producing dusts.

(j) The types of dust, fume, and mist respirators in paragraphs (a) through (i) of this section may also be classified according to their design as follows:

(1) Air-purifying respirators; and

(2) Air-purifying respirators with attached blower.

§ 11.101 Dust, fume and mist respirators; required components.

(a) Each dust, fume and mist respirator described in § 11.100 shall, where its design requires, contain the following component parts:

(1) Facepiece, mouthpiece with noseclip, hood or helmet;

(2) Filter unit;

(3) Harness; and

(4) Attached blower.

(b) The components of each dust, fume and mist respirator shall, where applicable, meet the minimum construction requirements set forth in Subpart D of this part.

§ 11.102 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;

(3) Interference with the wearer's activities; and

(4) Shut-off of airflow due to kinking, or from chin or arm pressure.

§ 11.103 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.104 Respirator containers, minimum requirements.

(a) Each respirator shall, except as provided in paragraph (b) of this section, be equipped with a substantial, durable container bearing markings which show the applicant's name, the type of respirator it contains, and all appropriate approval labels.

(b) Containers for single use respirators may provide for storage of more than one respirator, however, such containers shall be designed and constructed to permit the closing of the container to prevent contamination of respirators which are not removed, and to prevent damage to respirators during transit.

§ 11.105 Half-mask facepieces and full facepieces; hoods and helmets; mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, provide for the optional use of corrective glasses and insure against any restriction of movement by the wearer.

(c) Mouthpieces shall be designed and constructed with noseclips which are securely attached to the respirator and provide an airtight seal.

(d) Full facepieces shall provide for optional use of corrective spectacles, which shall not reduce the respiratory protective qualities of the respirator.

(e) Facepieces, hoods, and helmets shall be designed to minimize eyepiece fogging.

§ 11.106 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepieces.

§ 11.107 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be protected against distortion.

(b) Inhalation valves shall be designed and constructed and provided where necessary to prevent excessive exhaled air from adversely affecting filters, except where filters are specifically designed to resist moisture as prescribed in § 11.110–7.

(c) Exhalation valves shall be provided where necessary and shall be designed and constructed with covers to protect against damage and external influence and to provide a dead airspace to prevent the inward leakage of contaminated air.

§ 11.108 Head harnesses; minimum requirements.

(a) Headharnesses, except those employed on single use respirators, shall be adjustable and replaceable.

(b) Single use respirators shall be equipped with an elastic or adjustable headharness.

(c) Headharnesses shall be designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

§ 11.109 Air velocity and noise levels; hoods and helmets; minimum requirements.

(a) Hoods and helmets shall be designed and constructed to protect against harmful noise levels during use.

(b) Noise levels will be measured inside the hood or helmet at maximum airflow obtainable and shall not exceed 80 dBA.

§ 11.110 Dust, fume, and mist respirators; performance requirements; general.

Dust, fume, and mist respirators and the individual components of each such device shall, as appropriate, meet the minimum requirements for performance and protection specified in the tests described in §§ 11.110–1 through 11.110–15 and prescribed in Tables 9 and 10.

§ 11.110–1 Coal-dust tightness test; minimum requirements.

(a) (1) Three persons will each wear two different respirators (six tests and six different respirators) for a period of 30 minutes in a concentration of 75±25 milligrams per cubic meter of bituminous coal dust.

(2) The coal dust will be 100 percent through a 200-mesh sieve.

(b) Prior to testing, each respirator will be modified in a manner which will least affect its performance, by connecting a lightweight tube through the facepiece to a 5-micron pore size membrane filter and holder assembly and a vacuum (sampling) pump operating at 2 liters per minute.

(c) Each wearer will perform the preliminary facepiece fit test recommended by the manufacturer prior to testing.

(d) After obtaining a satisfactory fit, the wearer will perform the following activities in the coal dust chamber:

(1) Three minutes—walking and turning and nodding head;

(2) One and one-half minutes—smiling;

(3) One and one-half minutes—frowning;

(4) Three minutes—reciting alphabet;

(5) Three minutes—talking; and,

(6) Three minutes—shallow and deep breathing.

(7) Upon completion of this 15-minute activity schedule, the wearer will repeat the schedule.

(e) During the test period, a second sampling pump, connected to a second membrane filter and holder assembly located in the wearer's breathing zone,

will be employed to sample the test concentration in the ambient atmosphere.

(f) Coal dust samples taken from dust, fume, and mist respirators tested in accordance with the provisions of this section shall not exceed the following ambient concentrations when desiccated and weighed to the nearest 0.01 milligram:

Respirator	*Maximum allowable percent of ambient concentration*
Designed for respiratory protection against dusts and mists of materials having a TLV not less than 0.05 milligram per cubic meter or 2 million particles per cubic foot and single-use dust respirators	10
Designed for respiratory protection against fumes of metals having a TLV not less than 0.05 milligram per cubic meter	5
Designed for respiratory protection against radon daughters and radon daughters attached to dusts, fumes and mists	5

(g) If the wearer's face shows indication of coal dust leakage at the nose, the test will be repeated with the wearer's nostrils closed.

§ 11.110–2 Isoamyl-acetate-tightness test; dust, fume, and mist respirators designed for respiratory protection against fumes of various metals having a TLV not less than 0.05 milligram per cubic meter; minimum requirements.

(a) The respirator will be modified in such a manner that all of the air that normally would be inhaled through the inhalation port(s) is drawn through an efficient activated charcoal-filled canister, or cartridge(s), without interference with the face-contacting portion of the facepiece.

(b) The modified facepiece will be worn by several persons for at least 2 minutes each in a test chamber containing 100 parts (by volume) of isoamyl-acetate vapor per million parts of air.

(c) The odor of isoamyl-acetate shall not be detected by the wearers of the modified respirator while in the test atmosphere.

§ 11.110–3 Isoamyl-acetate-tightness test; respirators designed for respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligram per cubic meter, or against radionuclides; minimum requirements.

(a) The applicant shall provide a charcoal-filled canister or cartridge of a size and resistance similar to the filter unit with connectors which can be attached to the facepiece in the same manner as the filter unit.

(b) (1) Where the contaminant concentration is known not to exceed 10 times the TLV or 10 times the concentration limits for the radionuclides involved, the canister or cartridge will be used in place of the filter unit, and several persons each will wear the modified facepiece for 5 minutes in a test chamber containing 100 parts (by volume) of isoamyl-acetate vapor per million parts of air.

(2) The following work schedule will be performed by each wearer in the test chamber:

(i) Two minutes walking, nodding, and shaking head in normal movements; and,

(ii) Three minutes exercising and running "in place."

(3) The facepiece shall be capable of adjustment, according to the applicant's instructions, to each wearer's face, and the odor of isoamyl acetate shall not be detectable by any wearer during the test.

(c) Where the contaminant concentration is known not to exceed 100 or 1,000 times the TLV or 100 or 1,000 times the concentration limits for the radionuclides involved, the canister or cartridge will be used in place of the filter unit, and several persons each will wear the modified facepiece for 5 minutes in a test chamber containing 1,000 parts (by volume) of isoamyl-acetate vapor per million parts of air, and tested as in paragraph (b) of this section.

§ 11.110–4 Air-purifying filter tests; performance requirements; general.

Dust, fume, and mist respirators will be tested in accordance with the schedule set forth in Table 10 to determine their effectiveness as protection against the particulate hazards specified therein.

§ 11.110–5 Silica-dust test; single use filters; minimum requirements.

(a) Three respirators will be tested for periods of 90 minutes each with a mechanical-testing apparatus at a continuous airflow rate of 32 liters per minute.

(b) The relative humidity in the test chamber will be 20–80 percent, and the room temperature approximately 25° C.

(c) The test suspension in the chamber will not be less than 50 nor more than 60 milligrams of flint (99+ percent free silica) per cubic meter of air.

(d) The flint in suspension will be ground to pass 99+ percent through a 325-mesh sieve.

(e) The particle-size distribution of the test suspension will have a geometric mean of 0.4 to 0.6 micrometer, and the standard geometric deviation will not exceed 2.

(f) The total amount of unretained test suspension in samples taken during testing shall not exceed 2 milligrams for any single respirator.

§ 11.110–6 Silica-dust test; single-use dust respirators; minimum requirements.

(a) Three respirators will be tested.

(b) Using the mechanical testing apparatus described in § 11.110–5 airflow will be cycled through the respirator by a breathing machine at the rate of 24 respirations per minute with a minute volume of 40 liters; a breathing machine cam with a work rate of 622 kg.–m./minute shall be used.

(c) Air exhaled through the respirator will be 35±2° C. (95±3° F.) with 94±3 percent relative humidity.

(d) Air inhaled through the respirator will be sampled and analyzed for respirator leakage.

(e) The total amount of unretained test suspension after drying in samples taken during testing shall not exceed 2 milligrams for any single test.

§ 11.110–7 Lead fume test; minimum requirements.

(a) Three respirators will be tested for a period of 312 minutes each with a mechanical-testing apparatus at a continuous airflow rate of 32 liters per minute.

(b) The relative humidity in the test chamber will be 20–80 percent, and the room temperature approximately 25° C.

(c) The test suspension in the test chamber will not be less than 15 nor more than 20 milligrams of freshly generated lead-oxide fume, calculated as lead (Pb), per cubic meter of air.

(d) The fume will be generated by impinging an oxygen-gas flame on molten lead.

(e) Samples of the test suspension will be taken during each test period for analysis.

(f) The total amount of unretained test suspension in the samples taken during testing, which is analyzed and calculated as lead (Pb), shall not exceed 1.5 milligrams of lead for any single respirator.

§ 11.110–8 Silica-mist test; minimum requirements.

(a) Three respirators will be tested for a period of 312 minutes each with a mechanical-testing apparatus at a continuous airflow rate of 32 liters per minute.

(b) The room temperature in the test chamber will be approximately 25° C.

(c) The test suspension in the test chamber will not be less than 20 nor more than 25 milligrams of silica mist, weighed as silica dust, per cubic meter of air.

(d) Mist will be produced by spraying an aqueous suspension of flint (99+ percent free silica), and the flint shall be ground to pass 99+ percent through a 325-mesh sieve.

(e) Samples of the test suspension will be taken during each test period for analysis.

(f) The total amount of silica mist unretained in the samples taken during testing, weighed as silica dust, shall not exceed 2.5 milligrams for any of the three respirators.

§ 11.110–9 Lead-fume test; air-purifying respirators with attached blower in the contaminated atmosphere; minimum requirements.

(a) Three respirators will be tested as described in § 11.77–7 at the effective airflow rate of the respirator, which shall be not less than 115 liters (4 cubic feet) per minute for 4 hours and not less than 170 liters (6 cubic feet) per minute for 4 hours to hoods and helmets.

(b) The total amount of unretained test suspension, which is analyzed and calculated as lead (Pb), shall not exceed 4.8 milligrams for a test made at 115 liters (4 cubic feet) per minute or 6.2 milligrams for a test made at 170 liters (6 cubic feet) per minute.

§ 11.110–10 Silica-dust test air-purifying respirators with attached blower in the contaminated atmosphere; minimum requirements.

(a) Three respirators will be tested as described in § 11.110–5 at the effective airflow rate of the respirator, which shall be not less than 115 liters (4 cubic feet) per minute for 4 hours and not less than 170 liters (6 cubic feet) per minute for 4 hours to hoods and helmets.

(b) The respirator resistance shall not exceed those specified in § 11.110–12.

§ 11.110–11 Tests for respirators designed for respiratory protection against more than one type of dispersoid; minimum requirements.

Respirators designed as respiratory protection against more than one particulate hazard (dust, fume, or mist) shall comply with all the requirements of this part, with respect to the specific hazard involved.

§ 11.110–12 Airflow resistance tests; all dust, fume, and mist respirators; minimum requirements.

(a) The resistance to airflow of a completely assembled respirator on inhalation and on exhalation will be determined on a mechanical testing apparatus before and after each test conducted in accordance with § 11.110–5 through 11.110–10 at a continuous airflow rate of 85 liters per minute.

(b) Each respirator tested shall meet the following minimum requirements for resistance:

MAXIMUM RESISTANCE

(mm. water-column height)

Type of respirator	Initial inhalation	Final inhalation	Exhalation
Single-use	12	15	15
Dust, fume, and mist	30	50	20
Radon daughter, and asbestos dust and mist	[1] 18	[1] 25	15

[1] Measured after silica dust test described in § 11.110–5

§ 11.110–13 DOP man test and chamber test; respirators designed as respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligrams per cubic meter and against radionuclides; minimum requirements.

(a) Each of three complete respirators will be tested when worn by six different persons (18 wearings).

(b) A probe to permit sampling the air within the respirator facepiece will be attached without impairing the overall efficiency of the respirator.

(c) Each wearer will enter a test chamber in which air, containing approximately 100 micrograms of DOP per liter is flowing.

(d) While in the chamber, each wearer will carry out the following work schedule:

(1) Facial movements, 2 minutes;
(2) Talking, 1 minute; and,
(3) Running "in place," 2 minutes.

(e) Where respirators are being tested as respiratory protection against a contaminant concentration that does not exceed 10 times the TLV or the concentration limits for the radionuclides involved, the wearer will substitute head turns from side to side for facial movements and substitute shallow and deep breathing for talking.

(f) The respirator exhibiting the highest DOP penetration of the three respirators tested in accordance with paragraph (a) of this section will then be worn by three different persons for periods of 2 hours each while performing the following activities in a chamber concentration of 100 micrograms of DOP per liter of air:

(1) *0.15 minute.* (i) Each wearer will be seated and a sample will be drawn from the inside of the facepiece at the rate of 8 liters per minute.

(ii) The sample will be compared with the chamber concentration, and if excessive leakage is detected, the wearer will leave the chamber and a stream of DOP shall be directed at the respirator to determine the source(s) of leakage.

(2) *15–60 minutes.* Each test subject will leave the chamber and carry on normal activities without adjusting or removing the facepiece.

(3) *60–75 minutes.* (i) Each wearer will reenter the test chamber.

(ii) A sample will be drawn from the inside of the facepiece at the rate of 8 liters per minute.

(iii) The wearer will engage in the following activities:

(*a*) Cough (2 minutes);
(*b*) Turn his head from side to side (2 minutes);
(*c*) Smile (2 minutes);
(*d*) Frown (2 minutes);
(*e*) Recite the alphabet loudly (2 minutes);
(*f*) Talk (3 minutes); and,
(*g*) Breath shallowly and deeply (2 minutes).

(iv) Where respirators are being tested as respiratory protection against a contaminant concentration that does not exceed 10 times the TLV or the concentration limits for the radionuclides involved, the wearer will not be required to engage in coughing, smiling, frowning, reciting the alphabet, or talking.

(4) *75–105 minutes.* Each wearer will engage in normal activities outside the test chamber.

(5) *105–120 minutes.* Each wearer will reenter the test chamber and the routine for the 60–75-minute period shall be repeated.

(g) Each respirator shall meet the following minimum requirements:

Where the contaminant concentration does not exceed the TLV or concentration limits for the radionuclides involved by a factor of:	Maximum allowable penetration for the respirator—percentage of ambient concentration	Maximum allowable penetration for average of all tests—percentage of ambient concentration
10	1	0.5
100	1	0.5
1,000	0.1	0.05

§ 11.110–14 DOP filter test; respirators designed as respiratory protection against dusts, fumes, and mists having a TLV less than 0.05 milligram per cubic meter and against radionuclides; minimum requirements.

(a) All single-filter units will be tested in an atmosphere concentration of 100 micrograms of DOP per liter of air at continuous flow rates of 32 and 85 liters per minute for a period of 5 to 10 seconds.

(b) Where filters are to be used in pairs, the flow rates will be 16 and 42.5 liters per minute, respectively, through each filter.

(c) The filter will be mounted on a connector in the same manner as used on the respirator, and the total leakage for the connector and filter shall not exceed 0.03 percent of the ambient DOP concentration at either flow rate.

§ 11.110–15 Silica-dust-loading test; respirators designed as protection against dusts, fumes, and mists having a TLV less than 0.05 milligram per cubic meter and against radionuclides; minimum requirements.

Three respirators will be tested in accordance with the provisions of § 11.110–5, and shall meet the minimum requirements of §§ 11.110–5 and 11.110–12.

TABLE 9.—FACEPIECE TEST REQUIREMENTS
(30 CFR Part 11, Subpart II, § 11.110–1, et seq.)

Respirator types (11.100(a)–(i))	Pressure tightness test	Coal dust tightness test (11.110–1)	Isoamyl-Acetate tightness test (11.110–2)	Isoamyl-Acetate tightness test (11.110–3)	Isoamyl-Acetate tightness test (11.110–4)
(a)	X	X			
(b)	X		X		
(c)	X	X			
(d)	X			X	
(e)	X				X.
(f)	X				X.
(g)	X	X		[1]X	[1]X.
(h)	X	[1]X	[1]X	[1]X	[1]X.
(i)		X			

[1] Test is required only where applicable.

TABLE 10.—AIR PURIFYING FILTER TESTS REQUIRED FOR APPROVAL
(30 CFR Part 11, Subpart H, § 11.110-5, et seq.)

Dust, fume, and mist respirator type (11.110(a)-(i))	Silica dust test			Lead fume test		Silica dust test
	(11.110-5)	(11.110-6)	(11.110-14)	(11.110-7 and 11.110-9)		(11.110-8)
(a)	X			X		X.
(b)					X	
(c)				X		
(d)	X		X			
(e)	X		X	X [1]	X [1]	X. [2]
(f)	X [2]	X [2]	X [2]	X [2]	X [2]	
(g)	X					
(h)						
(i)						

[1] Applies only to radon daughter respirators.
[2] Test is required only where applicable.

Subpart I—Chemical Cartridge Respirators

§ 11.120 Chemical cartridge respirators; description.

Chemical cartridge respirators including all completely assembled respirators which are designed for use as respiratory protection during entry into or escape from atmospheres not immediately dangerous to life and health, are described according to the specific gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of Chemical-cartridge respirator:	*Maximum use concentration, parts per million*
Amines [3]	[4] 100
Amine derivatives [3]	[4] 30
Ammonia	300
Chlorine	10
Hydrogen chloride	50
Organic vapor [3]	[4] 1,000
Sulfur dioxide	50

[3] Not for use against amines, amine derivatives, nor against organic vapors with poor warning properties or those which generate high heats of reaction with sorbent material in the cartridge.
[4] Maximum use concentrations are lower for amines, amine derivatives, or organic vapors which produce atmospheres immediately hazardous to life or health at concentrations lower than these.

NOTE: Chemical-cartridge respirators for respiratory protection against gases or vapors, which are specifically listed with their maximum use concentration except pesticides, may be approved if the applicant submits a request for such approval, in writing, to the Bureau. The Bureau shall consider each such application and accept, reject, or modify the application after a review of the effects on the wearer's health and safety and in the light of any field experience in use of chemical-cartridge respirators as protection against such hazards.

§ 11.121 Chemical cartridge respirators; required components.

(a) Each chemical cartridge respirator described in § 11.120 shall, where its design requires, contain the following component parts:

(1) Facepiece, mouthpiece and noseclip, hood or helmet;

(2) Cartridge;

(3) Harness.

(b) The components of each chemical cartridge respirator shall, where applicable, meet the minimum construction requirements set forth in Subpart D of this part.

§ 11.122 Cartridges in parallel; resistance requirements.

Where two or more cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.123 Cartridges; color and markings; requirements.

The color and markings of all cartridges shall conform with the requirements of the American National Standard for Identification of Gas Mask Canisters, K13.1.

§ 11.124 Filters used with cartridges; location; replacement.

(a) Particulate matter filters used in conjunction with a cartridge shall be located on the inlet side of the cartridge.

(b) Filters shall be incorporated into or firmly attached to the cartridge and each filter assembly shall, where applicable, be designed to permit removal from and replacement on the cartridge.

§ 11.125 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;

(3) Interference with the wearer's activities; and,

(4) Shut-off of airflow due to kinking, or from chin or arm pressure.

§ 11.126 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts.

§ 11.127 Respirator containers; minimum requirements.

(a) Respirators shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains, and all appropriate approval labels.

§ 11.128 Half-mask facepieces and full facepieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

§ 11.129 Inhalation and exhalation valves; check valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against distortion.

(b) Inhalation valves shall be designed and constructed to prevent excessive exhaled air from entering cartridges or adversely affecting canisters.

(c) Exhalation valves shall be designed and constructed with covers to protect against damage and external influence and to provide a dead airspace to prevent the inward leakage of contaminated air.

§ 11.130 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable head harnesses designed and constructed to hold the respirator in place.

§ 11.131 Chemical cartridge respirators; performance requirements; general.

Chemical cartridge respirators and the individual components of each such device shall, as appropriate, meet the minimum requirements for performance and protection specified in the tests described in §§ 11.131-1 through 11.131-8.

§ 11.131-1 Breathing resistance test; minimum requirements.

(a) The resistance to airflow of a completely assembled respirator on inhalation and exhalation will be determined on a mechanical apparatus at the facepiece or mouthpiece before and after each test conducted in accordance with §§ 11.131-5, 11.131-6, 11.131-7, and 11.131-8.

(b) The chemical-cartridge respirator will be mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute.

(c) Each respirator shall meet the following minimum requirements for resistance:

MAXIMUM RESISTANCE
(mm. water-column height)

Type of chemical-cartridge respirator	Inhalation		Exhalation
	Initial	Final [1]	
Half-mask or mouthpiece, for gases, vapors, or gases and vapors	35	45	20
Half-mask or mouthpiece, for gases, vapors, or gases and vapors, and dusts, fumes, and mists	45	65	20
Half-mask or mouthpiece, for gases, vapors, or gases and vapors, and mists of paints, lacquers, and enamels	45	70	20

[1] Measured at end of the service life specified in Table 11.

§ 11.131–2 Exhalation valve leakage test; minimum requirements.

(a) The dry exhalation valve and the valve seat will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.131–3 Facepiece test; minimum requirements.

(a) The completely assembled chemical-cartridge respirator will be fitted to the faces of three persons having varying the facial shapes and sizes.

(b) (1) The facepiece or mouthpiece fit test will be performed by each wearer prior to each test.

(2) Where the applicant specifies a facepiece size or sizes for the respirator together with the approximate measurement of the faces they are designed to fit, the Bureau will provide wearers to suit such facial measurements.

(c) The facepiece or mouthpiece fit test using the positive or negative pressure recommended by the applicant and described in his instructions will be used during each test.

(d) Any chemical-cartridge respirator part which must be removed to perform the facepiece or mouthpiece fit test shall be replaceable without special tools and without disturbing facepiece or mouthpiece fit.

(e) (1) Each wearer will enter a chamber containing 100 p.p.m. isoamyl acetate vapor.

(2) The facepiece or mouthpiece may be adjusted, if necessary, in the test chamber before starting the test.

(3) Each wearer will remain in the chamber for 8 minutes while performing the following activities:

(i) Two minutes, nodding and turning head;

(ii) Two minutes, calisthenic arm movements;

(iii) Two minutes, running in place; and

(iv) Two minutes, pumping with a tire pump into a 28-liter (1 cubic-foot) cylinder.

(4) Each wearer shall not detect the odor of isoamyl acetate vapor during the test.

(f) (1) Three persons wearing two different respirators comfortably fitted to their face (a total of 6 wearings and 6 different respirators) will enter a chamber containing 1,000 p.p.m. dichlorodifluoromethane.[10]

(2) Each wearer will remain in the chamber for 12 minutes while performing the following activities:

(i) Two minutes, nodding and turning head and coughing;

(ii) One minute, smiling;

(iii) One minute, frowning;

(iv) Two minutes, reciting alphabet;

(v) Two minutes, talking;

(vi) Two minutes, deep and shallow breathing; and

(vii) Two minutes, pumping with a tire pump into 28-liter (1 cubic-foot) cylinder.

(3) Air samples will be taken continuously from inside the facepiece or mouthpiece.

(4) The average concentration of dichlorodifluoromethane in the sample, measured as described [11] shall not exceed 5 percent of the test concentration.

§ 11.131–4 Lacquer and enamel mist tests; respirators with filters; minimum requirements; general.

(a) Three respirators with cartridges containing or having attached to them, filters for protection against mists of paints, lacquers, and enamels shall be tested in accordance with the provisions of § 11.131–8.

(b) In addition to the test requirements set forth in paragraph (a) of this section, three such respirators will be tested against each aerosol in accordance with the provisions of §§ 11.131–5 and 11.131–6.

§ 11.131–5 Lacquer mist test; minimum requirements.

(a) Temperature in the test chamber will be approximately 25° C.

(b) Continuous airflow through the respirator will be 32 liters per minute.

(c) Airflow through the chamber will be 20–25 air changes per minute.

(d) The atomizer employed will be a Spraying Systems Co., 1/4J Pneumatic Atomizing Nozzle With Setup 1A, or equivalent, operating at 69 kN/m.^{2} (10 pounds per square inch gage).

(e) The test aerosol will be prepared by atomizing a mixture of 1 volume of clear cellulose nitrate lacquer and one volume of lacquer thinner.

(f) The lacquer used will conform essentially to Federal Specification TT–L–31, October 7, 1953.

(g) The concentration of cellulose nitrate in the test aerosol will be 95–125 milligrams per cubic meter.

(h) The test aerosol will be drawn to each respirator for a total of 156 minutes.

(i) The total amount of unretained mist in the samples taken during testing, weighed as cellulose nitrate, shall not exceed 5 milligrams for any one of the three respirators.

§ 11.131–6 Enamel mist test; minimum requirements.

(a) Temperature in the test chamber will be approximately 25° C.

(b) Continuous airflow through the respirator will be 32 liters per minute.

(c) Airflow through the chamber will be 20–25 air changes per minute.

(d) The atomizer employed will be a Spraying Systems Co., 1/4J Pneumatic Atomizing Nozzle With Setup 1A, or equivalent, operating at 69 kN/m.^{2} (10 pounds per square inch gage).

(e) The test aerosol will be prepared by atomizing a mixture of 1 volume of white enamel and one volume of turpentine.

(f) The enamel used will conform essentially to Federal Specification TT–E–489b, May 12, 1953 (an enamel having a phthalic alkyd resin vehicle and a titanium dioxide pigment).

(g) The concentration of pigment in the test aerosol, weighed as ash, will be 95–125 milligrams per cubic meter.

(h) The test aerosol will be drawn to each respirator for a total of 156 minutes.

(i) The total amount of unretained mist in the samples taken during testing, weighed as ash, shall not exceed 1.5 milligrams for any one of the three respirators.

§ 11.131–7 Dust, fume, and mist tests; respirators with filters; minimum requirements; general.

(a) Three respirators with cartridges containing, or having attached to them, filters for protection against dusts, fumes, and mists, except the mists of paints, lacquers, and enamels, will be tested in accordance with the provisions of § 11.131–8.

(b) In addition to the test requirements set forth in paragraph (a) of this section, three such respirators will be tested, as appropriate, in accordance with the provisions of §§ 11.110–1 through 11.110–15, however, the maximum allowable resistance of complete dust, fume, and mist, and gas, vapor, or gas and vapor chemical-cartridge respirators shall not exceed the maximum allowable limits set forth in § 11.131–1.

§ 11.131–8 Bench tests; gas and vapor tests; minimum requirements; general.

(a) Tests will be made on an apparatus that allows the test atmosphere (at 50 ± 5 percent relative humidity and room temperature, approximately 25° C.) to enter the cartridges continuously at predetermined concentrations and rates of flow, and that has means for determining the test life of the cartridges.

(b) Where two cartridges are used in parallel on a chemical-cartridge respirator, the bench test will be performed with the cartridges arranged in parallel, and the test requirements will apply to the combination rather than to the individual cartridges.

(c) Three cartridges or pairs of cartridges will be removed from containers

[10] Watson, H. A., P. M. Gussey, and A. J. Beckert, Evaluation of Chemical-Cartridge Respirator Face Fit. BuMines Report of Investigations 7431, 1970, 9 pp.

[11] Work cited in footnote 14.

and tested as received from the applicant.

(d) Two cartridges or pairs of cartridges will be equilibrated at room temperature by passing 25 percent relative humidity air through them at a flow rate of 25 liters per minute for 6 hours.

(e) Two cartridges or pairs of cartridges will be equilibrated by passing 85 percent relative humidity air through them at a flow rate of 25 liters per minute for 6 hours.

(f) All cartridges will be resealed, kept in an upright position at room temperature, and tested within 18 hours.

(g) Cartridges will be tested and shall meet the minimum requirements set forth in Table 11.

TABLE 11.—CARTRIDGE BENCH TESTS AND REQUIREMENTS

(30 CFR Part 11, Subpart I, § 11.131-8)

Cartridge	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration (p.p.m.)	Flowrate (l.p.m.)	Number of tests	Penetration [1] (p.p.m.)	Minimum life (min.)
Ammonia	As received	NH_3	1000	64	3	50	50
Ammonia	Equilibrated	NH_3	1000	32	4	50	50
Chlorine	As received	Cl_2	500	64	3	5	40
Chlorine	Equilibrated	Cl_2	500	32	4	5	40
Hydrogen chloride	As received	HCl	500	64	3	5	50
Hydrogen chloride	Equilibrated	HCl	500	32	4	5	50
Methyl amine	As received	CH_3NH_2	1000	64	3	10	25
Methyl amine	Equilibrated	CH_3NH_2	1000	32	4	10	25
Organic vapors	As received	CCl_4	1000	64	3	5	50
Organic vapors	Equilibrated	CCl_4	1000	32	4	5	50
Sulfur dioxide	As received	SO_2	500	64	3	5	30
Sulfur dioxide	Equilibrated	SO_2	500	32	4	5	30

[1] Minimum life will be determined at the indicated penetration.

Subpart J—Pesticide Respirators

§ 11.140 Pesticide respirators; description.

Pesticide respirators including all completely assembled respirators which are designed for use as respiratory protection during entry into or escape from atmospheres which contain pesticide hazards, are described according to their construction and the approximate exposure of the wearer to pesticide vapor and particulate matter against which they are designed to provide respiratory protection, as follows:

Type of pesticide respirator	*Maximum exposure* [12]
Front-mounted or back-mounted gas mask.	100 times TLV.
Chin-style gas mask	50 times TLV.
Chemical-cartridge	10 times TLV.
Air-purifying respirator with attached blower.	10 times TLV.
Other devices, including combination respirators.	([13]).

[12] Maximum exposure will depend upon the concentration and the period of exposure.

[13] Other devices, including combination respirators, shall be rated and designated on the basis of their particular performance during tests conducted by the Bureau pursuant to the provisions of Subparts E through I of this part.

§ 11.141 Pesticide respirators; required components.

(a) Each pesticide respirator described in § 11.140 shall, where its design requires, contain the following component parts:

(1) Facepiece, mouthpiece, helmet, or hood;

(2) Canister with filter;

(3) Cartridge with filter;

(4) Harness;

(5) Attached blower.

(b) The components of each pesticide respirator shall, where applicable, meet the minimum construction requirements set forth in Subpart D or this part.

§ 11.142 Canisters and cartridges in parallel; resistance requirements.

Where two or more canisters of cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.143 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges shall conform with the requirements of the American National Standard for Identification of Gas Mask Canisters, K13.1.

§ 11.144 Filters used with canisters and cartridges; location; replacement.

(a) Particulate matter filters used in conjunction with a canister or cartridge shall be located on the inlet side of the canister or cartridge.

(b) Filters shall be incorporated into or firmly attached to the canister or cartridge and each filter assembly shall, where applicable, be designed to permit removal from and replacement on the canister or cartridge.

§ 11.145 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;

(3) Interference with the wearer's activities; and,

(4) Shut-off of airflow due to kinking, or from chin or arm pressure.

§ 11.146 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where required by the Bureau, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.147 Respirator containers; minimum requirements.

(a) Respirators shall be equipped with a substantial, durable, container bearing markings which show the applicant's name, type and commercial designation of the respirator it contains, and all appropriate approval labels.

(b) Containers for gas masks shall be designed and constructed to permit easy removal of the mask.

§ 11.148 Half-mask facepieces and full facepieces; hoods and helmets; mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles, which shall not reduce the respiratory protective qualities of the respirator.

(c) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, permit optional use of corrective spectacles without reducing the respiratory protective qualities of the respirator, and ensure against any restriction of movement by the wearer.

(d) Mouthpieces shall be designed and constructed with noseclips which are securely attached to the mouthpiece and provide an airtight seal.

(e) Facepieces, hoods, and helmets shall be designed to minimize eyepiece fogging.

§ 11.149 Facepieces, hoods and helmets; eyepieces; minimum requirements.

(a) Facepieces, hoods and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces of gas masks shall be designed and constructed to meet the impact and penetration requirements specified in the American National Standard for Occupational and Educational Eye and Facepiece Protection, Z87.

§ 11.150 Inhalation and exhalation valves; check valves; minimum requirements.

(a) Inhalation and exhalation valves shall be protected against distortion.

(b) Inhalation valves shall be designed and constructed and provided where necessary to prevent excessive exhaled air from adversely affecting cartridges, canisters and filters.

(c) Exhalation valves shall be provided where necessary and shall be designed and constructed with covers to protect against damage and external influence and to provide a dead airspace

to prevent the inward leakage of contaminated air.

§ 11.151 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to provide adequate tension during suspension and an even distribution of pressure over the entire area covered by the facepiece.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable headharnesses designed and constructed to hold the respirator in place.

§ 11.152 Air velocity and noise levels; hoods and helmets; minimum requirements.

(a) Hoods and helmets shall be designed and constructed to protect against harmful noise levels during use.

(b) Noise levels will be measured inside the hood or helmet at maximum obtainable airflow and shall not exceed those prescribed in Subpart F, Part 70 of this chapter.

§ 11.153 Pesticide respirators; performance requirements; general.

Pesticide respirators and the individual components of each such device shall, as appropriate, meet the minimum requirements for performance and protection specified in the tests described in §§ 11.153–1 through 11.153–7.

§ 11.153–1 Breathing resistance test; minimum requirements.

(a) The resistance to airflow of a completely assembled pesticide respirator on inhalation and exhalation shall be determined on a mechanical apparatus at the facepiece before and after each test conducted in accordance with §§ 11.153–5, 11.153–6, and 11.153–7.

(b) The pesticide respirator facepiece will be mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute.

(c) Each respirator shall meet the following minimum requirements for resistance:

MAXIMUM RESISTANCE

(mm. water-column height)

Type of pesticide respirator	Inhalation		Exhalation
	Initial	Final [1]	
Front- or back-mounted gas mask	65	80	20
Chin-style gas mask	50	70	20
Air-purifying with attached blower	[2] 45	[2] 65	[2] 20
Chemical-cartridge	45	65	20

[1] Measured at end of the service life specified in table 12.
[2] Resistance of filter(s), cartridge(s), and breathing tube(s) only.

§ 11.153–2 Exhalation valve leakage test; minimum requirements.

(a) The dry exhalation valve and the valve seat will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.153–3 Facepiece test; minimum requirements.

(a) The completely assembled pesticide respirator will be fitted to the face of three persons having varying facial shapes and sizes.

(b) (1) The facepiece fit test will be performed by each wearer prior to each test.

(2) Where the applicant specifies a facepiece size or sizes for his respirator together with the approximate measurement of the faces they are designed to fit, the Bureau will provide wearers to suit such facial measurements.

(c) The facepiece fit test using the positive or negative pressure recommended by the applicant and described in his instructions will be used during each test.

(d) Any pesticide respirator part which must be removed to perform the facepiece fit test shall be replaceable without special tools and without disturbing facepiece fit.

(e) (1) Each wearer will enter a chamber containing 1,000 p.p.m. isoamyl acetate vapor.

(2) The facepiece may be adjusted, if necessary, in the test chamber before starting the test.

(3) Each wearer will remain in the chamber for 8 minutes while performing the following activities:

(i) Two minutes, nodding and turning head;

(ii) Two minutes, calisthenic arm movements;

(iii) Two minutes, running in place; and,

(iv) Two minutes, pumping with a tire pump into a 28-liter (1 cubic-foot) cylinder.

(4) Each wearer shall not detect the odor of isoamyl acetate during the test.

(f) (1) Three persons wearing two different respirators comfortably fitted to their face (a total of six wearings and six different respirators) will enter a chamber containing (i) 10,000 p.p.m. dichlorodifluoromethane where the respirator has a full facepiece, or (ii) 1,000 p.p.m. dichlorodifluoromethane where the respirator has a half-mask.[14]

(2) Each wearer will remain in the chamber for 12 minutes while performing the following activities:

(i) Two minutes, nodding and turning head and coughing.

(ii) One minute, smiling.

(iii) One minute, frowning.

(iv) Two minutes, reciting alphabet.

(v) Two minutes, talking.

(vi) Two minutes, deep and shallow breathing.

(vii) Two minutes, pumping with a tire pump into a metal cylinder.

(3) Air samples will be taken continuously from inside the facepiece.

(4) The average concentration of dichlorodifluoromethane in the sample, measured as described [15] shall not exceed 0.5 percent of the test concentration for full facepieces and mouthpieces or 5 percent of the test concentrations for half-mask facepieces.

§ 11.153–4 Silica dust test; minimum requirements.

Three completely assembled pesticide respirators will be tested with a mechanical-testing apparatus as follows:

(a) Temperature in the test chamber shall be approximately 25±2.5° C.

(b) Continuous airflow through the respirator shall be:

(1) 32 liters per minute for front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical-cartridge pesticide respirators; or,

(2) At the normal operating airflow which shall be not less than 115 liters (4 cubic feet) per minute, for the air-purifying respirators with attached blowers with tight-fitting facepieces, and at not less than 170 liters (6 cubic feet) per minute for air-purifying respirators with attached blowers with loose-fitting hoods and helmets.

(c) The test aerosol will contain 50–60 milligrams of 99+ percent free silica per cubic meter of air.

(d) The particle-size distribution of the test suspension will have a geometric mean diameter of 0.4 to 0.6 micrometer, with a standard geometric deviation less than 2.

(e) Front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical-cartridge pesticide respirators will be tested for 90 minutes and air air-purifying pesticide respirators with attached blowers will be tested for 4 hours.

(f) The breathing resistance of the respirators tested shall not exceed the maximum allowable levels prescribed in § 11.153–1.

§ 11.153–5 Lead fume test; minimum requirements.

Three completely assembled pesticide respirators will be tested with a mechanical-testing apparatus as follows:

(a) Temperature in the test chamber will be approximately 25±2.5° C.

(b) Continuous airflow through the respirator will be:

(1) 32 liters per minute for front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical-cartridge pesticide respirators; or,

(2) At the normal operating airflow which shall be not less than 115 liters (4 cubic feet) per minute, for air-purifying respirators with attached blowers with tight-fitting facepieces, and at not less

[14] Test will be performed as described in the following: Watson, H. A., P. M. Gussey, and A. J. Beckert, Evaluation of Chemical-Cartridge Respirator Face Fit. Bureau of Mines Report of Investigations 7431, 1970, 9 pp.

[15] Work cited in Footnote 20.

than 170 liters (6 cubic feet) per minute for air-purifying respirators with attached blowers with loose fitting hoods and helmets.

(c) The test aerosol will contain 20–25 milligrams of freshly generated lead-oxide fume, calculated as lead, per cubic meter of air.

(d) The fume will be generated by impinging an oxygen-gas flame on molten lead.

(e) Front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical-cartridge pesticide respirators will be tested for 90 minutes and air purifying pesticide respirators with attached blowers will be tested for 4 hours.

(f) The total amount of unretained test suspension, which is analyzed and calculated as lead, shall not exceed: (1) 0.43 milligram for any 90-minute test; (2) 4.8 milligrams for any test made at 115 liters (4 cubic feet) per minute; or (3) 6.2 milligrams for any test made at 170 liters (6 cubic feet) per minute.

§ 11.153–6 Dioctyl-phthalate test; minimum requirements.

(a) All canisters submitted for use with front-mounted and back-mounted gas mask pesticide respirators will be tested in an atmospheric concentration of 100 micrograms of dioctyl phthalate per liter of air at continuous flow rates of 32 and 85 liters per minute for a period of 5 to 10 seconds.

(b) The DOP leakage through the canister shall not exceed 0.03 percent of the ambient DOP concentration.

§ 11.153–7 Bench tests; minimum requirements.

(a) All canisters and cartridges employed in pesticide respirators shall meet the minimum requirements set forth in this section.

(b) Canisters and cartridges will be tested on a mechanical apparatus that allows a test atmosphere (50±5 percent relative humidity and a room temperature of 25±2.5° C.) to enter the canister or cartridge at predetermined concentrations and rates of flow, and that has a means for determining the test life of the canister or cartridge against carbon tetrachloride.

(c) Canisters and cartridges will be tested as they are used on each pesticide respirator, either singly or in parallel.

(d) (1) Three canisters or cartridges will be tested as received from the applicant.

(2) Two canisters, cartridges, or pairs of cartridges will be equilibrated at room temperature by passing 25 percent relative humidity air through them at 64 liters per minute (25 liters per minute for cartridges) for 6 hours.

(3) Two canisters, cartridges, or pairs of cartridges will be equilibrated at room temperature by passing 85 percent relative humidity air through them at 64 liters per minute (25 liters per minute for cartridges) for 6 hours.

(4) The equilibrated canisters or cartridges will be resealed, kept in an upright position at room temperature, and tested within 18 hours.

(e) Cansiters and cartridges tested in accordance with the provisions of this section shall meet the requirements specified in Table 12.

TABLE 12.—*Carbon tetrachloride bench tests and requirements for canisters and cartridges*

(30 CFR Part 11, Subpart J, § 11.153-7)

Type of pesticide respirator	Test conc, percent CCl_4	Flow rate, (l.p.m.)	Number of tests	Minimum life, minutes [1]
Chest-mounted or back-mounted gas mask (as received)	20,000	64	3	12
Chest-mounted or back-mounted gas mask (equilibrated)	20,000	32	4	12
Chin-style gas mask or chemical-cartridge respirator (as received)	1,000	64	3	50
Chin-style gas mask or chemical-cartridge respirator (equilibrated)	1,000	32	4	50
Air-purifying respirator with attached blower (as received)	1,000	64	3	50
Air-purifying respirator with attached blower (equilibrated)	1,000	32	4	50

[1] Minimum life will be determined at 5 ppm leakage.

Subpart O—Fees

§ 11.200 Examination, inspection and testing of complete respirator assemblies; fees.

Except as provided in § 11.202, the following fees shall be charged by the Bureau for the examination, inspection and testing of complete respirator assemblies:

(a) Self-contained breathing apparatus—	
(1) Entry and escape, one hour or more	$3,500
(2) Entry and escape, less than 1 hour	2,750
(3) Escape only	2,000
(b) Gas masks—	
(1) Single hazard	1,100
(2) Type N	4,100
(c) Supplied-air respirators	750
(d) Dust, fume and mist respirators—	
(1) Single particulate hazard having a TLV of more than 0.05 mg./m.³ or 2 million particles per cubic foot	500
(2) Combination particulate hazards having a TLV more than 0.05 mg./m.³ or 2 million particles per cubic foot	750
(3) Particulate hazards having a TLV less than 0.05 mg./m.³ or 2 million particles per cubic foot, radon daughters	1,250
(4) All dusts, fumes and mists	2,000
(e) Chemical cartridge respirators	1,150
(f) Paint spray respirators	1,600
(g) Pesticide respirators	1,600

§ 11.201 Examination, inspection and testing of respirator components; fees.

Except as provided in § 11.202, the following fees shall be charged by the Bureau for the examination, inspection and testing of the individual respirator components:

(a) Facepieces	$450
(b) Canisters	900
(c) Cartridges	600
(d) Filters	650
(e) Hoses	250
(f) Blowers	250
(g) Harnesses	100

§ 11.202 Unlisted fees; additional fees; payment by applicant prior to approval.

(a) Applications for the approval of complete respirator assemblies which are not listed in § 11.200, or for the approval of respirator components which are not listed in § 11.201, shall be accompanied by the following deposits:

(1) Complete respirator assembly	$1,500
(2) Each individual component	500

(b) The Bureau reserves the right to conduct any examination, inspection, or test it deems necessary to determine the quality and effectiveness of any listed or unlisted respirator assembly or respirator component, and to assess the cost of such examinations, inspections or tests against the applicant prior to the issuance of any approval for the respiratory equipment examined, inspected or tested.

(c) The fees charged for the examination, inspection and testing of unlisted respirator assemblies, unlisted individual respirator components and for the additional examination, inspection, and testing of listed respirator assemblies and components shall be at the rate of $100 per day for each man day required to be expanded by the Bureau.

(d) Upon completion of all examinations, inspections, and tests of unlisted respirator assemblies or components, or following the completion of any additional examination, inspections or tests of listed assemblies or components, the Bureau shall advise the applicant in writing of the total cost assessed and the additional amount, if any, which must be paid to the Bureau as a condition of approval.

(e) In the event the amount assessed by the Bureau for unlisted assemblies or components is less than the amount of the deposit submitted in accordance with paragraph (a) of this section, the Bureau shall refund the overpayment upon the issuance of any approval or notice of disapproval.

Subpart P—Approval

§ 11.210 Certificates of approval; scope of approval.

(a) The Bureau shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely assembled respirators which have been examined, inspected and tested and meet the minimum requirements set forth in Subparts E through J of this part, as applicable.

(b) The Bureau will not issue certificates of approval for any respirator component or for any respirator subassembly.

(c) The Bureau shall not issue an informal notification of approval.

§ 11.211 Certificates of approval; contents.

(a) The certificate of approval shall contain a classification and a description of the respirator or combination of respirators, for which it is issued as provided in this part.

(b) The certificate of approval shall specifically set forth any restrictions or limitations on the respirator's use in hazardous atmospheres.

(c) Each certificate of approval shall be accompanied by a list of drawings and specifications, which shall be incorporated by reference and maintained by the applicant. The plans and specifications listed in each certificate of approval shall set forth in detail the design and construction requirements which shall be met by the applicant during commercial production of the respirator.

(d) Each certificate of approval shall be accompanied by a reproduction of the approval label design to be employed by the applicant with each approved respirator as provided in § 11.213.

(e) No test data or specific laboratory findings will accompany any certificate of approval, however, the Bureau will release pertinent test data and specific findings upon written request by the applicant.

(f) Each applicant shall be required to maintain an exact duplicate of the drawings and specifications incorporated in each certificate of approval in accordance with paragraph (c) of this section.

(g) Each certificate of approval shall also contain a description of the quality control plan as specified in § 11.221.

§ 11.212 Notice of disapproval.

(a) If, upon the completion of the examinations, inspections and tests required to be conducted in accordance with the provisions of this part, it is found that the respirator does not meet the minimum requirements set forth in this part, the Bureau shall issue a written notice of disapproval of the applicant.

(b) Each notice of disapproval shall be accompanied by all available data or findings with respect to the defects of the respirator for which approval was sought with a view to the possible correction of any such defects.

(c) The Bureau shall not disclose, except to the applicant upon written request, any data, findings or other information with respect to any respirator for which a notice of disapproval is issued.

§ 11.213 Approval labels and markings; approval of contents; use.

(a) Full-scale reproductions of approval labels and markings and a sketch or description of their method of application and position on the harness, container, canister, cartridge, filter, or other component, together with instructions for the use and maintenance of the respirator shall be submitted to the Bureau for approval.

(b) Approval labels shall, where appropriate, bear the seals of the U.S. Bureau of Mines and the Department of Health, Education, and Welfare, the applicant's name and address, the restrictions or limitations placed upon the use of the respirator by the Bureau, and an approval number assigned in accordance with the following schedule:

Type of respirator	*Approval Designation*
Self-contained breathing apparatus.	13E—(Serial number)[16]
Gas mask, including pesticide gas masks.	14G—(Serial number)[16]
Supplied-air respirator	19B—(Serial number)[16]
Dust, fume, and mist respirator.	21B—(Serial number)[16]
Chemical cartridge, including pesticide chemical cartridge.	23C—(Serial number)[16]

[16] A serial number shall be added to each listed designation to form the complete approval number.

(c) The Bureau shall, where necessary, notify the applicant when additional labels, markings or instructions will be required.

(d) Approval labels and workings shall only be used by the applicant to whom they were issued.

(e) Legible reproductions or abbreviated forms of the label approved by the Bureau for use on each respirator shall be attached to or printed at the following locations:

Respirator type	Label type	Location
Self-contained breathing apparatus.	Entire	Harness assembly and canister (where applicable).
Gas mask	Entire	Mask container and canister.
Supplied-air respirator.	Entire	Respirator container or instruction card.
Dust, fume, and mist respirator.	Entire	Respirator container and filter container.
	Abbreviated.	Filters.
Chemical-cartridge respirator.	Entire	Respirator container, cartridge container, and filter containers (where applicable).
	Abbreviated.	Cartridges and filters and filter containers.
Pesticide respirator.	Entire	Respirator container, and cartridge and filter containers.
	Abbreviated.	Cartridges and filters.

(f) The use of any Bureau approval label obligates the applicant to whom it is issued to maintain or cause to be maintained the approved quality control sampling schedule and the acceptable quality level for each attribute tested, and to guarantee that it is manufactured according to the drawings and specifications upon which the certificate of approval is based.

§ 11.214 Withdrawal of certificates of approval.

The Bureau reserves the right to rescind, for cause, any certificate of approval issued pursuant to the provisions of this part.

§ 11.215 Changes or modification of approved respirators; issuance of extension of certificate of approval.

(a) Each applicant may, if he desires to change any feature of an approved respirator, obtain an extension of the original certificate of approval issued by the Bureau for such respirator by filing an application for such extension in accordance with the provisions of this section.

(b) Applications shall be submitted as for an original certificate of approval, with a request for an extension of the existing certificate to cover any proposed change or modification.

(c) The application shall be accompanied by appropriate drawings and specifications, and by a proposed quality control plan which meet the requirements of Subpart M of this part.

(d) The application for extension together with the accompanying material shall be examined by the Bureau to determine whether testing will be required.

(e) The Bureau shall inform the applicant of the fee required for any additional testing and the applicant will be charged for the actual cost of any examination, inspection or test required and such fees shall be submitted in accordance with the provisions of Subpart O of this part.

(f) If the proposed modification meets the requirements of this part, a formal extension of certification will be issued, accompanied, where necessary, by a list of new and revised drawings and specifications covering the change(s) and reproductions of revised approval labels.

§ 11.216 Delivery of approval record.

An approved respirator with proper markings and containers shall be delivered by the applicant to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, PA 15213 as soon as it is commercially produced with such modifications.

Subpart Q—Quality Control

§ 11.220 Quality control plans; filing requirements.

(a) Each applicant shall file with the Bureau a proposed quality control plan which shall be designed to maintain the quality of protection provided by the respirator for which approval is sought.

(b) Quality control plans shall be filed by the applicant as a part of each application for approval or extension of approval submitted pursuant to Subpart B of this part.

§ 11.221 Quality control plans; contents.

(a) Each quality control plan shall include a procedure for the selection of approved respirators and their components for testing, from the MIL–STD–105, "Sampling Procedures and Tables for Inspection by Attributes," or from MIL–STD–414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective", or from a combination of such sampling procedures.

(b) The sampling plan shall include a list of the characteristics to be tested by the applicant.

(c) The characteristics listed in accordance with paragraph (b) of this section shall be classified according to the potential effect of each defect or defective and grouped into the following classes:

(1) *Critical.* A defect or defective that judgment and experience indicate is likely to result in a condition immediately hazardous to life for individuals using or depending upon the respirator.

(2) *Major.* A defect or defective, other than critical, that is likely to result in failure, or to reduce materially the usability of the respirator for its intended purpose.

(3) *Minor.* A defect or defective that is not likely to reduce materially the usability of the respirator for its intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the respirator.

(d) For each characteristic required to be tested, the test method to be used by the applicant for quality control inspection shall be described in detail.

(e) For those characteristics for which an alternate inspection level has been requested pursuant to paragraph (h) of this section, the alternate level proposed and supporting evidence for its selection shall be given.

(f) Each item manufactured shall be inspected for defects in all critical characteristics and all defective items shall be rejected.

(g) The Acceptable Quality Level (AQL) for each major or minor defect, defective, or both groups so classified by the applicant shall be as follows:

(1) Major—0.4 percent.

(2) Minor—2.5 percent.

(h) Inspection level II as described in MIL–STD–105, or in MIL–STD–414 shall be used for major and minor characteristics and 100 percent inspection for critical characteristics except when the applicant's request for an alternate inspection level has been approved by the Bureau of Mines. The request for an alternate inspection level shall include sufficient evidence that smaller sample sizes are necessary and larger sampling risks can be tolerated.

§ 11.222 Proposed quality control plans; approval by the Bureau.

(a) Each sample quality control plan submitted in accordance with this subpart shall be reviewed by the Bureau to determine its effectiveness in maintaining the quality of respiratory protection provided by the respirator for which an approval is issued.

(b) In the event the sample quality control plan submitted by the applicant will not, in the opinion of the Bureau ensure adequate quality control, the Bureau shall, as necessary, modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate of approval.

(c) Approved quality control plans shall constitute a part of and be incorporated into any certificate of approval issued by the Bureau, and compliance with such plans by the applicant shall be a condition of approval.

§ 11.223 Maintenance of quality control records; review by the Bureau; rescission of approval.

(a) The applicant shall maintain quality control inspection records.

(b) The Bureau reserves the right, at reasonable times, to have its qualified representatives inspect the applicant's quality control test methods, equipment, and records, and to interview any employee or agent of the applicant who conducts quality control tests.

(c) The Bureau also reserves the right to rescind, for cause, any certificate of approval where it finds that the applicant's quality control test methods or records do not ensure effective quality control over the respirator for which the approval was issued.

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