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List of CFR Parts Affected

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

Rules and Regulations

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 348, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 908.648 (Valencia Reg. 348, 36 F.R. 9774) during the period May 14, 1971, through May 21, 1971, are hereby amended to read as follows:

§ 908.648 Valencia Orange Regulation 348.

* * * * *

(b) * * *

(1) * * *

(i) District 1: 285,000 cartons;

(ii) District 2: 360,000 cartons;

(iii) District 3: 105,000 cartons.

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

Dated: May 19, 1971.

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

[FR Doc.71-7193 Filed 5-21-71;8:49 am]

[Lemon Reg. 481]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.781 Lemon Regulation 481.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 18, 1971.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period May 23, 1971, through May 29, 1971, are hereby fixed as follows:

(i) District 1: 1,000 Cartons;

(ii) District 2: 250,000 Cartons;

(iii) District 3: Unlimited.

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

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

Dated: May 20, 1971.

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

[FR Doc.71-7263 Filed 5-21-71;8:51 am]

PART 916—FRESH NECTARINES GROWN IN CALIFORNIA

Order Amending the Order Regulating Handling

§ 916.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Fresno, Calif., on January 13, 1971, upon proposed amendments to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in the State of California. Upon the basis

of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of nectarines grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in the marketing agreement and order upon which the hearing has been held;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of nectarines grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of nectarines grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found, on the basis hereinafter indicated, that good cause exists for making the provisions of this amendatory order effective upon publication in the FEDERAL REGISTER and that it would be contrary to the public interest to postpone such effective time until 30 days after such publication (5 U.S.C. 553). The provisions of this order would authorize production research projects for nectarines. Shipment of nectarines will begin early in June. Therefore, this order should become effective as soon as practicable so that such research projects as may be indicated by the circumstances may be developed in accordance with such provisions. The provisions of this order are well known to producers and handlers. The hearing was held at Fresno, California, on January 13, 1971, and the recommended decision and final decision was re published in the FEDERAL REGISTER on March 3, 1971 (36 F.R. 4055), and April 3, 1971 (36 F.R. 6432), respectively. Copies of the text of the amended order have been made available to all known producers and handlers; the provisions of this order do not impose any restrictions on handlers until regulations in accordance therewith are issued; and compliance with such provisions will not require advance preparation on the part of persons subject thereto which cannot be completed prior to the effective time of such regulations.

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Fresh Nectarines Grown in California," upon which the aforesaid public hearing was held, has been executed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the fruit covered by this order) who, during the period March 1, 1970, through October 31, 1970, handled not less than 50 percent of the volume of fresh nectarines covered by the said order as hereby amended; and

(2) The issuance of this order, amending the aforesaid amended order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (March 1, 1970, through October 31, 1970) were engaged, within the production area specified in the aforesaid amended order, in the production for market of nectarines; such producers having also produced for market at least two thirds of the volume of nectarines represented in said referendum.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of nectarines grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended and as hereby further amended as follows:

1. Section 916.21 *Term of office* is amended to read as follows:

§ 916.21 Term of office.

The term of office of each member and alternate member of the committee shall be for 2 years beginning on March 1 of an odd numbered year and ending on the last day of February of an odd numbered year. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

2. Paragraph (b)(1) of § 916.22 *Nomination* is revised to read as follows:

§ 916.22 Nomination.

* * * * *

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than February 15 of each odd numbered year, a meeting or meetings of growers in each district for the purpose of designating nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned.

* * * * *

3. Paragraphs (a) and (b) of § 916.37 *Shippers' Advisory Committee* are revised to read as follows:

§ 916.37 Shippers' Advisory Committee.

(a) A Shippers' Advisory Committee, consisting of five members and their respective alternates who shall be handlers, or employees of handlers, selected by the handlers in accordance with the provisions of this section, is hereby established. The members and their respective alternates shall be selected biennially for a term ending on the last day of February of odd numbered years. An alternate member shall, in the event of the member's absence from a meeting of the committee, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(b) The members and alternate members of the Shippers' Advisory Committee shall be elected by handlers at a general meeting of all handlers and shall serve in such capacities during the marketing seasons subsequent to such election. Such meeting shall be supervised by the Nectarine Administrative Committee which may prescribe such rules and procedures as may be necessary to assure a membership representative of all shippers.

* * * * *

4. Section 916.45 *Marketing research and development* is amended to read as follows:

§ 916.45 Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of nectarines. Such projects may provide for any form of marketing promotion including paid advertising. The expense of such projects shall be paid by funds collected pursuant to § 916.41.

5. Paragraph (e) of § 916.64 *Termination* is revised to read as follows:

§ 916.64 Termination.

* * * * *

(e) The Secretary shall conduct a referendum within the period beginning December 1, 1974, and ending February 15, 1975, to ascertain whether continuance of this part is favored by the growers. The Secretary shall conduct such referendum within the same period of every fourth fiscal period thereafter.

* * * * *

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

Dated, May 19, 1971, to become effective upon publication in the FEDERAL REGISTER (5–22–71).

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–7194 Filed 5–21–71;8:49 am]

[966.308 Amdt. 2]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Notice of rule making with respect to a proposed amendment to the limitation of shipments regulation, to be made effective under Marketing Agreement No.

125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the Florida production area, was published in the FEDERAL REGISTER of May 1, 1971 (36 F.R. 8262). Subsequently, it became apparent that shipments of Florida tomatoes were running above earlier prospects and heavier supplies were expected to be available the latter part of May. Hence, the Florida Tomato Committee recommended more restrictive minimum size requirements. These were published as an amendment to the notice on May 11, 1971 (36 F.R. 8677). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than May 17, 1971.

Data, views, and arguments were filed by three interested parties both in favor of and opposed to the proposals.

The Florida seasonal shipping pattern for the past several years shows that shipments of tomatoes generally have been at peak volume beginning about mid-May. Based on planted acreage and production estimates for the spring-producing areas of Florida, greatly increased supplies of Florida tomatoes are expected in late May, and extending into June.

Florida acreage for harvest during the remainder of the current season is below a year earlier. However, yields per acre in Florida this spring are estimated to be 45 percent above those of a year ago. Thus, Florida supplies in late May are likely to be double April levels. Additional supplies will be available in coming weeks from foreign countries and other domestic sources. Imports from Mexico are expected to show the usual seasonal decline through June, but as of mid-May were running above year earlier levels. Harvest is underway in south Texas, California, Louisiana, and the greenhouse area of Ohio; all areas expect large supplies in late May. Unless checked, the increased supplies of Florida tomatoes together with continuing imports and increasing volume from other domestic areas are likely to result in a total supply close to that of a year earlier when it was necessary to restrict Florida shipments to prevent depressed prices.

The proposal published in the May 11 notice specified larger minimum size requirements for vine ripe tomatoes than for mature greens inasmuch as vine ripe tomatoes are larger than mature green tomatoes because of different cultural practices. It is necessary to require different minimum size requirements for different maturities to equalize the burden of withholding between producers of each type in Florida when harvest of both types is active. However, harvest of Florida vine ripe tomatoes is declining seasonally. Only light supplies of this maturity are expected in coming weeks. Although average sizes of vine ripe tomatoes are expected to continue to exceed those for mature greens, the difference is likely to be much smaller than usual due to the advanced stage of most vine ripe acreages. Therefore, a more restrictive minimum size requirement for vine ripe tomatoes at this time would cause a disproportionate withholding burden on vine ripe producers. Under these circumstances a uniform minimum size requirement of 2$^{9}/_{32}$ inches in diameter for both mature green and vine ripe tomatoes should reduce supplies sufficiently to stabilize prices and is the most equitable alternative available.

After consideration of all relevant matters presented, including the comments filed and the proposals set forth in the aforesaid notice, which were recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that this amendment will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) tomatoes grown in the production area are now being marketed and greatly increased volume of shipments is expected beginning on or about the effective date hereof; (2) unless this amendment becomes effective in time for the anticipated increased shipments, returns to producers could be greatly depressed; (3) compliance with this amendment will not require any special preparation by handlers which cannot be completed by the effective date; and (4) notice of proposed restrictions has been made available to interested persons by adequate publicity and by publication in the FEDERAL REGISTER of May 11, 1971.

Regulation, as amended: In § 966.308 (35 F.R. 16628; 36 F.R. 5285), paragraph (a) is hereby amended to read as follows:

§ 966.308 Limitation of shipments.

* * * * *

(a) *Minimum size and size classification requirements*—(1) *Minimum size requirements.* (i) Over 2$^{9}/_{32}$ inches in diameter;

(ii) Not more than 10 percent, by count, in any lot may be smaller than the specified minimum diameter.

(2) *Size classifications.* (i) No person shall handle any lot of tomatoes unless they are sized on one or more of the following ranges of diameters (expressed in terms of minimum and maximum). Measurement of minimum and maximum diameter shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

Size classification:	*Diameter (inches)*
6 x 7	Over 2$^{9}/_{32}$ to 2$^{17}/_{32}$, inclusive
6 x 6	Over 2$^{17}/_{32}$ to 2$^{25}/_{32}$, inclusive
5 x 6 and large	Over 2$^{25}/_{32}$

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$^{17}/_{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(iii) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

* * * * *

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

Dated: May 20, 1971, to become effective May 24, 1971.

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

[FR Doc.71-7242 Filed 5-21-71;8:50 am]

PART 980—VEGETABLES: IMPORT REGULATIONS

Tomatoes

Findings. (a) Notice of rule making regarding proposed restrictions on importation of tomatoes into the United States was published in the May 1, 1971, FEDERAL REGISTER (36 F.R. 8262). An amendment to the notice was published May 11, 1971 (36 F.R. 8677) changing the proposed minimum sizes and extending the time for filing comments to May 17, 1971. Data, views, and arguments were filed by three interested parties.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the written comments, and other available information, it is hereby found that the regulation should be as hereinafter set forth. The minimum size requirement is the same as that being made effective under Marketing Order No. 966, as amended (7 CFR Part 966), to shipments of tomatoes grown in the Florida production area. This regulation is subject to amendment with reasonable notice.

(b) It is hereby further found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under section 8e–1 of the act; (2) all known tomato importers were notified of proposed requirements; and (3) such notice is in excess of the minimum required by the act, and is determined to be reasonable.

§ 980.205 Tomato import regulation.

Except as otherwise provided, during the period May 26, 1971, through June 30, 1971, no person may import fresh tomatoes, except pear shaped, cherry, hydroponic, and greenhouse tomatoes, as defined herein, unless they are inspected and meet the requirements of this section.

(a) *Minimum size requirements.* (1) Over 2 9/32 inches in diameter;

(2) Not more than 10 percent, by count, in any lot may be smaller than the specified minimum diameter.

(b) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(c) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(d) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of tomatoes that are imported into the United States under the provisions of section 8e–1 of the act.

(e) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the U.S. import requirements for tomatoes under section 8e–1 (7 U.S.C. 608e–1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice
All Texas points..	W. T. McNabb, Post Office Box 310, Austin, TX 78767 (Phone—512-385-5385).	1 day.
All Arizona points.	B. O. Morgan, Post Office Box 1614, Nogales, AZ 85621 (Phone—602-287-2902).	Do.
All California points.	D. P. Thompson, 294 Wholesale Terminal Bldg. 784 South Central Ave., Los Angeles, CA 90021 (Phone—213-622-8756).	3 days.
All Hawaii points.	Stevenson Ching, 1428 South King St., Honolulu, HI 96814 (Phone—808-941-3071).	1 day.
New York City..	Edward J. Beller, Room 28A Hunts Point Market, Bronx, NY 10474 (Phone—212-991-7669 and 7668).	Do.
New Orleans.....	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70113 (Phone—504-527-6741 and 6742).	Do.
All other points..	D. S. Matheson, Fruit and Vegetable Division, Consumer and Marketing Service, Washington, D.C. 20250 (Phone—202-388-5870).	3 days.

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certification issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e–1.

(f) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making its eligible for importation.

(g) *Definitions.* For the purpose of this section, "Importation" means release from custody of the U.S. Bureau of Customs. "Cherry tomatoes" means cerasiform types commonly referred to as "cherry tomatoes". "Pear shaped tomatoes" means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top, and Roma varieties. "Hydroponic tomatoes" means tomatoes grown in solution without soil. "Greenhouse tomatoes" means tomatoes grown indoors. Measurement of the diameter of tomatoes shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

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

Dated May 20, 1971 to become effective May 26, 1971.

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

[FR Doc.71-7241 Filed 5-21-71;8:50 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 222—BANK HOLDING COMPANIES

Acquisition of Shares Eligible for Investment by National Banks

In its notice of proposed rule making published in the FEDERAL REGISTER on January 29, 1971 (36 F.R. 1430), the Board of Governors indicated that it was considering limiting the scope of acquisitions by bank holding companies that may be made on the basis of section 4(c)(5) of the Act. Under that section, the prohibition against holding companies acquiring interests in nonbanking organizations does not apply to shares of the kinds and amounts eligible for investment by national banks under the provisions of section 5136 of the Revised Statutes.

As indicated in that notice, under section 4(c)(8) of the Act as amended by the 1970 amendments the Board is required to consider acquisitions by a bank holding company on the basis of that section not only from the standpoint of whether the activities of the company to be acquired are closely related to banking, but also from the standpoint of antitrust and related public interest considerations.

In view of that responsibility, the Board believes that it should exercise its general regulatory authority over holding companies under § 5 of the Act to limit the scope of activities that may be engaged in on the basis of section 4(c)(5). In January the Board indicated that it was considering limiting the permissible activities of all subsidiaries established in the future under secton 4(c)(5) to those engaged in lending and fiduciary activities commenced de novo, except where the shares involved are of the kinds and amounts explicitly eligible for investment by a national bank under Federal statute law.

The Board has reexamined this matter in the light of comments received and concluded as follows:

(1) The Board should not at this time apply restrictions to subsidiaries of banks. This decision is believed warranted by considerations of equity between banks that are and are not members of bank holding companies and by the absence of evidence that acquisitions by holding company banks are resulting in evasions of the purposes of the Act. The merits of this decision will be reviewed by the Board from time to time in the light of its experience in administering the Act.

(2) The Board should limit the acquisitions that may be made on the basis of section 4(c)(5) by holding companies and their subsidiaries that are not banks or subsidiaries of banks to shares of the kinds and amounts explicitly eligible for investment by a national bank under Federal statute law. This decision will facilitate the orderly administration of the Act by avoiding to the extent possible the need for interpretations of the scope of section 4(c)(5) relating to permissible activities, permissible locations, and applicable limitations as to borrowing and lending powers.

To implement these decisions, the Board has adopted the following amendment to § 222.4 of its Regulation Y:

§ 222.4 Nonbanking activities.

* * * * *

(e) *Activities of companies in which national banks may invest.* No bank holding company or subsidiary thereof that is not a bank or subsidiary of a bank may, after June 30, 1971, acquire shares on the basis of section 4(c)(5)

of the Act unless such shares are of the kinds and amounts explicitly eligible by Federal statute for investment by a national bank. A national bank or a subsidiary thereof may acquire or retain shares on the basis of section 4(c)(5) in accordance with the rules and regulations of the Comptroller of the Currency. So far as Federal law is concerned, a State-chartered bank or a subsidiary thereof may (1) acquire or retain shares on the basis of section 4(c)(5) if such shares are of the kinds and amounts explicitly eligible by Federal statute for investment by a national bank and (2) acquire or retain all (but, except for directors' qualifying shares, not less than all) of the shares of a company that engages solely in activities in which the parent bank many engage, at locations at which the bank may engage in the activity, and subject to the same limitations as if the bank were engaging in the activity directly.

Effective date: July 1, 1971.

By order of the Board of Governors,

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

MAY 13, 1971.

[FR Doc.71-7130 Filed 5-21-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11066; Amdt. 757]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

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

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAPs, effective June 17, 1971:

Cedar City, Utah—Cedar City Municipal Airport; VOR-1, Amdt. 5; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective June 17, 1971:

Cross City, Fla.—Cross City Airport; VOR Runway 31, Amdt. 13; Revised.
Lexington, Ky.—Blue Grass Airport; VOR Runway 33, Amdt. 10; Revised.
McGrath, Alaska—McGrath Airport; VOR-A, Amdt. 5; Revised.
Newark, Ohio—Licking County Airport; VOR-A, Amdt. 4; Revised.
Philipsburg, Pa.—Mid State Airport; VOR Runway 24, Amdt. 9; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective June 17, 1971:

Islip, N.Y.—Long Island-MacArthur Airport; LOC (BC) Runway 24, Amdt. 1; Revised.
Lexington, Ky.—Blue Grass Airport; LOC (BC) Runway 22, Amdt. 8; Revised.
Reading, Pa.—General Carl A. Spaatz Field; LOC (BC) Runway 18, Orig.; Canceled.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective June 17, 1971:

Islip, N.Y.—Long Island-MacArthur Airport; NDB Runway 6, Amdt. 10; Revised.
Lexington, Ky.—Blue Grass Airport; NDB Runway 4, Amdt. 8; Revised.
Philipsburg, Pa.—Mid State Airport; NDB Runway 16, Amdt. 2; Revised.
Reading, Pa.—General Carl A. Spaatz Field; NDB Runway 36, Amdt. 13; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective June 17, 1971:

Eugene, Oreg.—Mahlon-Sweet Field; ILS Runway 16, Amdt. 23; Revised.
Islip, N.Y.—Long Island-MacArthur Airport; ILS Runway 6, Amdt. 11; Revised.
Lexington, Ky.—Blue Grass Airport; ILS Runway 4, Amdt. 1; Revised.
Reading, Pa.—General Carl A. Spaatz Field; ILS Runway 36, Amdt. 17; Revised.

6. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective June 17, 1971:

Albany, N.Y.—Albany County Airport; Radar-1, Amdt. 4; Revised.

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

Issued in Washington, D.C., on May 12, 1971.

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

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

[FR Doc.71-7057 Filed 5-21-71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 1—GENERAL PROCEDURES

Subpart H—Administration of the Fair Credit Reporting Act

Part 1 of the Commission's Procedures and Rules of Practice is amended by adding a new Subpart H. The purpose of these rules is to set forth the Commission's procedures for administration of the Fair Credit Reporting Act, which became effective April 25, 1971. These rules provide for informal staff guidance as well as the procedure for obtaining an advisory interpretation of a provision of the Act that will be rendered by the Commission itself.

Sec.
1.71 Administration.
1.72 Examination, counseling and staff advice.
1.73 Interpretations.

AUTHORITY: The provisions of this Subpart H issued under 83 Stat. 1128, 15 U.S.C. 1681 et seq.

§ 1.71 Administration.

The general administration of the Fair Credit Reporting Act (title VI of the Consumer Credit Protection Act of 1968; enacted October 26, 1970; Public Law 91-508, 82 Stat. 146, 15 U.S.C. 1601 et seq.) is carried out by the Bureau of Consumer Protection, Division of Special Projects. Any interested person may obtain copies of the Act and these procedures and rules of practice upon request to the Secretary of the Commission, Washington, D.C. 20580.

§ 1.72 Examination, counseling and staff advice.

The Commission maintains a staff to carry out on-the-scene examination of records and procedures utilized to comply with the Fair Credit Reporting Act and to carry out industry counseling. Requests for staff interpretation of the Fair Credit Reporting Act should be directed to the Division of Special Projects, Bureau of Consumer Protection. Such interpretations represent informal

staff opinion which is advisory in nature and is not binding upon the Commission as to any action it may take in the matter. Administrative action to effect correction of minor infractions on a voluntary basis is taken in those cases where such procedure is believed adequate to effect immediate compliance and protect the public interest.

§ 1.73 Interpretations.

(a) *Nature and purpose.* (1) The Commission issues and causes to be published in the FEDERAL REGISTER interpretations of the provisions of the Fair Credit Reporting Act on its own initiative or pursuant to the application of any person when it appears to the Commission that guidance as to the legal requirements of the Act would be in the public interest and would serve to bring about more widespread and equitable observance of the Act.

(2) The interpretations are not substantive rules and do not have the force or effect of statutory provisions. They are guidelines intended as clarification of the Fair Credit Reporting Act, and, like industry guides, are advisory in nature. They represent the Commission's view as to what a particular provision of the Fair Credit Reporting Act means for the guidance of the public in conducting its affairs in conformity with that Act, and they provide the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Failure to comply with such interpretations may result in corrective action by the Commission under applicable statutory provisions.

(b) *Procedure.* (1) Requests for Commission interpretations should be submitted in writing to the Secretary of the Federal Trade Commission stating the nature of the interpretation requested and the reasons and justification therefor. If the request is granted, as soon as practicable thereafter, the Commission will publish a notice in the FEDERAL REGISTER setting forth the text of the proposed interpretation. Comments, views, or objections, together with the grounds therefor, concerning the proposed interpretation may be submitted to the Secretary of the Commission within thirty (30) days of public notice thereof. The proposed interpretation will automatically become final after the expiration of sixty (60) days from the date of public notice thereof, unless upon consideration of written comments submitted as hereinabove provided, the Commission determines to rescind, revoke, modify, or withdraw the proposed interpretation, in which event notification of such determination will be published in the FEDERAL REGISTER.

(2) The issuance of such interpretations is within the discretion of the Commission and the Commission at any time may conduct such investigations and hold such conferences or hearings as it may deem appropriate. Any interpretation issued pursuant to this chapter is without prejudice to the right of the Commission to reconsider the interpretation, and where the public interest requires, to rescind, revoke, modify, or withdraw the interpretation, in which event notification of such action will be published in the FEDERAL REGISTER.

(c) *Applicability of Interpretations.* Interpretations issued pursuant to this subpart may cover all applications of a particular statutory provision, or they may be limited in application to a particular industry, as appropriate.

Effective upon publication in the FEDERAL REGISTER (5-22-71).

By direction of the Commission dated May 11, 1971.

CHARLES A. TOBIN,
Secretary.

[FR Doc.71-7165 Filed 5-21-71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7113]

PART 245—BEER

Miscellaneous Amendments

Correction

In F.R. Doc. 71-6703 appearing at page 8798 in the issue for Thursday, May 13, 1971, the following changes should be made:

1. In the fourth line of § 245.32 the word "respective" should be deleted.

2. In § 245.41(g) the last four lines should be deleted.

3. The words "of a pilot brewing plant shall be in an" should be inserted between the seventh and eighth lines of § 245.254.

4. The sixth line of § 245.257(c), reading "ownership: *Provided,* That, where the", should be deleted.

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 615—MEN'S AND BOYS' CLOTHING AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), and by means of Administrative Order No. 614 (35 F.R. 15226), the Secretary of Labor appointed and convened Industry Committee No. 99-A for the Men's and Boys' Clothing and Related Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 99-A are hereby published, to be effective June 4, 1971, in this order amending § 615.2 of Title 29, Code of Federal Regulations.

As amended, § 615.2 reads as follows:

§ 615.2 Wage rates.

* * * * * *

(a) * * *

(1) *The work clothing and separate trousers classification.* (i) The minimum wage for this classification is $1.52 an hour.

* * * * * *

(2) *The military-style hats and caps classification.* (i) The minimum wage for this classification is $1.60 an hour.

* * * * * *

(3) *The general classification.* (i) The minimum wage for this classification is $1.40 an hour.

* * * * * *

(b) *1961 coverage classification.* (i) The minimum wage for this classification is $1.40 an hour.

* * * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)

Signed at Washington, D.C., this 17th day of May 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-7168 Filed 5-21-71;8:47 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 190—DOD STANDARD PREPRODUCTION BASIC TEST AND EVALUATION OF FIREFIGHTING VEHICLES

Discontinuance of Part

Codification of Part 190 is discontinued.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[FR Doc.71-7184 Filed 5-21-71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

PART 14–1—GENERAL

Regulation System

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14–1 of Chapter 14, Title 41 of the Code of Federal Regulations and specifically § 14–1.010 is hereby approved as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the public rulemaking process. However because this section is largely a general statement of Departmental policy and internal procedure, the rulemaking process will be waived and this section will become effective upon publication in the FEDERAL REGISTER (5–22–71).

RICHARD R. HITE,
Deputy Assistant Secretary for Administration.

MAY 17, 1971.

Subpart 14–1.0—Regulation System

§ 14–1.010 Interior Procurement Regulations Committee.

For the purpose of developing and proposing policies and procedures designed to implement and supplement the Federal Procurement Regulations, a committee, to be known as the Interior Procurement Regulations Committee and to be chaired by the Office of Survey and Review, is hereby established. Its personnel shall be comprised of representatives of the following bureaus and offices:

Office of the Solicitor.
National Park Service.
Geological Survey.
Bureau of Indian Affairs.
Bureau of Land Management.
Bureau of Mines.
Bureau of Reclamation.
Office of Survey and Review.

[FR Doc.71–7167 Filed 5–21–71;8:47 am]

PART 14–51—AUDIT

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, Part 14–51 of Chapter 14, Title 41 of the Code of Federal Regulations is hereby approved as set forth below:

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the public rulemaking process. However, because this part is largely a general statement of Departmental policy and internal procedure the rulemaking process will be waived and this part will become effective upon publication in the FEDERAL REGISTER (5–22–71).

RICHARD R. HITE,
Deputy Assistant Secretary for Administration.

MAY 17, 1971.

Chapter 14 is amended by adding Part 14–51, as follows:

Sec.
14–51.000 Scope of part.

Subpart 14–51.1—Audit of Contractor's Records

14–51.101 Audit responsibility.
14–51.102 Purpose of audit.
14–51.103 Types of contracts subject to audit.
14–51.104 Contract clauses.
14–51.104–1 Examination of Records by the Secretary of the Interior.
14–51.104–2 Audit of contract changes or modifications.
14–51.104–3 Examination of contract changes or modifications records clause.
14–51.105 Payments under contracts subject to audit.
14–51.105–1 Submission and processing of invoices or vouchers.
14–51.105–2 Action upon receipt of an audit report.
14–51.105–3 Suspension and disapprovals of amounts claimed.
14–51.106 Waiver.

AUTHORITY: The provisions of this Part 14–51 issued under 5 U.S.C. 301.

§ 14–51.000 Scope of part.

This part prescribes policies and procedures to be followed by Office of Survey and Review in fulfilling their contract audit responsibilities.

Subpart 14–51.1—Audit of Contractor's Records

§ 14–51.101 Audit responsibility.

The Director, Office of Survey and Review, through Audit Operations conducts audits of contractors' records to the extent that such audits are required by law, regulation, or sound business judgment. Such audits include the conduct of periodic or requested audits of contractors as are warranted by such factors as the amount of the contract, the financial condition, integrity, and reliability of the contractor, prior audit experience, and the adequacy of the contractor's accounting system and other internal controls. The audits also include reviews of cost or pricing data for contractors' proposals for negotiated contracts (see § 1–3.809 of this title). In order that the Government may benefit to the maximum extent from such audits, a coordinated and cooperative effort shall be made by contracting officers, technical specialists, and finance and audit personnel. It is the responsibility of the contracting officer to have an audit clause inserted in all contracts subject to audit pursuant to § 14–51.103.

§ 14–51.102 Purpose of audit.

In addition to the provisions of § 1–3.809 of this title, Contract audit as a pricing aid, audits are conducted to advise and make recommendations to the contracting officer concerning the:

(a) Propriety of amounts paid, or to be paid, to contractors where such amounts are based on a cost (including modifications or change orders for all types of contracts) or time determination or on variable features related to the results of contractors' operations;

(b) Adequacy of measures taken by contractors regarding the use and safeguarding of Government assets under their custody or control;

(c) Compliance by contractors with contractual provisions having financial implications, such as progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments;

(d) Reasonableness of contractors' settlement proposals in termination of contracts;

(e) Compliance with contract provisions; and

(f) Contractors' financial condition and ability to perform or to continue to perform under Government contracts.

§ 14–51.103 Types of contracts subject to audit.

(a) The following types of contracts estimated to cost in excess of $25,000 shall include the Examination of Records by the Secretary clause (§ 14–51.104):

(1) Cost-reimbursement type contracts (see §§ 1–3.405 and 1–3.814–2(e) of this title);

(2) Advertised or negotiated contracts involving the use or disposition of Government-furnished property;

(3) Where advance payments, progress payments based on costs, or guaranteed loans are to be made;

(4) Contracts for supplies or services containing a price warranty or price reduction clause;

(5) Contracts or leases involving income to the Government where the income is based on operations that are under the control of the contractor or lessee;

(6) Fixed-price contracts with escalation (see §§ 1–2.104–3 and 1–3.404–3 of this title), incentives (see §§ 1–3.404–4 and 1–3.407 of this title), and redetermination (see §§ 1–3.404–5 and 1–3.404–7 of this title);

(7) Requirements and indefinite quantity (call-type) contracts (see §§ 1–2.104–4 and 1–3.409 of this title);

(8) Time and materials and labor-hour contracts (see §§ 1–3.406–1 and 1–3.406–2 of this title); and

(9) Leases (i) where the rental is subject to adjustment (such as for a change in real estate taxes or service costs) or (ii) where the rental is dependent upon actual costs.

(b) In some of the contracts listed in paragraph (a) of this section, it may be appropriate to contractually define the scope or extent of any audit, such as

with respect to (1) the use or disposition of Government-furnished property or (2) variable or other special features of the contract, e.g., price escalation, and compliance with the price warranty or price reduction clauses. In such cases, the contract clause in § 14–51.104 may be appropriately modified with the concurrence of the Office of Survey and Review.

(c) Inclusion of the contract clause in § 14–51.104 (whether or not modified) in contracts does not affect in any way the requirements for (1) use of the Examination of Records clause permitting review of contractor books and records by the Comptroller General (see § 1–3.814–2(e) of this title) or (2) the clauses on Audit and Records pertaining to the verification of cost or pricing data (see § 1–3.814–2 of this title).

(d) A notice for each contract, change order, or modification entered into of the types described in paragraph (a) of this section and § 14–51.104–2 shall be forwarded to the Director, Audit Operations, Office of Survey and Review, within 15 days after the effective date of the contract. The notice shall include the following information:

(1) Contract identifying number,

(2) Contractor's name and address,

(3) A brief description of the work involved,

(4) Effective date of the document,

(5) Completion date (estimated) of the work involved,

(6) Estimated dollar amount.

In addition, a copy of a notice of termination of contracts of the types described in this § 14–51.103 shall be forwarded to the Director, Audit Operations, Office of Survey and Review, within 15 days after effective date of termination. Such notice shall contain the contract number and the contractor's name and address and the estimated dollar amount of the costs incurred by the contractor as of the effective date of termination.

§ 14–51.104 Contract clauses.

The following contract clauses are prescribed for use as indicated in this § 14–51.104.

§ 14–51.104–1 Examination of records by the Secretary of the Interior.

The following contract clause is prescribed for use in contracts listed in § 14–51.103(a).

EXAMINATION OF RECORDS BY THE SECRETARY OF THE INTERIOR

(a) The contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitute "records" for the purposes of this clause.

(b) The contractor's plants, or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Secretary or his authorized representatives. In addition, the Secretary, or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations, whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract along with the computations and projections used therein.

(c) The contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below.

(i) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement. (ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract as to which exception has been taken by the contracting officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been resolved.

(d) The contractor shall insert the substance of clause, including the whole of this paragraph (d), in each subcontract hereunder. When so inserted, changes shall be made to designate the higher-tier subcontractor at the level involved in place of the contractor; to add "of the Government prime contract" after "contracting officer"; and to substitute "the Government prime contract" in place of "this contract" in (B) of paragraph (c) above.

§ 14–51.104–2 Audit of contract changes or modifications.

The following clause shall be included in all contracts, which are estimated to exceed $100,000, except those listed in § 14–51.103:

AUDIT OF CHANGES OR MODIFICATIONS

The "Examination by the Secretary of the Interior of Records of Contract Changes or Modifications" clause contained in the Interior Procurement Regulations at § 14–51.104–3 shall be included in every change order or modification under this contract which results in a net price adjustment (increase or decrease) in excess of $100,000.

§ 14–51.104–3 Examination of contract changes or modifications records clause.

The following clause is prescribed for use in contract changes or modifications which result in a net price adjustment (increase or decrease) in excess of $100,000 in accordance with the "Audit of Changes or Modifications" in § 14–51.104–2:

EXAMINATION BY THE SECRETARY OF THE INTERIOR OF RECORDS OF CONTRACT CHANGES OR MODIFICATIONS

(a) For the purpose of verifying that the cost or pricing data submitted in conjunction with this contract change or modification were accurate, complete and current, the Secretary of the Interior or his authorized representatives, shall, until the expiration of 3 years from the date of final payment under the contract of which this change or modification is a part, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations, whichever expires earlier, have the right to examine those books, records, documents, papers and other supporting data which involve transactions related to this change or modification or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) If the contract of which this change or modification is a part is completely or partially terminated and the work so terminated is included in this change or modification the records relating thereto shall be preserved and made available for 3 years from the date of any resulting final settlement.

(c) If the records concerning this change or modification relate to (1) appeals under the contracts "Disputes" clause, (2) litigation or settlement arising out of the performance of the contract, or (3) costs and expenses of the contract to which the contracting officer or his authorized representative have taken exception, they shall be retained until such time as such appeals, litigation, claims, or exceptions have been resolved.

§ 14–51.105 Payments under contracts subject to audit.

§ 14–51.105–1 Submission and processing of invoices or vouchers.

(a) Contractors shall be required to submit invoices or vouchers as directed by the contract provisions. The processing of invoices or vouchers prior to payment for work or services rendered shall include a review by the contracting officer, or his designated representative, to determine that the nature of items and amounts claimed are in consonance with the contract terms, represent prudent business transactions, and are within any stipulated contractual limitations. If the contractor has not deducted from his claim amounts which are questionable or which are required to be withheld, the contracting officer shall make the required deduction, except as provided in § 14–51.105–2.

(b) Provisional approval by the contracting officer of any payment, including any specific approval as to the nature or amount of a cost shall be noted on (or attached to) the invoice or voucher (see, for example, § 1–15.107 of this title regarding advance understandings on particular cost items). The invoice or voucher shall be forwarded to the appropriate accounting center and retained therein after certification and scheduling to a disbursing office for payment.

§ 14–51.105–2 Action upon receipt of an audit report.

Audit reports shall be furnished to the contracting officer. Upon receipt of an audit report, the contracting officer shall, pursuant to contract terms, determine the allowability of all costs covered by audit, giving full consideration to the auditor's recommendations. Where the contracting officer is in doubt or questions the recommendations of the auditor, deductions need not be made from invoices or vouchers for provisional payments. The contracting officer in such cases, however, shall confer with the auditor and other appropriate Government personnel (such as a price specialist

or legal counsel) to determine what further action should be taken regarding the items of cost in question. If the contracting officer disagrees with the audit recommendations, the contracting officer shall prepare a statement for the contract file to support and justify his decision and for informational purposes shall forward a copy of such statement to the Director, Audit Operations, Office of Survey and Review. (See also § 1–3.811 of this title.)

§ 14–51.105–3 Suspensions and disapprovals of amounts claimed.

The contracting officer shall notify the appropriate certifying officer in writing when amounts claimed for payment are (a) suspended tentatively, (b) disapproved as not being allowable according to contract terms, or (c) not reasonably incident or allocable to performance of the contract. Such notice by the contracting officer shall be the basis for the issuance by the certifying officer of a statement to be attached to each copy of the invoice or voucher from which the deduction has been made, explaining the reasons for the deduction.

§ 14–51.106 Waiver.

The contracting officer and the Director, Office of Survey and Review, may agree to limit the application of specific contract audit requirements in individual cases such as where the possible cost/benefits ratio of the audit do not warrant the assignment of audit resources or where audit resources are unavailable; provided, that the stated urgency of a proposed procurement or other contract action shall not alone be justification for such a waiver and provided the waiver is made within the terms of the Federal Procurement Regulations. As much time as possible should be allowed by contracting officers for the audit work. Except under unusual circumstances, at least 30 days should be allowed for the review of the contractors' proposals pursuant to § 1–3.809 of the Federal Procurement Regulations in this title.

[FR Doc.71–7166 Filed 5–21–71;8:47 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VIII—Transport Mobilization Staff, Interstate Commerce Commission

[General Emergency Transport Order 1–71]

PREFERENCE AND PRIORITY FOR THE TRANSPORTATION OF PASSENGERS AND FREIGHT NECESSARY TO THE NATIONAL DEFENSE, HEALTH, AND SAFETY

Termination of Order

The above captioned General Emergency Transport Order 1–71, issued by Chairman George M. Stafford, and made effective May 17, 1971, served May 18, 1971, and published at 36 F.R. 9136, is terminated and shall be of no further force and effect as of 11:59 p.m., May 18, 1971.

[SEAL] GEORGE M. STAFFORD,
Chairman,
Interstate Commerce Commission.

[FR Doc.71–7276 Filed 5–21–71;10:13 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 13]

CHARITABLE CONTRIBUTIONS TO CERTAIN ORGANIZATIONS

Notice of Hearing on Proposed Regulations

Proposed amendments to the regulations under section 170(b)(1)(A) of the Internal Revenue Code of 1954, relating to section 170(b)(1)(A) organizations, appear in this issue of the FEDERAL REGISTER.

A public hearing on the provisions of these proposed regulations will be held on Monday, June 28, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. This hearing will be consolidated with the public hearing on the provisions of the proposed regulations under section 509 relating to the definition of private foundation which appeared in the FEDERAL REGISTER on November 20, 1970 (35 F.R. 17845). The announcement of the public hearing on the proposed regulations under section 509 appeared in the FEDERAL REGISTER on May 8, 1971 (36 F.R. 8585) and the hearing is scheduled to be held at the same time and place. If necessary the hearing will be continued through Tuesday, June 29, 1971.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules will be furnished on request. Under such § 601.601(a)(3), persons who desire to present oral comments (in addition to having submitted written comments or suggestions within the time prescribed in the notice of proposed rule making) should by June 14, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outline should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy (furnished only at the above address) of such written comments or suggestions or outlines should notify the Commissioner, at the above address or telephone (Washington, D.C.) 202-964-3935 by June 21, 1971.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-7126 Filed 5-21-71;8:45 am]

[26 CFR Parts 1, 13]

CHARITABLE CONTRIBUTIONS TO CERTAIN ORGANIZATIONS

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 the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 21, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 21, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 201(a) of the Tax Reform Act of 1969 (83 Stat. 549) relating to charitable contributions, such regulations are amended to read as follows. Temporary Treasury Regulation § 13.15, T.D. 7094, 36 F.R. 4872 (1971), is superseded.

Immediately after § 1.170A-8, insert the following section:

§ 1.170A-9 Definition of section 170(b)(1)(A) organization.

The term "section 170(b)(1)(A) organization" as used in the regulations under section 170 means any organization described in paragraph (a) through (i) of this section, effective with respect to taxable years beginning after December 31, 1969, except as otherwise provided. Section 1.170-2(b) shall continue to be applicable with respect to taxable years beginning prior to January 1, 1970. The term "one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii))" as used in sections 507 and 509 of the Code and the regulations thereunder means one or more organizations described in paragraphs (a) through (e) of this section, except as modified by the regulations under part II of subchapter F of chapter I or under chapter 42.

(a) *Church or a convention or association of churches.* An organization is described in section 170(b)(1)(A)(i) if it is a church or a convention or association of churches. Generally, religious organizations, including religious orders, if not themselves churches or associations or conventions of churches, and all other organizations which are organized or operated under church auspices, are not churches, whether or not they engage in religious, education, or charitable activities approved by a church. To determine whether such organizations are "integrated auxiliaries" of a church for purposes of sections 508(c)(1)(A) and 6033(a)(2)(A)(i), see the regulations under those sections. However, the term "church" includes a religious order or a religious organization if such order or organization:

(1) Is an integral part of a church, and

(2) Is engaged primarily in carrying out the religious functions of a church, whether as a civil law corporation or otherwise. In determining whether a religious order or organization is an integral part of a church (within the meaning of subparagraph (1) of this paragraph), consideration will be given to the degree to which it is connected with, and controlled by, such church. In determining whether a religious order or organization is engaged primarily in carrying out the religious functions of a church (within the meaning of subparagraph (2) of this paragraph), the principal consideration will be whether the duties of such order or organization include the ministration of sacerdotal functions and the conduct of religious worship. What constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of a particular religious body constituting a church. If a religious order or organization does not meet the requirements of subparagraphs (1) and (2) of this paragraph, then it is not a church whether or not it engages in religious, education, or charitable activities approved by a church. Such organization may, however, constitute an "integrated auxiliary" of a church for purposes of sections 508(c)(1)(A) and 6033(a)(2)(A)(i) and the regulations thereunder.

(b) *Educational organization and organizations for the benefit of certain State and municipal colleges and universities*—(1) *Educational organization.* An educational organization is described in section 170(b)(1)(A)(ii) if its primary function is the presentation of formal instruction and it normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term includes institutions such as primary, secondary, preparatory, or high schools, and colleges and universities. It includes Federal, State, and other public-supported schools which otherwise come within the definition. It does not include organizations engaged in both educational and non-educational activities unless the latter are merely incidental to and growing out

of the educational activities. A recognized university which incidentally operates a museum or sponsors concerts is an educational organization within the meaning of section 170(b)(1)(A)(ii). However, the operation of a school by a museum does not necessarily qualify the museum as an educational organization within the meaning of this subparagraph.

(2) *Organizations for the benefit of certain State and municipal colleges and universities.* (i) An organization is described in section 170(b)(1)(A)(iv) if it meets the support requirements of subdivision (ii) of this subparagraph and is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization described in subdivision (iii) of this subparagraph. The phrase "expenditures to or for the benefit of a college or university" includes expenditures made for any one or more of the normal functions of colleges and universities (for example, for the acquisition and maintenance of real property comprising part of the campus area; for the erection of, or participation in the erection of, college or university buildings; or for scholarships, libraries, student loans, and the acquisition and maintenance of equipment and furnishings used for, or in conjunction with, normal functions of colleges and universities).

(ii) To qualify under section 170(b)(1)(A)(iv), the organization receiving the contribution must normally receive a substantial part of its support from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, or from a combination of two or more of such sources. For such purposes, the term "support" does not include income received in the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a). An example of an indirect contribution from the public is the receipt by the organization of its share of the proceeds of an annual collection campaign of a community chest, community fund, or united fund. In determining the amount of support received by such organization in respect of a contribution of property which is subject to reduction under section 170(e), the fair market value of the property shall be taken into account.

(iii) The college or university (including a land grant college or university) to be benefited must be an educational organization referred to in section 170(b)(1)(A)(ii) and subparagraph (1) of this paragraph which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions.

(c) *Hospitals and medical research organizations*—(1) *Hospitals.* An organization (other than one described in subparagraph (2) of this paragraph) is described in section 170(b)(1)(A)(iii) if:

(i) It is a hospital, and

(ii) Its principal purpose or functions are the providing of medical or hospital care or medical education or medical research.

The term "hospital" includes (*a*) Federal hospitals and (*b*) State, county, and municipal hospitals which are instrumentalities of governmental units referred to in section 170(c)(1) and otherwise come within the definition. A rehabilitation institution or an outpatient clinic may qualify as a "hospital" within the meaning of subdivision (i) of this subparagraph if its principal purpose or functions are the providing of hospital or medical care. An organization, all the accommodations of which qualify as being part of an "extended care facility" within the meaning of 42 U.S.C. 1395x(j), may qualify as a "hospital" within the meaning of subdivision (i) of this subparagraph if its principal purpose or functions are the providing of hospital or medical care. The term "hospital" does not, however, include convalescent homes or homes for children or the aged, nor does the term include institutions the principal purpose or functions of which are to train handicapped individuals to pursue some vocation. An organization the principal purpose or functions of which are the providing of medical education or medical research will not be considered a "hospital" within the meaning of subdivision (i) of this subparagraph, unless it is also actively engaged in providing medical or hospital care to patients on its premises or in its facilities, on an inpatient or outpatient basis, as an integral part of its medical education or medical research functions. See, however, subparagraph (2) of this paragraph with respect to certain medical research organizations.

(2) *Certain medical research organizations*—(i) *General rule.* An organization (other than one described in subparagraph (1) of this paragraph) is described in section 170(b)(1)(A)(iii) if:

(*a*) The principal purpose or function of such organization is to engage in medical research;

(*b*) It is directly engaged within the meaning of subdivision (ii) of this subparagraph in the continuous active conduct of medical research in conjunction with a hospital which is (*1*) described in section 501(c)(3), (*2*) a Federal hospital, or (*3*) an instrumentality of a governmental unit referred to in section 170(c)(1); and

(*c*) During the calendar year in which a contribution under section 170(b)(1)(A)(iii) is made or treated as made, such organization is committed within the meaning of subdivision (iii) of this subparagraph to spend such contribution for such active conduct of medical research before January 1 of the fifth calendar year beginning after the date the contribution is made.

Medical research means the conduct of investigations, experiments, and studies to discover, develop, or verify knowledge relating to the causes, diagnosis, treatment, prevention, or control of physical or mental diseases and impairments of man. To qualify as a medical research organization, the organization must have the appropriate equipment and professional personnel necessary to carry out its principal function.

(ii) *Active conduct of medical research.* The organization must, at the time of the contribution, be directly engaged in the continuous active conduct of medical research in conjunction with a hospital described in subdivision (i)(*b*) of this subparagraph. The organization need not be formally affiliated with a hospital to be considered engaged in the active conduct of medical research in conjunction with a hospital, but it must be physically connected, or closely associated, with a hospital. In any case, there must be a joint effort on the part of the research organization and the hospital pursuant to an understanding that the two organizations will maintain continuing close cooperation in the active conduct of medical research. For example, the necessary joint effort will normally be found to exist if the activities of the medical research organization are carried on in space located within, or adjacent to, a hospital, provided that the organization is permitted to utilize the facilities (including equipment ,case studies, etc.) of the hospital on a continuing basis in the active conduct of medical research. A medical research organization which is closely associated in such manner with a particular hospital or particular hospitals may be considered to be pursuing research in conjunction with a hospital if the necessary joint effort is supported by substantial evidence of the close cooperation of the members of the research organization and the staff of the particular hospital or hospitals. The active participation in medical research by the staff of the particular hospital or hospitals will be considered as evidence of the requisite joint effort. An organization will not be considered to be "directly engaged in the continuous active conduct of medical research" within the meaning of this subdivision unless it satisfies the requirements of either:

(*a*) Section 4942(j)(3)(B)(i) and the regulations thereunder by devoting substantially more than half of its assets directly to the continuous active conduct of its medical research; or

(*b*) Section 4942(j)(3)(B)(ii) and the regulations thereunder by normally making qualifying distributions (within the meaning of section 4942(g)(1) or (2)) directly for the continuous active conduct of its medical research activities in an amount not less than two-thirds of its minimum investment return (as defined in section 4942(e)).

In any event, if the organization's primary purpose is to disburse funds to other organizations for the conduct of research by them or to extend research grants or scholarships to others, it is not directly engaged in the active conduct of medical research.

(iii) *Commitment to spend contributions.* The organization's commitment that the contribution will be spent within the prescribed time only for the prescribed purposes must be legally enforceable. A promise in writing to the donor in consideration of his making a contribution that such contribution will be so spent within the prescribed time will constitute a commitment. The expenditure of contributions received for plant, facilities, or equipment, used solely for medical research purposes, shall ordinarily be considered to be an expenditure for medical research. If a contribution is made in other than money, it shall be considered spent for medical research if the funds from the proceeds of a disposition thereof are spent by the organization within the 5-year period for medical research; or, if such property is of such a kind that it is used on a continuing basis directly in connection with such research, it shall be considered spent for medical research in the year in which it is first so used. A medical research organization will be presumed to have made the commitment required under this subdivision with respect to any contribution if its governing instrument or bylaws require that every contribution be spent for medical research before January 1 of the fifth year which begins after the date such contribution is made.

(d) *Governmental unit.* A governmental unit is described in section 170 (b)(1)(A)(v) if it is referred to in section 170(c)(1).

(e) *Definition of section 170(b)(1)(A)(vi) organization*—(1) *In general.* An organization is described in section 170 (b)(1)(A)(vi) if it is:

(i) A corporation, trust, or community chest, fund, or foundation, referred to in section 170(c)(2) (other than an organization specifically described in paragraphs (a) through (d) of this section), and

(ii) A "publicly supported" organization.

For purposes of this paragraph, an organization is "publicly supported" if it normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public. An organization will be treated as being "publicly supported" if it meets the requirements of either subparagraph (2) or subparagraph (3) of this paragraph. Types of organizations which, subject to the provisions of this paragraph, generally qualify under section 170(b)(1)(A)(vi) as "publicly supported" organizations are publicly or governmentally supported museums of history, art, or science, libraries, community centers to promote the arts, organizations providing facilities for the support of an opera, symphony orchestra, ballet, or repertory drama or for some other direct service to the general public, and organizations such as the American Red Cross or the United Givers Fund.

(2) *Determination whether an organization is publicly supported"; 33⅓ percent-of-support test.* An organization will be treated as a "publicly supported" organization if the total amount of support which the organization "normally" (as defined in subparagraph (4) of this paragraph) receives from governmental units referred to in section 170(c)(1), from contributions made directly or indirectly by the general public, or from a combination of these sources, equals at least 33⅓ percent of the total support normally" received by the organization. See subparagraphs (6), (7), and (8) of this paragraph for the definition of "support". The application of this test is illustrated by Example (1) of subparagraph (9) of this paragraph.

(3) *Determination whether an organization is "publicly supported"; organizations failing to meet 33⅓ percent-of-support test.* Even if an organization fails to meet the 33⅓ percent-of-support test described in subparagraph (2) of this paragraph, it will be treated as a "publicly supported" organization if it normally receives a substantial part of its support from governmental units, from direct or indirect contributions from the general public, or from a combination of these sources, and meets the other requirements of this subparagraph. In order to satisfy this subparagraph, an organization must meet the requirements of subdivisions (i) and (ii) of this subparagraph in order to establish, under all the facts and circumstances, that it normally receives a substantial part of its support from governmental units or from direct or indirect contributions from the general public, and it must be in the nature of a "publicly supported" organization, taking into account the factors described in subdivisions (iii) through (vii) of this subparagraph. The requirements and factors referred to in the preceding sentence with respect to "publicly supported" organization (other than one described in subparagraph (2) or (10) of this paragraph) are:

(i) *Ten percent-of-support limitation.* The percentage of support "normally" (as defined in subparagraph (4) of this paragraph) received by an organization from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources, must be "substantial". For purposes of this subparagraph, an organization will not be treated as "normally" receiving a "substantial" amount of governmental or public support unless the total amount of governmental and public support "normally" received equals at least 10 percent of the total support "normally" received by such organization. See subparagraphs (6), (7), and (8) of this paragraph for the definition of "support".

(ii) *Attraction of public support.* An organization must be so organized and operated as to attract new and additional public or governmental support on a continuous basis. An organization will be considered to meet this requirement if it maintains a continuous and bona fide program for solicitation of funds from the general public, community, or membership group involved, or if it carries on activities designed to attract support from governmental units or other organizations described in section 170 (b)(1)(A)(i) through (vi). In determining whether an organization maintains a continuous and bona fide program for solicitation of funds from the general public or community, consideration will be given to whether the scope of its fund raising activities is reasonable in light of its charitable activities.

In addition to the requirements set forth in subdivisions (i) and (ii) of this subparagraph which must be satisfied, the following factors will be taken into consideration in determining whether an organization is "publicly supported" within the meaning of subparagraph (1) of this paragraph. However, an organization is not generally required to satisfy all of the factors in subdivisions (iii) through (vii) of this subparagraph. The factors relevant to each case and the weight accorded to any one of them may differ depending upon the nature and purpose of the organization and the length of time it has been in existence.

(iii) *Percentage of financial support.* Where an organization normally receives at least 10 percent, but less than 33⅓ percent, of its total support from public or governmental sources, the percentage of support received from such sources will be taken into consideration in determining whether an organization is "publicly supported". The higher the percentage of support from public or governmental sources within this range, the lesser will be the burden of establishing the publicly supported nature of the organization through other factors described in this subparagraph; while the lower the percentage, the greater will be the burden. If the percentage of the organization's support from public or governmental sources is low because it receives a high percentage of its total support from investment income on its endowment funds, such fact will be treated as evidence of compliance with this subdivision if such endowment funds were originally contributed by a governmental unit or by the general public. However, if such endowment funds were originally contributed by a few individuals or members of their families, such fact will increase the burden on the organization of establishing compliance with the other factors described in this subparagraph.

(iv) *Sources of support.* Where an organization normally receives at least 10 percent, but less than 33⅓ percent, of its total support from public or governmental sources, the fact that it receives such support from governmental units or directly or indirectly from a representative number of persons, rather than receiving almost all of its support from the members of a single family, will be taken into consideration in determining whether an organization is "publicly supported".

In determining what is a "representative number of persons", consideration will be given to the type of organization involved, the length of time it has been in existence, and whether it limits its activities to a particular community or

region or to a special field which can be expected to appeal to a limited number of persons.

(v) *Representative governing body.* The fact that an organization has a governing body which represents the broad interests of the public, rather than the personal or private interests of a limited number of donors (or persons standing in a relationship to such donors which is described in section 4946(a)(1)(C) through (G)), will be taken into account in determining whether an organization is "publicly supported". An organization will be treated as meeting this requirement if it has a governing body (whether designated in the organization's governing instrument or bylaws as a Board of Directors, Board of Trustees, etc.) which is comprised of public officials acting in their capacities as such; of individuals selected by public officials acting in their capacities as such; of persons having special knowledge or expertise in the particular field or discipline in which the organization is operating; of community leaders, such as elected or appointed officials, clergymen, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community; or, in the case of a membership organization, of individuals elected pursuant to the organization's governing instrument or bylaws by a broadly based membership.

(vi) *Availability of public facilities or services; public participation in programs or policies.* (*a*) The fact that an organization is of the type which generally provides facilities or services directly for the benefit of the general public on a continuing basis (such as a museum which holds open its building to the public, a symphony orchestra which gives public performances, or an old age home which provides domiciliary or nursing services for members of the general public) will be considered evidence that such organization is "publicly supported".

(*b*) The fact that an organization is an educational or research institution which regularly publishes scholarly studies that are widely used by colleges and universities or by members of the general public will also be considered evidence that such organization is "publicly supported".

(*c*) Similarly, the following factors will also be considered evidence that an organization is "publicly supported":

(*1*) The participation in, or sponsorship of, the programs of the organization by members of the public having special knowledge or expertise, public officials, or civic or community leaders;

(*2*) The maintenance of a definitive program by an organization to accomplish its charitable work in the community, such as slum clearance or developing employment opportunities; and

(*3*) The receipt of a significant part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant, contract, or contribution.

(vii) *Additional factors pertinent to membership organizations.* The following are additional factors to be considered in determining whether a membership organization is "publicly supported":

(*a*) Whether the solicitation for dues-paying members is designed to enroll a substantial number of persons in the community or area, or in a particular profession or field of special interest (taking into account the size of the area and the nature of the organization's activities);

(*b*) Whether membership dues for individual (rather than institutional) members have been fixed at rates designed to make membership available to a broad cross-section of the interested public, rather than to restrict membership to a limited number of persons; and

(*c*) Whether the activities of the organization will be likely to appeal to persons having some broad common interest or purpose, such as educational or musical activities in the case of literary or symphony societies or alumni associations, or civic affairs in the case of parent-teacher associations.

See Examples (2) through (5) in subparagraph (9) of this paragraph for the application of this subparagraph.

(4) *Definition of "normally"; general rule.* (i) For purposes of subparagraph (2) of this paragraph, an organization will be considered as "normally" meeting the 33⅓ percent-of-support test for its current taxable year and the taxable year immediately succeeding its current year, if, for the four taxable years, immediately preceding the current taxable year, the organization meets the 33⅓ percent-of-support test described in subparagraph (2) of this paragraph on an aggregate basis.

(ii) For purposes of subparagraph (3) of this paragraph, an organization will be considered as "normally" meeting the requirements of subparagraph (3) of this paragraph for its current taxable year and the taxable year immediately succeeding its current year, if, for the 4 taxable years immediately preceding the current taxable year, the organization meets the requirements of subparagraph (3) (i) and (ii) of this paragraph on an aggregate basis and satisfies a sufficient combination of the factors set forth in subparagraph (3) (iii) through (vii) of this paragraph. In the case of subparagraph (3) (iii) and (iv) of this paragraph, facts pertinent to years preceding 4 taxable years immediately preceding the current taxable year may also be taken into consideration. The combination of factors set forth in subparagraph (3) (iii) through (vii) of this paragraph which an organization "normally" must meet does not have to be the same for each 4-year period so long as there exists a sufficient combination of factors to show compliance with subparagraph (3) of this paragraph.

(iii) The fact that an organization has "normally" met the requirements of subparagraph (2) of this paragraph for a current taxable year, but is unable "normally" to meet such requirements for a succeeding taxable year, will not in itself prevent such organization from meeting the requirements of subparagraph (3) of this paragraph for such succeeding taxable year.

(iv) The application of subdivisions (i), (ii), and (iii) of this subparagraph may be illustrated by the following example:

Example. X, an organization described in section 170(c)(2), meets the 33⅓ percent-of-support test described in subparagraph (2) of this paragraph in taxable year 1975 on the basis of support received during taxable years 1971, 1972, 1973, and 1974. It therefore "normally" meets the requirements of subparagraph (2) of this paragraph for 1975 and 1976, the taxable year immediately succeeding 1975 (the current taxable year). For the taxable year 1976, X is unable to meet the 33⅓ percent-of-support test described in subparagraph (2) of this paragraph on the basis of support received during taxable years 1972, 1973, 1974, and 1975. If X can meet the requirements of subparagraph (3) of this paragraph on the basis of taxable years 1972, 1973, 1974, and 1975, X will meet the requirements of subparagraph (3) of this paragraph for 1977 (the taxable year immediately succeeding 1976, the current taxable year) under subdivision (ii) of this subparagraph. However, if for the taxable year 1976, X fails to meet the requirements of subparagraph (3) of this paragraph on the basis of all of the facts and circumstances pertinent to the taxable years 1972 through 1975, X will not meet the requirements of subparagraph (3) of this paragraph for 1977, the taxable year immediately succeeding its current taxable year, on the basis of taxable years 1972, 1973, 1974, and 1975. It will not be disqualified as a section 170(b)(1)(A)(vi) organization for taxable year 1976, because it "normally" met the requirements of subparagraph (2) of this paragraph for 1975, unless the provisions of subdivision (v) of this subparagraph become applicable.

(v)(*a*) The rules prescribed in subdivisions (i) and (ii) of this subparagraph shall not be treated as satisfied by an organization with respect to its current taxable year if there are substantial and material changes in the organization's character, purposes, methods of operation, or sources of support in such year, or with respect to the immediately succeeding taxable year if such changes occur in the current taxable year or in such succeeding year, unless such rules are satisfied in accordance with (*b*) of this subdivision.

(*b*) If (*a*) of this subdivision applies, then the current taxable year shall be considered as part of the period described in subdivision (i) or (ii) of this subparagraph, and the determination whether an organization "normally" meets the requirements of subparagraph (2) or (3) of this paragraph will be made on the basis of the current taxable year and the four immediately preceding taxable years (rather than solely on the basis of the 4-year period described in subdivision (i) or (ii) of this subparagraph). For example, if the organization described in the example in subdivision

(iv) of this subparagraph has substantial and material changes in its methods of operation in taxable year 1975, the determination whether it "normally" meets the requirements of subparagraph (2) or (3) of this paragraph for 1975 will be made on the basis of taxable years 1971 through 1975, rather than taxable years 1971 through 1974.

(vi) If subdivision (v) of this subparagraph applies and, as a result thereof, an organization is able to meet the requirements of neither subparagraph (2) nor subparagraph (3) of this paragraph for its current taxable year, the status (with respect to a grantor or contributor under sections 170, 507(b)(1)(A), 4942, and 4945) of contributions made to such organization during such current taxable year and the immediately succeeding taxable year will not be affected until notice of change of status under section 170(b)(1)(A)(vi) (or section 509(a)(1)) is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor (or any person standing in a relationship to such grantor or contributor which is described in section 4946(a)(1) (C) through (G)) was in part responsible for, or was aware of, the substantial and material change described in subdivision (v)(*a*) of this subparagraph, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 170(b)(1)(A)(vi) (or section 509(a)(1)) organization.

(vii) If an organization has been in existence for at least 1 taxable year, but fewer than 5 taxable years, the number of years for which the organization has been in existence immediately preceding each current taxable year being tested will be substituted for the 4-year period described in subdivision (i) or (ii) of this subparagraph to determine whether the organization "normally" meets the requirements of subparagraph (2) or (3) of this paragraph. See subparagraph (5)(iii) of this paragraph as to the status of an organization which:

(*a*) Has not received a ruling or determination letter pursuant to subparagraph (5)(i) of this paragraph; and

(*b*) Has not met the requirements of subparagraph (2) or (3) of this paragraph for its first taxable year.

(5) *Definition of "normally"; newly created organizations; procedure for advance ruling*—(i) *Special rule.* A ruling or determination letter that an organization is described in section 170(b)(1)(A)(vi) (or 509(a)(1)) will not be issued to a newly created organization. However, such organization may request a ruling or determination letter that it will be treated as a section 170(b)(1)(A)(vi) (or 509(a)(1)) organization for its first 2 taxable years if it can reasonably be expected to meet the requirements of subparagraph (2) or (3) of this paragraph during the period consisting of its first 2 taxable years. The issuance of a ruling or determination letter will be discretionary with the Commissioner. The information to be submitted for this purpose shall consist of all pertinent facts and circumstances relating to the requirements and factors set forth in subparagraph (3) of this paragraph. All evidence of prior contributions, as well as of anticipated contribution, grants and other expected sources of support (and the extent thereof, if known) shall be submitted in lieu of the actual financial information and other data required under the applicable subdivisions of subparagraph (3) of this paragraph.

(ii) *Effect of ruling or determination letter.* (*a*) If an organization receives a ruling or determination letter described in subdivision (i) of this subparagraph, such ruling or determination letter shall be applicable with respect to the organization, as well as with respect to grantors and contributors thereto, until such organization has met the tests described in either subparagraph (2) or subparagraph (3) of this paragraph for its first 2 taxable years. Such ruling or determination letter may, however, be terminated by notification by the Commission prior to the expiration of such period. For purposes of sections 170, 507(b)(1)(A), 4942, and 4945, the status of grants or contributions with respect to grantors or contributors to such organization will not be affected until notice of change of status of such organization is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor (or any person standing in a relationship to such grantor or contributor which is described in section 4946(a)(1) (C) through (G)) was in part responsible for, or was aware of, the act or failure to act that resulted in the organization's loss of classification under section 170(b)(1)(A)(vi) (or 509(a)(1)) or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from such classification. In cases in which it is doubtful whether the making of a particular grant or contribution will constitute an act that results in an organization's loss of section 170(b)(1)(A)(vi) status, the grantee organization may, upon making full disclosure of all pertinent and material facts, request a ruling or determination letter which clarifies the effect of such grant or contribution. The issuance of such ruling or determination letter will, however, be discretionary with the Commissioner.

(*b*) An organization which has received a ruling or determination letter pursuant to subdivision (i) of this subparagraph will be considered as "normally" meeting the requirements of subparagraph (2) or (3) of this paragraph if it satisfies either of such subparagraphs for its first 2 taxable years on an aggregate basis computed over such two-year period. Once an organization has met the requirements of subparagraph (2) or (3) of this paragraph for such 2-year period, the ruling received pursuant to subdivision (i) of this subparagraph shall no longer apply, and such organization must "normally" meet the requirements of subparagraph (2) or (3) of this paragraph for the period described in subparagraph (4) (i), (ii), or (vii) of this paragraph, whichever is applicable.

(*c*) An organization which:

(*1*) Has received a ruling or determination letter under subdivision (i) of this subparagraph;

(*2*) Has not been notified by the Commissioner or his delegate prior to the expiration of its first 2 taxable years that it will no longer be considered as "normally" being a "publicly supported" organization; and

(*3*) Has satisfied neither subparagraph (2) nor subparagraph (3) of this paragraph within such 2-year period,

will not be considered to be an organization described in section 170(b)(1)(A)(vi):

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

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

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

(iii) *New organizations failing to receive ruling or determination letter.* (*a*) A newly created organization which fails to receive a ruling or determination letter pursuant to subdivision (i) of this subparagraph will be treated as "normally" meeting the requirements of subparagraph (2) or (3) of this paragraph if it subsequently meets such requirements for its first taxable year, or for its first 2 taxable years on an aggregate basis computed for such 2-year period.

(*b*) However, if a newly created organization which fails to receive a ruling or determination letter pursuant to subdivision (i) of this subparagraph satisfies neither subparagraph (2) nor subparagraph (3) of this paragraph at the end of its first taxable year, it shall be treated as a private foundation for such year (unless it satisfies the requirements of section 170(b)(1)(A) (i) through (v) or 509(a) (2), (3), or (4) for such year) for all purposes other than those of section 508(e). Such organization (or an organization which has received a ruling or determination letter pursuant to subdivision (i) of this subparagraph) shall not be treated as a private foundation for purposes of section 508(e) unless and until it is established that it can satisfy neither subparagraph (2) nor subparagraph (3) of this paragraph and cannot satisfy the requirements of section 170(b)(1)(A) (i) through (v) or 509(a) (2), (3), or (4) for its first 2 taxable years. If it fails to meet such requirements at the end of its first taxable year, but does meet such requirements at the end of its second taxable year, any tax imposed under chapter 42 for its first taxable year shall be abated and section 509(b) shall not be deemed to apply for its first taxable year.

(c) Once an organization has met the requirements of subparagraph (2) or (3) of this paragraph at the end of its first 2 taxable years, it will be considered as "normally" meeting such requirements for a current taxable year if it satisfies either of such subparagraphs in accordance with subparagraph (4) (i), (ii), or (vii) of this paragraph, whichever is applicable.

(6) *Definition of support; meaning of general public*—(i) *In general.* In determining whether the 33⅓ percent-of-support test described in subparagraph (2) of this paragraph or the 10 percent-of-support limitation described in subparagraph (3) (i) of this paragraph is "normally" met, contributions by an individual, trust, or corporation shall be taken into account as "support" from direct or indirect contributions from the general public only to the extent that the total amount of the contributions by any such individual, trust, or corporation during the 4-year period described in subparagraph (4) (i) or (ii) of this paragraph, or the period described in subparagraph (4) (vii) of this paragraph, does not exceed 2 percent of the organization's total support for such period, except as provided in subdivision (ii) of this subparagraph. Therefore, any contribution by one individual will be included in full in the denominator of the fraction determining the 33⅓ percent-of-support or the 10 percent-of-support limitation, but will only be includible in the numerator of such fraction to the extent that such amount does not exceed 2 percent of the denominator. In applying the 2 percent limitation, all contributions made by a donor and by any person or persons standing in a relationship to the donor which is described in section 4946(a) (1) (C) through (G) and the regulations thereunder shall be treated as made by one person. The 2 percent limitation shall not apply to support received from governmental units referred to in section 170(c) (1) or to contributions from organizations described in section 170(b) (1) (A) (vi), except as provided in subdivision (iv) of this subparagraph. A national organization which carries out its purposes through local chapters with which it has an identity of aims and purposes may, for purposes of determining whether the organization and the local chapters meet the 33⅓ percent-of-support test in subparagraph (2) of this paragraph or the 10 percent-of-support limitation in subparagraph (3) (i) of this paragraph, make the computations on an aggregate basis. For purposes of subparagraphs (2), (3) (i), and (7) (ii) (*b*) of this paragraph, the term "indirect contributions from the general public" includes contributions received by the organization from organizations (such as section 170(b) (1) (A) (vi) organizations) which normally receive a substantial part of their support from direct contributions from the general public, except as provided in subdivision (iv) of this subparagraph. See the examples in subparagraph (9) of this paragraph for the application of this subdivision.

(ii) *Exclusion of unusual grants.* For purposes of applying the 2 percent limitation described in subdivision (i) of this subparagraph to determine whether the 10 percent-of-support limitation in subparagraph (3) (i) of this paragraph is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the fraction determining the 10 percent-of-support limitation if such contributions meet the requirements of subdivision (iii) of this subparagraph. The exclusion provided by this subdivision is generally intended to apply to substantial contributions or bequests from disinterested parties which contributions or bequests:

(*a*) Are attracted by reason of the publicly supported nature of the organization;

(*b*) Are unusual or unexpected with respect to the amount thereof; and

(*c*) Would, by reason of their size, adversely affect the status of the organization as normally being publicly supported for the applicable period described in subparagraph (4) or (5) of this paragraph.

In the case of a grant (as defined in § 1.509(a)–3(g)) which meets the requirements of this subdivision, if the terms of the granting instrument require that the funds be paid to the recipient organization over a period of years, the amount received by the organization each year pursuant to the terms of such grant may be excluded for such year.

(iii) *Factors to determine the exclusion of unusual grants.* In determining whether a particular contribution may be excluded under subdivision (ii) of this subparagraph, all pertinent facts and circumstances, including the following factors, will be taken into consideration:

(*a*) Whether the contribution was made by any person (or persons standing in a relationship to such person which is described in section 4946(a) (1) (C) through (G)) who created the organization, previously contributed a substantial part of its support or endowment, or stood in a position of authority, such as a foundation manager (within the meaning of section 4946(b)), with respect to the organization. It is unlikely that such contribution will be excluded.

(*b*) Whether the contribution was a bequest or an inter vivos transfer. A bequest will be given more favorable consideration than an inter vivos transfer.

(*c*) Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.

(*d*) Whether, prior to the receipt of the particular contribution, the organization carried on an active program of public solicitation and exempt activities.

(*e*) Whether, prior to the year in which the particular contribution was received, the organization met the requirements of either subparagraph (2) or subparagraph (3) (i) of this paragraph without the benefit of subdivision (ii) of this subparagraph.

As to the status of contributors of contributions which result in substantial and material changes in the organization (as described in subparagraph (4) (v) (*a*) of this paragraph) and which fail to meet the requirements for exclusion under subdivision (ii) of this subparagraph, see the rules prescribed in subparagraph (4) (vi) of this paragraph.

(iv) *Grants from public charities.* Pursuant to subdivision (i) of this subparagraph, contributions received from a governmental unit or from a section 170(b) (1) (A) (vi) organization are not subject to the 2 percent limitation described in that subdivision unless such contributions represent amounts which have been expressly or impliedly earmarked by a donor to such governmental unit or section 170(b) (1) (A) (vi) organization as being for, or for the benefit of, the particular organization claiming section 170(b) (1) (A) (vi) status. See § 1.509(a)—3(j) (3) for examples illustrating the rules of this subdivision.

(7) *Definition of support; special rules and meaning of terms*—(i) *Definition of support.* For purposes of this paragraph, the term "support" shall be as defined in section 509(d) (without regard to section 509(d) (2)). The term "support" does not include:

(*a*) Any amounts received from the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a). In general, such amounts include amounts received from any activity the conduct of which is substantially related to the furtherance of such purpose of function (other than through the production of income), or

(*b*) Contributions of services for which a deduction is not allowable.

For purposes of the 33⅓ percent-of-support test in subparagraph (2) of this paragraph and the 10 percent-of-support limitation in subparagraph (3) (i) of this paragraph, all amounts received which are described in (*a*) or (*b*) of this subdivision are to be excluded from both the numerator and the denominator of the fractions determining compliance with such tests, except as provided in subdivision (ii) of this subparagraph.

(ii) *Organizations dependent primarily on gross receipts from related activities.* Notwithstanding the provisions of subdivision (i) of this subparagraph, an organization will not be treated as satisfying the 33⅓ percent-of-support test in subparagraph (2) of this paragraph or the 10 percent-of-support limitation in subparagraph (3) (i) of this paragraph if it receives:

(*a*) Almost all of its support (as defined in section 509(d)) from gross receipts from related activities; and

(*b*) An insignificant amount of its support from governmental units (without regard to amounts referred to in subdivision (i) (*a*) of this subparagraph)

and contributions made directly or indirectly by the general public.

For example, X, an organization described in section 501(c)(3), is controlled by A, its president. X received $500,000 during the 4 taxable years immediately preceding its current taxable year under a contract with the Department of Transportation, pursuant to which X has engaged in research to improve a particular vehicle used primarily by the Federal Government. During this same period, the only other support received by X consisted of $5,000 in small contributions primarily from X's employees and business associates. The $500,000 amount constitutes support under section 509(d)(2) and (*a*) of this subdivision. Under these circumstances, X meets the conditions of (*a*) and (*b*) of this subdivision and will not be treated as meeting the requirements of either subparagraph (2) or subparagraph (3) of this paragraph. As to the rules applicable to organizations which fail to qualify under section 170(b)(1)(A)(vi) because of the provisions of this subdivision, see section 509(a)(2) and the regulations thereunder. For the distinction between gross receipts (as referred to in section 509(d)(2)) and gross investment income (as referred to in section 509(d)(4)), see § 1.509(a)–3(m).

(iii) *Membership fees.* For purposes of this subparagraph, the term "support" shall include "membership fees" within the meaning of § 1.509(a)–3(h) (that is, if the basic purpose for making a payment is to provide support for the organization rather than to purchase admissions, merchandise, services, or the use of facilities).

(8) *Support from a governmental unit.* (i) For purposes of subparagraphs (2) and (3)(i) of this paragraph, the term "support from a governmental unit" includes any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a Government research grant. However, such amounts will not constitute "support from a governmental unit" for such purposes if they constitute amounts received from the exercise or performance of the organization's exempt functions as provided in subparagraph (7)(i)(*a*) of this paragraph.

(ii) For purposes of subdivision (i) of this subparagraph, any amount paid by a governmental unit to an organization is not to be treated as received from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a) (within the meaning of subparagraph (7)(i)(*a*) of this paragraph) if the purpose of the payment is primarily to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public (regardless of whether part of the expense of providing such service or facility is paid for by the public), rather than to serve the direct and immediate needs of the payor. For example:

(*a*) Amounts paid for the maintenance of library facilities which are open to the public,

(*b*) Amounts paid under Government programs to nursing homes or homes for the aged in order to provide health care or domiciliary services to residents of such facilities, and

(*c*) Amounts paid to child placement or child guidance organizations under government programs for services rendered to children in the community,

are considered payments the purpose of which is primarily to enable the recipient organization to provide a service or maintain a facility for the direct benefit of the public, rather than to serve the direct and immediate needs of the payor.

(9) *Examples.* The application of subparagraphs (1) through (8) of this paragraph may be illustrated by the following examples:

Example (1). (*a*) M is an organization referred to in section 170(c)(2). For the years 1970 through 1973 (the applicable period with respect to the taxable year 1974 under subparagraph (4) of this paargraph), M received support (as defined in subparagraphs (6) through (8) of this paragraph) of $600,000 from the following sources:

Investment income	$300,000
City Y (a governmental unit referred to in section 170(c)(1)	40,000
United Fund (an organization referred to in section 170(b)(1)(A)(vi))	40,000
Contributions	220,000
Total support	600,000

(*b*) With respect to the taxable year 1974, M "normally" received in excess of 33⅓ percent of its support from a governmental unit referred to in section 170(c)(1) and from direct and indirect contributions from the general public (as defined in subparagraph (6) of this paragraph) computed as follows:

33⅓ percent of total support	$200,000
Support from a governmental unit referred to in section 170(c)(1)	40,000
Indirect contributions from the general public (United Fund)	40,000
Contributions by various donors (no one having made contributions which total in excess of $12,000—2 percent of total support)	50,000
6 contributions (each in excess of $12,000—2 percent of total support) 6×$12,000	72,000
	202,000

(*c*) Since the amount of X's support from governmental units referred to in section 170(c)(1) and from direct and indirect contributions from the general public with respect to the taxable year 1974 "normally" exceeds 33⅓ percent of M's total support for the applicable period (1970–73), X meets the 33⅓ percent-of-support test under subparagraph (2) of this paragraph and is therefore treated as satisfying the requirements for classification as a "publicly supported" organization under subparagraph (2) of this paragraph for the taxable years 1974 and 1975 (there being no substantial and material changes in the organization's character, purposes, methods of operation, or sources of support in these years).

Example (2). N is an organization referred to in section 170(c)(2). It was created to maintain public gardens containing botanical specimens and displaying statuary and other art objects. The facilities, works of art, and a large endowment were all contributed by a single contributor. The members of the governing body of the organization are unrelated to its creator. The gardens are open to the public without charge and attract a substantial number of visitors each year. For the 4 taxable years immediately preceding the current taxable year, 95 percent of the organization's total support was received from investment income from its original endowment. N also maintains a membership society which is supported by members of the general public who wish to contribute to the upkeep of the gardens by paying a small annual membership fee. Over the 4-year period in question, these fees from the general public constituted the remaining 5 percent of the organization's total support for such period. Under these circumstances, N does not meet the 33⅓ percent-of-support test under subparagraph (2) of this paragraph for its current taxable year. Furthermore, since only 5 percent of its total support is, with respect to the current taxable year, normally received from the general public, N does not satisfy the 10 percent-of-support limitation described in subparagraph (3)(i) of this paragraph and cannot therefore be classified as "publicly supported" under subparagraph (3) of this paragraph. For its current taxable year, N therefore is not an organization described in section 170(b)(1)(A)(vi). Since N has failed to satisfy the 10 percent-of-support limitation under subparagraph (3)(i) of this paragraph, none of the other requirements or factors set forth in subparagraph (3) (iii) through (vii) of this paragraph can be considered in determining whether N qualifies as a "publicly supported" organization.

Example (3). (*a*) O, an art museum, is an organization referred to in section 170(c)(2). In 1930, O was founded in Y City by the members of a single family to collect, preserve, interpret, and display to the public important works of art. O is governed by a Board of Trustees which originally consisted almost entirely of members of the founding family. However, since 1945, members of the founding family or persons standing in a relationship to the members of such family described in section 4946(a)(1) (C) through (G) have annually constituted less than one-fifth of the Board of Trustees. The remaining board members are citizens of Y City from a variety of professions and occupations who represent the interests and views of the people of Y City in the activities carried on by the organization rather than the personal or private interests of the founding family. O solicits contributions from the general public and for each of its four most recent taxable years has received total contributions (in small sums of less than $100, none of which exceeds 2 percent of O's total support for such period) in excess of $10,000. These contributions from the general public (as defined in subparagraph (6) of this paragraph) represent 25 percent of the organization's total support for such 4-year period. For this same period, investment income from several large endowment funds has constituted 75 percent of its total support. O expends substantially all of its annual income for its exempt purposes and thus depends upon the funds it annually solicits from the public as well as its investment income in order to carry out its activities on a normal and continuing basis and to acquire new works of art. O has, for the entire period of its existence, been open to the public and more

than 300,000 people (from Y City and elsewhere) have visited the museum in each of its four most recent taxable years.

(b) Under these circumstances, O does not meet the 33⅓ percent-of-support test under subparagraph (2) of this paragraph for its current year since it has received only 25 percent of its total support for the applicable 4-year period from the general public. However, under the facts set forth above, O has met the 10 percent-of-support limitation under subparagraph (3)(i), as well as the requirements of subparagraph (3)(ii), of this paragraph. Under all of the facts set forth in this example, O is considered as meeting the requirements of subparagraph (3) of this paragraph on the basis of satisfying subparagraph (3)(i) and (ii) of this paragraph and the factors set forth in subparagraph (3)(iii), (iv), (v), and (vi) of this paragraph, and is therefore classified as a "publicly supported organization" under subparagraph (1) of this paragraph for its current taxable year and the immediately succeeding taxable year (there being no substantial and material changes in the organization's character, purposes, methods of operation, or sources of support in these years).

Example (4). (a) In 1960, the P Philharmonic Orchestra was organized in Z City through the combined efforts of a local music society and a local women's club to present to the public a wide variety of musical programs intended to foster music appreciation in the community. P is an organization referred to in section 170(c)(2). The orchestra is composed of professional musicians who are paid by the association. Twelve performances open to the public are scheduled each year. A small admission charge is made for each of these performances. In addition, several performances are staged annually without charge. During its four most recent taxable years, P has received separate contributions of $200,000 each from A and B (not members of a single family) and support of $120,000 from the Z Community Chest, a public federated fund-raising organization operating in Z City. P depends on these funds in order to carry out its activities and will continue to depend on contributions of this type to be made in the future. P has also begun a fund-raising campaign in an attempt to expand its activities for the coming years. P is governed by a Board of Directors comprised of five individuals. A faculty member of a local college, the president of a local music society, the head of a local banking institution, a prominent doctor, and a member of the governing body of the local Chamber of Commerce currently serve on the Board and represent the interests and views of the community in the activities carried on by P.

(b) With respect to P's current taxable year, P's sources of support are computed on the basis of the 4 immediately preceding years, as follows:

Contributions	$520,000
Receipts from performances	100,000
Total support	620,000
Less:	
Receipts from performances (excluded under subparagraph (7)(i)(a) of this paragraph)	100,000
Total support for purposes of subpararaphs (2) and (3)(i) of this paragraph	520,000

(c) For purposes of subparagraphs (2) and (3)(i) of this paragraph, P's support is computed as follows:

Z Community Chest (indirect support from the general public)	$120,000
Two contributions (each in excess of $10,400—2 percent of total support) 2×$10,400	20,800
Total	140,800

(d) P's support from the general public, directly and indirectly, does not meet the 33⅓ percent-of-support test under subparagraph (2) of this paragraph (140,800/520,000 equals 27 percent of total support). However, since P receives 27 percent of its total support from the general public, it meets the 10 percent-of-support limitation under subparagraph (3)(i) of this paragraph. P also meets the requirements of subparagraph (3)(ii) of this paragraph. As a result of satisfying these requirements and the factors set forth in subparagraph (3) (iii), (iv), (v), and (vi) of this paragraph, P is considered as meeting the requirements of subparagraph (3) of this paragraph and is therefore considered to be a "publicly supported" organization under subparagraph (1) of this paragraph.

(e) If, instead of the above facts, P were a newly created organization, P could obtain a ruling pursuant to subparagraph (5)(i) of this paragraph by reason of its purposes, organizational structure and proposed method of operation. Even if P had initially been founded by the contributions of a few individuals, such fact would not, in and of itself, disqualify P from receiving a ruling under subparagraph (5)(i) of this paragraph.

Example (5). (a) Q is an organization referred to in section 170(c)(2). It is a philanthropic organization founded in 1965 by A for the purpose of making annual contributions to worthy charities. A created Q as a charitable trust by the transfer of $500,000 worth of appreciated securities to Q. Pursuant to the trust agreement, A and two other members of his family are the sole trustees and are vested with the right to appoint successor trustees. In each of its four most recent taxable years, Q received $15,000 in investment income from its original endowment. Each year Q makes a solicitation for funds by operating a charity ball at A's residence. Guests are invited and requested to make contributions of $100 per couple. During the 4-year period involved, $15,000 was received from the proceeds of these events. A and this family have also made contributions to Q of $25,000 over the course of the organization's four most recent taxable years. Q makes disbursements each year of substantially all of its net income to the public charities chosen by the trustees.

(b) With respect to Q's current taxable year, Q's sources of support are computed on the basis of the 4 immediately preceding years as follows:

Investment income	$60,000
Contributions	40,000
Total support	100,000

(c) For purposes of subparagraphs (2) and (3)(i) of this paragraph, Q's support is computed as follows:

Contributions from the general public	$15,000
One contribution (in excess of $2,000—2 percent of total support) 1×$2,000	2,000
Total	17,000

(d) Q's support from the general public does not meet the 33⅓ percent-of-support test under subparagraph (2) of this paragraph (17,000/100,000 equals 17 percent of total support). Thus, Q's classification as a "publicly supported" organization depends on whether it meets the requirements of subparagraph (3) of this paragraph. Even though it satisfies the 10 percent-of-support limitation under subparagraph (3)(i) of this paragraph, its method of solicitation makes it questionable whether Q satisfies the requirements of subparagraph (3)(ii) of this paragraph. Because of its method of operating, Q also has a greater burden of establishing its publicly supported nature under subparagraph (3)(iii) of this paragraph. Based upon the foregoing and upon Q's failure to receive favorable consideration under the factors set forth in subparagraph (3)(iv), (v), and (vi) of this paragraph, Q does not satisfy the requirements of subparagraph (3) of this paragraph as a "publicly supported" organization.

(e) If, instead of the above facts, Q were a newly created organization, Q would not be able to receive a ruling pursuant to subparagraph (5)(i) of this paragraph. Its purposes, organizational structure, and method of operation would be insufficient to establish that Q could reasonably be expected to meet the requirements of subparagraph (2) or (3) of this paragraph for its first 2 taxable years.

(10) *Community trusts; general rules.* [Reserved.]

(f) *Private operating foundation.* An organization is described in section 170(b)(1)(A)(vii) and (E)(i) if it is a private "operating foundation" as defined in section 4942(j)(3) and the regulations thereunder.

(g) *Private nonoperating foundation distributing amount equal to all contributions received*—(1) *In general.* (i) An organization is described in section 170(b)(1)(A)(vii) and (E)(ii) if it is a private foundation which, not later than the 15th day of the third month after the close of its taxable year in which any contributions are received, distributes an amount equal in value to 100 percent of all contributions received in such year. Such distributions must be qualifying distributions (as defined in section 4942(g) without regard to paragraph (3) thereof) which are treated, after the application of section 4942(g)(3), as distributions out of corpus in accordance with section 4942(h). Qualifying distributions, as defined in section 4942(g) without regard to paragraph (3) thereof, cannot be made to (i) an organization controlled directly or indirectly by the foundation or by one or more disqualified persons (as defined in section 4946) with respect to the foundation or (ii) a private foundation which is not an operating foundation (as defined in section 4942(j)(3)). The phrase "after the application of section 4942(g)(3)" means that every contribution described in section 4942(g)(3) received by a private foundation described in this subparagraph in a particular taxable year must be distributed (within the meaning of section 4942(g)(3)(A)) by such foundation not later than the 15th day of the third month after the close of such taxable year in order for any other distribution by such foundation to be counted toward the 100-percent requirement described in this subparagraph.

(ii) In order for an organization to meet the distribution requirements of subdivision (i) of this subparagraph, it must, not later than the 15th day of the third month after the close of its taxable year in which any contributions are received, distribute (within the meaning

of subdivision (i) of this subparagraph) an amount equal in value to 100 percent of all contributions received in such year and have no remaining undistributed income for such year.

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

Example (1). X is a private foundation on a calendar year basis. As of January 1, 1971, X had no undistributed income for 1970. X's distributable amount for 1971 was $600,000. In July 1971, A, an individual, contributed $500,000 (fair market value determined at the time of the contribution) of appreciated property to X (which, if sold, would give rise to long-term capital gain). X did not receive any other contribution in either 1970 or 1971. During 1971, X made qualifying distributions of $700,000 which were treated as made out of the undistributed income for 1971 and $100,000 out of corpus. X will meet the requirements of section 170(b)(1)(E)(ii) for 1971 if it makes additional qualifying distributions of $400,000 out of corpus by March 15, 1972.

Example (2). Assume the facts as stated in Example (1), except that as of January 1, 1971, X had $100,000 of undistributed income for 1970. Under these circumstances, the $700,000 distributed by X in 1971 would be treated as made out of the undistributed income for 1970 and 1971. X would therefore have to make additional qualifying distributions of $500,000 out of corpus between January 1, 1972, and March 15, 1972, in order to meet the requirements of section 170(b)(1)(E)(ii) for 1971.

(2) *Special rules.* In applying subparagraph (1) of this paragraph—

(i) For purposes of section 170(b)(1)(A)(vii), an organization described in section 170(b)(1)(E)(ii) must distribute all contributions received in any year, whether of cash or property. However, solely for purposes of section 170(e)(1)(B)(ii), an organization described in section 170(b)(1)(E)(ii) is required to distribute only all contributions of property received in any year. Contributions for purposes of this subdivision do not include bequests, legacies, devises, or transfers within the meaning of section 2055 or 2106(a)(2) with respect to which a deduction was not allowed under section 170.

(ii) Any distributions made by a private foundation pursuant to subparagraph (1) of this paragraph with respect to a particular taxable year shall be treated as made first out of contributions of property and then out of contributions of cash received by such foundation in such year.

(iii) A private foundation is not required to trace specific contributions of property, or amounts into which such contributions are converted, to specific distributions.

(iv) The fair market value of contributed property, determined on the date of the contribution, is required to be used for purposes of determining whether an amount equal in value to 100 percent of the contributions received has been distributed.

(v) A private foundation may satisfy the requirements of subparagraph (1) of this paragraph for a particular taxable year by electing (pursuant to section 4942(h)(2) and the regulations thereunder) to treat a portion or all of one or more distributions, made not later than the 15th day of the third month after the close of such year, as made out of corpus.

(3) *Transitional rules*—(i) *Taxable years beginning before January 1, 1970, and ending after December 31, 1969.* In order for an organization to meet the distribution requirements of subparagraph (1)(i) of this paragraph for a taxable year which begins before January 1, 1970, and ends after December 31, 1969, it must, not later than the 15th day of the third month after the close of such taxable year, distribute (within the meaning of subparagraph (1)(i) of this paragraph) an amount equal in value to 100 percent of all contributions (other than contributions described in section 4942(g)(3)) which are received between January 1, 1970, and the last day of such year. Because the organization is not subject to the provisions of section 4942 for such year, the organization need not satisfy subparagraph (1)(ii) of this paragraph or the phrase "after the application of section 4942(g)(3)" for such year.

(ii) *Extension of period.* For purposes of section 170(b)(1)(A)(vii) and (e)(1)(B)(ii), in the case of a taxable year ending in either 1970 or 1971, the period referred to in section 170(b)(1)(E)(ii) for making distributions shall not expire before the 30th day after (insert date on which final regulations under section 170(b)(1)(E)(ii) are filed by the FEDERAL REGISTER).

(4) *Adequate records required.* A taxpayer claiming a deduction under section 170 for a charitable contribution to a foundation described in subparagraph (1) of this paragraph must obtain adequate records or other sufficient evidence from such foundation showing that the foundation made the required qualifying distributions within the time prescribed. Such records or other evidence must be attached to the taxpayer's return for the taxable year for which the charitable contribution deduction is claimed. If necessary, an amended income tax return or claim for refund may be filed in accordance with § 301.6402-2 and § 301.6402-3 of this chapter (Procedure and Administration Regulations).

(h) *Private foundation maintaining a common fund*—(1) *Designation by substantial contributors.* An organization is described in section 170(b)(1)(A)(vii) and (E)(iii) if it is a private foundation all of the contributions to which are pooled in a common fund and which would be described in section 509(a)(3) but for the right of any donor who is a substantial contributor or his spouse to designated annually the recipients, from among public charities, of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to public charities, of the corpus in the common fund attributable to the donor's contribution. For purposes of this paragraph, the private foundation is to be treated as meeting the requirements of section 509(a)(3)(A) and (B) even though donors to the foundation, or their spouses, retain the right to, and in fact do, designate public charities to receive income or corpus from the fund.

(2) *Distribution requirements.* To qualify under subparagraph (1) of this paragraph, the private foundation described therein must be required by its governing instrument to distribute, and it must in fact distribute—

(i) All of the adjusted net income (as defined in section 4942(f)) of the common fund to one or more public charities not later than the 15th day of the third month after the close of the taxable year in which such income is realized by the fund, and

(ii) All the corpus attributable to any donor's contribution to the fund to one or more public charities not later than 1 year after the donor's death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus.

(3) *Failure to designate.* A private foundation will not fail to qualify under this paragraph merely because a substantial contributor or his spouse fails to exercise his right to designate the recipients of income or corpus of the fund, provided that the income and corpus attributable to his contribution are distributed as required by subparagraph (2) of this paragraph.

(4) *Definitions.* For purposes of this paragraph—

(i) The term "substantial contributor" is as defined in section 507(d)(2) and the regulations thereunder.

(ii) The term "public charity" means an organization described in section 170(b)(1)(A)(i) through (vi). If an organization is described in section 170(b)(1)(A)(i) through (vi), and is also described in section 170(b)(1)(A)(viii), it shall be treated as a public charity for purposes of this paragraph.

(iii) The term "income attributable to" means the income earned by the fund which is properly allocable to the contributed amount by any reasonable and consistently applied method. See, for example, § 1.642(c)-5(c).

(iv) The term "corpus attributable to" means the portion of the corpus of the fund attributable to the contributed amount. Such portion may be determined by any reasonable and consistently applied method.

(v) The term "donor" means any individual who makes a contribution (whether of cash or property) to the private foundation, whether or not such individual is a substantial contributor.

(i) *Section 509(a)(2) or (3) organization.* An organization is described in section 170(b)(1)(A)(viii) if it is described in section 509(a)(2) or (3) and the regulations thereunder.

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DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 55]

INSPECTION AND GRADING OF EGG PRODUCTS

Notice of Proposed Rule Making

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), the U.S. Department of Agriculture hereby proposes a new title (Regulations Governing the Voluntary Inspection and Grading of Egg Products), recodification and revision of the Regulations Governing the Grading and Inspection of Egg Products (7 CFR Part 55).

STATEMENT OF CONSIDERATIONS

The Egg Products Inspection Act (84 Stat. 1620 et seq., 21 U.S.C. 1031–1056) and the regulations issued pursuant thereto for egg products will become effective on July 1, 1971. Egg products plants presently using the voluntary inspection service under regulations of this part (7 CFR Part 55), will be inspected under the provisions of the Egg Products Inspection Act. However, there will be a need for a voluntary program for certain types of inspections and for the use of official USDA inspection identification for some products containing eggs as an ingredient. Some of these types of inspections are:

1. The use of Department personnel or laboratories for certain laboratory tests and analyses;

2. Sampling or inspection functions which are requested outside the official egg products plant;

3. Inspections, certifications, examinations, or specification-type gradings, and other inspections which may be requested by an egg products plant, which are in addition to the normal inspection requirements for the processing or production of a wholesome egg product;

4. A voluntary inspection program and official identification of certain categories of foods containing eggs which are exempted as an egg product requiring inspection under the Egg Products Inspection Act;

5. Test weighing or organoleptic examination of products outside the official plant when requested by interested persons.

The major changes being proposed in this regulation are the deletion of many of the provisions which dealt strictly with egg product processing and inspection requirements. These provisions will be covered by referencing the applicable provisions of the regulations issued pursuant to the Egg Products Inspection Act. Other proposed changes are administrative in nature or for the sake of simplification and clarification.

All persons who desire to submit written data, views, or arguments in connection with the proposal shall file the same in triplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, no later than 10 days after publication in the FEDERAL REGISTER.

The proposed revised Regulations Governing the Voluntary Inspection and Grading of Egg Products (7 CFR Part 55) are as follows:

Subpart A—Inspection and Grading of Egg Products

DEFINITIONS

§ 55.1 Meaning of words.

Under the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand.

§ 55.2 Terms defined.

For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other Act of Congress conferring like authority.

"Administrator" means the Administrator of the Consumer and Marketing Service (C&MS) of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

"Applicant" means any interested party who requests any grading or inspection service, or appeal grading or appeal inspection, with respect to any product.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including, but not being limited to, the processing, handling, or packaging which affects such product.

"Department" means the U.S. Department of Agriculture.

"Inspection/Grading" means (1) the act of determining, according to the regulations, the class, quality, quantity, or condition of any product by examining each unit thereof or a representative sample drawn by a grader; (2) the act of issuing a certificate; or (3) the act of identifying, when requested by the applicant, any product by means of official identification pursuant to the Act and this part.

"Inspection and grading certificate" or "certificate" means a statement, either written or printed, issued by a grader or inspector pursuant to the Act and this part, relative to the class, quality, quantity, and condition of products.

"Inspector/Grader" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the Act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

"Interested party" means any person financially interested in a transaction involving any grading, inspection, or appeal grading or inspection of any product.

"National Supervisor" means (1) the officer in charge of the service of C&MS, and (2) such other employee of C&MS as may be designated by him.

"Office of grading" means the office of any grader or inspector.

"Official plant" means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service or inspection in accordance with this part and in which such service is carried on.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group persons, whether incorporated or not.

"Product" or "products" means eggs (whether liquid, frozen, or dried), egg products and any food product which is prepared or manufactured and contains eggs as an ingredient.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regional supervisor" means any employee of the Department in charge of the service in a designated geographical area.

"Regulations" means the provisions in this part.

"Sampling" means the act of taking samples of any product for grading or inspection.

"Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Service" means (1) any grading or inspection, in accordance with the Act and the regulations, of any product, (2) supervision, in any official plant, of the preparation or packaging of any product, or (3) any appeal grading or appeal inspection of any previously graded or inspected product.

"Shell eggs" means the shell eggs of the domesticated chicken, turkey, duck, goose, and guinea.

§ 55.5 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain

misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the sampling, inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting or sampling under this part and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark or symbol formulated pursuant to the regulations in this part, stating that the product was graded or inspected, or for the purpose of maintaining the identity of the product.

(d) "Official Identification" means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a printed label, or other method as approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATION

§ 55.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for a limited period any particular provisions of the regulations to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations.

GENERAL

§ 55.20 Kinds of service available.

The regulations in this part provide for the following kinds of service:

(a) Inspection of processing products containing eggs in official plants.

(b) Sampling and laboratory analysis of products.

(c) Quantity and condition inspection of products.

(d) Laboratory analysis of samples (with or without added ingredients) of products which are submitted to the laboratory by the applicant.

§ 55.22 Where service is offered.

Any product may be graded or inspected wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.24 Basis of service.

(a) Products shall be graded or inspected in accordance with such standards, methods, and instructions as may be issued or approved by the Administrator. All service shall be subject to supervision at all times by the applicable State supervisor, egg products supervisor, regional supervisor, and National Supervisor. Whenever the supervisor of a grader or inspector has evidence that such grader or inspector incorrectly graded or inspected a product, such supervisor shall take such action as is necessary to correct the grading or inspection and to cause any improper official identification which appears on the product or containers thereof to be corrected prior to shipment of the product from the place of the initial grading or inspection.

(b) Whenever service is performed on a sample basis, such sample shall be drawn in accordance with the instructions as issued by the Administrator.

PERFORMANCE OF SERVICES

§ 55.30 Licensed graders and inspectors.

(a) Any person who is a Federal or State employee or the employee of a local jurisdiction possessing proper qualifications as determined by an examination for competency and who is to perform services pursuant to this part, may be licensed by the Secretary as a grader or inspector.

(b) All licenses issued by the Secretary are to be counter-signed by the officer-in-charge of the service of the Consumer and Marketing Service or by any other official of C&MS designated by such officer.

(c) No person may be licensed to grade or inspect any product in which he is financially interested.

§ 55.40 Suspension of license; revocation.

Pending final action by the Secretary, any person authorized to countersign a license to perform service may, whenever he deems such action necessary to assure that any grading or inspection services are properly performed, suspend any license to perform grading or inspection service issued pursuant to this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons, the licensee may file an appeal in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be further suspended or revoked. After the expiration of the aforesaid 7-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 7 days, the license to perform grading or inspection service is revoked.

§ 55.50 Cancellation of license.

Upon termination of his services as a grader or inspector, each licensee shall surrender his license immediately for cancellation.

§ 55.60 Surrender of license.

Each license which is canceled, suspended, or revoked shall immediately be surrendered by the licensee to the office of the service in the region in which he is located.

§ 55.70 Identification.

All graders, inspectors, and supervisors shall have in their possession at all times while on duty and present upon request the means of identification furnished by the Department to such person.

§ 55.80 Political activity.

All graders and inspectors are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate is prohibited, except as authorized by law or regulation of the Department. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 55.90 Authority and duties of inspectors performing service on a resident inspection basis.

(a) Each inspector is authorized:

(1) To make such observations and inspections as he deems necessary to enable him to certify that products have been prepared, processed, stored, and otherwise handled in conformity with the regulations in this part;

(2) To supervise the marking of packages containing products which are eligible to be identified with official identification;

(3) To retain in his custody, or under his supervision, labels with official identification, marking devices, samples, certificates, seals, and reports of inspectors;

(4) To deface or remove, or cause to be defaced or removed under his personal supervision, any official identification from any package containing products whenever he determines that such products were not processed in accordance with the regulations or are not fit for human food;

(5) To issue a certificate upon request on any product processed in the official plant; and

(6) To use retention tags or other devices and methods as may be approved

by the Administrator for the identification and control of products which are not in compliance with the regulations or are held for further examination, and any equipment, utensils, rooms or compartments which are found to be unclean or otherwise in violation of any of the regulations. No product equipment, utensil, room or compartment shall be released for use until it has been made acceptable. Such identification shall not be removed by anyone other than an inspector or grader.

(b) Each inspector shall prepare such reports and records as may be prescribed by the officer in charge of the service.

§ 55.95 Facilities to be furnished for use of graders and inspectors in performing service on a resident inspection basis.

(a) Facilities for proper sampling, weighing, and examination of products shall be furnished by the official plant for use by inspectors and graders. Such facilities shall include a candling light, a heavy duty, high speed (not less than 1,000 r.p.m. under load) drill with an eleven-sixteenths inch or larger bit of sufficient length to reach the bottom of a 30-pound can of frozen product, a nonbreakable thermometer, and a satisfactory test kit for determining the bactericidal strength.

(b) Furnished office space and equipment, including but not being limited to, a desk (equipped with a satisfactory locking device), lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors and graders to change clothing. Such space and equipment must meet the approval of the State supervisor.

APPLICATION FOR SERVICE

§ 55.100 Who may obtain service.

(a) An application for service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

(b) Where service is offered: Any product may be graded or inspected, wherever a grader or inspector is available and the facilities and the conditions are satisfactory for the conduct of the service.

§ 55.120 Authority of applicant.

Proof of the authority of any person applying for any service may be required at the discretion of the Administrator.

§ 55.130 How application for service may be made; conditions of resident service.

(a) *On a fee basis.* An application for any service may be made in any office of grading, or with any grader or inspector at or nearest the place where the service is desired. Such application for service may be made orally (in person or by telephone), in writing or by telegraph. If an application for grading service is made orally, the office of grading, grader or inspector with whom such application is made, or the Administrator may require that the application be confirmed in writing.

(b) *On a resident inspection basis.* An application for inspection on a resident inspection basis to be rendered in an official plant must be made in writing on forms approved by the Administrator and filed with the Administrator. Such forms may be obtained at the national, regional, or State grading office. In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading and inspection of products as may be issued from time to time by the Administrator). No member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit.

(c) *Form of application.* Each application for grading or inspecting a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or inspected.

§ 55.140 Application for inspection in official plants; approval.

Any person desiring to process and pack products under inspection service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for inspection service to be rendered in an official plant shall be approved according to the following procedure:

(a) *Initial survey.* When an application for inspection in a plant has been filed, the Regional Supervisor or his assistant serving the region in which the plant is located will make a survey and inspection of the premises and plant to determine whether the facilities and methods of operation therein are suitable and adequate for service in accordance with (1) the regulations and (2) such other administrative instructions as may be issued, from time to time, by C&MS and which are in effect at the time of the aforesaid survey and inspection.

(b) *Drawings and specifications to be furnished.* Three copies of drawings properly drawn to scale shall be submitted to the National Supervisor. The drawings shall consist of floor plans of space to be included in the official plant, the locations of such features as the principal pieces of equipment, floor drains, hand washing facilities, hose connections for cleanup purposes, the cardinal points of the compass, and the name and address (specific location) of the plant.

(1) The official plant shall include product processing rooms and areas, storage rooms, toilet and dressing rooms, storerooms for supplies used in the operation under this service, and all other rooms, compartments, or passageways where products or any ingredients to be used in the preparation of products under this service will be handled or kept and may include other rooms located in the buildings comprising the official plant.

(2) Specifications covering the height of ceilings, types of principal pieces of equipment, character of walls, floors, and ceilings, lighting, ventilation including intake and exhaust facilities, water supply and drainage, and such other notations as may be required shall accompany the drawings. Upon approval of the drawings and specifications the application for service may be approved.

(c) *Final survey and plant approval.* Prior to the inauguration of inspection service, a final survey of the plant and premises shall be made by the Regional Supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations. The plant may be approved only when these requirements have been met.

(d) Surveys and approvals made pursuant to the regulations (Part 59 of this chapter) under the Egg Products Inspection Act will be accepted for the purposes of this section.

§ 55.150 When application may be rejected.

Any application for service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain service; (e) whenever the applicant, after an initial survey has been made in accordance with § 55.140(a), fails to bring the plant, facilities, and operating procedures into compliance with the regulations within a reasonable period of time; (f) notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service; (g) when it appears that to perform the services specified in this part would not be to the best interests of the public welfare or of the Government; or (h) when it appears to the Administrator that prior commitments of the Department necessitate rejection of the application. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration,

the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 55.160 When application may be withdrawn.

An application for service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by C&MS in connection with such application.

§ 55.170 Order of service.

Service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal. The Department shall not be liable in damages accruing through acts of commission or omission in the administration of this part.

§ 55.180 Suspension of plant approval.

(a) Any plant approval pursuant to the regulations may be suspended for (1) failure to maintain plant and equipment in a satisfactory state of repairs; (2) the use of operating procedures which are not in accordance with the regulations; or (3) alterations of buildings, facilities, or equipment which cannot be approved in accordance with these regulations.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless service is terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time to be specified by the Administrator, the application and service shall be terminated. Upon termination of service in an official plant pursuant to the regulations, the plant approval shall also become terminated and all labels, seals, tags or packaging material bearing official identification shall, under the supervision of a person designated by the Administrator, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

DENIAL OF SERVICE

§ 55.200 Debarment.

(a) The following acts or practices or the causing thereof may be deemed sufficient cause for the debarment by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in Part 50 of this chapter shall be applicable to such a debarment action:

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of an application for any service or appeal;

(ii) The making of the product accessible for sampling, grading, or inspection;

(iii) The making, issuing or using, or attempting to issue or use any certificate, symbol, stamp, label, seal, or identification authorized pursuant to the regulations;

(iv) The use of the terms "United States," "U.S.," "Government Graded," "Federal-State Graded," "U.S. Inspected," "Government Inspected," or terms of similar import in the labeling or advertising of any product;

(v) The use of any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

(2) *Use of facsimile forms.* Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

(3) *Willful violation of the regulations.* Any willful violation of the regulations or the Act.

(4) *Interfering with a grader, inspector, or employee of C&MS.* Any interference with or obstruction or any attempted interference or obstruction of or assault upon any grader, licensee, inspector or employee of C&MS in the performance of his duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of C&MS, or the making or offering of any contribution to or in any way supplementing the salary, compensation or expenses of an employee of C&MS, or the offering or entering into a private contract or agreement with an employee of C&MS for any services to be rendered while employed by C&MS.

(5) *Miscellaneous.* The existence of any of the conditions set forth in § 55.150 constituting the basis for the rejection of an application for grading or inspection service.

§ 55.220 Other applicable regulations.

Compliance with these regulations shall not excuse failure to comply with any other Federal or any State or municipal applicable laws or regulations.

§ 55.240 Report of violations.

Each grader and inspector shall report, in the manner prescribed by the Administrator, all violations and noncompliance under the Act and this part of which such grader or inspector has knowledge.

§ 55.260 Reuse of containers bearing official identification prohibited.

The reuse, by any person, of containers bearing official identification is prohibited unless such identification is applicable in all respects to product being packed therein. In such instances, the container and label may be used provided the packaging is accomplished under the supervision of an inspector or grader and the container is in clean, sound condition and lined with a suitable inner liner.

IDENTIFYING AND MARKING PRODUCTS

§ 55.300 Approval of official identification.

(a) Any label, container, or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label, container, or packaging material bearing official identification may be used unless finished copies or samples thereof have been approved by the Administrator. No label, container, or packaging material bearing official identification shall be printed or prepared for use until the printer's or other final proof has been approved by the Administrator. No label, container, or packaging material which bears official identification shall bear any statement that is false or misleading. If the label is printed on or otherwise applied directly to the container or packaging material, the principal display panel thereof shall be considered as the label.

(b) Containers of product bearing official identification shall display the following information:

(1) The common or usual name, if any there be, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions;

(2) The name and address of the packer or distributor. When the distributor is shown, it shall be qualified by such terms as "packed for," "distributed by," or "distributors";

(3) The lot number or production code number;

(4) The net contents;

(5) Official identification and plant number;

(6) Products produced from edible shell eggs of the turkey, duck, goose, or guinea, or from other egg products which were produced from edible shell eggs of the turkey, duck, goose, or guinea shall be clearly and distinctly labeled as to the common or usual name of the product including the type of eggs or egg products used in the product, e.g., "Containing turkey eggs." Egg products labeled without qualifying words as to type of shell egg used in the products, shall be produced only from the edible shell egg of the domesticated chicken, or the product of such eggs.

§ 55.310 Form of official identification symbol and inspection mark.

(a) The shield set forth in Figure 1 shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with a product shall be deemed to constitute a representation that the product has been officially inspected for the purposes of § 55.5.

(b) The inspection marks which are permitted to be used on products shall be contained within the outline of a

shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be omitted from the official identification if applied elsewhere on the container.

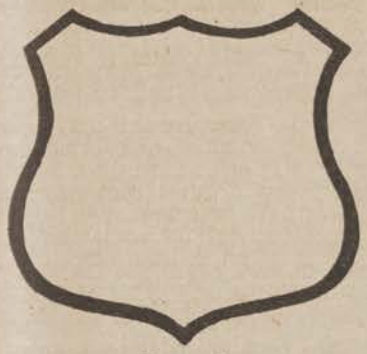

FIGURE 1.

FIGURE 2.

§ 55.320 Products that may bear the inspection mark.

Products which are permitted to bear the inspection mark shall be processed in an official plant from edible shell eggs or other edible egg products eligible to bear the inspection mark and may contain other edible ingredients. The official mark, when used, shall be printed or lithographed and applied as a part of the principal display panel of the container, but shall not be applied to a detachable cover.

§ 55.330 Unauthorized use or disposition of approved labels.

(a) Containers of labels which bear an official identification approved for use pursuant to § 55.300 shall be used only for the purpose for which approved and shall not otherwise be disposed of from the plant for which approved except with written approval of the Administrator. Any unauthorized use or disposition of approved containers or labels which bear any official identification may result in cancellation of the approval and denial of the use of containers or labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of § 55.200;

(b) The use of simulations or imitations of any official identification by any person is prohibited;

(c) Once a year or more often, if requested, each applicant shall submit to the Administrator a list of approved labels which bear any official identification that have become obsolete, accompanied with a statement that such approvals are no longer desired. The approvals shall be identified by the date of approval and the name of the product;

(d) Upon termination of inspection service in an official plant pursuant to the regulations, all labels, seals, tags, or packaging material bearing official identification shall, under the supervision of a person designated by the Regional Supervisor, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

§ 55.340 Supervision of marking and packaging.

(a) *Evidence of label approval.* No grader or inspector shall authorize the use of official identification on any inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of § 55.300.

(b) *Affixing of official identification.* No official identification may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by a grader or inspector or under the supervision of a grader or inspector or other person authorized by the Administrator. All such products shall have been inspected in accordance with these regulations. The grader or inspector shall have supervision over the use and handling of all material bearing any official identification.

(c) *Labels for products sold under Government contracts.* The grader or inspector in charge may approve labels for containers of product sold under a contract specification to governmental agencies when such product is not offered for resale to the general public: *Provided,* That the contract specifications include complete specific requirements with respect to labeling, and are made available to the grader or inspector.

§ 55.350 Accessibility of product.

Each product for which service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 55.360 Certificates.

Certificates (including appeal certificates) shall be issued on forms approved by the Administrator.

§ 55.370 Certificate issuance.

(a) *Resident service.* Certificates will be issued only upon a request therefor by the applicant or C&MS. When requested, an inspector shall issue a certificate covering product inspected by him. In addition, an inspector may issue a certificate covering product inspected in whole or in part by another inspector when the inspector has knowledge that the product is eligible for certification based on personal examination of the product or official inspection records.

(b) *Other than resident service.* Each inspector shall, in person or by his authorized agent, issue a certificate covering each product inspected by him. An inspector's name may be signed on a certificate by a person other than the inspector, if such person has been designated as the authorized agent of such inspector by the National Supervisor: *Provided,* That the certificate is prepared from an official memorandum of inspection signed by the inspector: *And provided further,* That a notarized power of attorney authorizing such signature has been issued to such person by the inspector and is on file in the office of the service. In such case, the authorized agent shall sign both his own and the inspector's name, e.g., "John Doe by Richard Row."

§ 55.380 Disposition of certificates.

The original and a copy of each certificate, issued pursuant to § 55.370 and not to exceed two additional copies thereof if requested by the applicant prior to issuance, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Other copies shall be filed and retained in accordance with the disposition schedule for inspection program records. Additional copies of any such certificate may be supplied to any interested party as provided in § 55.520.

§ 55.390 Advance information.

Upon request of an applicant, all or part of the contents of any certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

APPEALS

§ 55.400 Who may request an appeal grading or inspection or review of a grader's or inspector's decision.

An appeal grading or inspection may be requested by any interested party who is dissatisfied with the determination by a grader or inspector of the class, quality, quantity, or condition of any product, as evidenced by the USDA inspection mark and accompanying label, or as stated on a certificate and a review may be requested by the operator of an official plant with respect to a grader's or inspector's decision or on any other matter related to grading or inspection in the official plant.

§ 55.410 Where to file an appeal.

(a) *Appeal from resident grader's or inspector's grading or decision in an official plant.* Any interestd party who is not satisfied with the determination of the class, quality, quantity, or condition of product which was graded or inspected by a grader or inspector in an official plant and has not left such plant, and the operator of any official plant who is not satisfied with a decision by a grader or inspector on any other matter relating to grading or inspection in such plant may request an appeal grading or inspection or review of the decision by the grader or inspector by filing such request with the grader's or inspector's immediate supervisor.

(b) *All other appeal requests.* Any interested party who is not satisfied with the determination of the class, quality, quantity, or condition of product which has left the official plant where it was graded or inspected or which was graded or inspected other than in an official plant may request an appeal grading or inspection by filing such request in the regional office where the product is located or with the Chief of the Grading Branch.

§ 55.420 How to file an appeal.

Any request for an appeal grading or inspection or review of a grader's or inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be returned to the appeal grader or inspector assigned to make the appeal grading or inspection.

§ 55.430 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has under gone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal grading or inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

§ 55.440 Who shall perform the appeal.

(a) An appeal grading or inspection or review of a decision requested under § 55.410(a) shall be made by the grader's or inspector's immediate supervisor or by a licensed grader or inspector assigned by the immediate supervisor other than the grader or inspector whose grading or inspection or decision is being appealed.

(b) Appeal gradings or inspections requested under § 55.410(b) shall be performed by a grader or inspector other than the grader or inspector who originally graded or inspected the product.

(c) Whenever practical, an appeal grading or inspection shall be conducted jointly by two graders or inspectors. The assignment of the grader(s) or inspector(s) who will make the appeal grading or inspection under § 55.410(b) shall be made by the Regional Supervisor or the Chief of the Grading Branch.

§ 55.450 Procedures for selecting appeals samples.

(a) *Laboratory analyses.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. When the original sample containers cannot be located, the appeal sample shall consist of product taken at random from double the number of original sample containers.

(b) *Condition inspection.* The appeal sample shall consist of product taken from the original sample containers plus an equal number of containers selected at random. A condition appeal cannot be made unless all originally sampled containers are available.

§ 55.460 Appeal certificates.

Immediately after an appeal grading or inspection is completed, an appeal certificate shall be issued to show that the original grading or inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government. When the appeal grader or inspector assigns a different class or quantity designation to the lot, the labeling shall be corrected.

FEES AND CHARGES

§ 55.500 Payment of fees and charges.

(a) Fees and charges for any service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of this section and § 55.510 to 55.560, both inclusive. If so required by the grader, inspector, or sampler, such fees and charges shall be paid in advance.

(b) Fees and charges for any service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Consumer and Marketing Service and remitted promptly to C&MS.

(c) Fees and charges for any service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 55.510 Fees and charges for service other than on continuous resident basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal) performed, in accordance with this part on a fee basis shall be based on the applicable rates specified in §§ 55.510 to 55.560, both inclusive.

(b) Fees for product inspection and sampling for laboratory analysis and appeals will be based on the time required to perform the services. The hourly charge shall be $9.20 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or Government authorized holidays shall be charged for at the rate of $11.40 per hour. Information on Government authorized holidays is available from the Supervisor.

(d) The fee is to be charged for an appeal grading, inspection, or laboratory analysis appeal, shall be based on the hourly rates as specified in paragraph (b) or (c) of this section. If the result of an appeal condition inspection discloses that a material error was made in the original inspection, no fee will be charged.

(e) A fee shall be charged for the appeal under § 55.410(a) of a grader's or inspector's decision when (1) special travel was necessary to perform the appeal review, and (2) the grader's or inspector's decision was upheld on the appeal. In such cases, the fee shall be based on the hourly rates as specified in paragraph (b) or (c) of this section.

§ 55.520 Fees for additional copies of grading certificates.

Additional copies of any certificates, other than those provided for in § 55.380 may be supplied to any interested party upon payment of a fee of $2 for each set of five or fewer copies.

§ 55.530 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the Department in connection with rendering grading service. Such charges shall include the costs of transportation, per diem, shipping containers, postage, and any other expenses. Expenses are to be charged on an appeal certificate regardless of the grading results. Ten percent of the total expenses shall be added to cover administrative costs of the Department. The minimum expense charge shall be $0.50 per certificate.

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following laboratory analyses are applicable except as otherwise stated in paragraphs (b) or (c) of this section:

	Fee
Solids	$4.60
Fat	6.90
Bacteriological plate count	4.60
Bacteriological direct count	4.60
Coliforms	4.60
E. Coli (presumptive)	6.90
Yeast and mold count	4.60
Sugar	11.50
Salt	11.50
Color:	
NEPA	5.75
B-carotene	9.20
Whipping test	4.60
Whipping test plus bleeding	5.75
Fat film test	11.50
Oxygen	5.75
Glucose:	
Quantitative	9.75
Qualitative	6.90
Palatability and odor:	
First sample	4.60
Each additional sample	2.30
Staphylococcus	13.80
Salmonella: [1]	

[1] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron agar; Step 3—confirmatory test through biochemicals.

	Fee
Step 1	$9.20
Step 2	4.60
Step 3	9.20

(b) *Other fees for specified individual tests and services.* The fees listed for the following laboratory analyses are applicable for individual tests for one factor only, on a particular product sample:

	Fee
Solids	$5.50
Bacteriological plate count	5.50
Bacteriological direct count	5.50
Coliforms	5.50
E. Coli (presumptive)	7.75
Yeast and mold count	5.50

(c) The fee charge for an analysis for any laboratory test which is not shown in this section or for other services rendered in the laboratory will be based on the time required to perform the analysis or render the service. The hourly rate will be $11.40.

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

Fees to be charged and collected for service on a resident basis shall be those provided in this section. The fees to be charged for any appeal grading or inspection shall be as provided in § 55.510.

(a) Charges. The charges for the service shall be paid by the applicant and shall include items listed in this section as are applicable. Payment for the full cost of the service rendered to the applicant shall be made by the applicant to the Consumer and Marketing Service, U.S. Department of Agriculture. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading and inspection service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt. A charge will be made by C&MS in the amount of two (2) percent of any amounts remaining unpaid after 30 days from the date of billing. Such charge shall not be less than $5.

(1) An inauguration charge of $200 will be made at the time an application for service is signed except when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) or inspector(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) A charge to cover the actual cost to C&MS for the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader or inspector who is transferred from an official station to the designated headquarters when service is inaugurated.

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader or inspector while assigned except that no charge will be made when the assigned grader or inspector is temporarily reassigned by C&MS to perform service for other than the applicant. The base salary rate used for billing will be that of the grader(s) or inspector(s) assigned to the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover costs for items such as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, travel costs for relief grading and inspection service, and related servicing costs. The overtime rate charge is 150 percent of the grader's salary. The added holiday rate charge is the same as the grader's salary when the grader or inspector works on a holiday.

(4) A charge of 10 percent of (i) the premium pay, and (ii) any expenses incurred (including travel and per diem costs) by each grader or inspector assigned while performing service at the applicant's request.

(5) An administrative service charge equal to 25 percent of the grader's or inspector's salary costs. A minimum charge of $50 will be made each billing period.

(b) *Other provisions.* (1) The applicant will designate in writing the employees of the applicant who will be required and authorized to furnish each grader or inspector with such information as may be necessary for the performance of the service.

(2) C&MS will provide, as available, an adequate number of graders or inspectors to perform the service. The number of graders or inspectors required will be determined by C&MS based on the expected demand for service.

(3) The service shall be provided at designated locations and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice, by either the applicant or C&MS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by C&MS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading and inspection service; or

(iv) Termination of the service pursuant to the provisions of the following subdivision (v) of this subparagraph;

(v) Grading and inspection service shall be terminated by C&MS, acting pursuant to any applicable laws, rules, and regulations, debars the applicant from receiving any further benefits of the service.

(4) Graders or inspectors will be required to confine their activities to those duties necessary in the rendering of service and such closely related activities as may be approved by the Administrator.

(5) When similar services are furnished to the same applicant under Part 56 or Part 70 of this chapter, the charges listed in this section shall not be repeated.

§ 55.570 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

SANITARY AND PROCESSING REQUIREMENTS

§ 55.600 General.

Except as otherwise approved by the Administrator, the sanitary, processing, and facility requirements, as applicable, shall be the same for the product processed under this part as for egg products processed under Part 50 §§ 59.500 through 59.580(c) of this chapter and § 55.650 of this part.

§ 55.650 Inspection and grading.

Examinations of the ingredients, processing, and the product shall be made to assure the production of a wholesome, unadulterated and properly labeled product. Such examinations include, but are not being limited to:

(a) Sanitation checks of plant premises, facilities, equipment, and processing operations.

(b) Checks on ingredients and additions used in products to assure that they are not adulterated, are fit for use as human food, and are stored, handled, and used in a sanitary manner.

(c) Examination of the eggs or egg produtcs used in the products to assure they are wholesome, not adulterated, and comply with the temperature, pasteurization, or other applicable requirements.

(d) Inspection during the processing and production of the product to determine compliance with any applicable standard or specification for such product.

(e) Examination during processing of the product to assure compliance with approved formulas and labeling.

(f) Test weighing and organoleptic examinations of finished product.

Subpart B—Official U.S. Standards for Palatability Scores for Dried Whole Eggs

§ 55.800 Preparation of samples for palatability test.

Reconstitute 33 grams of dried whole egg powder as completely as possible with 90 grams of distilled water in a suitable, clean container. Add the water and mix until the mixture is smooth and free from lumps. Place the container in gently boiling water and stir the mixture while coagulation takes place. When coagulated to the consistency of scrambled eggs, the sample is ready for the palatability test.

§ 55.820 Palatability scores for dried whole eggs.

The palatability score of the prepared sample shall be determined by a panel of officially qualified graders of dried

eggs of the Consumer and Marketing Service, and shall be rated in accordance with the following table:

Score:	Description of Quality
8	No detectable off flavor, comparable to high quality fresh shell eggs.
7½	Very slight off flavor.
7	Slight but not unpleasant off flavor.
6½	Definite but not unpleasant off flavor.
6	Pronounced off flavor (slightly unpleasant).
5	Unpleasant off flavor.
4	Definite unpleasant off flavor.
3	Pronounced unpleasant off flavor.
2	Repulsive flavor.
1	Definite repulsive flavor.
0	Pronounced repulsive flavor.

Signed at Washington, D.C. this 19th day of May, 1971.

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

[FR Doc.71-7195 Filed 5-21-71;8:50 am]

[7 CFR Part 923]

SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Notice of Proposed Rule Making

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of sweet cherries grown in designated counties in Washington by establishing regulations, pursuant to § 923.52 *Issuance of regulations*, which was recommended by the Washington Cherry Marketing Committee, established pursuant to the marketing agreement, and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 7th day after the publication of this notice in the Federal Register. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations by the Washington Cherry Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of sweet cherries from the production area are expected to begin on or about June 7, 1971. The proposed grade and size requirements provided herein are necessary to prevent the handling, on and after June 7, 1971, of any cherries grading lower than the grade herein specified, and smaller in size than as herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. The proposed requirements herein that pertain to containers and the packaging of cherries in faced packs and any packs of 20 pounds, net weight, or larger, are designed to prevent deceptive packaging practices, promote buyer confidence, and maintain the integrity of the Washington sweet cherry industry. Individual shipments, not exceeding 100 pounds, of cherries sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of cherries so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness to the source of supply. Such proposal reads as follows:

§ 923.310 Cherry Regulation 10.

(a) *Order.* (1) During the period June 7, 1971, through May 31, 1972, no handler shall, except as provided in subparagraph (2) of this paragraph, handle any lot of cherries unless such cherries meet each of the following applicable requirements:

(i) *Minimum grade.* U.S. No. 1: *Provided,* That the following tolerances, by count of the cherries in the lot, shall apply in lieu of the tolerances for defects provided in the U.S. Standards for Grades of Sweet Cherries: a total of 10 percent for defects; including in this amount not more than 5 percent, by count of the cherries in the lot, for serious damage, and including in this latter amount not more than 1 percent by count of the cherries in the lot, for cherries affected by decay: *Provided further,* That, the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(ii) *Minimum size.* At least 95 percent, by count of the cherries in the lot, shall measure not less than forty-eight sixty-fourth inch in diameter.

(iii) *Faced packs and any packs of 20 pounds, net weight, or larger.* At least 90 percent, by count of the cherries in the lot, shall measure not less than fifty-four sixty-fourth inch in diameter.

(iv) *Containers.* The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅝ by 10½ by 4 inches shall be not less than 20 pounds; and no container of cherries shall contain less than 12 pounds, net weight, of cherries.

(2) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 923.41 (Assessments), and of § 923.55 (Inspection and Certification):

(i) The shipment consists of cherries sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) *Definitions.* (1) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order;

(2) "U.S. No. 1" and "diameter" shall have the same meaning as when used in the U.S. Standards for Grades of Sweet Cherries (36 F.R. 8502); and

(3) "Faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

Dated: May 20, 1971.

Paul A. Nicholson,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Parts 1930-1934]

[Docket No. R-71-109]

FEDERAL CRIME INSURANCE PROGRAM

Notice of Proposed Rule Making

Pursuant to title XII of the National Housing Act (added by the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb—1749bbb-21), as amended by title VI of the Housing and Urban Development Act of 1970 (Public Law 91-609, Dec. 31, 1970); 5 U.S.C. 553; and delegation of authority by the Secretary of Housing and Urban Development (34 F.R. 2680, Feb. 27, 1969, as amended by 36 F.R. 1364, Jan. 28, 1971), the Federal Insurance Administrator proposes an amendment to Title 24, Code of Federal Regulations, by adding a new Subchapter C of Chapter VII, pertaining to the new direct Federal crime insurance program authorized by the Act (12 U.S.C. 1749bbb-10a, et seq.).

The purpose of this new subchapter is (1) to inform the general public concerning the manner in which the crime insurance program will operate, the States in which the insurance will initially be sold, and the eligibility requirements for its purchase; (2) to offer to all licensed property insurance agents and brokers in eligible States an opportunity to sell Federal crime insurance and to set forth the conditions of the offer; and (3) to prescribe the rules and regulations for the general operation of the program, as well as the specific policy forms that will be required.

Since the program will not become operative in any State in which, as of August 1, 1971, the Administrator finds that the standard lines of crime insurance are available at affordable rates, as provided by section 1231(b) of the Act,

12 U.S.C. 1749bbb–10a(b), it is not possible at this time to provide the public with a firm list of the States in which Federal crime insurance will initially be sold. However, § 1931.1 of the proposed regulations, in which the actual list of eligible States will be published no later than August 1, sets forth the current status of the Administrator's continuing review of the market unavailability situation.

Interested persons may submit written comments or suggestions on the proposed regulations to the Federal Insurance Administrator, Department of Housing and Urban Development, Washington, D.C. 20410. Prior to the adoption of the regulations, a public hearing will be held at 10 a.m. on June 11, 1971, in Room 2251, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC, to give representatives of State and local governments, the insurance industry, and members of consumer groups and the general public an opportunity to express their views orally. In addition, consideration will be given to written comments or suggestions received within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Copies of comments submitted will be available for examination by interested persons during business hours, both before and after the specified closing date, in the HUD Information Center, Room 1202, at the above address.

Proposed Subchapter C of Chapter VII of Title 24 reads as follows:

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

Sec.
1930.1 Definitions.
1930.2 Description of program.
1930.3 Operation of program and inapplicability of State laws.
1930.4 Offer to agents and brokers to sell Federal crime insurance.
1930.5 Names and addresses of servicing companies. [Reserved]
1930.6 Duties of servicing companies.

§ 1930.1 Definitions.

(a) As used in this subchapter and in the crime insurance policies issued by the Federal Insurance Administrator, unless otherwise defined in the text of such policies—

(1) The following terms shall be defined as set forth in § 1905.1 of Subchapter A of this chapter: Act, Administrator, Binder, Person, Property owner, Secretary, State, and State insurance authority;

(2) "Adjuster" means any person engaged in the business of adjusting loss claims arising under property insurance policies issued by an insurance company;

(3) "Affordable rate" means such premium rate as the Secretary determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved. For the purposes of the sale of Federal crime insurance, the rates set forth in Part 1933 of this subchapter shall be deemed affordable;

(4) "Agent or broker" means any person authorized to engage in the property insurance business as an agent or broker under the laws of any State;

(5) "Crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in Part 1933 of this subchapter and in the various crime insurance policies issued by the insurer. The term does not include automobile insurance or losses resulting from embezzlement;

(6) "Deductible" means the fixed amount or percentage of any loss not covered by an insurance policy. The amount of the deductible must be exceeded before insurance coverage takes effect;

(7) "Eligible premises" means a property eligible for crime insurance coverage under one or more of the types of policies described in Part 1933 of this subchapter;

(8) "Insurance company" means any property insurance company, or group of companies, authorized to engage in the insurance business under the laws of any State;

(9) "Insurer" means the Federal Insurance Administrator, U.S. Department of Housing and Urban Development, Washington, D.C. 20410.

(10) "Policyholder premium" means the total insurance premium payable by the insured for the coverage or coverages provided under any insurance policy;

(11) "Program" means the Federal crime insurance program authorized by title VI of the Housing and Urban Development Act of 1970 (Public Law 91–609, December 31, 1970), set forth principally in 12 U.S.C. 1749bbb–10a, et seq.;

(12) "Protective device" means any structural, mechanical, electrical, chemical, or other physical obstacle or device that can be utilized by a property owner to prevent or deter crime or to minimize losses;

(13) "Protective measure" means any protective device or other measure or procedure employed to prevent or deter crime or to minimize losses; and

(14) "Servicing company" means an insurance company or other organization that has entered into an agreement with the insurer to issue and service Federal crime insurance policies on the insurer's behalf in one or more States or areas eligible for the sale of such insurance.

(b) Technical or trade terms used in this subchapter or in the crime insurance policies issued by the Federal Insurance Administrator and not otherwise defined therein shall be deemed to have the most general meaning they have in the standard crime insurance policies providing similar coverages issued by private insurance companies.

§ 1930.2 Description of program.

(a) Title VI of the Housing and Urban Development Act of 1970 (Public Law 91–609, approved Dec. 31, 1970) authorizes the Secretary of Housing and Urban Development on and after August 1, 1971, to make crime insurance available at affordable rates in any State in which a critical market unavailability situation for crime insurance exists that has not been met through appropriate State action. The Secretary is directed to conduct a continuing review of the market availability situation in each of the several States to determine whether crime insurance is available at affordable rates either through the normal insurance market or through a suitable program adopted under State law. The Secretary's basic authority under this title has been delegated to the Federal Insurance Administrator.

(b) The purpose of the delayed effective date for the Federal program is to give the private property insurance industry and the State insurance authorities an opportunity to solve the crime insurance unavailability problem through the establishment of appropriate programs under the authority of State law. Where adequate State solutions to the price and market problems are adopted, Federal crime insurance will not be sold.

(c) In States where the sale of Federal crime insurance is undertaken, policies will be sold primarily through agents and brokers licensed to engage in the insurance business within the State for which the policy is written, and by the appropriate servicing company. It is not anticipated that crime insurance will be sold through any office of the Department of Housing and Urban Development or through any other Federal facility.

(d) A list of States designated as eligible for the sale of Federal crime insurance will be established in § 1931.1 of this subchapter, subject to periodic revisions pursuant to determinations by the Federal Insurance Administrator that a critical crime insurance market unavailability or prohibitive cost situation exists in a particular State, or that the standard lines of crime insurance have become available at affordable rates either through a suitable State program or through the private insurance market.

§ 1930.3 Operation of program and inapplicability of State laws.

(a) The crime insurance program authorized by the Act is a direct Federal program, exempt from any form of Federal or State taxation in accordance with section 1250 of the Act (12 U.S.C. 1749bbb–20). In carrying out the program, the Administrator is authorized to define terms (section 1203(b); 1749bbb–2(b), to issue regulations (section 1247; 1749bbb–17), to establish premium rates (section 1233; 1749bbb–10c), to prescribe terms, conditions, and limits of coverage (section 1231(b); 1749bbb–10a(b)), and to make use of the existing facilities and services of insurance companies, agents, and brokers as fiscal agents of the United States (section 1232; 1749bbb–10b).

(b) No Federal crime insurance policy issued by or on behalf of the insurer shall be subject to any State tax or insurance law or regulation, nor shall any agent or broker be subject thereto with respect to any action taken by him under the authority of this subchapter; and no insurance policy shall be written by any agent or broker in the name or on behalf of the insurer on any form, or on terms and conditions, or with limits of coverage, or at premium rates, other than those then currently prescribed by the insurer. Failure by any insurance company, broker, or agent to comply with this requirement may result in the immediate suspension or debarment of the violator from any further participation in the program.

§ 1930.4 Offer to agents and brokers to sell Federal crime insurance.

(a) Pursuant to the authority contained in section 1232 of the Act (12 U.S.C. 1749bbb–10b), the insurer hereby offers to pay to any eligible agent or broker a commission in an amount equal to the specified percentage of the applicable policyholder premium with respect to each Federal crime insurance policy application he writes for an eligible property owner, in accordance with the provisions of this subchapter, pursuant to which a Federal crime insurance policy is subsequently issued. The actual submission of a valid and complete application resulting in the issuance of a policy to an eligible insured, all on approved forms and in accordance with the provisions of this subchapter, shall be deemed an acceptance of this offer, subject to avoidance from the inception of the policy in the event of fraud or misrepresentation and to cancellation by the insurer (for any of the reasons set forth in § 1931.7 of this subchapter) or by the insured, and provided the agent or broker at the time of submitting the application for the prospective insured promptly transmits the gross amount of the policyholder premium then due to the servicing company designated by the insurer for the applicable area and complies, with respect to such policy, with any additional procedural requirements the servicing company may then have imposed with the consent of the insurer. It shall be a further condition of this offer that the agent or broker must certify on the application that he has fully carried out the duties set forth in the "Agent's Duties" section of the applicable Federal crime insurance manual, which shall include explaining to the prospective insured the nature of the coverage provided, the applicable protective device requirements, and the penalties for material misrepresentations. The amount of the commission will be prorated in the event of the cancellation of any validly issued policy, and the agent or broker shall repay to the servicing company the amount of any unearned commission resulting from such cancellation.

(b) Commissions earned by eligible agents and brokers under the authority of paragraph (a) of this section shall be paid to them in a lump sum by the servicing company either monthly or on such other equitable basis as the insurer may approve.

(c) The specified commission percentages of the policyholder premium for both residential and commercial insurance coverages shall be the following: Initial policies, territory 01, 17 percent; 02, 15 percent; 03, 13 percent, and for all renewal business, the commission shall be 10 percent. The renewal commission rate shall apply to any property that has previously been insured under the program, regardless of the length of time since the termination of the previous policy; provided, that the commission for any such renewed policy shall be deemed payable only to the agent or broker, if any, who actually submits the renewal application.

(d) For the purposes of this offer, an eligible agent or broker means an agent or broker who is, at the time of making application for the policy, authorized to act as an agent or broker with respect to the State where the insured premises are located and who has not been suspended or debarred by the insurer. An eligible property owner is an applicant whose premises to be insured are located in a State then currently designated as eligible for the sale of Federal crime insurance in § 1931.1 of this subchapter.

(e) Neither this § 1930.4 nor any acceptance of this offer shall be deemed to confer upon any agent or broker any authority to act for, represent, or bind the insurer or the United States except as otherwise expressly provided herein.

§ 1930.5 Names and addresses of servicing companies. [Reserved]

§ 1930.6 Duties of servicing companies.

(a) Final decisions as to the duties of servicing companies will be made and published in this § 1930.6 prior to the August 1 effective date of the program, and will be reflected in the actual contracts entered into with such companies by the insurer. However, it is anticipated that servicing companies will act as fiscal agents for the insurer in performing such duties in connection with the program as are set forth in paragraph (b) of this section.

(b) As required by their contracts with the insurer, servicing companies:

(1) Provide information to eligible property owners, agents, and brokers;

(2) Provide manuals and application forms to local agents and brokers;

(3) Maintain, control, and account for applications for insurance received from eligible agents, brokers, and applicants;

(4) Verify the eligibility of applicants for the coverages sought;

(5) Issue policies only on forms prescribed by the insurer, or else promptly notify applicants (through the appropriate agent or broker, if any) of ineligibility;

(6) If policy is issued, deposit the applicant's premium check in a special bank account or, if no policy issued, return the premium to the applicant through the agent or broker, if any;

(7) Issue periodic commission payment checks to cooperating agents and brokers;

(8) Provide statistical and accounting records, coding, and reports, in hard copy and machine-readable forms, as specified in the insurer's statistical plan and accounting instructions, and as may be specifically requested, all in timely fashion;

(9) Receive, control, and account for all crime insurance claims submitted within its servicing area;

(10) Verify claims data and existence of required protective devices, adjust losses as required by insurer, and promptly pay all valid claims;

(11) Bill policyholders directly for premiums at least 45 days in advance of due dates; and

(12) Periodically obtain updated applications or certifications from insureds for verification and incorporation in statistical and accounting records.

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Sec.

§ 1931.1 States eligible for the sale of crime insurance.

(a) In accordance with section 1231 of the Act (12 U.S.C. 1749bbb–10a), the Administrator has reviewed the market availability situation in each of the several States to determine whether crime insurance is available at affordable rates either through the normal insurance market or through a suitable program adopted under State law.

(b) On the basis of the information available to date, the Administrator has concluded, subject to a final determination during the month of July, that the following States are, respectively, most likely, likely, and less likely to have a critical market unavailability situation on August 1 which will necessitate the implementation of the Federal crime insurance program within such States:

(1) States most likely to require the sale of Federal crime insurance:

California.
Connecticut.
Delaware.
District of Columbia.
Illinois.
Indiana.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Missouri.
New York.
Ohio.
Pennsylvania.
Puerto Rico.
Rhode Island.
Virginia.
Wisconsin.

(2) States likely to require the sale of Federal crime insurance:

Florida.
Georgia.
Iowa.
Kansas.
Kentucky.
Louisiana.
New Mexico.
North Carolina.
Oregon.
Tennessee.
Texas.
Washington.

(3) States least likely to require the sale of Federal crime insurance:

Alabama.
Alaska.
Arizona.
Arkansas.
Colorado.
Hawaii.
Idaho.
Maine.
Mississippi.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
North Dakota.
Oklahoma.
South Carolina.
South Dakota.
Utah.
Vermont.
West Virginia.
Wyoming.
The territories and possessions.
Trust Territory of the Pacific Islands.

(c) If any of the States listed in paragraph (b) of this section, after the effective date of this subchapter, adopts a suitable program under State law to make the standard lines of crime insurance available to property owners within that State at affordable rates, or if such insurance becomes generally available through the normal insurance market at affordable rates, then in either case the eligibility of such State for the subsequent sale of crime insurance under the program will be promptly terminated by the insurer.

(d) Federal crime insurance policies in force at the time a State loses its eligibility for participation in the program shall thereupon be terminated by written notice to the policyholder effective on the next 6-month anniversary date of the policy and, notwithstanding the provisions of § 1931.7, no further coverage for such policyholder with respect to premises located in such State shall thereafter be written unless the State again becomes eligible under the program.

§ 1931.2 Eligibility requirements applicable to property owners.

(a) To be eligible for the purchase of Federal crime insurance under the program, a property owner must:

(1) Apply separately for coverage for each eligible premises within an eligible State and personally sign each application. The program will not initially provide for any policy endorsements;

(2) Certify, under penalty of Federal law pertaining to fraud misrepresentation (18 U.S.C. 1001), that each such premises meets the applicable protective device standards set forth in Part 1932 of this subchapter;

(3) Pay the 6-month premium due for the policy upon application. Coverage will commence at noon on the day following the date of application unless a later date is specified in the application;

(4) Agree to permit inspections of the insured premises by the insurer or his representative at any reasonable time or times; and

(5) Agree to report to the police all crime losses of property covered under each policy, whether or not a claim is filed.

(b) Failure to comply fully with the requirements of paragraph (a) of this section may result in the avoidance, cancellation, or nonrenewal of coverage, as set forth in § 1931.7.

(c) Any false statement in the application voids the policy. Intentionally false or misleading statements, either in the application or in connection with any claim submitted under the program, may result in prosecution for fraud under 18 U.S.C. 1001.

§ 1931.3 Use of prescribed forms required.

No Federal crime insurance is authorized to be written under the program on any form other than the form prescribed by the insurer for the type of coverage involved. Any insurance policy purportedly issued on behalf of the insurer on any other form shall not be binding upon the insurer and shall not confer any liability upon the insurer by reason of any act or representation of the agent, broker, or servicing company in illegally causing such policy to be issued.

§ 1931.4 Terms and conditions of policy to govern.

(a) Except as otherwise specifically provided by this subchapter, the respective rights and duties of the insurer and the insured shall be as set forth in the prescribed application form and the prescribed policy form. All purchasers of Federal crime insurance shall be deemed to have knowledge of the terms and conditions of coverage set forth in such policies. Modifications of this subchapter that are made during the term of an existing policy shall become applicable to an individual insured at the time of the renewal of such policy. All Federal crime insurance policies shall be issued for a term of 1 year, subject to semiannual rate determinations and premium payments.

(b) The rights of the insurer to require inspections of the insured premises, production of books, and records, appraisals of damaged property, subrogation in the event of payment, and prompt notice in the event of loss, shall be as specified in the prescribed policy, of which the application forms a part. The rights of the insured with respect to the coverages provided, extensions of coverage outside the insured premises or with respect to other persons, limits of such coverages, appraisals, cancellations, and judicial review shall be as set forth in the prescribed policy.

§ 1931.5 Where to purchase coverage.

Subject to the provisions of this subchapter, Federal crime insurance coverage may be purchased from any property insurance agent or broker authorized to do business in the State in which the premises to be insured are located, or directly from the appropriate servicing company.

§ 1931.6 How to report claims.

Losses under a Federal crime insurance policy which exceed the applicable deductible may be reported either to the agent or broker through whom the application was submitted, or directly to the servicing company designated for the area in which the loss occurs. The claimant will be required to report all pertinent information, including a description of the loss, time, place, ownership, manner of acquisition, cost, depreciation, current, value, amount of claim, and whether the insured has incurred previous losses under the policy. A sworn proof of loss statement must be submitted to the adjuster or servicing company that processes the claim.

§ 1931.7 Cancellations, modifications, and renewals of coverage.

(a) Each property owner within an eligible State who is validly insured under any policy or policies of insurance issued under the Federal crime insurance program shall be entitled to renew coverage upon the expiration of such existing policy or policies, subject to the rules, regulations, and policy terms, conditions, and rates then in effect, unless coverage has previously been cancelled or renewal is refused for one or more of the reasons set forth in this part.

(b) A renewal notice will be sent by the servicing company to the insured at least 45 days prior to the expiration date of each policy, accompanied by a premium statement and a certification to be executed by the insured, stating that his premises meet the then applicable Federal crime insurance eligibility requirements, which will be set forth in the notice. The 6-month premium then due; together with the insured's certification as required, must be remitted to the servicing company not later than the expiration date of the previous policy in order to prevent any lapse in coverage. No new policy will normally be issued, and an eligible insured's check or receipt shall constitute his proof of payment. However, if substantial changes have been made in the regulations or provisions governing the pertinent crime insurance coverage during the term of the insured's policy, he may be asked by the servicing company to submit a new application form, and a new policy in its entirety may then be issued.

(c) Since the initial phase of the Federal crime insurance program does not provide for any policy endorsements, changes in limits of coverage may be made only upon the submission of a new application. If the insured requests that such changes be made effective on the 6-month anniversary date of the original effective date of the policy, no penalty will be incurred and the changed limits of coverage will commence upon the payment of any additional premium required. However, if the property owner desires an effective date other than such 6-month policy anniversary date, the requested change shall be effected only upon cancellation and reissuance of the policy and the insured shall be entitled to only a partial refund of the unearned premium under normal short-rate cancellation procedures. Such short-rate cancellation procedures shall also be applicable to any cancellation by the insured during the term of any policy, except at the time of the 6-month anniversary date of the original effective date of such policy.

(d) Notwithstanding the unqualified cancellation provisions contained in the approved policy forms, the insurer hereby limits his right to cancel, or to refuse to renew coverage, to the following grounds: (1) Any nonpayment of

premium, (2) fraud or misrepresentation in the application or upon any renewal of coverage, or in connection with either, (3) fraud or misrepresentation in connection with the submission of a claim, (4) the use of the insured premises with the knowledge of any insured for any illegal activity, or (5) any other substantial failure to comply with the provisions of this subchapter or of the insurance policy, as determined by the insurer. Cancellations by the insurer on either of the first two grounds shall be from the inception of the policy, and refunds of unearned premiums, if any, shall be subject to offsets for the insurer's administrative expenses in connection with the issuance of the policy and any inspections of the applicant's premises. Except as other provided in paragraph (f) of this section, cancellations by the insurer for any of the remaining three grounds shall be upon 30 days' written notice to the insured by the servicing company, and the insured shall be entitled to a short-rate refund of any unearned permium.

(e) Premises found upon inspection to lack the required protective devices shall be deemed to have been misrepresented at the time of application, and no insurance coverage shall be deemed to have attached, regardless of the length of time the policy is ostensibly in force, unless the property owner can clearly establish that the deficiency in protective devices actually occurred subsequent to the issuance of the policy, in which event the policy shall be deemed cancelled by the insured as of the date of such deficiency. This paragraph shall not apply if the servicing company is promptly notified and supplied with all relevant facts at the time the deficiency occurs, if such deficiency is corrected within the time specified by the servicing company.

(f) Failure of an insured to report to the police any loss of property covered under the policy, as required by § 1931.2 (a)(5), shall be deemed by the insurer to be a cancellation of coverage by such insured, effective 15 days from the date on which any person covered under the policy first became aware of the loss, unless such failure is expressly waived by the insurer.

(g) No property owner whose Federal insurance coverage has been canceled (whether from the inception or after notice) or for whom the insurer has refused to renew coverage, for any of the reasons in subparagraphs (2), (3), or (4), as set forth in paragraph (d) of this section, or who has been deemed by the insurer to have canceled under paragraph (f) of this section, shall be eligible for any further insurance under the program except upon the written waiver of the Administrator, granted for good cause shown. If granted, the waiver of ineligibility must be presented to the appropriate agent, broker, or servicing company by the property owner within 30 days of the date it is granted, and a copy thereof shall be made a part of the property owner's application and shall be incorporated as part of any policy subsequently issued.

§ 1931.8 Inquiries and complaints.

(a) Inquiries or complaints about the Federal crime insurance program should initially be directed to the property owner's agent or broker, or to the servicing company designated for the area in which the premises are located.

(b) Inquiries or complaints with respect to which satisfactory information or action cannot be obtained through local sources, and general or legal inquiries pertaining to the nature of the program, may be addressed to the Federal Insurance Administrator, Department of Housing and Urban Development, Washington, D.C. 20410.

§ 1931.9 Penalties for false statements.

All information provided by an applicant or a claimant on any form approved by the insurer, including representations as to the date on which such form is signed, shall be deemed material to the issuance of the policy applied for and to the disposition of claims submitted thereunder. Any false statement, misrepresentation, or concealment in the execution or submission of such forms, or in any writing or document knowingly submitted by the applicant or claimant in connection therewith, may result in his prosecution by the United States for fraud under 18 U.S.C. 1001, subject to a fine of not more than $10,000 or imprisonment of not more than 5 years, or both.

§ 1931.10 Nondiscrimination.

The Federal crime insurance program and all policies issued or serviced thereunder are subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No persons shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the program, on the ground of race, color, or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this subchapter should be referred to the Administrator.

PART 1932—PROTECTIVE DEVICE REQUIREMENTS

Subpart A—General

Sec.

Subpart B—Residential Properties

Subpart C—Nonresidential Properties

Subpart A—General

§ 1932.1 Definitions.

As used in this subchapter, the term—

(a) "Baffle" means a piece of metal that covers the opening between a door and its frame at the area of penetration of the bolt or latch to deter the insertion of tools and prevent the exertion of pressure agains the bolt or latch;

(b) "Central station, supervised service alarm system" means a silent alarm system that is constantly in operation, which signals at a private sentry or guard headquarters that is attended and monitored 24 hours a day;

(c) "Dead bolt" means a locking device using a fixed bolt that, when in locked position, cannot be retracted by a door knob or handle or other normal door opening device or by the application of force against the penetrating end of the bolt;

(d) "Dead latch" means a latch or similar locking device, usually spring-operated, that incorporates a feature to render the latch rigid in its locked position and incapable of release by prying or by the turning of an outside door knob or handle or similar door opening device;

(e) "Dead lock" means a lock that cannot be pushed or retracted into a door or window by the use of tools inserted between the frame of the door or window and the door or window itself. Except as otherwise indicated, a dead lock may be equipped with a dead bolt or a dead latch;

(f) "Double cylinder dead bolt lock" means a dead bolt that can be released from its locked position only by a key, whether on the inside or the outside of the door;

(g) "Local alarm system" means an alarm system that signals by means of one or more bells or other loud, audible devices located on the premises where the system is installed;

(h) "Silent alarm system" means an alarm system that signals at a location other than the premises where it is installed, without giving warning at the location of the protected premises that it has been activated; and

(i) "Throw," when used in the context of a locking device, means the distance penetrated by that part of a bolt or latch on a door or window that actually penetrates into the fixed bolt or latch receptacle on the door or window frame.

§ 1932.2 Purpose of protective device requirements.

(a) Section 1231(b) of the Act (12 U.S.C. 1749bbb–10a(b)) provides that no Federal crime insurance shall be made available to a property which is deemed by the insurer to be uninsurable or to a property with respect to which reasonable protective measures to prevent loss, consistent with standards established by the insurer, have not been adopted.

(b) It is the intention of the insurer to require at the inception of the program only those protective devices generally in use or readily available for

particular types and classes of properties at the present time. As the program progresses, however, the insurer proposes to amend these requirements from time to time to enforce a higher and more effective standard of protection against ordinary property crimes than now exists. Such revised requirements are not expected to be published more often than once a year and will be applicable only to crime insurance policies issued or renewed after their effective date.

§ 1932.3 Classification of properties.

The protective devices required under this part fall into two broad categories, residential and commercial. Requirements for residential properties are expected to remain relatively stable and are not likely to vary by classes. The protective devices required for commercial and industrial properties will vary greatly by the type of risk involved and will be changed periodically as experience and knowledge are gained under the program and from studies being undertaken by other public and private agencies.

§ 1932.4 Lack of protective devices voids policy.

(a) Each property owner applying for Federal crime insurance shall be personally responsible for meeting the protective device requirements applicable to the type of property for which he seeks insurance. Ignorance of such requirements shall not be deemed an excuse for any lack of compliance with the protective device requirements of this subchapter, and any person who is doubtful as to whether the protective devices existing on his premises at the time of application meet such requirements should seek competent technical advice before actually making application.

(b) Although agents and brokers are expected to advise property owners as to the requirements for and adequacy of protective devices, no agent or broker shall be authorized to approve or disapprove on behalf of the insurer the adequacy of any required protective devices, and any representation to the contrary is false and shall be void.

(c) If any Federal crime insurance policy is erroneously or fraudulently applied for, and regardless whether the policy applied for is subsequently issued, with respect to any premises that lack the required protective devices, such application shall be deemed void from its inception and no coverage shall exist with respect to such premises, regardless of the length of time such policy may ostensibly have been in force.

Subpart B—Residential Properties

§ 1932.21 Minimum standards for residences and apartments.

In order to be eligible for Federal crime insurance, a residential property shall be equipped with self-locking dead latch devices on all exterior doors and doors leading into garage areas or public hallways, except that sliding doors may be equipped with dead locks of any kind. All first floor and basement windows, and all windows opening onto stairways, porches, or platforms, shall be equipped with locking devices. All dead locks required by this section shall have a minimum throw of one-half inch.

Subpart C—Nonresidential Properties

§ 1932.31 Minimum standards for industrial and commercial properties.

The following requirements shall apply to all nonresidential properties as a condition of eligibility for Federal crime insurance:

(a) All exterior doors shall be equipped with locks containing a dead latch with at least a ½-inch throw. Wherever permitted by applicable laws pertaining to protection against fire, heavy duty, double cylinder, dead bolt locks, whose bolts extend at least 1 inch into the frame of the door and which require the use of a key on the inside as well as the outside of the door, are recommended and may in the future be required on all exterior doors. If applicable laws pertaining to protection against fire permit only single cylinder dead bolt locks, such locks with a 1-inch throw are recommended.

(b) All exterior grate or grill-type doors shall be secured by one or more padlocks with heavy duty, case hardened steel shackles, having a minimum five-pin tumbler operation and an unremovable key when in an unlocked position.

(c) All exterior doors shall be of heavy gauge metal, tempered glass, or solid wood core construction, not less than 1⅜-inches thick, or else shall be covered with metal sheeting of at least 16 gauge (one-sixteenth-inch thick) or its equivalent, or with grillwork, to give like protection;

(d) Outside hinge pins shall be welded, flanged, or screw-secured, nonremovable pins;

(e) Where permitted by applicable laws pertaining to fire protection, accessible openings exceeding 96 square inches in area, and 6 inches in the smallest dimension, shall either meet standards for doors, or else shall be protected by inside or outside iron bars one-half inch in diameter or by flat steel material, spaced not more than 5 inches apart and securely fastened, or by iron or steel grills of ⅛-inch material of 2-inch mesh, securely fastened.

(f) The following types of establishments whose inventories pose a particularly heavy risk shall, as a minimum, be protected by the types of alarm systems indicated (if such systems are available in the community in which the premises are located)—

(1) Central stations, supervised service alarm system:

(i) Jewelry—manufacturing, wholesale, and retail;
(ii) Gun and ammunition shop;
(iii) Wholesale liquor;
(iv) Wholesale tobacco;
(v) Wholesale drug; and
(vi) Fur store.

(2) Silent alarm system:

(i) Liquor store;
(ii) Pawn shop;
(iii) Electronic equipment store;
(iv) Wig shop;
(v) Clothing (new) store;
(vi) Coin and stamp shop;
(vii) Industrial tool supply house;
(viii) Camera store; and
(ix) Precious metal storage facility.

(3) Local alarm system (bell outside premise):

(i) Antique store;
(ii) Art gallery; and
(iii) Service station.

PART 1933—COVERAGES, RATES, AND PRESCRIBED POLICY FORMS

Subpart A—Residential Crime Insurance Coverage

Sec.
1933.1 Description of residential coverage.
1933.2 Limits of residential coverage.
1933.3 Amount of residential policy deductible.
1933.4 Residential crime insurance rates.
1933.5 Required residential policy form.

Subpart B—Commercial Crime Insurance Coverage

1933.21 Description of commercial coverage.
1933.22 Limits of commercial coverage.
1933.23 Amount of commercial policy deductible.
1933.24 Classification of commercial risks.
1933.25 Commercial crime insurance rates.

Subpart A—Residential Crime Insurance Coverage

§ 1933.1 Description of residential coverage.

(a) The purpose of this § 1933.1 is descriptive only, and it shall be subject to the express terms and conditions of the policy form prescribed in § 1933.5.

(b) The initial policy issued by the insurer for residential properties shall be known as the residential crime insurance policy. Subject to its terms, the policy reimburses an insured for loss from burglary, robbery, or observed theft, or attempt thereat, of insured property, and for damage to the premises caused by any such attempt. It also covers damage to the interior of the part of the building occupied by the named insured's household at the described premises, and to the insured property both therein and away from the premises, caused by vandalism or malicious mischief, provided that with respect to damage to the building an insured is the owner thereof or is liable for such damage. The policy is subject to the exclusions set forth therein.

(c) The residential crime insurance policy shall be written only for an individual, or for a single family or household, living in a one- to four-family house or in separate living quarters in an apartment building or dormitory. Premises in hotels, premises used in whole or in part for business purposes, or premises where more than two occupants not related to the named insured live with him, are not eligible for coverage under the residential policy.

§ 1933.2 Limits of residential coverage.

The residential crime insurance policy may be written in amounts not less than $1,000 and not in excess of $5,000 for

each insurable premises. Each $1,000 of insurance, or fraction thereof, shall be charged the applicable rate for the full $1,000 of coverage.

§ 1933.3 Amount of residential policy deductible.

The residential crime insurance policy shall be subject to a deductible in the amount of $100 for each loss occurrence, or 5 percent of the gross amount of the loss, whichever is greater. The face amount of coverage specified in the policy is not reduced by the application of this deductible. Thus, if an insured having a $5,000 policy incurs a $5,000 covered loss, he would receive $4,750. If the loss were $6,000, he would receive the full $5,000.

§ 1933.4 Residential crime insurance rates.

The premium rates for the residential crime insurance policy vary according to the territory in which the insured premises are located, as set forth in Part 1934 of this subchapter. Premiums for 6 months of coverage for policy limits of $1,000, $2,000, $3,000, $4,000, and $5,000 in each of these territorial classifications shall be as follows: (a) Territory 01 (low risk)—$15, $25, $30, $35, and $40; (b) territory 02 (average risk)—$20, $30, $35, $40, and $45; and (c) territory 03 (high risk)—$25, $35, $40, $45, and $50.

§ 1933.5 Required residential policy form.

The following shall constitute the application form and the policy form for the residential crime insurance policy, and no other application form or policy form shall be used unless otherwise provided by this § 1933.5. Coverage will commence at noon on the day following the date of application unless a later date is specified in the application.

(a) Residential crime insurance application form:

CRIME INSURANCE PROGRAM

RESIDENTIAL CRIME INSURANCE POLICY

This Policy (of which this Application is a part) covers burglary and robbery losses of personal property, including observed theft, subject to a deductible, as stated below, and to Federal law and regulations.

FEDERAL INSURANCE ADMINISTRATION

(An Agency of the U.S. Government)

U.S. Department of Housing and Urban Development, Washington, D.C. 20410

APPLICATION

Policy No. _____

(Insert Social Security Number and add suffix "A," "B," "C;" etc., for each separate Application where multiple premises are involved.)

Insured's Name and Mailing Address:

_____

_____

_____

Effective date: _____

(Not earlier than noon on date following date of application)

Expiration date: _____

(1 year from effective date)

(Space for Agent's sticker)

1. Location of premises (if different from mailing address): _____

2. If not a single-family residence, describe type of building: _____

3. Amount of insurance applied for ($5,000 maximum): $_____

NOTE: Coverage is subject to a deductible of $100 or 5 percent of gross amount of any loss, whichever is greater.

4. (a) State whether you have ever previously had insurance under the Federal crime insurance program: _____

(b) If so, give month and year when coverage was last in force: _____

(c) State reason coverage was terminated: _____

(d) If canceled, state whether canceled by the Insurer or by you: _____

5. If answer to Question 4(a) is yes, did you ever have a claim under your previous policy? _____ Was it paid? _____

Premium Computation: (To be filled in by Agent, Broker, or Servicing Company)

Insert name and address of servicing company: _____

_____

Territory Code: _____ Amount of Coverage: $_____

Amount of Annual Premium: $_____

(One half of annual premium must accompany the Application.)

Eligibility Requirements and Unusual Policy Provisions:

1. This Policy is subject to the crime insurance provisions of title VI of the Housing and Urban Development Act of 1970 (Public Law 91–609, December 31, 1970; 12 U.S.C. 1749bbb–10a et seq.) and the Regulations of the Federal Insurance Administration issued pursuant thereto (24 CFR 1930 et seq.). Renewals of this coverage shall be subject to the Regulations in force at the time of such renewals.

2. Any false statement in the Application voids the Policy. Intentionally false or misleading statements may result in prosecution for fraud under 18 U.S.C. 1001.

3. To be eligible for insurance under the Federal crime insurance program, the insured premises must meet the requirements for protective devices established by the Federal Insurance Administration for that type of property. A list of these requirements is printed on the back of this form.

4. One-half of the annual premium must be paid at the time of application. The second installment of the premium will be billed approximately 30 days before its due date and must be remitted by the insured within 15 days after the due date.

5. All losses of property subject to coverage under this Policy must be reported to the police (whether or not a claim is filed), or coverage under the Policy shall be deemed canceled by the insured 15 days from the date on which any person covered by the policy first became aware of the loss.

Certification by applicant:

"I certify, under penalty of Federal law for fraud or misrepresentation as set forth in 18 U.S.C. 1001, (1) that the statements I have made in this Application, including the signature date set forth below, are true and correct to the best of my knowledge and belief, (2) that I have read the eligibility requirements above and the protective device requirements on the back of this form, and (3) that the insured premises meet such requirements.

"I further agree to make the insured premises available for inspection in connection with this policy at any reasonable time; and I understand that if at the time of such inspection the insured premises are found not to be protected in the manner required, this Policy will be considered void from its inception and only the portion of premium not absorbed by administrative expenses in connection with the inspection and the issuance of such policy will be refunded."

_____ _____

(Signature of insured) (Date)

(b) Residential crime insurance policy form:

FEDERAL INSURANCE ADMINISTRATION

RESIDENTIAL CRIME INSURANCE POLICY

The Federal Insurance Administrator, herein called the Insurer, agrees with the insured, named in the Application made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Application, and subject to (1) the provisions of title VI of Public Law 91–609 and Subchapter C, Chapter VII, Title 24 of the Code of Federal Regulations, and (2) the limits of liability, exclusions, conditions, deductibles, and other terms of this Policy with respect to the following criminal acts:

INSURING AGREEMENTS

I. *Loss by Burglary and Robbery, Including Observed Theft.* To pay for loss by burglary and robbery, including observed theft, of all personal property.

II. *Damage.* To pay for damage to the premises and to the insured property by burglary and robbery or attempt thereat, and for damage to the interior of that portion of any building occupied by the named insured's household at the premises and to the insured property therein or away from the premises by vandalism or malicious mischief; *Provided,* That with respect to damage to the building an insured is the owner thereof or is liable for such damage.

With respect to loss occurring at any part of the premises not occupied exclusively by the named insured's household, this insuring agreement applies only to property owned or used by an insured.

III. *Application of Insurance While the Premises Are Rented to Another.* Such insurance as is afforded for loss at or damage to the premises applies while the premises are rented by an insured to another for use as a private residence only, subject to the following provisions:

1. The insurance applies only with respect to property owned by an insured.

2. The insurance does not apply (a) to money, securities, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, and articles of gold or platinum, furs, fine arts, coins, or stamp collections, or (b) to loss caused by a tenant of such premises or any of his employees or members of his household.

IV. *Removal to Other Premises.* If the named insured moves to other premises which he intends to occupy permanently

as his private residence, such insurance as is afforded for loss at or damage to the premises designated in the Application applies subject to the following provisions:

1. During the moving, for a period not to exceed 30 days, the insurance applies at the premises and at the other premises and to the insured property while in transit.

2. Upon completion of the moving the insurance applies at the other premises and no longer applies at the original premises.

V. *Policy Period, Territory.* This Policy applies only to loss which occurs during the Policy period within a State, as defined in 12 U.S.C. 1749bbb–2.

EXCLUSIONS

This Policy does not apply:

(a) To loss committed by an insured;

(b) To loss of or to (1) any aircraft, motor vehicle (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailer, boat, or the equipment thereof, (2) articles carried or held as samples or for sale or for delivery after sale, or (3) animals, fish, or birds;

(c) To loss sustained by a person not related to an insured who pays board or rent to an insured;

(d) To loss due to war, whether or not declared, civil war, insurection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(e) While the premises are used as a boarding or lodging house or for any purpose other than private residence occupancy;

(f) To property while in the charge of any laundry, cleaner, dyer, tailor, or presser exempt by robbery or by theft through breaking and entering at their premises;

(g) To property while in the mail;

(h) To loss away from the premises of (1) property pertaining to a business of an insured, (2) property while at any dwelling, including grounds, garages, stables, and other outbuildings incidental thereto, owned or occupied by or rented to an insured except while an insured is temporarily residing therein, (3) property of a residence employee unless at the time of loss he is engaged in the employment of an insured and the property is in his custody, or the property is at a dwelling as aforesaid while an insured is temporarily residing therein, (4) property while unattended in or on any motor vehicle or trailer, other than a public conveyance, unless the loss is the result of forcible entry either into such vehicle while all doors and windows thereof are closed and locked or into a fully enclosed and locked luggage compartment, of which entry there are visible marks upon the exterior of said vehicle, and then for not more than $500, or (5) other property, except personal property owned or used by an insured.

(i) To loss if the premises are not equipped with the protective devices required as a condition of eligibility for the purchase of this Policy by the regulations of the Federal Insurance Administration, as published at the time of the inception of the current term of the Policy in Subchapter C, Chapter VII, Title 24, Code of Federal Regulations.

CONDITIONS

1. *Definitions*—(a) *Named Insured; Insured.* The term "named insured" means the insured named in the Application. The term "insured" means the named insured and any person while a permanent member of the named insured's household, other than (1) a residence employee or (2) a person not related to the named insured or his spouse and who pays board or rent to either.

(b) *Premises.* The unqualified word "premises" means the premises designated in the Application, including grounds, garages, stables, and other outbuildings incidental thereto.

(c) *Robbery.* The word "robbery, including observed theft," means the taking of insured property (1) by violence inflicted on an insured; (2) by putting him in fear of violence; (3) by any other overt felonious act committed in his presence and of which he was actually cognizant, provided such other act is not committed by an insured; or (4) from the person or direct care and custody of an insured who has been killed or rendered unconscious.

(d) *Burglary.* The word "burglary" means the felonious abstraction of insured property from within the premises by a person making felonious entry therein by actual force and violence evidenced by visible marks made by tools, explosives, electricity, or chemicals upon, or physical damage to, the exterior of the premises at the place of such entry.

(e) *Money.* The word "money" means currency, coins, bank notes and bullion.

(f) *Securities.* The word "securities" means all negotiable and non-negotiable instruments or contracts representing either money or other property and includes revenue and other stamps in current use, tokens, and tickets, but does not include money.

(g) *Business.* The word "business" includes trade, profession, or occupation.

(h) *Loss.* The word "loss" includes damage.

(i) *Residence Employee.* The term "residence employee" means an employee of an insured whose duties are incidental to the ownership, maintenance, or use of the premises, including the maintenance or use of automobiles or teams, or who performs elsewhere duties of a similar nature not in connection with an insured's business.

2. *Interests Covered.* The insurance does not apply to the interest in insured property of any person or organization, unless included in the named insured's proof of loss.

3. *Limits of Liability; Settlement Options.* The Insurer shall not be liable on account of any loss unless the amount of such loss shall exceed the amount of the deductible described in the Application which is made a part of this Policy and the Insurer shall then be liable only for such excess over and above the deductible, subject to and within the limit of insurance covered by the Policy.

The limit of the Insurer's liability for loss or damage in any one occurrence shall not exceed the applicable limit of insurance stated in the Application, nor what it would cost at the time of loss to repair or replace the property with other of like kind and quality, nor the actual cash value thereof at the time of loss: *Provided, however,* That the limit of the Insurer's liability for loss of money is $100, and for loss of securities is $500.

If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

The applicable limit of insurance stated in the Application is the total limit of the Insurer's liability with respect to all loss of property of one or more persons or organizations arising out of any one occurrence. All loss incidental to an actual or attempted fraudulent, dishonest or criminal act or series of related acts at the premises, whether committed by one or more persons, shall be deemed to arise out of one occurrence.

The Insurer may pay for the loss in money or may repair or replace the property and may settle any claim for loss of property either with the named insured or the owner thereof. Any property so paid for or replaced shall become the property of the Insurer. Any property recovered after settlement of a loss shall be applied first to the expense of the parties in making such recovery, with any balance applied as if the recovery had been made prior to said settlement, and loss readjusted accordingly. The insured or the Insurer, upon recovery of any such property, shall give notice thereof as soon as practicable to the other.

4. *Insured's Duties When Loss Occurs.* Upon knowledge of loss or of an occurrence which may give rise to a claim for loss: (a) The insured shall give notice thereof as soon as practicable to the Insurer through any of its authorized agents; (b) the insured shall give notice to the police; (c) the named insured shall file detailed proof of loss, duly sworn to, with the Insurer through its authorized agents within 60 days after the discovery of loss.

Upon the Insurer's request, the insured and every claimant hereunder shall submit to examination, subscribe the same under penalty of 18 U.S.C. 1001 pertaining to fraud and false representation, and produce all pertinent records, all at such reasonable times and places as shall be designated and shall cooperate in all matters pertaining to loss or claims with respect thereto.

5. *Other Insurance.* If there is any other valid and collectible insurance which would apply in the absence of this Policy, the insurance under this Policy shall apply only as excess insurance over such other insurance: *Provided,* That the insurance shall not apply: (a) To property which is separately described and enumerated and specifically insured in whole or in part by any other insurance; or (b) to property otherwise insured unless such property is owned by an insured.

6. *No Benefit to Bailee.* The insurance afforded by this Policy shall not inure directly or indirectly to the benefit of any carrier or bailee.

7. *Appraisal.* If the named insured and the Insurer fail to agree as to the amount of loss, each shall, on the written demand of either, made within 60 days after receipt of proof of loss by the Insurer, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. If the appraisers fail to agree, they shall jointly select a competent and disinterested umpire and submit the question to him within 15 days thereafter. The appraisers shall state separately the actual cash value at time of loss and the amount of the loss. Agreement in writing of any two shall be considered by the Insurer in determining the amount of the loss but shall not be considered binding upon him and shall not be admissible as such in court. The named insured and the Insurer shall each pay his or its chosen appraiser and shall bear equally the expenses of the umpire and the other expenses of appraisal.

The Insurer shall not be held to have waived any of its rights such as, without limitation, the right to deny liability under the Policy by any act relating to appraisal.

8. *Action Against Insurer.* No action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, nor until 90 days after the required proofs of loss have been filed with the Insurer, nor at all unless commenced within 2 years from the date when the insured first has knowledge of the loss and within 1 year after the date upon which the claimant received written notice of disallowance of partial disallowance of the claim. Any such action shall be brought in a U.S. district court, as required by 12 U.S.C. 1749bbb–11.

9. *Subrogation.* In the event of any payment under this Policy, the Insurer shall be

subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do what whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

10. *Changes.* Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Insurer from asserting any right under the the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy, as approved by the Federal Insurance Administrator.

11. *Cancellation.* This Policy may be canceled by the named insured by surrender thereof to the Insurer or any of its authorized agents or by mailing to the Insurer written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Insurer by mailing to the named insured at the address shown in this Policy written notice stating when not less than thirty (30) days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date of cancellation stated in the notice shall become the end of the Policy period. Delivery of such written notice either by the named insured or by the Insurer shall be equivalent to mailing.

In the event of cancellation by the Insurer earned premium shall be computed pro rata. In the event of cancellation by the insured, earned premium shall be computed in accordance with the customary short rate table and procedure. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

12. *Assignment.* Assignment of interest under this Policy shall not bind the Insurer until its consent is endorsed hereon; if, however, the named insured shall die, this Policy shall cover the named insured's spouse, if a resident of the same household at the time of such death, and legal representative as named insureds; *Provided*, That notice of cancellation addressed to the insured named in the Application and mailed to the address shown in this Policy shall be sufficient notice to effect cancellation of this Policy. If the legal representative of the named insured is not a person who was a permanent member of the named insured's household at the time of the death of the named insured, this Policy shall apply as it applied prior to such death but shall not apply to loss of property owned or used by such legal representative, a member of his household or a residence employee thereof, unless such loss occurs at a part of the premises occupied exclusively by said named insured's household.

13. *Declarations.* By signing the Application or by acceptance of this Policy the named insured certifies and agrees, under penalty of Federal law dealing with fraud and false representation (18 U.S.C. 1001) that the statements in the Application are his agreements and representations, that this Policy is issued in reliance upon the truth of such representations, and that this Policy embodies all agreements existing between himself and the Insurer or any of its agents relating to this insurance.

In witness whereof, the Federal Insurance Administration has accepted the declarations of the insured set forth in the Application and has caused this Policy to be issued.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

Subpart B—Commercial Crime Insurance Coverage

§ 1933.21 Description of commercial coverage.

(a) The purpose of this section is descriptive only, and it shall be subject to the express terms and conditions of the policy form prescribed in § 1933.26.

(b) The initial policy issued by the insurer for commercial properties shall be known as the commercial crime insurance policy. Subject to its terms, the policy reimburses an insured for loss from robbery inside the premises, robbery outside the premises (up to a limit of $5,000 unless an armed guard accompanies the insured's messenger), kidnapping (which describes the wrongful taking of insured property by compelling an insured to admit a person into the premises), safe burglary (up to a limit of $5,000 unless the insured property is in a Class E safe anchored to the floor), theft observed by the insured, theft from a night depository in a bank, burglary, robbery of a watchman (not to exceed $50 for any one article of jewelry), and damage to the premises (of which the insured is owner or for which the insured is liable) as a result of any of the foregoing. The policy is subject to the exclusions set forth therein.

(c) The commercial crime insurance policy may be written for any industrial or commercial property in accordance with the risk classifications set forth in § 1933.24 and within the limits of coverage set forth in § 1933.22, subject to the applicable requirements of this subchapter, such as the requirement for adequate protective devices set forth in Subpart C of Part 1932 of this subchapter.

§ 1933.22 Limits of commercial coverage.

The commercial crime insurance policy may be written in amounts not less than $1,000 and not in excess of $15,000 for each insured premises. The maximum limit of coverage may not be increased by insuring several departments of a single business at one premises as separate premises. Each $1,000 of insurance, or fraction thereof, shall be charged the applicable rate for the full $1,000 of coverage.

§ 1933.23 Amount of commercial policy deductible.

The commercial crime insurance policy shall be subject to a deductible in the amount of $200 for each loss occurrence, or 5 percent of the gross amount of the loss, whichever is greater. The face amount of coverage specified in the policy is not reduced by the application of this deductible. Thus, if an insured having a $15,000 policy incurs a $15,000 covered loss, he would receive $14,250. If the loss were $16,000, he would receive the full $15,000.

§ 1933.24 Classification of commercial risks.

(a) The governing factor in determining the risk classification applicable to a particular premises is the kind of business conducted by the insured at that location. If there is no specific kind of business applicable to the risk, then the kind of merchandise inventoried and held for sale governs. Such risks take the classification of the merchandise or inventory comprising the majority value of the contents. For example, a candy store carrying an incidental line of tobacco is still classified as a candy store.

(b) Individual concessionaires operating within a premises take the same classification as the business premises in which such concessionaries are located unless the concessionaire's classification is higher, in which case the concessionaire's classification is to be used.

(c) The following classification shall be applicable to the commercial crime insurance policy:

Class:		Statistical code
1	All risks not otherwise classified	01
3	Amusement Enterprises (not otherwise classified)	02
2	Automobile Sales and Service	03
2	Billiard and Pool Parlors	04
2	Bowling Lanes or Centers	05
3	Cameras and Photographic Supplies	06
3	Clubs	07
3	Dance Halls and Pavilions	08
2	Drug Stores and Druggists' Sundries	09
3	Dry Cleaners	10
2	Electrical Appliances—Sales and Service	11
3	Furriers	12
2	Garages	13
3	Gasoline Service Stations	14
2	Golf and Other Sports Professionals	15
2	Grocery Stores and Delicatessens	16
3	Jewelry Stores	17
3	Laundries	18
3	Liquor Stores	19
2	Meat and Poultry Dealers; Butcher Stores	20
2	Men's and Students' Clothing, 14 years and over	21
3	Pawnbrokers	22
2	Radio and Television—Sales and Service	23
2	Restaurants	24
3	Small Loan and Finance Companies	25
3	Taverns	26
3	Theaters	27
2	Tobacco Dealers	28
2	Women's and Junior Teens' Clothing, 14 years and over	29

(d) The premium for risks located in a shopping center or farmers market shall be surcharged 10 percent. For the purpose of this § 1933.24, a shopping center or farmers market is defined as a location consisting of at least five stores and at least 25,000 square feet of area for automobile parking. Risks with respect to which checks in excess of the total sale are cashed shall also be surcharged 10 percent.

(e) No more than two messengers operating from any one premise may have custody of the insured property at any one time, and no messenger shall be deemed to be simultaneously operating from more than one premise. If more than two are required, a surcharge of 10 percent for the next three messengers

and an additional 5 percent for each additional five or less messengers shall apply.

§ 1933.25 Commercial crime insurance rates.

(a) Premium rates for commercial crime insurance policies are determined in accordance with the procedures set forth in paragraph (b) of this section, which will also be contained in the commercial crime insurance manual supplied to any eligible agent or broker upon request. Such request should be made to the servicing company responsible for the area in which the agent or broker is located, the name and address of which is listed in § 1930.5 of this subchapter.

(b) The following procedure shall be used to determine the 6-month rates applicable to commercial crime insurance policies issued under the program:

(1) The risk classification and territory rate shall first be determined in accordance with § 1933.24 and § 1934.2 of this subchapter;

(2) The base rate for the first $1,000 of coverage for a business having gross receipts of less than $25,000 annually shall be determined in accordance with the following table:

TERRITORY

Class	01	02	03
01	$35	$40	$50
02	40	50	60
03	50	60	65

(3) The base rate determined in subparagraph (2) of this paragraph shall be multiplied by the appropriate multiplier from the following table, as determined by the applicant's Federal income tax return for the most recent taxable year:

	Multiplier
Less than $25,000	1.00
$25,000–$49,999	1.50
$50,000–$99,999	2.00
$100,000–$299,999	2.50
$300,000–$499,999	3.00
$500,000–$999,999	3.50
Over $1,000,000	.00025 of sales

(4) The base rate from subparagraph (2) of this paragraph multiplied by the gross receipts multiplier in subparagraph (3) of this paragraph gives the actual premium rate for the first $1,000 of coverage.

(5) Rates for higher limits of coverage shall be determined by applying to the premium rate derived in accordance with subparagraph (3) of this paragraph the appropriate differential from the following table for each $1,000 of coverage:

Rate for each $1,000 of coverage	*Differential*
1st	1.00
2d	2.00
3d	2.95
4th	3.90
5th	4.85
6th	5.70
7th	6.55
8th	7.40
9th	8.15
10th	8.90
11th	9.65
12th	10.30
13th	10.95
14th	11.60
15th	12.25

(6) The product derived in accordance with subparagraph (5) of this paragraph shall then be adjusted to include any applicable surcharge and rounded to the next higher dollar above $0.49 to obtain the chargeable 6-month policyholder premium.

§ 1933.26 Required commercial policy form.

The following shall constitute the application form and the policy form for the commercial crime insurance policy, and no other application form or policy form shall be used unless otherwise provided by this § 1933.26. Coverage will commence at noon on the day following the date of application unless a later date is specified in the application.

(a) Commercial crime insurance application form:

CRIME INSURANCE PROGRAM

COMMERCIAL CRIME INSURANCE POLICY

FEDERAL INSURANCE ADMINISTRATION

(An Agency of the U.S. Government)

U.S. Department of Housing and Urban Development, Washington, D.C. 20410

This Policy (of which this Application is a part) covers burglary and robbery, including observed theft, losses of merchandise and equipment from a store, subject to a deductible, as stated below, and to Federal law and regulations.

APPLICATION

Policy No. _____

(Insert IRS Employer Identification Number and add suffix "A," "B," "C," etc., for each separate Application where multiple premises are involved.)

Effective Date: _____

(Not earlier than noon on date following date of Application)

Expiration Date: _____

(1 year from effective date)

Insured's Name and Mailing Address:

_____

_____

_____

(Space for Agent's Sticker)

1. Location of premises (if different from mailing address): _____
2. Describe type of building and (if multiple occupancy) portion occupied by applicant: _____
3. Describe class and type of business: _____

(Use description from tax return, plus any additional information needed to clarify or expand this description.)

4. Enter the number of messengers in excess of two who will regularly have custody of the insured property outside the premises at any one time: _____
5. Enter gross receipts for preceding taxable year: $_____
6. Amount of insurance applied for ($15,000 maximum): $_____

NOTE: Coverage is subject to a deductible of $200 or 5 percent of gross amount of any loss, whichever is greater.

7. (a) State whether you have ever previously had insurance under the Federal crime insurance program: _____
   (b) If so, give month and year when coverage was last in force: _____
   (c) State reason coverage was terminated: _____
   (d) If canceled, state whether canceled by the Insurer or by you: _____
8. If answer to Question 7(a) is yes, did you ever have a claim under your previous policy? _____ Was it paid? _____

Eligibility requirements and unusual policy provisions:

1. This Policy is subject to the crime insurance provisions of Title VI of the Housing and Urban Development Act of 1970 (Public Law 91-609, December 31, 1970; 12 U.S.C. 1749bbb-10a et seq.) and the Regulations of the Federal Insurance Administration issued pursuant thereto (24 C.F.R. 1930 et seq.). Renewals of this coverage shall be subject to the Regulations in force at the time of such renewals.

2. Any false statement in the Application voids the Policy. Intentionally false or misleading statements may result in prosecution for fraud under 18 U.S.C. 1001.

Premium Computation: (To be filled in by Agent, Broker, or Servicing Company)

Insert name and address of servicing company: _____

_____

A. Six-Month Base Rate
(Territory _____, Class _____): $_____

B. Gross Sales Volume Multiplier
(Gross Sales Volume $_____): _____

C. Differential for Applicable Level of Coverage
(Coverage $_____): _____

D. Final 6-Month Premium
(A x B x C, rounded to higher dollar above $0.49): $_____

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3. To be eligible for insurance under the Federal crime insurance program, the insured premises must meet the requirements for protective devices established by the Federal Insurance Administration for that type of property. A list of these requirements is printed on the back of this form.

4. One-half of the annual premium must be paid at the time of application. The second installment of the premium will be billed

approximately 30 days before its due date and must be remitted by the insured within 15 days after the due date.

5. All losses of property subject to coverage under this Policy must be reported to the police (whether or not a claim is filed), or coverage under the Policy shall be deemed canceled by the insured 15 days from the date on which any person covered by the Policy first became aware of the loss.

Certification by applicant:

"I certify, under penalty of Federal law for fraud or misrepresentation as set forth in 18 U.S.C. 1001, (1) that the statements I have made in this Application, including the signature date set forth below, are true and correct to the best of my knowledge and belief, (2) that I have read the eligibility requirements above and the protective device requirements on the back of this form, and (3) that the insured premises meet such requirements.

"I further agree to make the insured premises available for inspection in connection with this policy at any reasonable time; and I understand that if at the time of such inspection the insured premises are found not to be protected in the manner required, this Policy will be considered void from its inception and only the portion of the premium not absorbed by administrative expenses in connection with the inspection and the issuance of such policy will be refunded."

---------- ----------
(Signature of insured) (Date)

(b) Commercial crime insurance policy form:

FEDERAL INSURANCE ADMINISTRATION

COMMERCIAL CRIME INSURANCE POLICY

The Federal Insurance Administrator, herein called the Insurer, agrees with the insured, named in the Application made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Application, and subject to (1) the provisions of title VI of Public Law 91-609 and Subchapter C, Chapter VII, Title 24 of the Code of Federal Regulations, and (2) the limits of insurance, exclusions, conditions, deductibles, and other terms of this Policy with respect to the following criminal acts:

INSURING AGREEMENTS

I. *Robbery, Including Observed Theft, Inside the Premises.* To pay for loss by robbery or observed theft of money, securities, merchandise, furniture, fixtures, and equipment within the premises.

II. *Robbery, Including Observed Theft, Outside the Premises.* To pay for loss by robbery or observed theft of money, securities, and merchandise, including the wallet or bag containing such property, while such property is being conveyed by a messenger outside the premises, but no payment shall be made for any loss in excess of $5,000 except with respect to a loss in which an armed guard accompanies the messenger.

III. *Kidnapping.* To pay for loss by kidnapping, of money, securities, merchandise, furniture, fixtures, and equipment within the premises.

IV. *Safe Burglary.* To pay for loss by safe burglary of money, securities, and merchandise within the premises but no payment shall be made for any loss in excess of $5,000 except with respect to loss by safe burglary of a Class E Safe securely anchored to the floor.

V. *Theft from Night Depository.* To pay for loss by theft of money and securities within any night depository in a bank.

VI. *Burglary; Robbery of Watchman.* To pay for loss by burglary or by robbery of a watchman, while the premises are not open for business, of merchandise, furniture, fixtures and equipment within the premises. Under this insuring agreement, the actual cash value of any one article of jewelry shall be deemed not to exceed $50.

VII. *Damage.* To pay for damage to the premises and to money, securities, merchandise, furniture, fixtures and equipment within the premises, by any robbery, kidnapping, burglary, safe burglary, robbery of a watchman, or attempt thereat, provided with respect to damage to the premises the insured is the owner thereof or is liable for such damage.

VIII. *Policy Period, Territory.* This Policy applies only to loss which occurs during the Policy period within a State, as defined in 12 U.S.C. 1749bbb-2.

EXCLUSIONS

This Policy does not apply:

(a) To loss due to embezzlement or to any fraudulent, dishonest, or criminal act by any insured, a partner therein, or an officer, employee, director, trustee, or authorized representative thereof, while working or otherwise and whether acting alone or in collusion with others; provided, that this exclusion does not apply to kidnapping, safe burglary or robbery or attempt thereat by other than an insured or a partner therein;

(b) To loss due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(c) To loss of manuscripts, records, or accounts;

(d) Under Insuring Agreements VI and VII, to loss occurring during a fire in the premises;

(e) To loss due to nuclear reaction, nuclear radiation, or radioactive contamination, or to any act or condition incident to any of the foregoing;

(f) To loss if the premises are not equipped with the protective devices required as a condition of eligibility for the purchase of this Policy by the regulations of the Federal Insurance Administration, as published at the time of the inception of the current term of the Policy in Subchapter C, Chapter VII, Title 24, Code of Federal Regulations.

CONDITIONS

1. *Definitions*—(a) *Money.* The word "money" means currency, coins, bank notes, and bullion; and travelers checks, register checks, and money orders held for sale to the public.

(b) *Securities.* The word "securities" means all negotiable and nonnegotiable instruments or contracts representing either money or other property and includes revenue and other stamps in current use, tokens, and tickets, but does not include money.

(c) *Premises.* The unqualified word "premises" means the interior of that portion of any building at a location designated in the Application which is occupied by the insured as stated therein, but shall not include (1) showcases or show windows not opening directly into the interior of the premises, or (2) public entrances, halls, or stairways. As respects Insuring Agreements I and II only, the premises shall also include the space immediately surrounding such building, provided such space is occupied by the insured in conducting his business.

(d) *Custodian.* The word "custodian" means the insured, a partner therein, an officer thereof, or any employee thereof who is in the regular service of and duly authorized by the insured to have the care and custody of the insured property within the premises, excluding any person while acting as a watchman, porter, or janitor.

(e) *Messenger.* The word "messenger" means the insured, a partner therein, an officer thereof, or any employee thereof who is in the regular service of and duly authorized by the insured to have the care and custody of the insured property outside the premises.

(f) *Robbery, Including Observed Theft.* The word "robbery, including observed theft" means the taking of insured property (1) by violence inflicted upon a messenger or a custodian; (2) by putting him in fear of violence; (3) by any other overt felonious act committed in his presence and of which he was actually cognizant, provided such other act is not committed by an officer, partner, or employee of the insured; (4) from the person or direct care and custody of a messenger or custodian who has been killed or rendered unconscious; or (5) from a show window within the premises while regularly open for business, by a person who has broken the glass thereof from outside the premises.

(g) *Robbery of a Watchman.* The term "robbery of a watchman" means the felonious taking of insured property by violence or threat of violence inflicted upon a private watchman employed exclusively by the insured and while such watchman is on duty within the premises.

(h) *Kidnapping.* The word "kidnapping" means the taking of insured property from within the premises by compelling a messenger or custodian by violence or threat of violence while outside the premises to admit a person into the premises or to furnish him with means of ingress into the premises.

(i) *Burglary.* The word "burglary" means the felonious abstraction of insured property from within the premises by a person making felonious entry therein by actual force and violence evidenced by visible marks made by tools, explosives, electricity, or chemicals upon, or physical damage to, the exterior of the premises at the place of such entry.

(j) *Safe Burglary.* The term "safe burglary" means (1) the felonious abstraction of insured property from within a vault or safe, the door of which is equipped with a combination lock, located within the premises by a person making felonious entry into such vault or such safe and any vault containing the safe, when all doors thereof are duly closed and locked by all combination locks thereon, provided such entry shall be made by actual force and violence, of which force and violence there are visible marks made by tools, explosives, electricity, or chemicals upon the exterior of (a) all of said doors of such vault or such safe and any vault containing the safe, if entry is made through such doors, or (b) the top, bottom, or walls of such vault or such safe and any vault containing the safe through which entry is made, if not made through such doors, or (2) the felonious abstraction of such safe from within the premises.

(k) *Jewelry.* The word "jewelry" means jewelry, watches, gems, precious or semiprecious stones, and articles containing one or more gems.

(l) *Loss.* The word "loss," except as used in Insuring Agreements I through VI, includes damage.

2. *Ownership of Property; Interests Covered.* The insured property may be owned by the insured or held by him in any capacity or may be property as respects which the insured is legally liable; *Provided,* That the insurance applies only to the interest of the insured in such property, including the insured's liability to others, and does not apply to the interest of any other person or organization in any of said property unless included in the insured's proof of loss.

3. *Joint Insured.* If more than one insured is named in the Application, the insured first named shall act for itself and for every other insured for all purposes of this Policy. Knowledge possessed by any insured shall, for the purpose of the Application and the condition "Insured's Duties When Loss Occurs," constitute knowledge possessed by every insured. Cancellation of this Policy by, or through notice to, the insured first named shall be deemed to be a cancellation of the Policy with respect to every insured.

4. *Books and Records.* The insured shall keep records of all the insured property in such manner that the Insurer can accurately determine therefrom the amount of loss, and if the insured maintains cash funds for the purpose of check cashing, a complete record of each check negotiated shall be kept by the insured showing the names of the maker, payee and drawee bank, and the date and amount of the check, and such records shall be maintained in a receptacle other than that used for money and securities.

5. *Limits of Liability; Settlement Options.* The Insurer shall not be liable on account of any loss unless the amount of such loss shall exceed the amount of the deductible described in the Application which is made a part of this Policy and the Insurer shall then be liable only for such excess over and above the deductible, subject to and within the limit of insurance covered by the Policy.

The limit of the Insurer's liability for loss shall not exceed the applicable limit of insurance stated in the Application, nor what it would cost at the time of loss to repair or replace the property with other of like kind and quality, nor as respects securities the actual cash value thereof at the close of business on the business day next preceding the day on which the loss was discovered, nor as respects other property the actual cash value thereof at the time of loss: *Provided, however,* That the actual cash value of such other property held by the insured as a pledge, or as collateral for an advance or a loan, shall be deemed not to exceed the value of the property as determined and recorded by the insured when making the advance or loan, nor, in the absence of such record, the unpaid portion of the advance or loan plus accrued interest thereon at legal rates.

The applicable limit of insurance stated in the Application is the total limit of the Insurer's liability with respect to all loss of property of one or more persons or organizations arising out of any one occurrence. All loss incidental to an actual or attempted fraudulent, dishonest or criminal act or series of related acts at the premises, whether committed by one or more persons, shall be deemed to arise out of one occurrence.

The insurer may pay for the loss in money or may repair or replace the property and may settle any claim for loss of property either with the insured or the owner thereof. Any property so paid for or replaced shall become the property of the Insurer. Any property recovered after settlement of a loss shall be applied first to the expense of the parties in making such recovery, with any balance applied as if the recovery had been made prior to said settlement, and loss readjusted accordingly. The insured or the Insurer, upon recovery of any such property, shall give notice thereof as soon as practicable to the other.

6. *Insured's Duties When Loss Occurs.* Upon knowledge or discovery of loss or of an occurrence which may give rise to a claim for loss, the inured shall: (a) give notice thereof as soon as practicable to the Insurer through any of its authorized agents, (b) give notice to the police; (c) file detailed proof of loss, duly sworn to, with the Insurer through its authorized agents within 60 days after the discovery of loss.

Upon the Insured's request, the insured and every claimant hereunder shall submit to examination, subscribe the same under penalty of 18 U.S.C. 1001 pertaining to fraud and false representation, and produce all pertinent records, all at such reasonable times and places as the Insurer shall designate, and shall cooperate in all matters pertaining to loss or claims with respect thereto.

7. *Other Insurance.* If there is any other valid and collectible insurance which would apply in the absence of this Policy, the insurance under this Policy shall apply only as excess insurance over such other insurance; provided, that the insurance shall not apply (a) to property which is separately described and enumerated and specifically insured in whole or in part by any other insurance; or (b) to property otherwise insured unless such property is owned by the insured.

8. *No Benefit to Bailee.* The insurance afforded by this Policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

9. *Appraisal.* If the Insured and the Insurer fail to agree as to the amount of loss, each shall, on the written demand of either, made within 60 days after receipt of proof of loss by the Insurer, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. If the appraisers fail to agree, they shall jointly select a competent and disinterested umpire and submit the question to him within 15 days thereafter. The appraisers shall state separately the actual cash value at time of loss and the amount of the loss. Agreement in writing of any two shall be considered by the Insurer in determining the amount of the loss but shall not be considered binding upon him and shall not be admissible as such in court. The insured and the Insurer shall each pay his or its chosen appraiser and shall bear equally the expenses of the umpire and the other expenses of appraisal.

The Insurer shall not be held to have waived any of its rights such as, without limitation, the right to deny liability under the Policy by any act relating to appraisal.

10. *Action Against Insurer.* No action shall lie against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy and the applicable regulations of the Federal Insurance Administration, nor until 90 days after the required proofs of loss have been filed with the Insurer, nor at all unless commenced within 2 years from the date when the insured discovers the loss and within 1 year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim. Any such action shall be brought in a U.S. district court, as required by 12 U.S.C. 1749bbb–11.

11. *Subrogation.* In the event of any payment under this Policy, the Insurer shall be subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

12. *Changes.* Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Insurer from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy, as approved by the Federal Insurance Administrator.

13. *Cancellation.* This Policy may be canceled by the insured by surrender thereof to the Insurer or any of its authorized agents or by mailing to the Insurer written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Insurer by mailing to the insured at the address shown in this Policy written notice stating when not less than thirty (30) days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date of cancellation stated in the notice shall become the end of the Policy period. Delivery of such written notice either by the insured or by the Insurer shall be equivalent to mailing.

In the event of cancellation by the Insurer, earned premium shall be computed pro rata. In the event of cancellation by the insured, earned premium shall be computed in accordance with the customary short rate table and procedure. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

14. *Assignment.* Assignment of interest under this Policy shall not bind the Insurer until its consent is endorsed hereon; if, however, the insured shall die, this Policy shall cover the insured's legal representative as insured: *Provided,* That notice of cancellation addressed to the insured named in the Application and mailed to the address shown in this Policy shall be sufficient notice to effect cancellation of this Policy.

15. *Declarations.* By signing the Application or by acceptance of this Policy the insured certifies and agrees, under penalty of Federal law dealing with fraud and false representation (18 U.S.C. 1001), that the statements in the Application are his agreements and representations, that this Policy is issued in reliance upon the truth of such representations, and that this Policy embodies all agreements existing between himself and the Insurer or any of its agents relating to this insurance.

In witness whereof, the Federal Insurance Administrator has accepted the declarations of the insured set forth in the Application and has caused this Policy to be issued.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

PART 1934—CLASSIFICATION OF TERRITORIES

Sec.
1934.1 Method of classification.
1934.2 List and classification of territories.

§ 1934.1 Method of classifying territories.

(a) Because crime rates are related to urban population concentrations rather than to State boundaries, the insurer has determined that the interests of the public will be best served by classifying territories for the purposes of the Federal crime insurance program on the basis of statistics applicable to entire Standard Metropolitan Statistical Areas, generally referred to as "SMSA's."

(b) Under the classification system prescribed by this part, all communities within the same SMSA shall be assigned the same rating classification, regardless of the State in which they are situated. However, no community within any SMSA will actually be eligible for the sale of Federal crime insurance unless the State in which it is situated is then currently eligible.

(c) Eligible communities that are not part of SMSA's shall be assigned the same territorial classification as the remainder of the State, regardless of the size of the community.

§ 1934.2 List and classification of territories.

(a) Territories shall be classified for statistical and rating purposes as set forth in Part I of the insurer's Crime Insurance Manual, which shall apply to all crime insurance policies written under the program. Such manual shall be supplied by the servicing company on behalf of the insurer to all eligible agents and brokers within an eligible State.

(b) Part I of the Crime Insurance Manual shall read as follows:

FEDERAL INSURANCE ADMINISTRATION

CRIME INSURANCE MANUAL

Part 1—Territories

A. The Territorial arrangement for each State is as follows:

(1) If Standard Metropolitan Statistical Areas exist, they are individually rated.

(2) The remainder of the State is placed in a single category.

B. *Standard Metropolitan Statistical Areas.* The Standard Metropolitan Statistical Areas (SMSA) have been adopted as statistical units in order to make it possible for all Federal agencies to utilize the same boundaries in publishing data useful for analyzing metropolitan areas. The general concept of a metropolitan area is one of an integrated economic and social unit with a recognized population nucleus. "SMSA's Are Not Limited to a Single State or a Single City." Since this approach differs from conventional insurance practices, caution is necessary in rating the risk. For example, parts of Maryland and Virginia are in the Washington, D.C., SMSA.

C. *Grading.* Each SMSA and each Remainder of State is classified into one of three territories for rating purposes, viz:

Territory 3	High risk.
Territory 2	Average risk.
Territory 1	Low risk.

D. *Rating of SMSA's:*

SMSA	Statistical code	Rate territory
Abilene, Tex. (includes Taylor and Jones Counties)	0040	2
Akron, Ohio (includes Summit and Portage Counties)	0080	2
Albany, Ga	0120	1
Albany-Schenectady-Troy, N.Y. (includes Albany, Rensselaer, Saratoga, and Schenectady Counties)	0160	2
Albuquerque, N. Mex. (includes Bernalillo County)	0200	3
Alentown-Bethlehem-Easton, Pa.-N.J. (includes Lehigh and Northampton Counties, Pa. and Warren County, N.J.)	0240	1
Altoona, Pa. (includes Blair County)	0280	1
Amarillo, Tex. (includes Potter and Randall Counties)	0320	2
Anaheim-Santa Ana-Garden Grove, Calif. (includes Orange County)	0360	3
Anderson, Ind. (includes Madison County)	0400	2
Ann Arbor, Mich. (includes Washtenaw County)	0440	3
Appleton-Oshkosh, Wis. (includes Calumet, Outagamie, and Winnebago Counties)	0460	1
Asheville, N.C. (includes Buncombe County)	0480	2
Atlanta, Ga. (includes Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties)	0520	2
Atlantic City, N.J. (includes Atlantic County)	0560	3
Augusta, Ga.-S.C. (includes Richmond County, Ga. and Aiken County, S.C)	0600	2
Austin, Tex. (includes Travis County)	0640	2
Bakersfield, Calif. (includes Kern County)	0680	3
Baltimore, Md. (includes Baltimore City and Anne Arundel, Baltimore, Carroll, Howard, and Hartford Counties)	0720	3
Baton Rouge, La. (includes East Baton Rouge Parish)	0760	2
Bay City, Mich. (includes Bay County)	0800	3
Beaumont-Port Arthur, Tex. (includes Jefferson and Orange Counties)	0840	2
Billings, Mont. (includes Yellowstone County)	0880	1
Biloxi-Gulfport, Miss. (includes Harrison County)	0920	1
Binghamton, N.Y.-Pa. (includes Broome and Tioga Counties, N.Y. and Susquehanna County, Pa.)	0960	1
Birmingham, Ala. (includes Jefferson, Shelby, and Walker Counties)	1000	2
Bloomington-Normal, Ill	1040	1
Boise, Idaho (includes Ada County)	1080	2
Boston-Lowell, Mass. (includes Middlesex, Norfolk, Plymouth, and Suffolk Counties)	1120	2
Bridgeport-Stamford-Norwalk, Conn. (includes Fairfield County)	1160	2
Brockton, Mass. (includes Plymouth County)	1200	2
Brownsville-Harlingen-San Benito, Tex. (includes Cameron County)	1240	2
Bryan-College Station, Tex. (includes Brayos County)	1260	1
Buffalo, N.Y. (includes Erie and Niagara Counties)	1280	2
Canton, Ohio (includes Stark County)	1320	2
Cedar Rapids, Iowa (includes Linn County)	1360	2
Champaign-Urbana, Ill. (includes Champaign County)	1400	2
Charleston, S.C. (includes Charleston and Berkeley Counties)	1440	2
Charleston, W. Va. (includes Kanawha County)	1480	2
Charlotte, N.C. (includes Mecklenburg and Union Counties)	1520	2
Chattanooga, Tenn.-Ga. (includes Hamilton County, Tenn., and Walker County, Ga.)	1560	2
Chicago, Ill. (includes Cook, Du Page, Kane, Lake, McHenry, and Will Counties)	1600	2
Cincinnati, Ohio-Ky.-Ind. (includes Hamilton, Clermont and Warren Counties, Ohio, and Campbell, Kenton, and Boone Counties, Ky., and Dearborn County, Ind.)	1640	2
Cleveland, Ohio (includes Cuyahoga, Lake, Geauga, and Medina Counties)	1680	2
Colorado Springs, Colo. (includes El Paso County)	1720	2
Columbia, Mo. (includes Boone County)	1740	2
Columbia, S.C. (includes Lexington and Richland Counties)	1760	2
Columbus, Ga.-Ala. (includes Chattahoochee and Muscogee Counties, Ga., and Russell County, Ala.)	1800	2
Columbus, Ohio (includes Franklin, Delaware, and Pickaway Counties)	1840	2
Corpus Christi, Tex. (includes Nueces and San Patricio Counties)	1880	2
Dallas, Tex. (includes Collin, Dallas, Denton, Ellis, Kaufman, and Rockwell Counties)	1920	3
Davenport-Rock Island-Moline, Iowa-Ill. (includes Scott County, Iowa, and Rock Island and Henry Counties, Ill.)	1960	2
Dayton, Ohio (includes Greene, Miami, Montgomery, and Preble Counties)	2000	2
Decatur, Ill. (includes Macon County)	2040	2
Denver, Colo. (includes Adams, Arapahoe, Boulder, Denver, and Jefferson Counties)	2080	3
Des Moines, Iowa (includes Polk County)	2120	2
Detroit, Mich. (includes Macomb, Oakland, and Wayne Counties)	2160	3
Dubuque, Iowa	2200	1
Duluth-Superior, Minn.-Wis. (includes St. Louis County, Minn., and Douglas County, Wis.)	2241	2
Durham, N.C. (includes Durham and Orange Counties)	2280	2
El Paso, Tex. (includes El Paso County)	2320	2
Erie, Pa. (includes Erie County)	2360	1
Eugene, Oreg. (includes Lane County)	2400	2
Evansville, Ind.-Ky. (includes Vanderburgh and Warwick Counties, Ind., and Henderson County, Ky.)	2440	
Fall River-New Bedford, Mass. (includes Bristol County)	2480	2
Fargo-Moorhead, N. Dak.-Minn. (includes Cass County, N. Dak., and Clay County, Minn.)	2520	2
Fayetteville, N.C. (includes Cumberland County)	2560	2
Flint, Mich. (includes Genesee and Lapeer Counties)	2640	2
Fort Lauderdale-Hollywood, Fla. (includes Broward County)	2680	3
Fort Smith, Ark.-Okla. (includes Sebastian and Crawford Counties, Ark., and Leflore and Sequoyah Counties, Okla.)	2720	1
Fort Wayne, Ind. (includes Allen County)	2760	2
Fort Worth, Tex. (includes Johnson and Tarrant Counties)	2800	2
Fresno, Calif. (includes Fresno County)	2840	3
Gadsden, Ala	2880	1
Gainsville, Fla. (includes Alachua County)	2900	2
Galveston-Texas City, Tex. (includes Galveston County)	2920	2
Gary-Hammond-East Chicago, Ind. (includes Lake and Porter Counties)	2960	2
Grand Rapids, Mich. (includes Kent and Ottawa Counties)	3000	2
Great Falls, Mont. (includes Cascade County)	3040	1
Green Bay, Wis. (includes Brown County)	3080	2
Greensboro-High Point-Winston-Salem, N.C. (includes Forsyth, Guilford, Randolph, and Yadkin Counties)	3120	2
Greenville, S.C. (includes Greenville and Pickens Counties)	3160	2
Hamilton-Middletown, Ohio (includes Butler County)	3200	2
Harrisburg, Pa. (includes Cumberland, Dauphin, and Perry Counties)	3240	2
Hartford-New Britain-Bristol, Conn. (includes Hartford County)	3280	2
Honolulu, Hawaii (includes Honolulu County)	3320	3
Houston, Tex. (includes Harris, Brazoria, Fort Bend, Liberty, and Montgomery Counties)	3360	2
Huntington-Ashland, W. Va.-Ky.-Ohio (includes Cabell and Wayne Counties, W. Va., Boyd County, Ky., and Lawrence County, Ohio)	3400	2
Huntsville, Ala. (includes Madison and Limestone Counties)	3440	2
Indianapolis, Ind. (includes Marion, Hamilton, Hancock, Hendricks, Johnson, Morgan, Shelby, and Boone Counties)	3480	2
Jackson, Mich. (includes Jackson County)	3520	2
Jackson, Miss. (includes Hinds and Rankin Counties)	3560	1
Jacksonville, Fla. (includes Duval County)	3600	3
Jersey City, N.J. (includes Hudson County)	3640	2
Johnstown, Pa. (includes Cambria and Somerset Counties)	3680	1
Kalamazoo, Mich. (includes Kalamazoo County)	3720	2
Kansas City, Mo.-Kans. (includes Clay, Jackson, Cass, and Platte Counties, Mo., and Johnson and Wyandotte Counties, Kans.)	3760	3
Kenosha, Wis. (includes Kenosha County)	3800	2
Knoxville, Tenn. (includes Anderson, Blount, and Knox Counties)	3840	2
La Crosse, Wis. (includes La Crosse County)	3870	2
Lafayette, La. (includes Lafayette Parish)	3880	2
Lafayette-West Lafayette, Ind. (includes Tippecanoe County)	3920	2
Lake Charles, La. (includes Calcasieu Parish)	3960	2
Lancaster, Pa. (includes Lancaster County)	4000	2
Lansing, Mich. (includes Clinton, Eaton, and Ingham Counties)	4040	2
Laredo, Tex. (includes Webb County)	4080	1
Las Vegas, Nev. (includes Clark County)	4120	3
Lawrence-Haverhill, Mass.-N.H. (includes Hillsboroug, Merrimack, and Rockingham Counties, N.H., Essex County, Mass.)	4160	2
Lawton, Okla. (includes Comanche County)	4200	2
Lewiston-Auburn, Maine	4240	1
Lexington, Ky. (includes Fayette County)	4280	3
Lima, Ohio (includes Allen, Putnam, and Van Wert Counties)	4320	2
Lincoln, Nebr. (includes Lancaster County)	4360	2

SMSA	Statistical code	Rate territory
Little Rock-North Little Rock, Ark. (includes Pulaski and Saline Counties)	4400	2
Lorain-Elyria, Ohio (includes Lorain County)	4440	2
Los Angeles-Long Beach, Calif. (includes Los Angeles County)	4480	3
Louisville, Ky.-Ind. (includes Jefferson County, Ky., and Clark and Floyd Counties, Ind.)	4520	3
Lubbock, Tex. (includes Lubbock County)	4600	2
Lynchburg, Va. (includes Lynchburg City and Amherst and Campbell Counties)	4640	1
Macon, Ga. (includes Bibb and Houston Counties)	4680	2
Madison, Wis. (includes Dane County)	4720	2
Manchester, N.H. (includes Hillsboro County)	4760	1
Mansfield, Ohio (includes Richland County)	4800	2
McAllen-Pharr-Edinburg, Tex. (includes Hidalgo County)	4880	1
Memphis, Tenn.-Ark. (includes Shelby County, Tenn., and Crittenden County, Ark.)	4920	2
Meriden, Conn	4960	1
Miami, Fla. (includes Dade County)	5000	3
Midland, Tex. (includes Midland County)	5040	1
Milwaukee, Wis. (includes Milwaukee, Waukesha, Ozaukee, and Washington Counties)	5080	2
Minneapolis-St. Paul, Minn. (includes Anoka, Dakota, Hennepin, Ramsey, and Washington Counties)	5120	2
Mobile, Ala. (includes Mobile and Baldwin Counties)	5160	2
Modesto, Calif. (includes Stanislaus County)	5170	2
Monroe, La. (includes Ouachita Parish)	5200	1
Montgomery, Ala	5240	1
Muncie, Ind. (includes Delaware County)	5280	2
Muskegon-Muskegon Heights, Mich. (includes Muskegon County)	5320	2
Nashville, Tenn. (includes Davidson, Sumner, and Wilson Counties)	5360	2
Newark, N. J. (includes Essex, Morris, and Union Counties)	5640	2
New Haven-Waterbury, Conn. (includes New Haven County)	5480	2
New London-Groton-Norwich, Conn. (includes New London County)	5520	2
New Orleans, La. (includes Jefferson, Orleans, St. Bernard, and St. Tammany Parishes)	5560	2
Newport News-Hampton, Va. (includes Newport News and Hampton Cities and York County)	5680	2
New York, N.Y. (includes Bronx, Kings, Manhattan, Queens, Richmond, Nassau, Rockland, Suffolk, and Westchester Counties)	5600	3
Norfolk-Portsmouth, Va. (includes Norfolk, Chesapeake, Portsmouth, and Virginia Beach Cities)	5720	2
Odessa, Tex. (includes Ector County)	5800	1
Ogden, Utah (includes Weber County)	5840	2
Oklahoma City, Okla. (includes Canadian, Cleveland, and Oklahoma Counties)	5880	2
Omaha, Nebr.-Iowa (includes Douglas and Sarpy Counties, Nebr., and Pottawattamie County, Iowa)	5920	2
Orlando, Fla. (includes Orange and Seminole Counties)	5960	2
Owensboro, Ky. (includes Daviess County)	5990	2
Oxnard-Ventura, Calif. (includes Ventura County)	6000	2
Paterson-Clifton-Passaic, N.J. (includes Bergen and Passaic Counties)	6040	2
Pensacola, Fla. (includes Escambia and Santa Rosa Counties)	6080	2
Peoria, Ill. (includes Peoria, Tazwell, and Woodford Counties)	6120	2
Petersburg, Colonial Heights, Va. (includes Petersburg, Colonial Heights, and Hopewell Cities and Prince George and Dinwiddie Counties)	6140	1
Philadelphia, Pa.-N.J. (includes Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and Burlington, Camden, and Gloucester Counties, N.J.)	6160	2
Phoenix, Ariz. (includes Maricopa County)	6200	2
Pine Bluff, Ark	6240	1
Pittsburgh, Pa. (includes Allegheny, Beaver, Washington, and Westmoreland Counties)	6280	2
Pittsfield, Mass. (includes Berkshire County)	6320	2
Portland, Maine (includes Cumberland County)	6400	2
Portland, Oreg-Wash. (includes Clackamas, Multnomah, and Washington Counties, Oreg., and Clark County, Wash.)	6440	3
Providence-Pawtucket-Warwick, R.I. (includes Bristol, Kent, and Providence Counties)	6480	2
Provo-Orem, Utah (includes Utah County)	6520	2
Pueblo, Colo. (includes Pueblo County)	6560	2
Racine, Wis. (includes Racine County)	6600	2
Raleigh, N.C. (includes Wake County)	6640	2
Reading, Pa. (includes Berks County)	6680	1
Reno, Nev. (includes Washoe County)	6720	2
Richmond, Va. (includes Richmond City and Chesterfield, Henrico, and Hanover Counties)	6760	2
Roanoke, Va. (includes Roanoke City and Roanoke County)	6800	2
Rochester, Minn. (includes Olmsted County)	6820	1
Rochester, N.Y. (includes Monroe, Livingston, Orleans, and Wayne Counties)	6840	2
Rockford, Ill. (includes Winnebago and Boone Counties)	6880	2
Sacramento, Calif. (includes Sacramento, Placer, and Yolo Counties)	6920	3
Saginaw, Mich. (includes Saginaw County)	6960	2
St. Joseph, Mo. (includes Buchanan County)	7000	1
St. Louis, Mo.-Ill. (includes St. Louis City and Jefferson, St. Charles, St. Louis, and Franklin Counties, Mo., and Madison and St. Clair Counties, Ill.)	7040	2
Salem, Oreg. (includes Marion and Polk Counties)	7080	2
Salinas-Monterey, Calif. (includes Monterey County)	7120	3
Salt Lake City, Utah (includes Salt Lake and Davis Counties)	7160	2
San Angelo, Tex. (includes Tom Green County)	7200	1
San Antonio, Tex. (includes Bexar and Guadalupe Counties)	7240	3
San Bernardino-Riverside-Ontario, Calif. (includes Riverside and San Bernardino Counties)	7280	3
San Diego, Calif. (includes San Diego County)	7320	2
San Francisco-Oakland, Calif. (includes Alameda, Contra Costa, Marin, San Francisco, and San Mateo Counties)	7360	3
San Jose, Calif. (includes Santa Clara County)	7400	2
Santa Barbara, Calif. (includes Santa Barbara County)	7480	2
Santa Rose, Calif. (includes Sonoma County)	7500	2
Savannah, Ga. (includes Chatham County)	7520	3
Scranton, Pa. (includes Lackawanna County)	7560	1
Seattle-Everett, Wash. (includes King and Snohomish Counties)	7600	3
Sherman-Denison, Tex. (includes Grayson County)	7640	1
Shreveport, La. (includes Bossier and Caddo Parishes)	7680	2
Sioux City, Iowa-Nebr. (includes Woodbury County, Iowa, and Dakota County, Nebr.)	7720	2
Sioux Falls, S. Dak	7760	1
South Bend, Ind. (includes St. Joseph and Marshall Counties)	7800	2
Spokane, Wash. (includes Spokane County)	7840	2
Springfield, Ill. (includes Sangamon County)	7880	2
Springfield, Mo. (includes Greene County)	7920	2
Springfield, Ohio (includes Clark County)	7960	2
Springfield-Chicopee-Holyoke, Mass. (includes Hampden and Hampshire Counties)	8000	2
Stamford, Conn		1
Steubenville-Weirton, Ohio-W. Va. (includes Jefferson County, Ohio, and Brooke and Hancock Counties, W. Va.)	8080	1
Stockton, Calif. (includes San Joaquin County)	8120	3
Syracuse, N.Y. (includes Madison, Onondaga, and Oswego Counties)	8160	2
Tacoma, Wash. (includes Pierce County)	8200	2
Tallahasse, Fla	8240	2
Tampa-St. Petersburg, Fla. (includes Hillsborough and Pinellas Counties)	8280	2
Terre Haute, Ind. (includes Vigo, Clay, Sullivan, and Vermillion Counties)	8320	2
Texarkana, Tex.-Ark. (includes Bowie County, Tex., and Miller County, Ark.)	8360	2
Toledo, Ohio-Mich. (includes Lucas and Wood Counties, Ohio, and Monroe County, Mich.)	8400	2
Topeka, Kans. (includes Shawnee County)	8440	2
Trenton, N.J. (includes Mercer County)	8480	2
Tucson, Ariz. (includes Pima County)	8520	2
Tulsa, Okla. (includes Creek, Osage, and Tulsa Counties)	8560	2
Tuscaloosa, Ala. (includes Tuscaloosa County)	8600	2
Tyler, Tex. (includes Smith County)	8640	1
Utica-Rome, N.Y. (includes Herkimer and Oneida Counties)	8680	1
Vallejo-Napa, Calif. (includes Solano and Napa Counties)	8720	2
Vineland-Millville-Bridgeton, N.J. (includes Cumberland County)	8760	2
Waco, Tex. (includes McLennan County)	8800	2
Washington, D.C.-Md.-Va. (includes District of Columbia, Montgomery and Prince Georges Counties, Md., Alexandria, Fairfax, and Falls Church Cities, and Arlington, Fairfax, Loudoun, and Prince William Counties, Va.)	8840	3
Waterloo, Iowa (includes Black Hawk County)	8920	2
West Palm Beach, Fla. (includes Palm Beach County)	8960	2
Wheeling, W. Va.-Ohio (includes Marshall and Ohio Counties, W. Va., and Belmont County, Ohio	9000	1
Wichita, Kans. (includes Sedgwick and Butler Counties)	9040	2
Wichita Falls, Tex. (includes Archer and Wichita Counties)	9080	2
Wilkes-Barre-Hazleton, Pa. (includes Luzerne County)	9120	1
Wilmington, Del.-N.J.-Md. (includes New Castle County, Del., Salem County, N.J., and Cecil County, Md.)	9160	2
Wilmington, N.C. (includes New Hanover and Brunswick Counties)	9200	2
Worcester, Mass. (includes Worcester County)	9240	2
York, Pa. (includes York and Adams Counties)	9280	1
Youngstown-Warren, Ohio (includes Mahoning and Trumbull Counties)	9320	2

RATING OF REMAINDER OF STATE TERRITORIES (EXCLUSIVE OF SMSA'S)

State	Statistical code	Rate territory	Counties and independent cities which are in SMSA's listed above (see SMSA list for rate territory)
Alabama	0401	1	Baldwin, Elmore, Etowah, Jefferson, Limestone, Madison, Mobile, Montgomery, Russell, Shelby, Tuscaloosa, Walker.
Alaska	1002	2	None.
Arizona	0904	2	Maricopa, Pima.
Arkansas	0605	1	Crawford, Crittenden, Jefferson, Miller, Pulaski, Saline, Sebastian.
California	0906	2	Alameda, Contra Costa, Fresno, Kern, Los Angeles, Marin, Monterey, Napa, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, Stanislaus, Ventura, Yolo.
Colorado	0808	2	Adams, Arapahoe, Boulder, Denver, El Paso, Jefferson, Pueblo.
Connecticut	0109	1	All counties except Windham.
Delaware	0310	1	New Castle.
District of Columbia	8840	NA	Entire District.
Florida	0412	2	Alachua, Broward, Dade, Duval, Escambia, Hillsborough, Leon, Orange, Palm Beach, Pinellas, Santa Rosa, Seminole.
Georgia	0413	1	Bibb, Chatham, Chattahoochee, Clayton, Cobb, De Kalb, Dougherty, Fulton, Gwinnett, Houston, Muscogee, Richmond, Walker.

State	Statistical code	Rate territory	Counties and independent cities which are in SMSA's listed above (see SMSA list for rate territory)
Hawaii	0915	1	Honolulu.
Idaho	1016	2	Ada.
Illinois	0517	1	Boone, Champaign, Cook, Du Page, Henry, Kane, Lake, McHenry, McLean, Macon, Madison, Peoria, Rock Island, St. Clair, Sangamon, Tazewell, Will, Winnebago, Woodford.
Indiana	0518	1	Allen, Boone, Clark, Clay, Dearborn, Delaware, Floyd, Hamilton, Hancock, Hendricks, Johnson, Lake, Madison, Marion, Marshall, Morgan, Porter, St. Joseph, Shelby, Sullivan, Tippecanoe, Vanderburgh, Vermillion, Vigo, Warrick.
Iowa	0719	1	Black Hawk, Dubuque, Linn, Polk, Pottawattamie, Scott, Woodbury.
Kansas	0720	1	Butler, Kearny, Sedgwick, Shawnee, Wyandotte.
Kentucky	0421	1	Boone, Boyd, Campbell, Daviess, Henderson, Jefferson, Kenton.
Louisiana	0622	1	Bossier, Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Orleans, Ouachita, St. Bernard, St. Tammany.
Maine	0123	1	Androscoggin, Cumberland.
Maryland	0324	1	Ann Arundel, Baltimore (city and county), Carroll, Cecil, Harford, Howard, Montgomery, Prince Georges.
Massachusetts	0125	2	Berkshire, Bristol, Essex, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk, Worcester.
Michigan	0526	2	Bay, Clinton, Eaton, Genesee, Ingham, Jackson, Kalamazoo, Kent, Lapeer, Macomb, Monroe, Muskegon, Oakland, Ottawa, Saginaw, Washtenaw, Wayne.
Minnesota	0527	1	Anoka, Clay, Dakota, Hennepin, Olmsted, Ramsey, St. Louis, Washington.
Mississippi	0428	1	Harrison, Hinds, Rankin.
Missouri	0729	1	Boone, Buchanan, Cass, Clay, Franklin, Greene, Jackson, Jefferson, Platte, St. Charles, St. Louis, St. Louis City.
Montana	0830	1	Cascade, Yellowstone.
Nebraska	0731	1	Dakota, Douglas, Lancaster, Sarpy.
Nevada	0932	2	Carson City, Clark, Washoe.
New Hampshire	0133	1	Hillsborough, Merrimack, Rockingham.
New Jersey	0234	2	All counties except Cape May, Hunterdon, Middlesex, Monmouth, Ocean, Somerset, Sussex.
New Mexico	0635	2	Bernalillo.
New York	0236	1	Albany, Bronx, Broome, Erie, Herkimer, Kings, Livingston, Madison, Monroe, Nassau, New York, Niagara, Oneida, Onondaga, Oswego, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Suffolk, Tioga, Wayne, Westchester.
North Carolina	0437	1	Brunswick, Buncombe, Cumberland, Durham, Forsyth, Guilford, Mecklenburg, New Hanover, Orange, Randolph, Union, Wake, Yadkin.
North Dakota	0838	1	Cass.
Ohio	0539	1	Allen, Belmont, Butler, Clark, Clermont, Cuyahoga, Delaware, Franklin, Geauga, Greene, Hamilton, Jefferson, Lake, Lawrence, Lorain, Lucas, Mahoning, Medina, Miami, Montgomery, Pickaway, Portage, Preble, Putnam, Richland, Stark, Summit, Trumbull, Van Wert, Warren, Wood.
Oklahoma	0640	1	Canadian, Cleveland, Comanche, Creek, Le Flore, Oklahoma, Osage, Sequoyah, Tulsa.
Oregon	1041	2	Clackamas, Lane, Marion, Multnomah, Polk, Washington.
Pennsylvania	0342	1	Adams, Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Chester, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Lehigh, Luzerne, Montgomery, Northampton, Perry, Philadelphia, Somerset, Susquehanna, Washington, Westmoreland, York.
Puerto Rico	0272	2	Assign all to rate territory 2.
Rhode Island	0144	2	All counties in SMSA's.
South Carolina	0445	2	Aiken, Berkeley, Charleston, Greenville, Lexington, Pickens, Richland.
South Dakota	0846	1	Minnehaha.
Tennessee	0447	1	Anderson, Blount, Davidson, Hamilton, Knox, Shelby, Sumner, Wilson.
Texas	0648	1	Archer, Bexar, Bowie, Brazoria, Brazos, Cameron, Collin, Dallas, Denton, Ector, Ellis, El Paso, Fort Bend, Grayson, Guadalupe, Harris, Hidalgo, Jefferson, Johnson, Jones, Kaufman, Kinney, Liberty, Lubbock, McLennan, Midland, Montgomery, Nueces, Orange, Potter, Randall, Rockwall, San Patricio, Smith, Tarrant, Taylor, Tom Green, Travis, Webb, Wichita.
Utah	0849	1	Davis, Salt Lake, Utah, Weber.
Vermont	0150	1	None.
Virginia	0351	1	Alexandria, Amherst, Arlington, Campbell, Chesapeake, Chesterfield, Dinwiddie, Essex, Fairfax, Falls Church, Hanover, Hampton, Henrico, Hopewell Cities, Loudoun, Lynchburg, Newport News, Norfolk, Petersburg, Portsmouth, Prince George, Prince William, Richmond, Roanoke (city and county), Virginia Beach, York, Colonial Heights.
Washington	1053	2	Clark, King, Pierce, Snohomish, Spokane.
West Virginia	0354	1	Brooke, Cabell, Hancock, Kanawha, Marshall, Ohio, Wayne.
Wisconsin	0555	1	Brown, Calumet, Dane, Douglas, Kenosha, La Crosse, Milwaukee, Ozaukee, Racine, Washington, Waukesha, Outagamie, Winnebago.
Wyoming	0856	2	None.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-7033 Filed 5-21-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70-140]

FORT POINT CHANNEL, BOSTON, MASS.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Summer Street and Congress Street bridges across Fort Point Channel, Boston, Mass., to allow the draws of these bridges to be maintained in a closed position. A revision of the regulations governing the operation of the Northern Avenue bridge across Fort Point Channel which would permit the draw to remain closed from 8 p.m. to 6 a.m. in addition to the present restrictions is also being considered.

The present regulations for the Summer and Congress Street bridges require that they open on signal or during specified periods after advance notice has been given. They also provide that, during morning and evening traffic hours, the draw may remain closed to vessels whose draft is less than 18 feet. The Coast Guard has been informed that the draw of the Summer Street bridge last opened in 1963, for the passage of marine traffic. The draw of Summer Street bridge has been closed since April 1, 1967, for reconstruction of the bridge. This reconstruction has been completed and the city of Boston has asked that they be authorized to keep this bridge in a closed position. The Congress Street bridge was opened twice in 1970, for the passage of a pleasure craft that docked at a waterfront restaurant although no actual docking facilities are provided by the restaurant.

A heavy equipment marine contract company located between the Northern Avenue bridge and the Congress Street bridge indicated that it had no objection to the proposed revision which would allow the draw of the Northern Avenue bridge to remain closed from 8 p.m. to 6 a.m. The drawtenders' logs for the Northern Avenue bridge indicated that two openings in 1969 and six openings in 1970 were required between 8 p.m. and 6 a.m.

Interested persons may participate in this proposed rule making by submitting

written data, views, or arguments to the Commander, First Coast Guard District, J.F. Kennedy Federal Building, Government Center, Boston, MA 02203. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District, will forward any comments received before June 21, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 be amended by revising § 117.75(i) to read as follows:

§ 117.75 Boston Harbor, Mass., and adjacent waters; bridges.

* * * * *

(i) *Fort Point Channel, city of Boston highway bridges.* (1) The draw of the Summer and Congress Street bridges need not open for the passage of vessels and paragraphs (b) through (e) of this section do not apply to these bridges.

(2) From 6 a.m. to 8 p.m. the Northern Street bridge draw shall open on signal, except that it need not open for the passage of vessels whose draft is less than 18 feet from 7 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., Monday through Friday, excluding legal holidays. From 8 p.m. to 6 a.m. the draw need not open for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959), 33 CFR 1.05–1(c)(4) (35 F.R. 15922))

Dated: May 14, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc. 71–7159 Filed 5–21–71;8:47 am]

[33 CFR Part 117]

[CGFR 71–43]

HILLSBOROUGH RIVER, FLA.

Proposed Drawbridge Operation Regulations

MAY 17, 1971.

The Coast Guard is considering amending the regulations for the bridges across the Hillsborough River that are owned by the city of Tampa at Platt, Brorein, Cass, and Laurel Streets; the State of Florida highway bridge at Kennedy Boulevard, and the Seaboard Coast Line Railroad bridge at Cass Street, to require 2 hours' advance notice from 10 p.m. to 6 a.m. The draws of these bridges are presently required to open on signal during that period. This change is being considered because of infrequent requests for openings of these bridges from 10 p.m. to 6 a.m. Drawtenders would not be required at these bridges from 10 p.m. to 6 a.m.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (OAN), Seventh Coast Guard District, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before July 2, 1971, with his recommendations to the Chief, Office of Operations, who will take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that § 117.465 be revised to read as follows:

§ 117.465 Hillsborough River, Tampa, Fla.

(a) *City of Tampa highway bridges at Platt Street and Brorein Street and the State of Florida highway bridges at Kennedy Boulevard.* From 6 a.m. to 10 p.m., the draws shall open on signal except that from 7:30 a.m. to 9 a.m. and 4 p.m. to 6:15 p.m., Monday through Saturday, the draws may remain closed. From 10 p.m. to 6 a.m. drawtenders need not be on duty at these bridges, however, the draws shall open on signal if at least 2 hours' advance notice has been given.

(b) *City of Tampa highway bridges at Cass Street and Laurel Street and the Seaboard Coast Line Railroad bridge at Cass Street.* From 6 a.m. to 10 p.m. the draws shall open on signal. From 10 p.m. to 6 a.m. drawtenders need not be on duty at these bridges however, the draws shall open on signal if at least 2 hours' advance notice has been given.

(c) *City of Tampa highway bridge at West Columbus Drive and the State of Florida highway bridge at West Hillsborough Avenue.* From 6 a.m. to 8 p.m. the draws shall open on signal. From 8 p.m. to 6 a.m. drawtenders need not be on duty at these bridges, however, the draws shall open on signal if at least 1 hours' advance notice has been given.

(d) *Public vessels and vessels in distress.* (1) From 6 a.m. to 10 p.m. the draws of the bridges in paragraphs (a) and (b) of this section shall open on signal for the passage of public vessels of the United States, vessels owned or operated by State, county, or local governments for public safety purposes, or any vessel in distress. The opening signal is four blasts of a whistle, horn, or other sound producing device.

(2) From 10 p.m. to 6 a.m. the draws of the bridges listed in paragraphs (a) and (b) of this section shall open as soon as possible but not longer than 1 hour after a request by a public vessel of the United States, vessels owned or operated by the State, county, or local governments used for public safety purposes, or any vessel in distress.

(e) *Posting of operation regulations.* The owner or agency controlling a drawbridge in this section shall post the drawbridge regulations and the procedures for giving advance notice on the upstream and downstream side of the bridge or elsewhere in such a manner that they can be read from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 46 CFR 1.46(c)(5) (35 F.R. 4959), 33 CFR 1.05–1(c)(4) (35 F.R. 15922))

Dated: May 17, 1971.

D. H. LUZIUS,
Captain, U.S. Coast Guard, Acting Chief, Office of Operations.

[FR Doc.71–7160 Filed 5–21–71;8:47]

[33 CFR Part 117]

[CGFR 71–42]

NEHALEM RIVER, OREG.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the drawbridge regulations to allow the Oregon State Highway Bridge across the Nehalem River, mile 6.5 to remain in the closed position. The reason for this proposal is the small amount of marine traffic using this reach of the river. The draw was last opened in 1961.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Thirteenth Coast Guard District, 618 Second Avenue, Seattle, WA 98104. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Thirteenth Coast Guard District.

The Commander, Thirteenth Coast Guard District, will forward any comments received before July 2, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 be amended by adding § 117.735 to read as follows:

§ 117.735 Nehalam River, Oregon Highway Bridge, Mile 6.5.

The draw need not open for the passage of vessels.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 49595), 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Dated: May 17, 1971.

D. H. LUZIUS,
Captain, U.S. Coast Guard, Acting Chief, Office of Operations.

[FR Doc.71-7161 Filed 5-21-71;8:47 am]

[33 CFR Part 117]

[CGFR 71-41]

THREE MILE CREEK, ALA.

Proposed Drawbridge Operation Regulations

MAY 17, 1971.

The Coast Guard is considering revising the regulations for the Southern Railway System drawbridge across Three Mile Creek near Mobile, Ala., to require at least 5 days advance notice at all times. The present regulations require that from Monday through Saturday, except legal holidays, from 8 a.m. to 4 p.m. the draw shall open promptly on signal. At all other times the draw may remain closed. The drawtenders' logs indicate only one opening in 1969 and no openings in 1970.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Eighth Coast Guard District, Customhouse, New Orleans, LA 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before June 25, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

Accordingly, it is proposed that Part 117 be amended by revising § 117.245(i)(20) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(20) *Three Mile Creek, Ala.* The draw shall open on signal if at least 5 days notice has been given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959), 33 CFR 1.05-1(a)(4) (35 F.R. 15922)

Dated: May 17, 1971.

D. H. LUZIUS,
Captain, U.S. Coast Guard, Acting Chief, Office of Operations.

[FR Doc.71-7162 Filed 5-21-71;8:47 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket No. 23415; EDR-201]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Proposed Logair and Quicktrans Minimum Rates

MAY 19, 1971.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 288 of the Economic Regulations (14 CFR Part 288) to set new minimum rates for Logair and Quicktrans domestic cargo charters. The principal features of the proposed amendment are explained in the attached Explanatory Statement and the text of the proposed amendment is also attached. The amendment is proposed under authority of sections 204, 403, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758, and 771, as amended; 49 U.S.C. 1324, 1373, and 1386).

Interested persons may participate in the proposed 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 matter in communications received on or before June 7, 1971, will be considered by the Board before taking final action. Copies of the communications will be available for examination by interested persons upon receipt in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

Consistent with its annual practice, the Board has undertaken a comprehensive review of the minimum rates to be applicable to domestic transportation services performed by air carriers for the military for fiscal year 1972. With this notice of proposed rule making the Board is proposing to revise[1] the minimum rates for Logair and Quicktrans domestic cargo charters set forth in § 288.7(b) of the Economic Regulations.

Overseas National Airways, Inc., Saturn Airways, Inc., and Universal Airlines, Inc., have submitted cost forecasts and DOD has submitted rate recommendations supported by its analysis of the carriers' costs. Conferences were held with each carrier concerning its cost data, and comments and supporting data were received from the carriers in support of their forecasts and from DOD in support of its adjustments and recommendations. Thereafter, additional data, including revisions of some forecasts, were submitted by the carriers.

All materials submitted by the carriers and DOD have been analyzed by the Board, and the carriers' forecasts have been adjusted in accordance with the broad policies developed in previous reviews and in the light of Board ratemaking policies announced in the Domestic Passenger-Fare Investigation and the Part 399 Statements of General Policy issued April 12, 1971. The forecasts and proposed adjustments, together with explanatory notes setting forth the basis for each adjustment, are set forth in the appendices.[1a]

The most significant issues concern the forecasts of each carrier's reasonably attainable aircraft utilization. Significant ratemaking adjustments also result from changes from prior policies in the treatment of flight equipment depreciation, rentals for leased aircraft, and the rate of return, all of which are related to the ratemaking guidelines provided by the Domestic Passenger-Fare Investigation and the new §§ 399.42 and 399.43 Policy Statements.[2] Other adjustments were made to eliminate unsupported costs and anticipatory cost or investment increases; to reflect reported Form 41 data; to apply current military fuel prices; to adapt base-period experience to forecast fiscal 1972 operations; to substitute more appropriate methods for allocation of certain costs for that used by the carriers; to apply the system ratio of general and administrative expenses to other cash costs to determine the amount of such expenses applicable to these MAC operations; to project interest expense consistent with fiscal 1972 operations; and to amortize preoperating expenses over a minimum period of 5 years. The details of the adjustments are set forth in the explanatory notes to the appendices.

Utilization. We have accepted Overseas National's forecasts for DC-9 type aircraft of 8 hours' utilization for Logair and 7.5 hours for Quicktrans. These forecasts are consistent with the Board's

[1] The new rates would be effective July 1, 1971. As requested by the Department of Defense, it is proposed to continue in effect the current rates for DC-6A and AW-650 type aircraft. Moreover, since no carrier data were submitted for the B-727-100 and DC-8-55F types and no recommendations were received from DOD regarding these types, it is proposed to delete the rates shown in Part 288 for these aircraft.

[1a] Appendices filed as part of the original document.

[2] PS-44, Apr. 8, 1971, and PS-45, Apr. 9, 1971. The current MAC ratemaking policy of normalizing income taxes is not changed by the new Part 399 Statement of General Policy regarding the treatment of deferred Federal income taxes for ratemaking purposes (PS-46, Apr. 9, 1971).

forecasts for similar operations in fiscal 1971 and are higher than the carrier's system utilization for this aircraft type. MAC contends that since the DC–9's are being used in an integrated Logair/Quicktrans service pattern by Overseas National, the utilization should be the same for both, but Overseas National points out that because of certain higher gross-weight requirements for Quicktrans, the carrier has earmarked two of its DC–9's for such services in order to meet these higher requirements, thus nullifying some schedule flexibility inherent in an integrated Logair/Quicktrans service pattern. Moreover, as noted in previous domestic MAC rate reviews, the Navy operation for aircraft in this category characteristically requires more ground time and involves more delays than the Logair operation. Under these circumstances, a ½-hour differential between Logair and Quicktrans for Overseas National's DC–9 services appears reasonable.

Both Overseas National and Universal forecast 7.5 hours' utilization for L–188 operations in Logair and 7 hours in Quicktrans, identical with the utilization forecast reflected in the fiscal 1971 L–188 rates. DOD claims that an average utilization of 9 hours is reasonable.[3] However, an examination of the L–188 schedule patterns and operations in MAC service indicates that the utilization basis suggested by DOD would allow for too few aircraft to provide the domestic military services. In addition to the schedule requirements themselves, provision must be made for backup aircraft, service checks, periodic overhauls, and unscheduled maintenance and repairs. Further, adequate aircraft must be allowed to comply with contract provisions for prepositioning aircraft to assure ontime originations. It is also noteworthy that the L–188 patterns are characterized by many stops, which are scheduled from 45 minutes to 90 minutes each, and which consequently tend to preclude high utilization on an airborne-hour basis. DOD's suggested 9-hour utilization would allow only 3½ aircraft for ONA to meet its current requirements and only 5¼ aircraft for Universal. It is our conclusion that an average of from 4¼ to 4½ aircraft are reasonably required to meet ONA's needs and almost seven aircraft to meet Universal's needs. In view of the foregoing, the carriers' L–188 utilization forecasts of 7.5 hours for Logair and 7 hours for Quicktrans appear reasonable and our adjusted cost data in the appendices are related to that utilization.

For the L–100 aircraft types to be offered by Saturn, that carrier forecasts a utilization of 8.1 hours for both Logair and Quicktrans services, while DOD projects 9.5 hours. Saturn's forecast is premised on its experience prior to absorbing Logair operations formerly performed by Airlift. The DOD claims, in support of its projection, that Saturn's experienced hourly utilization was 9 hours in the first quarter of fiscal year 1971 operations and that the carrier should attain the 9.5 hours when it realizes the benefits related to experience with newer aircraft and expanded operations including Airlift routes. However, utilization reported by Saturn for the first quarter of fiscal 1971 was 8.74 hours, and the latest available data reflecting the expansion[4] show a daily utilization of 8.7 hours. We have based our forecasts for the L–100 type aircraft on this most current figure of 8.7 hours.[5]

Depreciation. The rates herein proposed are based on depreciation standards which are generally consistent with the new depreciation policy guidelines contained in § 399.42 of the Board's Policy Statements. Thus, for the DC–9 and DC–8–61 turbo-fan equipment a 14-year service life and a 2-percent residual value are used. However, for MAC ratemaking purposes we propose (1) to adhere to the service life of 6 years and residual of 15 percent used for the L–188 in the Board's projections for fiscal years 1970 and 1971 and (2) to use a service life of 10 years and a residual value of 15 percent for L–100–20/30 aircraft.

The Board's policy statement sets forth guidelines of 12 years and 5-percent residuals for turbo-prop equipment, but those standards focused especially on the use by Eastern of its L–188 aircraft for backup purposes in its air-shuttle operation, where it was shown that the Electra would be utilized for an extended period during which its resale value would continue to diminish. These aircraft were for the most part acquired before 1960, and a 12-year service life would thus terminate prior to 1972. On the other hand, the L–188's used in Logair and Quicktrans are old passenger types, modified to all-cargo configurations and placed in MAC domestic services in 1968. A 12-year service life return would bring the retirement date to 1980, obviously unrealistic for these particular aircraft. The present depreciation policy for L–188 for MAC purposes was determined after Board review in conjunction with the rates for fiscal year 1970, and DOD recommendations in the instant proceeding support continuation of the 6-year, 15-percent residual policy for the L–188 aircraft.

As to the L–100–20/30, we note that the Notice of Proposed Rule Making, PSDR–25, which proposed a new policy statement respecting depreciation, set forth a service life of 10 years and a residual value of 15 percent for turboprop equipment, but was modified because of conditions peculiar to Eastern, as set forth above. Saturn uses 10 years and 15 percent for its new L–100 and 8 years and 15 percent for its used L–100 aircraft, but the Board has rejected this distinction between new and used aircraft.[6] Although the fiscal year depreciation costs for MAC rates for the Hecules were based on a 12-year life and 15-percent residual value and DOD espouses continuation of this policy, the Part 399 guidelines are not limited to use in passenger cases,[7] and no special circumstances such as those upon which we premise a departure from the guidelines for the L–188 aircraft used in Logair and Quicktrans have been adduced with respect to the L–100–20/30 aircraft. Accordingly, we are using 10 years and 15-percent residual values to determine depreciation expense for such aircraft.

One further comment is necessary with respect to the depreciation adjustments made herein. For purposes of computing depreciation and investment we have continued to use the entire service-life basis heretofore employed in MAC rate reviews. This was done in view of its ease of application and the fact that spot checks have satisfied us that, in the particular circumstances of the instant case, there would be no significant difference in the projected operating results if the remaining life basis were employed in making the adjustment. However, this proposal is without prejudice to a further review of this matter in other cases where a change in depreciation policies may be implemented.[8] We have continued to employ our historical MAC policy, for purposes of determining rate base, of relating flight equipment investment as of the midpoint of the future fiscal year (here, Jan. 1, 1972) to the MAC depreciation policies in effect up to the time of each policy change.[9]

[3] DOD interprets Universal's support for its forecast as a demonstration that 9 hours average utilization was experienced in MAC services in the year ended Sept. 30, 1970. During that period Universal's L–188 fleet utilization was 6.8 hours. In a conference, the carrier explained that the data had been prepared erroneously by an outside contractor who had not taken into account a substitution of L–188 aircraft for AW–650 aircraft towards the end of the last quarter of 1969. Data from company management reports were submitted to show that in the year ended Sept. 30, 1970, Universal assigned 3,585 L–188 aircraft days to Logair and the average daily utilization was 7.72 hours. After analyzing Universal's data, DOD contended that the utilization should be at least 8 hours per day. However, since Universal's L–188 Logair volume was sharply contracted beginning July 1, 1970, the meaningful focus to determine a reasonable utilization forecast is the experience after July 1, 1970. In support of its forecast of 7.5 hours' utilization, Universal provided a copy of its response to the fiscal 1971 RFP's showing that for the patterns it was awarded for fiscal 1971 Universal had indicated its utilization would be 7.5 hours and seven aircraft would be required.

[4] The 5 months beginning with the October 1970 takeover by Saturn of Airlift's Logair routes and ending Feb. 28, 1971.

[5] For Universal's DC–8–61 aircraft the carrier's projected utilization is 9 hours, the same as projected for fiscal 1971. DOD did not object to this forecast and we have accepted it for use in our cost projections.

[6] PS–45, p. 12.

[7] PS–45, pp. 8–9.

[8] Cf. PS–45, pp. 12–13.

[9] Thus, for example, for the DC–8–61 aircraft investment is computed by using 12 years and 15-percent residual to Aug. 5, 1970, when a new policy of 14 years and 15 percent was effectuated, and using 14 years and 2-percent residual effective from Apr. 9, 1971, the effective date of PS–45.

Leased aircraft. The Board proposes to effectuate in this proceeding the new § 399.43 of its policy statements, which establishes as the cost for leased aircraft for domestic rate purposes the actual and reasonable rental expense plus a profit element in unusual circumstances. This will replace the prior constructive ownership approach which has been used for MAC ratemaking. The rental costs recognized do not exceed expenses computed on a constructive ownership basis.

We also find that unusual circumstances appear to exist which would warrant the provision of a profit element in the case of the DC–8–61 aircraft offered by Universal. The DC–8–61 operations of that carrier are significantly different from, and not competitive with, Logair and Quicktrans operations of other aircraft types, and hence constitute a separate service. As can be determined from the appendices, the net book value of Universal's leased DC–8–61's (determined on a constructive depreciated basis) is about 96 percent of the total depreciated value of the aircraft of that equipment type which are in the carrier's fleet, and thus the ratio of leased to owned values is significantly higher than the 28.5-percent ratio [10] for the aggregate of domestic trunkline and local service carriers. For these reasons the Board intends to recognize the carrier's rental expense for these aircraft plus a return element of 6 percentage points less than the rate of return we are proposing for MAC purposes, to be applied to depreciated constructive values exceeding 28.5 percent of Universal's DC–8–61 equipment.

Fuel expense. For the most part these costs have been based on the latest available military prices of 10.4 cents per gallon for Logair operations and 11.7 cents for Quicktrans. However, where a carrier has established a requirement for purchase of some fuel from commercial sources, the commercial prices have been used to the extent of that requirement. No provision has been made for fuel taxes since taxes are no longer imposed on fuel for military use.

Rate of return. In past MAC rate reviews the Board has used a rate of return of 9 percent on recognized investment. This return element was 1½ percentage points below the 10½ percent used as a guideline for commercial rate purposes. It reflected the more stable nature of military contracts and the planning advantages inherent in operating under contracts for relatively fixed annual volumes.

The Board has now determined in the Domestic Passenger-Fare Investigation that the proper rate of return for domestic trunkline operations is 12 percent on investment.[11] We are of the tentative view that a 10½ percent return, based on the use of the historical percentage point difference applied to the current return element, will provide a reasonable rate of return for Logair and Quicktrans purposes. We emphasize the tentative nature of the 10½ percent return element proposed and we solicit views on this item by the DOD and the carriers which have submitted cost forecasts.

Grouping, stage length, and proposed rates. In view of their economic characteristics, we have grouped the DC–9 and L–188 types together and have set out the L–100 type separately. This is consistent with DOD's recommendation. The average cost for the group is weighted in accordance with the number of aircraft offered by each carrier, as in previous reviews.

As noted above, we have extended the current rates for DC–6A and AW–650 types as recommended by DOD,[12] and have deleted rates for the B–727 and DC–8–55. The data on which the proposed rates are based are summarized below:

[12] Shown below are the current rates, as specified in Amendment 11 of Part 288 (Regulation ER–626, adopted June 18, 1970). Although Universal provided cost forecasts for its AW–650 aircraft, the forecasts are so conjectural because of the lack of recent reported experience that on balance it appears more appropriate to extend the current rates.

Carrier	Aircraft type	Number aircraft	Stage length		Adjusted cost per course flown statute mile	
			Logair	Quicktrans	Logair	Quicktrans
					Cents	
Group A:						
Overseas	DC–9–30	6	400	450	201.49	217.71
Overseas	L–188C	8	400	450	206.94	223.00
Universal	L–188C	12	400	450	198.23	203.52
Weighted average					201.66	212.79
Group B:						
Saturn	L–100–20/30		488	488	217.51	220.69
All other:						
	DC–6A		414	414	145.54	145.54
	AW–650		350		206.82	
Universal	DC–8–61		650	650	297.07	305.31

A stage length of 488 miles for Group B has been adopted for Logair and Quicktrans in lieu of the former standard of 400 miles for Logair and 450 miles for Quicktrans. This reflects Saturn's actual experience with L–100–20/30 aircraft, and the change has been agreed to by DOD.

The Group A rates shown below are 1.6 percent higher for Logair and 4.7 percent higher for Quicktrans than the rates for fiscal year 1971, while the Group B rates are 3.7 percent lower for Logair and 2.6 percent lower for Quicktrans. Experienced wage and price increases and larger provisions for income taxes due to decreases in interest expense, plus the depreciation policy change in the case of the DC–9, are the chief increase factors, while fuel price decreases, the deletion of the B–727 from group averages, and cost savings reflecting an increase in speed for L–100 type aircraft are the primary elements tending to lower rates. The significant decrease in the DC–8–61 rate results almost entirely from the new treatment for leased aircraft, described above, in lieu of the constructive ownership approach used last year.

We propose to continue the minimum rate structure that has been in effect for a number of years. This consists of a line-haul rate per course-flown statute mile plus a rate per directed landing for each aircraft type, based upon the weighted average costs and stage lengths set forth in the preceding table. We propose no change in the landing charges.

The current and proposed rates are compared in the following table:

Aircraft type	Per course-flown mile				Per directed landing
	Current rates		Proposed rates		
	Logair	Quicktrans	Logair	Quicktrans	
Group A:					
DC–9–30	$1.6108	$1.6992	$1.6416	$1.7946	$150
L–188C	1.6108	1.6992	1.6416	1.7946	150
Group B:					
L–100–20/30	1.8837	1.9334	1.8677	1.8995	150
All other:					
AW–650	1.7111		1.7111		125
DC–6A	1.1535	1.1535	1.1535	1.1535	125
DC–8–61CF	2.9437	3.0110	2.5476	2.6300	275

We propose that these rates be effective as of July 1, 1971.

PROPOSED RULE

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288) by revising § 288.7(b) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

[10] See appendix B.
[11] Order 71–4–58, Apr. 9, 1971.

Aircraft type	Linehaul rate per course—flown statute mile: Logair	Quicktrans	Rate per directed landing
DC-9-30	$1.6416	$1.7946	$150
L-188C	1.6416	1.7946	150
L-100-20/30	1.8677	1.8995	150
AW-650	1.7111		125
DC-6A	1.1535	1.1535	125
DC-8-61CF	2.5476	2.6300	275

[FR Doc.71-7189 Filed 5-21-71;8:49 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 71-459]

FEDERAL SAVINGS AND LOAN SYSTEM

Mobile Homes

MAY 18, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purposes of (1) authorizing certain Federal savings and loan associations to purchase participation interests in certain mobile home chattel paper and (2) providing that if such associations sell any mobile home chattel paper, or any participation interest therein, such sales shall be made without recourse. Accordingly, the Federal Home Loan Bank Board proposes to amend said Part 545 as follows:

1. Amend Part 545 by revising the portion of paragraph (a) of § 545.7-1 thereof which precedes subparagraph (1) of said paragraph (a) to read as follows:

§ 545.7-1 Mobile home financing.

(a) *Definitions.* As used in this part—

* * * * *

2. Amend Part 545 by adding new §§ 545.7-2 and 545.7-3 to read as follows:

§ 545.7-2 Purchase of participation interests in mobile home chattel paper.

(a) *General.* A Federal association which as a charter in the form of Charter K (rev.) or Charter N may purchase, within the 5-percent-of-assets limitation in paragraph (c) of § 545.7-1, a participation interest in retail mobile home chattel paper which meets all the requirements of paragraph (e) of § 545.7-1 except the lending area requirement in subparagraph (2) thereof if:

(1) The seller of such participation interest is an institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation and such institution remains responsible for the servicing of such chattel paper;

(2) The seller of such chattel paper maintains at least a 50 percent interest in such chattel paper; and

(3) Such chattel paper is secured by a mobile home which is located at the time of such purchase, or is to be located within 90 days thereafter, at a mobile home park or other semipermanent site within 100 miles of the home or a branch office of the seller of such chattel paper.

(b) *Failure to meet requirements.* In the event that any of the requirements of subparagraphs (1) and (2) of paragraph (a) of this section cease to be met, such association shall dispose of such participation interest within 90 days from the date that such association obtains knowledge that any such requirement ceased to be met, unless it has, prior to the expiration of such 90-day period, obtained the written approval of the Board to maintain such investment for such longer period as the Board may provide.

§ 545.7-3 Sale of mobile home chattel paper.

All mobile home chattel paper, and participation interests therein, sold by a Federal association shall be sold without recourse (as defined with reference to a loan in § 561.8 of this chapter).

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by June 21, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.71-7183 Filed 5-21-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18927; RM-1525]

LIMITATION OF TELEVISION STATIONS' ACCESS TO PROGRAMS OF MORE THAN ONE NATIONAL NETWORK

Order Extending Time for Filing Oppositions to Petitions for Reconsideration

1. On May 14, 1971, Public Notice (No. 765)[1] was given of petitions for reconsideration filed by Western Telecasters, Inc., The Post Co. (KIFI-TV), Columbia Broadcasting System, Inc., American Broadcasting Co., Inc., and National Broadcasting Co., Inc., requesting reconsideration of the decision relating to Docket 18927 in the Commission's First Report and Order (FCC 71-322), released April 1, 1971. The date for filing oppositions to the above petitions is presently May 24, 1971.

2. On May 18, 1971, Triangle Telecasters, Inc. (WRDU-TV), licensee of television station WRDU-TV, Durham, N.C., filed a request for an extension of time to file its opposition to the above petitions for reconsideration. It states that due to the press of other litigation, the complex nature of the issues raised by the petitions for reconsideration, and the need to consult fully with client officials, counsel for Triangle Telecasters (WRDU-TV) will be unable to meet the May 24 deadline. It therefore requests an additional 4 days to and including May 28, 1971, in which to prepare its opposition.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered,* That the time for filing oppositions to the petitions for reconsideration in Docket 18927 is extended to and including May 28, 1971.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281(d)(8) of the Commission's rules.

Adopted: May 18, 1971.

Released: May 19, 1971.

[SEAL] FRANCIS R. WALSH, *Chief, Broadcast Bureau.*

[FR Doc.71-7191 Filed 5-21-71;11:17 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 251]

CONSTRUCTION-DIFFERENTIAL SUBSIDY—SUFFICIENCY OF PORTS AND FACILITIES

Notice of Proposed Rule Making

Notice is hereby given that the Maritime Subsidy Board is considering promulgation of a regulation pursuant to sections 204(b), 501(a), and 501(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101-1294), governing approval of applications for construction-differential subsidy for vessels which, because of their size and/or characteristics, cannot be accommodated by existing ports and facilities in the United States, its territories or possessions, or the District of Columbia (hereinafter "United States").

Section 501(a) of the Merchant Marine Act, 1936, as amended, provides in pertinent part that:

No * * * application [for construction-differential subsidy] shall be approved by the Secretary of Commerce unless he deter-

[1] Public Notice No. 765 not published in FEDERAL REGISTER.

mines that (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency * * * and (3) the granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policies of this Act.

Section 501(c) of the Act provides in pertinent part that:

Any citizen of the United States or any shipyard of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in reconstructing or reconditioning any vessel that is to be used in the foreign commerce of the United States. If the Secretary of Commerce, in the exercise of his discretion, shall determine that the granting of the financial aid applied for is reasonably calculated to carry out effectively the purposes and policy of this Act, the Secretary of Commerce may approve such application * * *.

The standards set forth in the quoted provisions effectively require that vessels built with construction-differential subsidy shall be capable or reasonably likely to be capable of carrying cargo to and from ports and facilities in the United States. Thus, the size and characteristics of vessels built with construction-differential subsidy must be consistent with the existing or probable future capacity of the ports and facilities of the United States.

Therefore, the Maritime Subsidy Board proposes to insert after § 251.1 and appendices thereto the following new § 251.2 to Part 251 of Title 46, Chapter II, Code of Federal Regulations:

§ 251.2 Sufficiency of available ports and facilities.

(a) Where sufficient ports and facilities in the United States, its territories or possessions, or the District of Columbia, are not available so as to permit safe and commercially feasible trading by vessels of a given size or given characteristics in accordance with normal commercial shipping practices, no application for construction-differential subsidy to aid in the construction of vessels of such size or characteristics shall be approved unless the Secretary of Commerce shall determine that there is a reasonable probability that such sufficient ports and facilities will be developed within a reasonable period of time.

(b) If the Secretary of Commerce shall determine, under paragraph (a) of this section, that there is not a reasonable probability that sufficient ports and facilities will be developed within a reasonable period of time but the Secretary shall determine that a suitable transshipment point (as defined in § 278.5 of this chapter) is available, an application for construction-differential subsidy may be approved if the applicant shall agree to waive the provisions of § 278.3(b) of this chapter and shall agree that such waiver is irrevocable.

While the construction-differential subsidy program is exempt from the requirements of 5 U.S.C. 553, the Maritime Subsidy Board invites all interested parties to submit written comments on the proposed regulation, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20235, by close of business June 21, 1971.

Dated: May 20, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-7269 Filed 5-21-71;8:51 am]

[46 CFR Part 252]

DETERMINATION OF ESSENTIALITY OF U.S.-FLAG BULK CARRIER SERVICES

Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary of Commerce for Maritime Affairs, acting pursuant to sections 204 (b) and 211(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294) (Act), and for purposes of subsection 601(a) of the Act, proposes to establish regulations for determining essential bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements, be provided by U.S.-flag vessels whether or not operating on particular services, routes, or lines.

Therefore, notice is hereby given that the Assistant Secretary of Commerce for Maritime Affairs proposes to add the following new Part 252 to Title 46, Chapter II, Code of Federal Regulations:

PART 252—OPERATING-DIFFERENTIAL SUBSIDY, BULK CARGO VESSELS

Sec.
252.1 Purpose.
252.2 Definitions.

AUTHORITY: The provisions of this Part 252 issued under section 204(b), 49 Stat. 1987, as amended; 46 U.S.C. 1114.

§ 252.1 Purpose.

The purpose of this part is to prescribe regulations concerning the operating-differential subsidy program under title VI of the Merchant Marine Act, 1936, as amended, relating to the operation of U.S.-flag bulk cargo vessels in the foreign commerce of the United States.

§ 252.2 Definitions.

For purposes of this part:

(a) *Essential service.* (1) For purposes of eligibility for operating-differential subsidy participation, pursuant to section 601(a) of the Act, and except as otherwise provided in regulations under this part, operation of a bulk vessel will be deemed to satisfy the provisions of section 211(b) of the Act if in each year the vessel derives at least thirty percent (30%) of its total carriage from the export foreign commerce of the United States.

(2) The determination of the percentage of export and import foreign commerce of the United States to total cargo carried shall be on either a ton-mile or a gross-revenue basis, whichever the operator elects. If the gross-revenue basis is elected, the gross revenue shall be computed on a consistent basis for all cargo carried. Under either election, "cargo carried" shall be the cargo discharged during the year.

(3) Cargo carried in the domestic coastwise and intercoastal trade indicated in section 605(a) of the Act shall be included in the total carried but not in the export and import foreign commerce of the United States.

(4) Except as otherwise provided in regulations issued by the Maritime Subsidy Board, in the event that the vessel does not derive at least fifty percent (50%) of its employment from the export and import foreign commerce of the United States, the amount of operating-differential subsidy otherwise payable will be reduced in accordance with regulations of the Maritime Subsidy Board, and no subsidy may be paid with respect to any vessel actually employed less than thirty percent (30%) in the export and import foreign commerce of the United States in any year.

While the operating-differential subsidy program is exempt from the requirements of 5 U.S.C. 553, the Assistant Secretary of Commerce for Maritime Affairs invites all interested parties to submit written comments, in triplicate, on the proposed regulations to the Secretary, Maritime Administration, Department of Commerce, Washington, D.C. 20235, by close of business on June 21, 1971.

Dated: May 20, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.71-7270 Filed 5-21-71;8:51 am]

[46 CFR Part 252]

OPERATING-DIFFERENTIAL SUBSIDY TO BULK CARRIERS

Notice of Proposed Rule Making

Notice is hereby given that the Maritime Subsidy Board is considering promulgation of regulations pursuant to sections 204(b) and 603(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294) (Act), providing for payment of operating-differential subsidy for bulk cargo carrying vessels engaged in essential service under section 211(b) of the Act.

Therefore, notice is hereby given that the Maritime Subsidy Board proposes to add a new § 252.3 to Part 252 of Title 46, Chapter II, Code of Federal Regulations to read as follows:

§ 252.3 Payment of subsidy.

(a) *Purpose.* The purpose of this section is to set forth a schedule for the

payment of operating-differential subsidy to bulk cargo carrying vessels dependent upon the participation of each vessel in the export and import foreign commerce of the United States, and to provide for certain waivers in the event cargo is unavailable to the subsidized vessels in such commerce.

(b) *Payment formula.* (1) The amount of operating-differential subsidy payable for each year will be determined in accordance with the following percentages:

Percentage of U.S. export and import foreign commerce to total cargo carried	*Percentage of subsidy earned to amount of subsidy otherwise payable*
50 to 100	100
40 to 49.9	50
30 to 39.9	40
Less than 30	0

(2) The determination of the percentage of export and import foreign commerce of the United States to total cargo carried shall be made in accordance with § 252.2(a)(1).

(3) Cargo carried in the domestic coastwise and intercoastal trade described in the proviso clause of section 605(a) of the Act shall be included in the total carried but not in the export and import foreign commerce of the United States.

(4) The amount of operating-differential subsidy otherwise payable as used in subparagraph (1) of this paragraph means the amount of operating-differential subsidy payable under the operating-differential subsidy contract applicable to the particular vessel before any reduction applicable to the carriage of domestic coastwise or intercoastal trade pursuant to section 605(a) of the Act. If the amount of operating-differential subsidy payable is adjusted in accordance with the above scale, and reduction of operating-differential subsidy by reason of section 605(a) shall be redetermined by applying the formula prescribed in that section to the operating-differential subsidy earned in accordance with the percentages prescribed herein.

(5) In the event an operating-differential subsidy contract covers two or more vessels, the ton-miles and gross-revenues thereof may be combined for the purpose of determining the percentage of operating-differential subsidy earned by such vessels to the amount of such subsidy otherwise payable in accordance with the schedules set forth above; provided, however, that a vessel must be employed a minimum of thirty percent (30%) in the export and import foreign commerce of the United States in order for the ton-miles and gross-revenues of such vessel to be included in this computation.

(6) Reports shall be filed with the Board detailing cargoes discharged during the reporting period and including ports of loading, ports of discharge, tonnage carried between such ports, nautical miles between ports and revenue earned (on a consistent basis). Report periods shall cover every 6 months of the annual periods for which determinations are made for the operator pursuant to this paragraph (b), and must be filed within 45 days of the expiration of each such reporting period.

(c) *Payments on account.* (1) In the first year of the operating-differential subsidy contract and such part of the second year preceding the determination of the percentage of subsidy earned pursuant to paragraph (b) of this section applicable to the first year, payments on account shall be made in accordance with the provisions of the operating-differential subsidy contract.

(2) Thereafter, payments on account of subsidy will be made by applying the percentage of subsidy earned pursuant to paragraph (b) of this section for the most recent year or averaging period under paragraph (d) of this section, as the case may be, for which such percentage has been determined.

(3) Notwithstanding the provisions of subparagraph (2) of this paragraph, the Board may authorize payments on account at some other percentage of subsidy earned under the schedule in paragraph (b) of this section or any other amount as may be deemed appropriate either on its own motion or on a showing by the operator that the pattern of his service has changed to the extent that payments on account in accordance with subparagraph (2) of this paragraph would not be equitable.

(4) Overpayments of subsidy resulting from the application of this paragraph shall be withheld from future payments on account. In the event that such future payments are insufficient to recover the overpayments, the difference to the extent determinable shall then be due and payable to the Government.

(5) Underpayments of subsidy resulting from the application of this paragraph shall be due and payable to the operator upon determination.

(d) *Election to aggregate.* (1) The operator may elect to aggregate the cargo carried on the subsidized vessel(s) over a 5-year period commencing as of the effective date of the operating-differential subsidy contract or any later date mutually agreed to by the operator and the Maritime Subsidy Board for purposes of determining the percentage of subsidy earned pursuant to paragraph (b) of this section over such 5-year period. Such election must be made prior to the beginning date of the 5-year period. The basis of aggregation shall be the same, either ton-miles or gross-revenues, for all of the years in such period. The election under this subparagraph shall be irrevocable.

(2) The operator may further elect to maintain a moving 5-year aggregating period. In such event the first 5-year period shall remain as established in subparagraph (1) of this paragraph. The years commencing subsequent to the date the election is made to maintain a moving 5-year aggregating period will also be included in the computation of the percentage of subsidy earned over the 5-year period commencing subsequent to the date of such election.

(3) In the event the operating-differential subsidy contract has fewer than 5 years to run, and the operator has not elected a moving 5-year aggregating period under subparagraph (2) of this paragraph which includes such years, the operator may elect an aggregating period covering the remaining years of the contract.

(e) *Cargo unavailability.* (1) Upon application by an operator, the Maritime Subsidy Board shall determine if the failure in any year to achieve any stated percentage in the schedule in paragraph (b) of this section or to comply with the definition of essential service under § 252.2(a) was due to the unavailability of cargo to subsidized vessels in the export and import foreign commerce of the United States for such year. Upon making such findings, the Board shall waive the application of the schedule in paragraph (b) of this section and the provisions of § 252.2(a) for a time not to exceed 6 months or for such other time as the Board shall determine is reasonable under the circumstances. In the event of such waiver, the Board shall determine the appropriate percentage of subsidy earned.

(2) In making the findings under this paragraph, the Board shall consider acts of God, force majeure, accidents, strikes, or other labor disturbances, wars, insurrections, acts by foreign governments, loss of or damage to the subsidized vessel(s) or any other cause not within the control of the operator which disrupts or results in changed or changing trading patterns directly affecting the service provided by the operator.

(3) The time during which a waiver under this paragraph is in effect shall constitute a separate reporting period. Cargo carried during such time shall be excluded from the calculations under paragraph (b) of this section for the year(s) affected by the waiver.

While the operating-differential subsidy program is exempt from the requirements of 5 U.S.C. 553, the Maritime Subsidy Board invites all interested parties to submit written comments, in triplicate, on the proposed regulation to the Secretary, Maritime Subsidy Board, Department of Commerce, Washington, D.C. 20235, by close of business on June 21, 1971.

Dated: May 20, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-7271 Filed 5-21-71;8:51 am]

[46 CFR Part 278]

OPERATION IN U.S. FOREIGN COMMERCE OF BULK CARGO VESSELS ON WHICH A CONSTRUCTION-DIFFERENTIAL SUBSIDY HAS BEEN PAID

Notice of Proposed Rule Making

Notice is hereby given that the Maritime Subsidy Board is considering promulgation of regulations pursuant to

sections 204(b) and 905(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294), to delineate the extent to which operation in U.S. export-import foreign trade will be required of U.S.-flag liquid and dry bulk cargo vessels on which a construction-differential subsidy has been paid.

Section 905(a) of the Merchant Marine Act, 1936, as amended, provides that:

> The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country, except that in the context of title V of this Act concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall to the extent provided in uniform regulations promulgated by the Secretary of Commerce also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels.

Section 28 of Senate Report 91–1080 indicates that section 905(a), as amended by Public Law 91–469, was intended to permit U.S.-flag liquid and dry bulk cargo vessels built with the aid of construction-differential subsidy to compete effectively with foreign-flag carriers but, at the same time, was intended to protect the Government's investment in these bulk cargo vessels by prohibiting such vessels from becoming engaged exclusively or principally in foreign-to-foreign carriage unrelated to the foreign commerce of the United States.

The uniform regulations proposed in this notice are intended to carry out the mandate of section 905(a) and Senate Report 91–1080.

Therefore, notice is hereby given that the Maritime Subsidy Board proposes to add the following new Part 278 to Title 46, Chapter II, Code of Federal Regulations:

PART 278—OPERATION IN THE U.S. FOREIGN COMMERCE OF BULK CARGO VESSELS ON WHICH A CONSTRUCTION - DIFFERENTIAL SUBSIDY HAS BEEN PAID

Sec.

AUTHORITY: The provisions of this Part 278 issued under sections 204(b) and 905(a), 49 Stat. 1987, as amended; 46 U.S.C. 1114(b) and 1244(a).

§ 278.1 Purpose.

The purpose of this part is to prescribe regulations pursuant to section 905(a) of the Merchant Marine Act, 1936, as amended, governing the extent to which U.S.-flag liquid and dry bulk cargo vessels on which a construction-differential subsidy has been paid may engage in trading between foreign ports where such trading is not related to the foreign commerce of the United States.

§ 278.2 Definitions.

For purposes of this part:

(a) *United States.* United States shall mean the United States, its territories or possessions, or the District of Columbia.

(b) *U.S. Export-Import Foreign Commerce.* U.S. export-import foreign commerce shall mean trade or commerce between the United States and a foreign country and shall be limited to the carriage of cargo loaded in the United States and discharged in a foreign country or cargo loaded in a foreign country and discharged in the United States. Domestic trade conducted in accordance with section 506 of the Merchant Marine Act, 1936, as amended, shall be treated as equivalent to U.S. export-import foreign commerce in the manner and for the limited purposes set forth in § 278.4(b).

(c) *Foreign-to-Foreign Commerce.* Foreign-to-foreign commerce shall mean trade or commerce between foreign ports and shall be limited to the carriage of cargo loaded in a foreign country and discharged in a foreign country.

§ 278.3 Duration of restrictions on foreign-to-foreign operation.

(a) Except as provided in paragraph (b) of this section, the restrictions in this part on operation in foreign-to-foreign commerce of a bulk cargo vessel on which construction-differential subsidy has been paid shall apply during the first twenty (20) years of the life of any liquid bulk carrier and during the first twenty-five (25) years of the life of any dry bulk carrier. For purposes of this part, the term "year" shall mean calendar year commencing January 1 and ending December 31. The twenty (20) or twenty-five (25) year period of restriction on operation in foreign-to-foreign commerce shall commence on the January 1 next succeeding the date that the bulk cargo vessel on which construction-differential subsidy has been paid is first placed into operation.

(b) Where sufficient ports and facilities in the United States are not available so as to permit safe and commercially feasible trading by liquid or dry bulk cargo vessels of a given size or characteristic in accordance with normal commercial bulk shipping practices, the twenty (20) or twenty-five (25) year restriction period set forth in paragraph (a) shall not commence to run with respect to bulk cargo vessels of such type or characteristics until the Secretary of Commerce shall determine that sufficient ports and facilities have been developed.

(c) In the event that a liquid or dry bulk cargo vessel on which construction-differential subsidy has been paid is lost, destroyed, scrapped or otherwise permanently retired from service prior to expiration of the applicable twenty (20) or twenty-five (25) year restriction period, the obligation of the owner to comply with the provisions of this part for the remainder of the applicable twenty (20) or twenty-five (25) year restriction period shall terminate.

§ 278.4 Extent of permissible foreign-to-foreign operation.

(a) For purposes of determining the extent of permissible operation in foreign-to-foreign commerce of a bulk cargo vessel on which construction-differential subsidy has been paid, the twenty (20) or twenty-five (25) year restriction period set forth in § 278.3 shall be divided into five (5) year periods. During each of the five (5) year periods, restrictions on operation in foreign-to-foreign commerce shall be as follows:

(1) During any three (3) of the five (5) years, at least fifty percent (50%) of the total ton-miles of cargo carried, or total gross revenues earned, in each of the three (3) years must be carried or earned in U.S. export-import foreign commerce; or

(2) At least thirty-five percent (35%) of the total ton-miles of cargo carried, or total gross revenues earned, in all five (5) years combined shall be carried or earned in U.S. export-import foreign commerce.

(b) The ton-miles and gross revenue applicable to the carriage of cargo in the domestic trade conducted in accordance with section 506 of the Merchant Marine Act, 1936, as amended, shall be included with the ton-miles and gross revenues of U.S. export-import foreign commerce for purposes of the calculations made pursuant to paragraphs (a) (1) and (2) of this section.

(c) For purposes of this part, gross revenues shall be computed on a consistent basis for both U.S. export-import foreign commerce and foreign-to-foreign commerce.

§ 278.5 Transshipment of cargo.

(a) Transshipment point, as used in this section, shall mean any port outside of the United States which is used as a loading or discharge point for cargo originating from or destined for a port or location in the United States.

(b) Cargo discharged by a bulk cargo vessel at a transshipment point shall be considered to be cargo carried by that vessel in U.S. export-import foreign commerce within the meaning of § 278.4 if and only if:

(1) Sufficient ports and facilities in the United States are not available so as to permit safe and economically feasible trading by that vessel;

(2) The owner of the vessel elects to waive the provisions of § 278.3(b) and treat the transshipment point as equivalent to a sufficient port and facility available in the United States;

(3) The exact cargo discharged or cargo equivalent in every respect is eventually carried to the United States; and

(4) Any water-borne carriage between the transshipment point and the port or location in the United States must be in a U.S.-flag vessel.

(c) Cargo loaded by a bulk cargo vessel at a transshipment point shall be considered to be cargo carried by that vessel in U.S. export-import foreign commerce within the meaning of § 278.4 if and only if:

(1) Sufficient ports and facilities in the United States are not available so as to permit safe and economically feasible trading by that vessel;

(2) The owner of a vessel elects to waive the provisions of § 278.3(b) and treat the transshipment point as equivalent to a sufficient port and facility available in the United States; and

(3) The cargo loaded is destined for a port outside the United States (other than the transshipment point) and the cargo loaded or cargo equivalent in every respect originated in the United States and water-borne carriage between the point-of-origin and the transshipment point is in a U.S.-flag vessel.

(d)(1) Except as provided in § 251.2(b) of this chapter, waiver of the provisions of § 278.3(b), for purposes of paragraphs (b)(2) and (c)(2) of this section, may occur at any time prior to a determination by the Secretary of Commerce pursuant to § 278.3(b) that sufficient ports and facilities have been developed. The twenty (20) or twenty-five (25) year period of restriction on operation in foreign-to-foreign commerce provided for in § 278.3(a) shall commence on the January 1 next succeeding the date of the waiver.

(2) Except as provided in § 251.2(b) of this chapter, waiver of the provisions of § 278.3(b) may be withdrawn on any anniversary of the effective date of the waiver. In the event the waiver is withdrawn, the owner shall be credited with the period of operation under the waiver and the running of the remainder of the twenty (20) or twenty-five (25) year restriction period (and the remainder of any five (5) year accounting period under § 278.4) shall be suspended until the owner again waives the provisions of § 278.3(b) (which waiver shall be effective on the next succeeding January 1) or a determination is made by the Secretary of Commerce pursuant to § 278.3(b) that sufficient ports and facilities have been developed.

§ 278.6 Reports on ton-miles of cargo carried and gross revenues earned.

Within six (6) months after the end of each calendar year during the running of the twenty (20) or twenty-five (25) year restriction period, the owner of a bulk cargo vessel on which construction-differential subsidy has been paid shall file with the Secretary, Maritime Administration, Washington, D.C. 20235, a report detailing the ton-miles of cargo carried and gross revenues earned in U.S. export-import foreign commerce, the ton-miles of cargo carried and gross revenues earned in foreign-to-foreign commerce, and the ton-miles of cargo carried and gross revenues earned in the domestic trade under section 506 of the Merchant Marine Act, 1936, as amended, during the calendar year ending the December 31 immediately preceding the report. Gross revenues shall be computed and reported on a consistent basis for both U.S. export-import foreign commerce and foreign-to-foreign commerce.

§ 278.7 Failure to comply with regulations.

The failure of an owner of a bulk cargo vessel on which construction-differential subsidy has been paid to comply with the requirements of this part shall, during the term of such requirements, disqualify the owner or any parent, subsidiary, affiliated or related corporation or person from receiving construction-differential subsidy under section 501 of the Merchant Marine Act, 1936, as amended, for the construction, reconstruction or reconditioning of any vessel, unless the Secretary of Commerce shall, in his discretion, determine that the failure to comply was excusable.

§ 278.8 Transfer of ownership.

The restrictions on foreign-to-foreign operation of a bulk cargo vessel set forth in this part shall run with the vessel and shall not be altered in any way by a transfer of ownership of the vessel. If an owner's compliance with the restrictions set forth in this part has been rendered impossible by the acts or omissions of a prior owner, the owner shall be excused from the provisions of § 278.7, provided that the owner operates the vessel exclusively in U.S. export-import foreign commerce for the remainder of the five (5) year restriction period in which transfer of ownership occurred. The prior owner whose acts or omissions rendered compliance with the restrictions in this part impossible shall be subject to the provisions of § 278.7.

While the construction-differential subsidy program is exempt from the requirements of 5 U.S.C. 553, the Maritime Subsidy Board invites all interested parties to submit written comments on the proposed regulations, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20235, by close of business on June 21, 1971.

Dated: May 20, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-7272 Filed 5-21-71;8:51 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 7308 (Wash.)]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Lands

Correction

In F.R. Doc. 71-6236 appearing at page 8408 in the issue of Wednesday, May 5, 1971, the following changes should be made:

1. The word "more" should be inserted following the word "purposes" in the 13th line of the fourth paragraph in the center column on page 8408.

2. The figure "650" appearing in the 12th line of the Upper Snow Creek Rock Pit No. 2814-2.7 and in the 10th line of the Dutchman Rock Pit No. 294.3-7.5 should read "300".

3. The figure "650" appearing in the third line of the center column on page 8409 should read "350".

4. The seventh line of the Bear Mountain Rock Pit No. 2979-0.7 should be deleted.

5. The phrase "approved 9/24/63)" should be added to the first line of Caraco Rock Pit No. 2927-1.3.

Office of Hearings and Appeals

[Docket No. M 71-16]

UNITED STATES STEEL CORP.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 801 et seq., notice is hereby given that United States Steel Corp. (Petitioner) has filed a petition to modify the application of section 308(b) of the Act with respect to its Geneva Mine located at Horse Canyon, Emery County, Utah. Section 308(b) of the Act provides:

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Petitioner proposes that said mine be excepted from the application of the requirements of section 308(b) of the Act, on the ground, inter alia, that compliance with this section will result in a diminution of the safety protection of the miners.

A copy of the petition is available for inspection in the Office of Hearings and Appeals, Hearings Division, 4015 Wilson Boulevard, Arlington, VA 22203.

ERNEST F. HOM,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.71-7185 Filed 5-21-71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

GRAIN PROCESSING CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2677) has been filed by Grain Processsing Corp., Post Office Box 341, Muscatine, IA 52761, proposing that § 121.2506 *Industrial starch—modified* (21 CFR 121.2506) be amended to provide for the safe use of industrial starch-modified by treatment with ammonium persulfate, not in excess of 0.6 percent in alkaline starch, intended as a component of paper and paperboard in food-contact use.

Dated: May 14, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-7131 Filed 5-21-71;8:45 am]

GAF CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2673) has been filed by GAF Corp., 140 West 51st Street New York, NY 10020, proposing that § 121.1139 *Polyvinylpyrrolidone* (21 CFR 121.1139) be amended to provide for the safe use of polyvinylpyrrolidone as a clarifying agent in wines.

Dated: May 14, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-7132 Filed 5-21-71;8:45 am]

[DESI 5798]

CERTAIN LOCAL HEMOSTATIC AGENTS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Oxycel (oxidized cellulose); Parke Davis and Co., Joseph Campau at the River, Detroit, Michigan 48232 (NDA 5-798).

2. Surgical Absorbable Hemostat (oxidized cellulose); Johnson and Johnson, 501 George Street, New Brunswick, New Jersey 08901 (NDA 12-159).

3. Solusponge Strips and Cones (absorbable starch sponge); Panray Division, Ormont Drug and Chemical Co., Inc., 223 South Dean Street, Englewood, New Jersey 07631 (NDA 8-655).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. Absorbable starch sponge and oxidized cellulose are probably effective for use as a hemostatic adjunct.

2. Absorbable starch sponge lacks substantial evidence of effectiveness for the indication "invaluable aid in oral and dental surgery".

3. Except for the indications referred to above, oxidized cellulose is possibly effective for its labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new-drug application for a drug described in paragraph A above is requested to submit a supplement to his application to provide for revised labeling, as needed, to be in accord with this announcement, to include the Indication section described below, and to delete any indication for which such drug has been classified as lacking substantial evidence of effectiveness. Such supplement should be submitted under the provisions of

§ 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new-drug application.

2. If any such preparation is on the market without an approved new-drug application, its labeling should be revised to be in accord with this notice and any claim for which substantial evidence of effectiveness is lacking as described in paragraph A 2 above should be deleted. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Indications for a drug described in paragraph A above as probably effective may continue to be used for 12 months, and indications described as possibly effective may continue to be used for 6 months, following the date of this publication, to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

4. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12 (a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially-controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies my be considered on their merits for corroborative support of efficacy and evidence of safety.

5. At the end of the 6-month and 12-month periods, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug application for the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drug on the market to be a new drug for which an approval is not in effect.

6. Labeling revised pursuant to this notice should take into account the comments of the Academy, furnish adequate information for safe and effective use of the drug, be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommend use of the drug (for the probably effective indication) as follows: (The possibly effective indications may also be included for six months.)

INDICATIONS

For use as a hemostatic adjunct.

The above-named holders of the new-drug applications for these drugs have been furnished a copy of the NAS–NRC report. Any interested person may obtain a copy of these reports by writing to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, DC 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5798, directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 30, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7133 Filed 5–21–71;8:46 am]

[DESI 6303]

CERTAIN ORAL ANTIHISTAMINES

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antihistamine drugs for oral use:

1. Actidil Tablets containing triprolidine hydrochloride; Burroughs Wellcome and Co., Inc., 1 Scarsdale Road, Tuckahoe, New York 10707 (NDA 11–110).

2. Dimetane Elixir containing brompheniramine maleate; A. H. Robins Co., 1407 Cummings Drive, Richmond, Virginia 23220 (NDA 11–097).

3. Methapyrilene Hydrochloride Tablets; The Blue Line Chemical Co., 302 South Broadway, St. Louis, Missouri 63102 (NDA 6–824).

4. Dimetane Tablets and Extentabs (sustained release tablets) containing brompheniramine maleate; A. H. Robins Co. (NDA 10–799).

5. Actidil Syrup containing triprolidine hydrochloride; Burroughs Wellcome and Co. (NDA 11–496).

6. Forhistal Syrup containing dimethindene maleate; Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 12–337).

7. Histadyl Pulvules and Syrup containing methapyrilene hydrochloride; Eli Lilly and Co., Post Office Box 618, Indianapolis, Indiana 46206 (NDA 6–340).

8. Forhistal Lontabs (long acting tablets) containing dimethindene maleate; Ciba Pharmaceutical Co. (NDA 12–336).

9. Forhistal Tablets containing dimethindene maleate; Ciba Pharmaceutical Co. (NDA 12–335).

10. Forhistal Pediatric Oral Drops containing dimethindene maleate; Ciba Pharmaceutical Co. (NDA 12–338).

11. Decapryn Tablets containing doxylamine succinate; The Wm. S. Merrell Co., Division of Richardson-Merrell, Inc., Cincinnati, Ohio 45215 (NDA 6–412).

12. Semikon Hydrochloride Tablets containing methapyrilene hydrochloride; The S. E. Massengill Co., 527 Fifth Street, Bristol, Tennessee 37620 (NDA 6–614).

13. Disomer Chronotab (repeat action tablets) containing dexbrompheniramine maleate; White Laboratories, Inc., Kenilworth, New Jersey 07033 (NDA 11–905).

14. Disomer Tablets and Syrup containing dexbrompheniramine maleate; White Laboratories, Inc. (NDA 11–814).

15. Clistin Elixir containing carbinoxamine maleate; McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, Pennsylvania 19034 (NDA 8–955).

16. Thephorin Tartrate Syrup containing phenindamine tartrate; Roche Laboratories, Division Hoffman-La-Roche, Inc., Roche Park, 340 Kingsland Avenue, Nutley, New Jersey 07110 (NDA 6–332).

17. Clistin R–A and Clistin Tablets containing carbinoxamine maleate; McNeil Laboratories, Inc. (NDA 8–915).

18. Thephorin Tablets containing phenindamine tartrate; Roche Laboratories, Division Hoffman-LaRoche, Inc. (NDA 6–303).

19. Hispril Spansule Capsules (sustained release capsules) containing diphenylpyraline hydrochloride; Smith Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 11–945).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. These drugs lack substantial evidence of effectiveness for the prevention and symptomatic relief of measles.

2. The drugs are probably effective for the indications listed in the labeling conditions which follow below.

3. Except for the indications referred to above, the drugs are regarded as possibly effective for their labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug described in paragraph A.1. above is requested to submit a supplement to his application to provide for revised labeling, as needed, which deletes those indications for which such drug has been classified as lacking substantial evidence of effectiveness and which contains an "Indication" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new-drug application, its labeling should be revised if it includes any claim for which substantial evidence of effectiveness is lacking as described in paragraph A.1 above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Indications for a drug described in paragraph A. above as probably effective may continue to be used for 12 months, and indications described as possibly effective may continue to be used for 6 months, following the date of this publication, to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. At the end of the 6-month and 12-month periods, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug application for the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drug on the market to be a new drug for which an approval is not in effect.

5. Labeling revised pursuant to this notice should take into account the comments of the Academy, furnish adequate information for safe and effective use of the drug, be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommend use of the drug (for the probably effective indications) as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

For the symptomatic treatment of:
Seasonal and perennial allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
For the amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

The above-named holders of the new drug applications for these drugs have been mailed a copy of the Academy's report. Any interested person may obtain a copy of these reports by writing to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6303, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7134 Filed 5-21-71;8:46 am]

[DESI 6333]

THEOPHYLLINE SODIUM GLYCINATE FOR INTRAVENOUS USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on:

Synophylate Injection containing theophylline sodium glycinate; The Central Pharmacal Co., 116–128 East Third Street, Seymour, Indiana 47274 (NDA 6–333).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that:

1. Theophylline sodium glycinate for intravenous use is probably effective for bronchial asthma, status asthmaticus, paroxysmal cardiac dyspnea, and edema of congestive heart failure.

2. The drug is possibly effective for biliary colic, coronary disease and angina and in allaying pruritis and relieving sensitization dermatoses.

3. The drug lacks substantial evidence of effectiveness for Cheyne-Stokes respiration and "the bronchospastic type of chronic hypertrophic pulmonary emphysema."

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug which is classified in paragraph A.3. above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking and which contains an "Indications" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised to delete all claims for which substantial evidence of effectiveness is lacking as described in paragraph A.3. above and to be in accord with this notice. Failure to delete such indications and to put the revised labeling into use

within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Labeling revised pursuant to this notice should take into account the comments of the Academy; furnish adequate information for safe and effective use of the drug; be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommend use of the drug for the probably effective indications as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

Theophylline sodium glycinate is indicated in the treatment of bronchial asthma, status asthmaticus, paroxysmal cardiac dyspnea, and edema of congestive heart failure.

4. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), describes in paragraphs (c), (d), (e), and (f) the marketing status of the drug labeled with those indications for which it is regarded as probably effective and possibly effective.

A copy of the NAS-NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6333, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7135 Filed 5-21-71;8:46 am]

[DESI 6536]

[Docket No. FDC-D-307; NDA No. 6-536]

BETHANECHOL CHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Urecholine Chloride Tablets and Injection containing bethanechol chloride; marketed by Merck Sharp & Dohme Div. Merck & Co., Inc., West Point, Pa. 19486 (NDA 6-536).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the label in, and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

I. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

A. Bethanechol chloride injection is: effective for treatment of acute post operative and post partum nonobstructive (functional) urinary retention and for neurogenic atony of the urinary bladder with retention.

B. Bethanechol chloride tablets are probably effective for these same indications.

C. These drugs are possibly effective for postoperative abdominal distention; adynamic ileus accompanying severe trauma, acute infections, or neurogenic disorders; symptoms of gastric atony and retention following vagotomy or other gastric surgery, congenital megacolon; dysphagia associated with scleroderma; and paralytic ileus or urinary retention due to ganglionic blocking agents.

D. These drugs lack substantial evidence of effectiveness for atony of the chronically overdistended and atrophic urinary bladder; and postoperative obstructive urinary retention.

II. Bethanechol Chloride Injection—A. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Bethanechol chloride preparations are in sterile aqueous solution form suitable for subcutaneous administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

This drug is indicated for the treatment of acute postoperative and post partum nonobstructive (functional) urinary retention and for neurogenic atony of the urinary bladder with retention.

(The possibly effective indications may also be included for 6 months.)

3. *Marketing status.* Marketing of such drug may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, a supplement for updating information, and adequate data to assure the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application, including adequate data to show the biologic availability of the drug in the formulation which is marketed or is intended to be marketed, as described in paragraph (a)(3)(iii).

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice

d. For indications for which the drug has been classified possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

B. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph I.D of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing.

4. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

5. If a hearing is requested and is justified by the response of this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

III. *Bethanechol Chloride Tablets*—A. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug which is classified in paragraph I.D above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking and which contains an "Indications" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised to delete all claims for which substantial evidence of effectiveness is lacking as described in paragraph I.D above and to be in accord with this notice. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Labeling revised pursuant to this notice should take into account the comments of the Academy; furnish adequate information for safe and effective use of the drug; be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74); and recommend use of the drug for the probably effective indications as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

This drug is indicated for the treatment of acute postoperative and post partum non-obstructive (functional) urinary retention and for neurogenic atony of the urinary bladder with retention.

4. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), describes in paragraphs (c), (d), (e), and (f) the marketing status of the drug labeled with those indications for which it is regarded as probably effective and possibly effective.

A copy of the Academy's reports has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6536, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Request for a hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 30, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7136 Filed 5-21-71;8:46 am]

[DESI 6969]

ARSTHINOL TABLETS

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug for oral administration.

Balarsen Tablets containing arsthinol; Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, Long Island, New York 11533 (NDA 6-969).

Such drug is regarded as a new drug (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that arsthinol is possibly effective for use in the treatment of yaws and intestinal amebiasis.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to Endo Laboratories. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6969, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7137 Filed 5-21-71;8:46 am]

[DESI 8881]

HEXAMETHONIUM CHLORIDE FOR ORAL USE

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Hexamethonium Chloride Tablets; Nysco Laboratories, Inc., 34-24 Vernon Boulevard, Long Island City, New York 11106 (NDA 8-881).

2. Hexamethonium Chloride Tablets; Richlyn Laboratories, Inc., Castor and Kensington Avenues, Philadelphia, Pa. 19124 (NDA 9-459).

The Food and Drug Administration has considered the Academy reports as well as other available evidence and concludes that there is a lack of substantial

evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that oral forms of hexamethonium chloride will have the antihypertensive effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new drug applications providing for such drugs.

Prior to initiating such action, however, the Commissioner invites the holders of the new-drug applications for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS–NRC reports for these products is made to give notice to persons who might be adversely affected by their withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug applications will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holders of the new-drug applications for this drug have been mailed copies of the NAS–NRC reports. Any interested person may obtain copies of the reports by request to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8881 and be directed to the attention of the following appropriate office:

Requests for NAS–NRC reports: Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs, 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 26, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7138 Filed 5–21–71;8:46 am]

[DESI 9397]

MEPHENTERMINE SULFATE FOR ORAL USE

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Wyamine Sulfate Tablets containing mephentermine sulfate; Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pennsylvania 19101 (NDA 9–408).

2. Wyamine Sulfate Elixir containing mephentermine sulfate; Wyeth Laboratories, Division American Home Products Corp. (NDA 9–397).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. The drugs are probably effective for treatment of postural hypotension.

2. There is lack of substantial evidence of effectiveness of mephentermine sulfate in the treatment of mood amelioration and in the treatment of neurasthenia and other chronic illnesses characterized by lethargy, mild depression, and drowsiness.

3. Except for the aforementioned indications, the drugs are possibly effective for other claimed indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug which is classified in paragraph A above as lacking substantial evidence of effectiveness is requested to submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking and which contains an "Indications" section in accord with that described below. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised to delete all claims for which substantial evidence of effectiveness is lacking as described in paragraph A above and to be in accord with this notice. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Labeling revised pursuant to this notice should take into account the comments of the Academy; furnish adequate information for safe and effective use of the drug; be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 8.74); and recommend use of the drug for the probably effective indications as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

Treatment of postural hypotension.

4. The notice *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study* published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), describes in paragraphs (c), (d), (e), and (f) the marketing status of the drug labeled with those indications for which it is regarded as probably effective and possibly effective.

A copy of the Academy's reports has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9397, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–7139 Filed 5–21–71;8:46 am]

POVIDONE SOLUTION FOR OPHTHALMIC USE

[DESI 11126]

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following over-the-counter ophthalmic drug:

Polygyl Sterile Ophthalmic Solution containing povidone; Schieffelin & Co., 41 East 42d Street, New York, N.Y. 10017 (NDA 11-126).

Though drug efficacy study information was submitted by Schieffelin & Co. on the above new drug application (NDA 11-126), the application, which was only conditionally effective in the absence of submission of final printed labeling to the Food and Drug Administration, was never made effective (approved). Polygyl Sterile Ophthalmic Solution has never been marketed, though similar products are distributed and available.

Such drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report as well as other available evidence and concludes that povidone ophthalmic solution is probably effective in soothing and lubricating dry eyes and in making the wearing of contact lenses more comfortable.

B. *Marketing status.* Those indications for which the drug is described in paragraph A above as probably effective may continued to be used for 12 months following the date of this publication, to allow additional time within which persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in section 130.12 (a) (5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 12-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER.

Within 60 days from publication hereof in the FEDERAL REGISTER persons marketing such a drug should revise labeling as needed to conform with the labeling guidelines in this announcement and which, taking into account the comments of the Academy, complies with all requirements of the Act and regulations promulgated thereunder and bears adequate directions and warnings under which a layman can use the drug safely and for the purpose for which it is intended. The revised labeling should be put into use with the 60-day period.

The statement of identity, which includes the general pharmacological category or the principal intended action required by § 1.102a (21 CFR 1.102a) shall appear in bold face type on the principal display panel.

The indications for use shall be: To sooth and lubricate dry eyes; and to make the wearing of contact lenses more comfortable.

Schieffelin & Co. has been mailed a copy of the Academy's report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11126, directed to the attention of the following appropriate office, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number), Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for NAS-NRC reports: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7140 Filed 5-21-71;8:46 am]

[DESI 122467]

COMBINATION CONTAINING TRIMEPRAZINE TARTRATE, PHENYLPROPANOLAMINE HYDROCHLORIDE, AND ACETAMINOPHEN FOR ORAL USE

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Coplexen Liquid containing trimeprazine tartrate, phenylpropanolamine hydrochloride, and acetaminophen; Smith Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 12-467).

The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effects that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and a lack of evidence that the claimed benefits outweigh the risks of administration of a phenothiazine derivative for symptoms related to the common cold.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new drug application for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action concerning this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Promulgation of an order withdrawing approval of the new drug application will cause any such drug on the market to be a new drug for which an approved new drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new drug application for this drug has been mailed a copy of the Academy's report. Any interested person may obtain a copy of the report by writing to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street NW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12467, and directed to the Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended: 21 U.S.C. 352, 355)

and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 30, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-7141 Filed 5-21-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK

Order Confirming Order Setting Evidentiary Hearing

In the matter of Consolidated Edison Co. of New York, Inc. (Indian Point Station Unit No. 2).

At a conference and session of evidentiary hearing held on May 13, 1971, at the Springvale Inn, Croton-on-Hudson, N.Y., suggestions were submitted by the parties as to their convenience and readiness to proceed to a presentation of evidence in extended and continuous sessions of hearings. After a consideration of these suggestions, as well as the schedules of other hearings which precluded continuous sessions in June, the Atomic Safety and Licensing Board designated July 13, 1971 as the date on which continuous sessions of evidentiary hearings would commence.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that evidentiary hearings shall commence and the proceedings herein shall convene at 9:30 a.m. on Tuesday, July 13, 1971, in the All-Purpose Room of the Springvale Inn, 500 Albany Post Road, Croton-on-Hudson, N.Y.

Issued: May 17, 1971, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71-7128 Filed 5-21-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22162]

COUNTY OF SULLIVAN, N.Y. AND SULLIVAN COUNTY AIRPORT COMMISSION

Notice of Potsponement of Prehearing Conference

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that prehearing conference in this matter scheduled to begin at 10 a.m., in Room 726, on May 26, 1971, is hereby indefinitely postponed.

Dated at Washington, D.C., May 18, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-7190 Filed 5-21-71;8:49 am]

FEDERAL MARITIME COMMISSION

CIA DE NAVEGACAO LLOYD BRASILEIRO AND NAVEGACAO MERCANTIL S.A.

Notice of Proposed Cancellation of Agreement

Notice is hereby given that the following agreement(s) will be canceled by the Commission pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreement(s) at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement(s) including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER.

Agreement No. 9650, between Cia de Navegacao Lloyd Brasileiro and Navegacao Mercantil S.A., approved by the Federal Maritime Commission on May 27, 1969, proposed to establish a partnership agreement pursuant to Government directives issued by the Brazilian Merchant Marine Commission for the purpose of offering a service between Brazilian ports in the range from Porto Alegre to Sao Luia as well as from ports of the Rio da Prata, and Gulf Coast ports of the United States as well as Mexican, Venezuelan, and West Indies ports. The agreement provides for the pooling of freight revenue between the parties and the joint scheduling of sailings.

The Commission has been advised that Navegacao Mercantil discontinued service between Brazil and U.S. Gulf ports on December 18, 1970. Therefore, the Commission proposes to cancel the agreement.

Dated: May 18, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-7125 Filed 5-21-71;8:45 am]

FEDERAL POWER COMMISSION

EL PASO NATURAL GAS CO.

[Docket No. CP71-262]

Notice of Application

MAY 17, 1971.

Take notice that on May 3, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-262 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of natural gas to Northwest Gas Co. (Northwest), for resale and distribution in the John Day Dam Site area of Klickitat County, Wash., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization to construct and operate a 4½-inch tap and related meter station to be located on its 26-inch Northwest Division System mainline in Klickitat County, Wash. The purpose for the proposed construction, applicant states, is to provide for the sale and delivery of estimated peak day and annual requirements of up to 1,940 Mcf and 289,473 Mcf of natural gas, respectively, to Northwest for resale in a new market area. Applicant states that this service will be provided on a firm and interruptible basis, using supplies of natural gas to be imported from Canada under authorization issued in Docket No. CP70-138, in accordance with and at rates contained in its Rate Schedules DS-1 and I-1, FPC Gas Tariff, Original Volume No. 3. The estimated cost of the facilities proposed herein is $35,603.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7142 Filed 5-21-71;8:46 am]

[Docket No. CP71-265]

SOUTHERN NATURAL GAS CO.

Notice of Application

MAY 17, 1971.

Take notice that on May 5, 1971, Southern Natural Gas Co. (applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-265 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing August 7, 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million with no single offshore project costing in excess of $1,750,000 and no single onshore project costing in excess of $1 million. Applicant states that these costs will be financed from funds on hand or funds generated by normal operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7143 Filed 5-21-71;8:46 am]

[Docket No. CP71-260]

TENNESSEE GAS PIPELINE CO.

Notice of Application

MAY 17, 1971.

Take notice that on April 29, 1971, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP71-260 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the exchange of natural gas with Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate a side valve assembly at an interconnection to be established at the northerly terminus of the 30-inch pipeline extending offshore in Louisiana, heretofore proposed by Michigan Wisconsin in Docket No. CP71-249, and applicant's existing 20-inch West Cameron Block 68 line in Cameron Parish, La. Pursuant to an exchange agreement between Michigan Wisconsin and applicant, Michigan Wisconsin will deliver between 50,000 Mcf and 80,000 Mcf of natural gas per day to Applicant at this proposed interconnection and applicant will redeliver equivalent volumes to Michigan Wisconsin at an existing point of interconnection at the tailgate of the Placid Oil Co.'s Patterson Plant at Avalon, St. Mary's Parish, La.

Applicant states that the exchange as proposed herein will increase its supply flexibility in its Southwest Louisiana natural gas gathering system. The estimated cost of the facilities proposed herein is $7,290, which cost applicant states will be financed from general funds of the company.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7144 Filed 5-21-71;8:47 am]

[Docket No. E-7630]

METROPOLITAN EDISON CO.

Notice of Proposed Changes in Rates and Charges

MAY 17, 1971.

Take notice that on April 30, 1971, Metropolitan Edison Co. (Met-Ed) filed changes in its Rate RP (FPC No. 27) covering sales for resale to Hershey Electric Co. and its Rate RM (covering sales for resale to Goldsboro (FPC No. 34), Kutztown (FPC No. 35), Lewisberry (FPC No. 37) and Royalton (FPC No. 38) to be effective as of June 30, 1971. The company states that the changes result in an increase in jurisdictional revenues of approximately $890,000. Service under Rate RP is at 69 kv.; that under RM is at 13.2 kv. or less. The filing proposes to add a fuel adjustment clause to each of the aforementioned rate schedules. The filing also proposes to reduce the minimum billing demand in Rate RP from the present 10,000 kw. to 4,000 kw.

The tender also provides for a revision in FPC No. 26 (Exhibit B to the agreement with Allegheny Cooperative, Inc.) to increase the service provided thereunder and which the company proposes to make effective following the 30-month notice period required. The company also filed a revision to the contractual form of rate under which it supplies service to the Borough of Middletown (FPC No. 16) and requests that the 1906 contract rate be found unduly discriminatory and therefore unlawful.

Met-Ed states that the changes sought are necessitated because of increased operating costs, increased costs associated with the installation of new equipment, increased costs and delays stemming from environmental considerations, increases in the cost of money,

and the acceleration in the load growth rate. Copies of the filing have been served on customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7145 Filed 5-21-71;8:47 am]

[Dockets Nos. CI71-517, CI71-518]

ROY L. COOK ET AL.

Order Consolidating Proceedings, Granting Interventions, and Setting Dates for Prehearing Conference and Hearing

MAY 18, 1971.

On January 11, 1971, Roy L. Cook, Trustee, et al. (Cook) and Piedra Corp. (Piedra), an immediate purchaser, each filed an application pursuant to section 7(b) of the Natural Gas Act in Dockets Nos. CI71-517 and CI71-518 respectively, seeking to abandon the sale of natural gas, produced in La Plata and Archuleta Counties, Colo., to El Paso Natural Gas Co. (El Paso). Notice of the applications were issued on January 28, 1971, and published in the FEDERAL REGISTER on March 3, 1971 (36 F.R. 2579).

Cook seeks to abandon the sale of natural gas under its FPC Gas Rate Schedule No. 5 at a rate of 11.9 cent per Mcf plus 0.85 cent Mcf for liquids,[1] to his immediate purchaser Piedra which gathers and resells the gas to El Paso at 14 cents per Mcf plus 1 cent per Mcf for liquids[2] under its FPC Gas Rate Schedule No. 1. Cook maintains that his 5-year losses aggregate approximately $260,320. Piedra states in its application to abandon the sale of gas to El Paso that it has sustained losses totaling appriximately $127,735 over the same 5-year period. Both Cook and Piedra maintain that such continued sale of gas is no longer economically feasible at present contract rates because a rate increase is not provided for until January 1974, and that the gas wells involved here are being rapidly depleted without the likelihood of an increased supply in the area.

In its petition for leave to intervene filed on February 25, 1971, El Paso asserts that abandonment should not be permitted unless an operation loss is clearly established. If an operating loss were found to exist, then El Paso states that it should be permitted to examine the extent of such loss. No other notices of intervention, protests, or other petitions for leave to intervene have been filed.

The Commission finds:

(1) It is desirable and in the public interest to permit El Paso Natural Gas Co. to intervene in this proceeding in order that it may establish the facts and the law from which the nature and validity of its alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The proceeding in Dockets Nos. CI71-517 and CI71-518 are interdependent and should therefore be consolidated.

(3) The expeditious disposition of these proceedings will be effectuated by the submission by applicants of their direct testimony and exhibits on or before June 2, 1971.

(4) The expeditious disposition of these proceedings will be furthered by convening a prehearing conference on June 22, 1971.

The Commission orders:

(A) El Paso Natural Gas Co. is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that El Paso might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The applications of Roy L. Cook, Trustee, et al., in Docket No. CI71-517 and Piedra Corp. in Docket No. CI71-518 are hereby consolidated.

(C) Pursuant to § 2.62(c) of the Commission's rules of practice and procedure, the applicants shall serve copies of their filings upon El Paso Natural Gas Co. promptly, unless such service has already been effected pursuant to Part 157 of the regulations of the Natural Gas Act.

(D) Each party will file with the Commission and serve on all other parties and the Commission staff the proposed evidence comprising its case-in-chief, including any prepared testimony and exhibits, on or about June 2, 1971. All other procedural matters, including the time for filing of rebuttal cases, if any, and the designation of the date of formal hearing, are left to the discretion of the presiding examiner.

(E) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10 a.m., e.d.s.t., on June 22, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of effectuating the expeditious disposition of this consolidated proceeding. The purpose of such conference shall be to consider all matters at issue in the above dockets and to consider all matters which might contribute to an expeditious disposition of this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7197 Filed 5-21-71;8:50 am]

[Docket No. CP71-167]

SOUTH GEORGIA NATURAL GAS CO.

Order Setting Date for Formal Hearing, Prescribing Procedures, and Permitting Intervention

MAY 18, 1971.

On December 28, 1970, South Georgia Natural Gas Co. (South Georgia) filed an application pursuant to section 7 of the Natural Gas Act for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of facilities for the delivery of natural gas on an offpeak, interruptible basis to the Georgia Power Co. (Georgia Power) for use principally as fuel in that company's proposed turbine electric generators at Plant Mitchell near Albany, Ga., in Dougherty County.[1]

The proposed facilities include a new 6-inch lateral line, which will connect with South Georgia's existing 12-inch line near Albany, Ga., and extend southward 4.2 miles to Georgia Power's Plant Mitchell in Dougherty County. In addition, metering and related facilities will be constructed at the point of delivery. South Georgia estimates that annual sales to Georgia Power will be 1,500,000 Mcf. South Georgia states that the estimated cost of the facilities involved will be $150,000, which will be financed from cash on hand and from short-term borrowings. South Georgia is a wholly owned subsidiary of, and purchases its total requirements from, Southern Natural Gas Co. (Southern).[2]

On January 18, 1971, Carolina Pipeline Co. (Carolina) filed a petition to intervene and by letter of February 2, 1971, requested a formal hearing. On May 4, 1971, Georgia Power Co. filed a late petition to intervene in this proceeding.

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[1] Rate is effective subject to refund in Dockets Nos. RI64-500 and RI 69-394.

[2] Rate is effective subject to refund in Dockets Nos. RI64-501 and RI69-393.

[1] Notice of the application was given by publication in the FEDERAL REGISTER on Jan. 14, 1971 (36 F.R. 571).

[2] South Georgia became a wholly owned subsidiary of Southern on July 18, 1969 by authority of an order of the Federal Power Commission issued July 2, 1969, Docket No. G-1915 et al. (42 FPC 32).

Carolina transports and sells within the State of South Carolina natural gas purchased from Southern and Transcontinental Gas Pipe Line Corp. Carolina asserts that it has a vital interest in South Georgia's application because the proposed sale to Georgia Power in Docket No. CP71–167 is a prime example of the discrimination which is the subject of Carolina's complaint against Southern filed in Docket No. RP71–3 on August 6, 1970. Therein, Carolina requested the Commission to institute an investigation to determine whether Southern is granting unduly preferential treatment to steam electric generating plants in the allocation of available gas supplies.[3] Carolina states that it seeks to intervene in Docket No. CP71–167 in order to make certain that South Georgia's proposed sale to Georgia Power would not worsen the supply to Carolina.

Georgia Power Co. states that it is in dire need of the proposed gas to be purchased from South Georgia Natural Gas Co. and that it has a direct and substantial interest in this proceeding which will be affected by any action taken by the Commission.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the issues presented by South Georgia Natural Gas Co.'s application in Docket No. CP71–167 ordered hereinafter.

(2) Good cause exists to accept the late filing of Georgia Power Co.'s petition to intervene.

(3) It is desirable to allow the petitioners, Carolina Pipeline Co. and Georgia Power Co., to intervene in this proceeding in order that they may establish the facts and law from which the nature and the validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests expressly asserted in the petition to intervene; *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing on the issues presented by South Georgia Natural Gas Co.'s application in Docket No. CP71–167 will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, commencing at 10 a.m. on June 14, 1971. The applicant shall file with the Commission and serve on the petitioner, the Commission Staff and the Presiding Examiner its proposed direct presentation in support of its application, including the prepared testimony of witnesses and exhibits, on or before June 1, 1971.

(C) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7198 Filed 5–21–71;8:50 am]

[3] By order of Oct. 2, 1970 in Docket No. RP71–3 as modified by order of Nov. 23, 1970, the Commission instituted an investigation "to determine the justness and reasonableness of Southern's curtailment practices, and, if necessary upon completion of such investigation, to prescribe such tariff provisions as are appropriate to provide a fair and equitable allocation of the volumes of gas available on the Southern system for direct and resale sales between steam electric generating plants and all other industries."

[Docket No. CP71–264]

SOUTHERN ENERGY CO.

Notice of Application

MAY 18, 1971.

Take notice that on May 4, 1971, Southern Energy Co. (applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71–264 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the receipt, storage, regasification and sale of liquefied natural gas (LNG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate an LNG receiving terminal on Elba Island, Chatham County, Ga. The proposed terminal facilities will consist of docking and receiving facilities, for the receipt of LNG from cryogenic tankers, insulated cryogenic tanks for the storage of LNG, facilities for regasification of the LNG and other ancillary and auxiliary facilities. The estimated cost of these facilities is $71,425,217 which cost, applicant states, is to be financed by the use of bank loans and the issuance of long-term bonds.

Applicant states that the capacity of this facility will be equivalent to approximately 500,000 Mcf of vaporous gas per day and that this gas will be sold to Southern Natural Gas Co. under a cost-of-service tariff. The projected storage capacity of the facilities proposed herein is approximately equivalent to 5,391,000 Mcf of vaporous gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71–7199 Filed 5–21–71;8:50 am]

[Docket No. CP71–263]

SYLVANIA CORP. ET AL.

Notice of Application

MAY 18, 1971.

Take notice that on May 4, 1971, the Sylvania Corp. (Sylvania), 308 Seneca Street, Oil City, PA 16301; Iroquois Gas Corp. (Iroquois), 10 Lafayette Square, Buffalo, NY 14203; and United Natural Gas Co. (United), 308 Seneca Street, Oil City, PA 16301, jointly filed in Docket No. CP71–263 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the sale and delivery of natural gas for the development and operation of an underground storage field and pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale certain pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sylvania proposes herein the development, construction and operation of properties and facilities for the underground storage of natural gas in a depleted sand gas pool, the East Independence Pool, located in Allegany County,

N.Y. To facilitate this development, Iroquois and United propose to abandon, by sale to Sylvania, 8.6 miles of 10-inch pipeline and 0.43 mile of 8-inch pipeline and appurtenances, respectively.

Sylvania proposes to acquire, by purchase from Iroquois and United, the aforementioned pipeline facilities and to employ these in the development of the East Independence Storage Field. Sylvania also seeks authorization for the following development:

(a) Reconditioning of five existing wells;

(b) Drilling two new wells;

(c) Construction of 3 miles of 4-inch and 12-inch gathering lines;

(d) Construction of a 3,000 horsepower compressor station and related facilities; and

(e) Required salt water disposal facilities.

These facilities will be employed by Sylvania to perform natural gas storage service for Iroquois. The estimated capacity of this storage pool, when completed, is 5,000,000 Mcf and the estimated daily deliverability is 22,000 Mcf.

United proposes to sell annually up to 5,000,000 Mcf of natural gas to Sylvania during the storage input periods. Sylvania will store these volumes in the East Independence Field and proposes to sell up to 5,000,000 Mcf of natural gas annually to Iroquois from storage withdrawals.

Applicants state that the development of the proposed storage facility and service will enable Iroquois to meet the expanding requirements of its retail customers. The estimated cost of the facilities proposed herein is $3,399,510 which cost is to be financed by Sylvania from funds available to the company and by the issuance of promissory notes and common stock to its parent company, The National Fuel Gas Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7200 Filed 5-21-71;8:50 am]

[Docket No. RP71-115]

TRUNKLINE GAS CO.

Notice of Petition

MAY 18, 1971.

Take notice that on May 12, 1971, Trunkline Gas Co. (Trunkline) filed a petition with the Commission requesting the issuance of an order authorizing Trunkline to make jurisdictional rate changes reflecting the differences in the cost of its gas supply from time to time.

Trunkline proposes that it be permitted to track changes in its cost of purchased gas, from time to time, up to September 30, 1972, or the date upon which a rate increase under section 4(e) of the Natural Gas Act becomes effective after suspension, if any. Under its proposal Trunkline would effect no changes in its rates unless the unit change would equal 1 mill ($0.001) per Mcf, and it would effect no more than one change in its rates each calendar quarter year. Trunkline's proposal also provides for the filing with the Commission of revised tariff sheets, not subject to suspension, reflecting any change in rates and the service of said tariff sheets on jurisdictional customers and interested State commissions at least 45 days prior to their effective date. Also under its proposal Trunkline would flow through the jurisdictional portion of all refunds received from suppliers to its jurisdictional customers.

Trunkline requests a waiver of § 154.63 et seq. of the Commission's regulations under the Natural Gas Act to the extent required to grant the relief requested in its petition.

Trunkline states that it has served copies of its petition on each of its customers and on interested State commissions.

Any person desiring to be heard or to make any protest with reference to this filing should on or before June 4, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-7201 Filed 5-21-71;8:50 am]

[Docket No. RP71-96]

COMMERCIAL PIPELINE CO., INC.

Order Approving Rate Increase Without Suspension

MAY 17, 1971.

Commercial Pipeline Co., Inc. (Commercial) on March 22, 1971, tendered for filing in Docket No. RP71-96 revised tariff sheets[1] proposing changes in its FPC Gas Tariff to become effective on May 19, 1971. The revised tariff sheets provide for an increase in Commercial's rates to its three jurisdictional customers; Pleasanton Gas Co., Inc., Mound City Gas Co., Inc., both in Kansas and Rich Hill-Hume Gas Co., Inc., located in Missouri, which would result in an increase in jurisdictional revenues of $37,311, based on operations for the 12-month period ended December 31, 1970, as adjusted.

Commercial is a small natural gas company which in addition to the aforementioned jurisdictional sales also distributes natural gas in four Kansas communities. Its facilities include approximately 75 miles of pipeline ranging in size from 2 to 7 inches and distribution facilities in the four communities. The pipeline has experienced a very high percentage of lost and unaccounted for gas for a number of years.

In support of the proposed increase the company has submitted its cost studies, and also states that the increase is necessary to correct the present operating loss, to recover the expense of increased purchase gas costs resulting from a rate increase allowed its supplier Cities Service Gas Co., to allow funding of additional improvements in its transmission system to cure the problem of unaccounted for gas, and to obtain a reasonable return. The cost studies reflect a claimed rate of return of 8.75 percent. Based on a debt ratio of 72.05 with an indicated average cost of 7.84 percent, the rate of return claimed would provide approximately 11.09 percent return on equity.

No objections to the proposed increase have been filed.

Upon analysis and review of the cost studies and other data submitted, and the company's need for additional financing to solve its unaccounted for gas problem, we are of the view that the requested rate of return is not unreasonable and the proposed rates should be permitted to go into effect on May 19, 1971, without suspension.

The Commission orders:

(A) The rates proposed by Commercial Pipeline Company are approved, and

[1] 2d Revised Sheets Nos. 2, 3, 4, and 10.

the revised tariff sheets contained in the application filed March 22, 1971, are permitted to go into effect on May 19, 1971, without suspension.

(B) The requirements of § 154.63(f) relating to the filing of Statement P are hereby waived.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[FR Doc.71-7202 Filed 5-21-71;8:50 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Barnett Banks of Florida, Inc., Jacksonville, Fla., for approval of the acquisition of 80 percent or more of the voting shares of Hollywood Bank and Trust Co., Hollywood, Fla.

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 Barnett Banks of Florida, Inc., Jacksonville, Fla. (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 Hollywood Bank and Trust Co., Hollywood, Fla. (Hollywood Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking of the State of Florida, and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 30, 1971 (36 F.R. 5877), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The 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 of the Applicant and the banks concerned, and the convenience and needs of the communities to be served and finds that:

Applicant presently controls 25 banks which hold deposits of $639 million, representing 5.2 percent of total deposits held by Florida's commercial banks, and is the State's third largest banking organization. (All banking data are as of June 30, 1970, and reflect holding company formations and acquisitions approved by the Board through April 30, 1971.) Applicant's acquisition of Hollywood Bank, with deposits of $58.8 million, would increase its share of deposits in the State by a relatively slight amount.

Hollywood Bank operates one office, located in the city of Hollywood, Broward County, Fla., and primarily serves the Hollywood metropolitan area (southern portion of Broward County extending southward to the Dade County line). It is the third largest of seven banking organizations in the Hollywood area with 17.9 percent of area deposits, and the sixth largest of 38 banks in the county with 5.5 percent of total county deposits. (Four bank holding companies presently control 15 of these 38 banks amounting to 48.9 percent of the county's total deposits.) The two largest banking organizations in Hollywood control 21.8 and 19.5 percent of that area's deposits respectively.

Applicant's nearest existing subsidiary to Bank is approximately 155 miles away, and Applicant's nearest approved subsidiary is located 20 miles away in the city of Miami and is separated from Bank by numerous intervening banks. There is no significant competition between Bank and Applicant's subsidiaries and, based on the facts of record, the potential for any meaningful competition between them appears remote. Based on the foregoing, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competion in any relevant area and may have a procompetitive impact in the Hollywood area since Hollywood Bank has not been a particularly aggressive institution.

Considerations relating to financial and managerial resources and prospects as they relate to Applicant, its subsidiaries and Bank, are regarded as consistent with approval of the application. Affiliation with Applicant will enable Hollywood Bank to strengthen its management depth by drawing from Applicant's pools of management resources for successor management. The Hollywood area continues to experience an extremely high rate of growth. While it appears that the banking needs of the area are being adequately served, Applicant proposes to institute more aggressive loan policies, and improve trust and other banking services to more effectively meet the needs of the community. 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, 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 be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] May 18, 1971.

[SEAL] KENNETH A. KENYON, *Deputy Secretary.*

[FR Doc.71-7129 Filed 5-21-71;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-104]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Alabama Public Service Commission in a proceeding (Docket No. 16392) involving intrastate rates for telecommunications services provided by the South Central Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 17, 1971.

ROBERT L. KUNZIG, *Administrator of General Services.*

[FR Doc.71-7196 Filed 5-21-71;8:50 am]

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[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sherrill. Absent and not voting: Governor Maisel.

SECURITIES AND EXCHANGE COMMISSION

[811-1837]

PARK WESTLAKE ASSOCIATES HEDGE FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Park Westlake Associates Hedge Fund, Inc. (Applicant), a management closed-end nondiversified investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein which are summarized below.

On April 1, 1969, Applicant registered as an investment company under the Act. Applicant represents that subsequent to such registration no public offering of its shares was made; that at a special meeting of stockholders held on September 28, 1970, holders of a majority of the outstanding shares of Applicant approved the winding up and dissolution of Applicant; and that on November 18, 1970, a final liquidating distribution was made in cancellation of all issued and outstanding shares.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered wil lreceive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7170 Filed 5-21-71;8:48 am]

[811-1627]

PAUL BUNYAN FUND, INC.

Notice of Filing of Application Declaring Company Has Ceased To Be an Investment Company

MAY 18, 1971.

Notice is hereby given that Paul Bunyan Fund, Inc. (Applicant) c/o William H. Mallender, 1040 Bayview Drive, Bayview Building, Fort Lauderdale, FL 33304, an open-end diversified management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant was merged into GAC Growth Fund, Inc. (GAC) on December 31, 1970, with GAC being the surviving corporation, and all outstanding shares of Applicant were exchanged on a one-for-one basis for shares of GAC.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7171 Filed 5-21-71;8:48 am]

[File No. 7-3695]

SCHERING-PLOUGH CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Schering-Plough Corp., File No. 7-3695.

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7172 Filed 5-21-71;8:48 am]

[Files Nos. 7-3703—7-3712]

ALLEGHENY POWER SYSTEM, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Allegheny Power System, Inc	7-3703
American Electric Power Co., Inc	7-3704
Arkansas Louisiana Gas Co	7-3705
Baltimore Gas & Electric Co	7-3707
Boston Edison Co	7-3708
Carolina Power & Light Co	7-3709
Central Illinois Light Co	7-3710
Central Illinois Public Service Co	7-3711
Central & Southwest Corp	7-3712

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7173 Filed 5-21-71;8:48 am]

[File No. 7-3706]

ATLANTIC RICHFIELD CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of application of the Detroit Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which, security is listed and registered on one or more other national securities exchange:

Atlantic Richfield Co., $3 cumulative convertible preference stock, $1 par value, File No. 7-3706.

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7174 Filed 5-21-71;8:48 am]

[Files Nos. 7-3713—7-3721]

CINCINNATI GAS & ELECTRIC CO. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Cincinnati Gas & Electric Co	7-3713
Cleveland Electric Illuminating Co	7-3714
Columbus & Southern Ohio Electric	7-3715
Consolidated Natural Gas Co	7-3716
The Dayton Power & Light Co	7-3717
Delmarva Power & Light Co	7-3718
Florida Power Corp	7-3719
Florida Power & Light Co	7-3720
Gulf States Utilities Co	7-3721

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7175 Filed 5-21-71;8:48 am]

[Files Nos. 7-3722—7-3730]

HOUSTON LIGHT & POWER CO., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Houston Lighting & Power Co	7-3722
Idaho Power Co	7-3723
Illinois Power Co	7-3724
Indianapolis Power & Light Co	7-3725
The Kansas City Power & Light Co	7-3726
Long Island Lighting Co	7-3727
Louisville Gas & Electric Co	7-3728
Middle South Utilities, Inc	7-3729
The Montana Power Co	7-3730

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing

on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7176 Filed 5-21-71;8:48 am]

[Files Nos. 7-3731, 7-3732]

NEW ENGLAND ELECTRIC SYSTEM AND NEW ENGLAND TELEPHONE & TELEGRAPH CO.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
New England Electric System	7-3731
New England Telephone & Telegraph Co	7-3732

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7177 Filed 5-21-71;8:48 am]

[Files Nos. 7-3696—7-3701]

DUKE POWER CO., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Duke Power Co	7-3696
Egan Machinery Co	7-3697
First Mortgage Investors, shares of beneficial interest, no par value	7-3698
Levitz Furniture Corp	7-3699
Mattel Inc	7-3700
Schering-Plough Corp	7-3701

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7178 Filed 5-21-71;8:48 am]

[File No. 7-3702]

WHITTAKER CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 19, 1971.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

Whittaker Corp., warrants (expiring May 5, 1979), File No. 7-3702.

Upon receipt of a request, on or before June 3, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-7179 Filed 5-21-71;8:49 am]

SMALL BUSINESS ADMINISTRATION

OKLAHOMA SMALL BUSINESS INVESTMENTS, INC.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) for transfer of control of Oklahoma Small Business Investments, Inc. (Oklahoma), 4416 North Western Avenue, Oklahoma City, OK 73118, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), License Number 06/10-0109.

Oklahoma was licensed on November 5, 1962, and its present paid-in capital and paid-in surplus from all sources total $152,000. The proposed transfer of control is subject to and contingent upon the approval of SBA.

The present officers and directors of Oklahoma will retain their positions after the proposed transfer of control.

Russell E. Caston, Jr., and Jeanette J. Caston, his wife, will transfer 100 percent of Oklahoma's common stock to the Caston Lumber Co. (Caston), 4416 North Western Avenue, Oklahoma City, OK 73118.

Caston is a limited partnership, operating under the laws of the State of Oklahoma, with Jeanette J. and Russell E. Caston, Jr., general partners, owning approximately 34 percent, Ellsworth, Inc., general partner, of which Russell E. Caston is president, owning approximately 27 percent, and the remaining 39 percent proprietary interest in the assets of the partnership being owned by twenty (20) limited partners.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the company under such management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is hereby given that any interested person may, not later than 10 days from the publication of this notice, submit to SBA in writing, relevant comments on the proposed transfer of control. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: May 14, 1971.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.71-7186 Filed 5-21-71;8:49 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE 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.

Abel's Pharmacy, Inc., drugstore; 101 West Southmore Boulevard, Pasadena, TX; 2-15-72.

Abourezk's Store, variety-department store; Mission, S. Dak.; 1-31-72.

Ackemann Bros., Inc., variety-department store; 168 East Highland Avenue, Elgin, IL; 2-15-72.

Aero Pharmacy, Inc., drugstore; 2100 Orems Road, Middle River, MD; 1-31-72.

Alexander's Super Market, foodstore; 2023 East Overland, Scottsbluff, NE; 1-31-72.

Allegany County Memorial Hospital, hospital; Sparta, N.C.; 1-31-72.

Allen's Big Star, foodstore; Second Avenue and Sixth Street North, Amory, MS; 2-2-72.

Andy's Smorgasbord & Prime Rib, restaurant; 3350 Highland Drive, Salt Lake City, UT; 1-31-72.
31-72.

Angeli's Super Valu, foodstore; 318 West Adams Street, Iron River, MI; 2-2-72.

Apostolic Christian Home, nursing home; 511 Paramount Street, Sabetha, KS; 2-3-71 to 1-31-72.

Art's Super Valu, foodstore; 116 Lindbergh Drive, Little Falls, MN; 1-31-72.

Ashton Brothers Co., foodstore; 125 West Main Street, Vernal, UT; 2-1-71 to 1-28-72.

B & G Grocery, foodstore; 202 North Broadway, Walters, OK; 1-30-72.

B. J.'s A. G. Food Store, foodstore; 2808 North 19th, Waco, TX; 1-21-72.

B & W Super Market, foodstore; Bethel, N.C.; 1-31-72.

Baenziger Model Market, foodstore; 510 Court, Sequin, TX; 1-31-72.

The Barrel Drive-In, Inc., restaurant; 2300 South Minnesota Avenue, Sious Falls, SD; 1-31-72.

Barrow Nursing Home, Inc., nursing home; 1338 East Chocolate Avenue, Hershey, PA; 1-31-72.

Bayless Drug Store, drugstore; No. 89, Phoenix, AZ; 1-31-72.

Becker's Super Valu, foodstore; Morgan, MN; 2-11-72.

Ben Franklin Store, variety-department stores: No. 5539, Tucson, AZ, 1-31-72; No. 1025, Chicago, IL, 2-9-72; 200 East Main Street, Anamosa, IA, 2-4-72; 2720 West Locust Street, Davenport, IA, 2-17-72.

Benjamin Hershey Memorial Convalescent Home, nursing home; 1810 Mulberry Avenue, Muscatine, IA; 2-3-71 to 1-29-72.

Bennett's Super Market, foodstore; 113 East Plant Avenue, Homerville, GA; 3-2-72.

H. Berkman & Co., foodstore; Simonton, TX; 1-23-72.

Bernhardt Hardware Inc., hardware store; 113 North Main Street, Salisbury, NC; 1-31-72.

Best Food Store, foodstore; 4737 Marlboro Pike, Coral Hills, MD; 2-10-72.

Bethany Home for the Aged, nursing home; 1005 Lincoln Avenue, Dubuque, IA; 1-22-72.

Big Daddy's IGA, foodstore; Willow Street, Providence, KY; 1-25-72.

Billy Sunday Retirement Home, nursing home; 6120 Morningside Avenue, Sioux City, IA; 1-31-72.

Biltmore Farms, agriculture; Biltmore, NC; 1-31-72.

Bishop Stoddard Cafeteria Co., restaurants, 1-31-72: Kimberly Road, Bettendorf, IA; 4444 First Avenue NE., Cedar Rapids, IA; 321 First Avenue SE., Cedar Rapids, IA; Brady and Second Streets, Davenport, IA; 4301 Fleur Drive, Des Moines, IA; Merle Hay Road at Douglas, Des Moines, IA; 524 Nebraska Street, Sioux City, IA; 1414 Douglas Street, Omaha, NE.

Bob Nolan's Super Market, Inc., foodstore; 1029 South Sixth Street, Paducah, KY; 2-15-72.

Bob's Grocery, foodstore; 200 First Avenue NE., Cairo, GA; 1-31-72.

Boehner's IGA Supermarket, foodstore; Milan, Mo.; 1-21-72.

The Brethren Home, nursing home; New Oxford, Pa.; 1-31-72.

Broaddus Super Market, Inc., foodstore; Highway 21 West, Caldwell, TX; 1-31-72.

Bryk Walgreen Agency Drugs, Inc., drugstore; Fox Valley Shopping Center, Cary, IL; 2-8-72.

Bud & Luke Restaurant, Inc., restaurant; 1919 Madison Avenue, Toledo, OH; 1-31-72.

Buddy Gray Supermarket, foodstore; Waldron, Ark.; 2-18-72.

Burger Chef, restaurant; 61 Hendersonville Road, Asheville, NC; 1-31-72.

Burnette Thriftown, foodstore; West Gate Plaza, Barnesville, Ga.; 1-31-72.

Burns Hyklas Grocery, foodstore, Braymer, Mo.; 1-31-72.

Butrus Food Center, Inc., foodstore; 4301 10th Avenue North, Birmingham AL; 1-31-72.

Calmar, Inc., foodstore; Uptown Plaza, Gallup, NM; 1-21-72.

Canfield Co., foodstore; George West, Tex.; 2-13-72.

Cap's Super Market, foodstore; 1000 Allo Street, Marrero, LA; 1-31-72.

Carson Pirie Scott & Co., variety-department store; 124 Southwest Adams, Peoria, IL; 1-31-72.

Carter Brothers, agriculture; 709 North First Street, Rolling Park, MS; 2-16-72.

Carter's Shopping Center, food store; 120 West Illinois, Vinita, OK; 1-31-72.

Carty's Department Store, variety-department store; 215 East Main Street, West Point, MS; 1-31-72.

Cheatham Stores, variety-department store; 533 Harrison, Pawnee, OK; 1-31-72.

Childs Super Market, foodstore; Railroad Street, Gray, Ga.; 2-11-72.

Clark Nursing Home, Inc., nursing home; Clark, S. Dak.; 1-31-72.

Coker-Hampton Drug Co., Inc., drugstore; 218 South Main, Stuttgart, AR; 2-12-72.

Conrad Marr Drug, drugstore; No. 1, Midwest City, Okla.; 1-21-72.

Convenient Food Mart Inc., foodstore; No. 309, Euclid, Ohio; 2-7-72.

Coplon-Smith Co., apparel store; 232 Middle Street, New Bern, NC; 1-31-72.

Covington Drug Co., drugstore; McKenzie, Tenn.; 1-29-72.

Creekmore's Food Center, foodstore; 217 West Market Street, Bolivar, TN; 1-31-72.

Crook's Food Mart, foodstore; Senoia, Ga.; 2-13-72.

Davis 5 & 10¢ Store, variety-department store; 4061 Barrancas Avenue, Warrington, FL; 1-31-72.

Diamond Food Store, foodstore; Ninth and Shawnee, Dewey, Okla.; 1-31-72.

The Diamonds, restaurant; Villa Ridge, Mo.; 2-12-72.

Dick's IGA Store, foodstore; Valley, Nebr.; 1-28-72.

Don's Super Market, Inc., foodstore; Oberlin, Kans.; 2-12-72 to 1-31-72.

Drake-Mangrum Super Market, foodstore; Batesville, Miss.; 2-15-72.

Eagle Stores Co., Inc., variety-department store; 337 Hay Street, Fayetteville, NC; 1-31-72.

Eastlawn Pharmacy, drugstore; 831 South Saginaw Road, Midland, MI; 2-17-72.

Edson's Grocery, foodstore; Stanberry, Mo.; 1-31-72.

Egg-A-Day Farm Store, foodstore; 217 South 77th Street, Birmingham, AL; 1-31-72.

Ehlers of Redwood Falls, Inc., variety-department store; Redwood Falls, Minn; 1-31-72.

Elkenberry's IGA Foodliners, Inc., foodstore; 1120 Dayton Road, Greenville, OH; 1–31–72.

Erdman Country Market Super Valu, foodstore; 204 North Main, Stewartville, MN; 1–31–72.

F & F Grocery, Inc., foodstore; Lake View, S.C.; 1–31–72.

Ferri Super Market, Inc., foodstore; Old William Penn Highway, Murrysville, Pa.; 2–8–72.

Fischer's Colonial Pharmacy, drugstore; Publix Shopping Center, Kendallville, Ind.; 2–5–72.

Foodland, foodstores; 324 East Pine Street, Fitzgerald, GA, 1–31–72; Lexington, Okla., 2–11–72.

Franks, Inc., foodstore; 113 West McCord Avenue, Albertville, AL; 2–4–72.

Frank's United Super, foodstore; Norborne, Mo.; 1–31–72.

Franz Store, foodstore; Mountain Lake, Minn.; 1–31–72.

G & L Foods, Inc., foodstore; 101 South Wilson, Cleveland, TX; 2–5–72.

George Ade Memorial Hospital, hospital; Brook, Ind.; 1–31–72.

Geri's hamburgers, restaurant, 2–9–72; 5518 North Second Street, Loves Park, IL; 3509 East State Street, Rockford, IL.

Getz IGA Store, foodstore; Hoxie, Kans.; 2–16–72.

Gibson General Hospital, Inc., hospital; Trenton, Tenn.; 2–10–72.

Gockel IGA, foodstore; St. Marys, Kans.; 2–17–71 to 1–31–72.

Goldblatt Bros., Inc., variety-department store; 645 Broadway, Gary, IN; 1–23–72.

Golden Arches, Inc., restaurant; 2010 Highway 41 North, Evansville, IN; 1–31–72.

The Goldenrod, restaurant; Railroad Avenue, York Beach, Maine; 2–24–72.

Graham's Department Store, Inc., variety-department store; 124–126 South Main Street, Red Springs, NC; 1–31–72.

Green Derby Restaurant, restaurant; 1510 Ellis Avenue, Jackson, MS; 1–29–72.

Gross Food Market, foodstore; 3012 Bosque Boulevard, Waco, TX; 1–31–72.

Grover Cronin, Inc., variety-department store; 223 Moody Street, Waltham, MA; 1–31–72.

Hahn's Inc., foodstore; 101 West Main, Belle Plaine, MN; 1–31–72.

Hammell's Cash Store, foodstore; 404 Patterson Street, Trumann, AR; 2–8–72.

Harmon Food Center, foodstore; 202 North Washington, Lake Mills, IA; 2–12–72.

Harry Minkovitz, Inc., variety-department store; 124 Main Street, Sylvania, GA; 1–20–72.

Headlands Consolidated Inc., drugstore; 4697 Corduroy Road, Mentor, OH; 1–26–72.

The Hickory House, restaurant; 2300 North 18th Street, Waco, TX; 2–3–72.

Hogan's Super Market, foodstore; 2936 Cypress Street, West Monroe, LA; 1–31–72.

Hollberg's, variety-department store; 306–310 Main Street, Senoia, GA; 1–31–72.

Independent Food Center, Inc., foodstore; 5913 Avenue D, Fairfield, AL; 1–31–72.

Irving's Super Market, foodstore; 2029 Savannah Road, Augusta, GA; 1–31–72.

Jacobs Cash Market, foodstore; 841 East Washington Street, Louisville, KY; 1–27–72.

W. H. Jarrard Grocery & Oil Co., foodstore; Marietta, S.C.; 1–31–72.

Jay's IGA Foodliner, foodstore; 425 South Jefferson, Mexico, MO; 1–31–72.

John Gray & Son Big Star, foodstore; No. 8, Memphis, Tenn.; 2–14–72.

John's Market, foodstore; 838 North Fourth, Big Rapids, MI; 2–21–72.

Johnson's Super Market, foodstore; East Washington Street, Bedford, Va.; 2–17–72.

Kay Baum, Inc., apparel store; 166 West Maple, Birmingham, MI; 2–18–72.

Kelloff's Food Market Inc., foodstore; La Jara, Colo.; 1–31–72.

Kemper Drugs, drugstore; 838 Jackson Avenue, Elk River, MN; 1–31–72.

King's Food Host, U.S.A., restaurant; 330 South College Avenue, Fort Collins, CO; 1–20–72.

La Verna Heights, nursing home; 104 East Park Avenue, Savannah, MO; 2–15–72.

Langston's Grocery, foodstore; West Blocton, Ala.; 1–31–72.

Lazenby's, foodstore; 1327 North Ripley Street, Montgomery, AL; 2–3–72.

Leggett's Super Market, foodstore; 403 John Small Avenue, Washington, NC; 1–31–72.

Leon's Food Mart, Inc., foodstore; 2200 Winthrop Road, Lincoln, NE; 1–31–72.

Lesman's Market Inc., foodstore; 119 East Patterson Street, Kalamazoo, MI; 2–5–72.

Liberty Cash Grocery, foodstore; No. 42, Winona, Miss.; 2–17–72.

Long's Food Market, foodstore; 1114 Main Street, Bastrop, TX; 1–28–72.

Louis Menotti Food Store, foodstore; 1502 21st Street, Galveston, TX; 2–2–72.

Louis Weiner Memorial Hospital, hospital; Marshall, Minn.; 1–31–72.

Lumbard-Leschinskt Studio, photo studio; 109 East Third Street, Grand Island, NE; 2–12–71 to 2–4–72.

Luther Haven Nursing Home, nursing home; East Highway No. 7, Montevideo, MN; 2–16–72.

Lydia Mills Store, variety-department store; Poplar Street, Clinton, S.C.; 1–31–72.

Lynch Motor Co., auto dealer; Lebanon, Va.; 1–31–72.

Mac's Store, foodstore; 202 Thomas Avenue, Chickamauga, GA; 1–31–72.

Manly Drug, Inc., drugstore; 621 G Avenue, Grundy Center, IA; 2–18–72.

Mapes Nursing Home, nursing home; 609 18th Street, Hawarden, IA; 1–21–71 to 12–28–71.

Mars Brothers, Inc., variety-department store; Philadelphia, Miss.; 1–26–72.

Mason's Market, foodstore; Minden, Nebr.; 2–8–71 to 1–31–72.

McAdoos', apparel store; 146–147 Public Square, Lebanon, TN; 1–27–72.

McCalmont IGA Store, foodstore; Sublette, Kans.; 1–31–72.

McCoy's Pharmacy, drugstore; 139 East North Front, New Boston, TX; 1–31–72.

McCulley's Big Saver, foodstore; 35 South Main Street, Montevallo, AL; 1–22–72.

McDonald's Hamburgers, restaurants: 7716 Metcalf, Overland Park, KS, 2–15–72; 4900 Swope Parkway, Kansas City, MO, 2–15–72; 11700 East 24 Highway, Sugar Creek, MO, 2–3–72.

McGinley Market, foodstore; 102 South Polk Street, Albany, MO; 1–31–72.

McKee's IGA Super Market, foodstore; 503 North Main, Blue Rapids, KS; 1–31–72.

McKey & Vine Grocery & Market, foodstore; Centreville, Miss.; 1–31–72.

McNulty's Food Market, foodstore; 101 South Cass Street, Morley, MI; 2–1–72.

McRae's Inc., variety-department stores, 2–6–71 to 11–20–71; 905 Ellis Avenue, Jackson, MS; 353 Meadowbrook Road, Jackson, MS.

Meador's Pharmacy, drugstore; 101 West Waterman, Dumas, AR; 1–31–72.

Meeker County Memorial Hospital, hospital; 612 South Sibley, Litchfield, MN; 1–28–72.

Metzger Stores, service station; 1399 Diamond Drive, Los Alamos, NM; 2–17–72.

Midwest Covenant Home, Inc., nursing home; Stromsburg, Nebr.; 2–17–71 to 1–26–72.

Miller Drug Stores, Inc., drugstore; 2309 Como Avenue, St. Paul, MN; 2–4–72.

Miller's Supermarket, Inc., foodstore; 702 South Main, Moab, UT 2–18–71 to 2–12–72.

Minute Man, restaurant; No. 1, Little Rock, Ark.; 1–31–72.

Mr. Smorgasbord Restaurant, restaurant; U.S. 6 and McCool Road, Valparaiso, IN; 1–31–72.

Montross Pharmacy Inc., drugstore; 118–120 North First Avenue, Winterset, IA; 1–31–72.

Mount St. Joseph Nursing Home, nursing home; Highwood Street, Waterville, Maine; 2–15–72.

Myatt Brothers Food Store, foodstore; Purvis, Miss.; 1–31–72.

Newton's Red & White Super Market, foodstore; 120 East Wilson Street, Farmville, NC; 2–10–72.

Nipple Convalescent Home, nursing home; Thompsontown, Pa.; 2–9–72.

Nu-Way Grocery, foodstore; 104 East Broadway, Drumright, OK 1–31–72.

O K Market Co., foodstore; 514 North Saginaw Street, Holly, MI; 1–28–72.

Osborn Market, foodstore; Miller, S. Dak.; 2–16–72.

Pak-A-Sak Food Stores, Inc., foodstores, 1–31–72: 206 North East Street, Kinston, NC; 1400 Arendell Street, Morehead City, NC.

Palace Drug Co., Inc., drugstore; 704 North Manhattan, Manhattan, KS; 2–16–72.

Palmer's Super Market, foodstore; Parkersburg, Iowa; 2–16–71 to 1–31–72.

Parkers Supermarket, foodstore; Highway 82 East, New Boston, Tex.; 1–31–72.

Parks Food Center, Inc., foodstore; 4014 North Cherry Street, Winston-Salem, NC; 2–1–72.

Payant Drug Co., drugstore; 402–404 Central Avenue, Faribault, MN; 1–28–72.

Pence-Garnett, Inc., foodstore; Highway 59 North, Garnett, Kans.; 2–4–72.

People's, Inc., variety-department store; Espanola, N. Mex.; 1–31–72.

The Peoples Store of Roseland, variety-department store; 11201 South Michigan Avenue, Chicago, IL; 1–31–72.

Pleasant Grove Hospital, hospital; 9911 La Grange Road, Anchorage, KY; 2–17–72.

Pleasantville IGA Market, foodstore; Columbus and Main Streets, Pleasantville, OH; 2–17–72.

Polaykoff Food Market, foodstore; 1001 Court Street, Sioux City, IA; 2–16–71 to 1–31–72.

Powell's Red & White, foodstore; St. Stephens, S.C.; 1–31–72.

Powers Market, foodstore; 301 Hillsboro Highway, Manchester, TN; 2–14–72.

Prenger's Inc., restaurant; 116 East Norfolk Avenue, Norfolk, NE; 2–16–71 to 1–31–72.

Raymond's Clothes Shop, apparel store; 614 Fourth Street, Sioux City, IA; 2–1–72.

Ream's Bargain Annex, Inc., foodstore; No. 2, Salt Lake City, Utah; 1–31–72.

Regal Baker's IGA Food Store, foodstore; Highway 79 South, McKenzie, Tenn.; 2–19–72.

Richardsons Super Food Market, foodstore; Estes Park, Colo.; 2–11–72.

S & V Super Market, foodstore; Washington Street, Williamston, N.C.; 1–31–72.

Sacred Heart Hospital, hospital; West Fourth Street, Yankton, S. Dak.; 1–31–72.

St. Joseph Hospital, hospital; North Church Street, Hazleton, Pa.; 1–31–72.

St. Paul Hermitage, nursing home; 501 North 17th Avenue, Beech Grove, IN; 1–31–72.

Salem Lutheran Homes, nursing home; Elk Horn, Iowa; 1–31–72.

The Salida Boys Market Inc., foodstore; 312 F Street, Salida, CO; 1–25–72.

Samhat Brothers Food Mart, foodstore; 27222 Grand River, Detroit, MI; 2–17–72.

Sam's Super Market, foodstore; 2135 South Minnesota Avenue, Sioux Falls, SD; 1–31–72.

Sanitary Bakery, foodstore; 121 East Broadway, Little Falls, MI; 1–31–72.

Schensul's Cafeteria, Inc., restaurant; 1036 28th Street SW., Wyoming, MI; 1–31–72.

Schneider's IGA Market, foodstore; 512 South Blackhoof Street, Wapakoneta, OH; 1–26–72.

Schulenberg's Super Valu, Inc., foodstore; Wells, Minn.; 2–2–72.

Seikel's Department Store, variety-department store; McLoud, Okla.; 2–11–72.

Sheheen Brothers Grocery, foodstore; 945 Broad Street, Camden, SC; 1–27–72.

Shelbyville Key Market, foodstore; 4560 East, Shelbyville, KY; 1–24–72.

Shelton Grocery, foodstore; 107 South Main, Waurika, OK; 2–10–72.

Shines Thriftway, foodstore; 105 South Michigan Avenue, Manton, MI; 1–31–72.

Shop-Rite, Inc., foodstore; Trenton, Ga.; 2–1–71 to 1–28–72.

Simon Neustadt Co., Inc., foodstore; Los Lunas Shopping Centre, Los Lunas, N. Mex.; 2–17–72.

Smathers Market, foodstore; 118 Main Street, Canton, NC; 1–22–72.

Smith Drug Stores, Inc., drugstore; 614 West Sixth Street, Junction City, KS; 1–31–72.

Snyder's, variety-department store; Winslow, Ind.; 2–9–72.

Spalding Manor, hospital; Spalding, Nebr.; 2–12–71 to 1–31–72.

S. L. Spotto Co., hardware store; 805 West Crawford Avenue, Connellsville, PA; 1–31–72.

Stephens Super Foods, foodstore; Vienna, Ga.; 1–31–72.

Sturm's Youth World, apparel store; 535 Main Street, Oak Ridge, TN; 2–3–72.

Sunflower Food Store, foodstore; No. 25, Hollandale, Miss.; 2–18–72.

Super Drive-Ins, foodstores, 2–18–72; No. 3, Clarksville, Tenn.; No. 1, Nashville, Tenn.

Sutton Super Market, foodstore; Williamsburg, Ky.; 2–14–72.

Tates, variety-department store; Heavenger, Okla.; 1–25–72.

Thompson Foodland, foodstore; Grand Junction, Iowa; 2–8–71 to 1–31–72.

Thriftway, foodstore; No. 302, Blue Ridge, Va.; 1–28–72.

Tomlinson Stores, Inc., variety-department store; West Main Street, Dillon, S.C.; 2–12–72.

Tower Super Markets, Inc., foodstore; Prospect Park, Emporium, Pa.; 1–26–72.

T. A. Turner & Co., Inc., variety-department store; Pink Hill, N.C.; 1–31–72.

Tuten's Red & White, foodstore; Estill, S.C.; 1–21–71 to 8–11–71.

The Union Grocery Co., Inc., foodstore; Gary, W. Va.; 2–12–72.

V & M Drugs, drugstore; 108 South Main, Temple, TX; 1–31–72.

Vista at Manhattan, Inc., restaurant; 1911 Tuttle Creek Boulevard, Manhattan, KS; 1–31–72.

Walgren's Market, Inc., foodstore; 204 East Washington Street, Mount Pleasant, IA; 1–29–72.

Wall Drug Store, Inc., drugstore; Wall, S. Dak.; 1–31–72.

Ward Hotel Motor Inn, hotel; 102 South Main Street, Aberdeen, SD; 1–20–72.

Warshaw's, Inc., apparel store; 216 Washington Street, Walterboro, SC; 2–6–72.

Washington Nursing Center, Inc., nursing home; 1110 New Castle Road, Washington, IL; 1–31–72.

Wayside Market, foodstore; Route 2, Radford, Va.; 1–23–72.

Webb's City, Inc., variety-department store; 128 Ninth Street South, Saint Petersburg, FL; 1–31–72.

Welch's Red & White, foodstore; Isle of Palms, Charleston, S.C.; 1–31–72.

Westgate Pharmacy, drugstore; 1300 Norfolk Avenue, Norfolk, NE; 2–18–72.

Whitehurst & Son, foodstore; Hobgood, N.C.; 1–31–72.

White's City, Inc., motel; White's City, N. Mex.; 2–1–72.

Whitman's Nursing Home, nursing home; 1876 East Grand Boulevard, Detroit, MI; 1–31–72.

Wilharm Pharmacy, drugstore; 3759 Chicago Avenue, Minneapolis, MN; 1–31–72.

Wilke's Sure Save, foodstores, 1–31–72; 118 South Main, Elkader, IA; 108 West Center, Monona, IA.

Wil Mar Convalescent Home, nursing home; 45305 Cass Avenue, Utica, MI; 2–10–72.

Wilson Food Store, foodstore; 1033 North Second, Merkel, TX; 1–31–72.

Winnebago Super Valu, foodstore; Winnebago, Minn.; 1–21–72.

Wolcottville Economy Store, Inc., foodstore; Wolcottville, Ind.; 1–31–72.

Womacks Minimax, foodstore; 1411 Ahrens Street, Houston, TX; 1–31–72.

Wong's Foodland, foodstore; 520 Anderson Boulevard, Clarksdale, MS; 1–31–72.

Woodbury Market, foodstore; Woodbury, Tenn.; 1–31–72.

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 minmium to total hours of employment of all employees.

A & R Food Store, Inc., foodstores, for the occupations of stock clerk, produce clerk, carryout, meat clerk, 19 to 25 percent, 2–14–72; Brent, Ala.; Calera, Ala.; 202 Seventh Street South, Clanton, AL; 2421 Broad Street, Selma, AL.

Abel's Pharmacy, Inc., drugstore; 3421 Spencer Highway, Pasadena, TX; fountain clerk, salesclerk, delivery clerk, cleanup; 14 to 20 percent; 2–19–72.

Ashcraft Market, foodstores; 202 East Cedar Street, Gladwin, MI; stock clerk, carryout; 15 to 27 percent; 2–6–72.

Baenziger Model Market, foodstore; 580 Coreth Drive, New Braunfels, TX; stock clerk, carryout, package clerk; 10 percent; 1–31–72.

Ben Franklin Store, variety-department store; No. 0376, Flint, Mich.; salesclerk, cashier, cleanup; 20 percent; 2–9–72.

Big Bee Market, foodstore; 600 South State Road, Marysville, PA; stock clerk, checkout, bagger; 6 to 8 percent; 2–17–71 to 2–9–72.

Bill's Super Market, foodstore; Schleswig, Iowa; carryout, stock clerk, bagger, janitorial, bottle sorter; 18 to 29 percent; 1–26–72.

Bishop Stoddard Cafeteria Co., restaurant; Kennedy Mall, Dubuque, Iowa; tray carrier, counter server, bus helper; 0 to 20 percent; 1–31–72.

Blooming Prairie Super Valu, foodstore; Blooming Prairie, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–21–72.

Brittany Buffet, restaurants, for the occupation of general restaurant worker, 4 to 22 percent, 2–8–72: Nos. 601 and 602, San Antonio, Tex.

Buddy's Discount Foods, foodstore; 1011 Matchitoches Street, West Monroe, LA; package clerk; 10 to 15 percent; 1–31–72.

California Superama, Inc., foodstore; Fourth and Aztec, Gallup, NM; bagger, carryout, meat counter helper, janitorial; 10 percent; 1–21–72.

Carter's Food Center, foodstore; 305 South McQuarrie, Wagoner, OK; carryout, stock clerk; 7 to 15 percent; 1–31–72.

Carter's, Inc., apparel store; 114 West Illinois, Vinita, OK; stock clerk, maintenance; 5 to 17 percent; 1–31–72.

Chatfield Super Valu, foodstore; Chatfield, Minn.; carryout, checker, cleanup, stock clerk; 14 to 21 percent; 1–21–72.

D & D MR A G, foodstore; Hoxie, Kans.; bagger, stock clerk, carryout; 14 to 30 percent; 1–31–72.

D & L Market, foodstore; 201 Main, Forreston, IL; stock clerk, carryout, bagger; 12 to 25 percent; 2–9–72.

Dixie Kitchen, restaurant; 1114 West 103d Street, Kansas City, MO; general restaurant worker; 23 to 27 percent; 2–17–72.

Eagle Stores Co., Inc., variety-department stores, for the occupations of salesclerk, stock clerk, 1–31–72, except as otherwise indicated: 271 East Main Street, Forest City, NC (stock clerk, salesclerk, checker), 13 to 60 percent; No. 30, Hemingway, S.C., 10 percent; No. 7, Elizabethton, Tenn. 9 to 18 percent; 2–1–72.

Economy Super Market, Inc., foodstore; Route 3, Clendenin, W. Va.; carryout; 10 to 12 percent; 2–1–72.

Eikenberry's IGA Foodliners, Inc., foodstore; Wagner and Russ Roads, Greenville, Ohio; stock clerk, carryout; 16 to 17 percent; 1–31–72.

Food Masters Super Market, foodstore; 5614 Central Avenue SW., Albuquerque, NM; cleanup, carryout; 16 to 18 percent; 2–3–72.

Gaylord Super Valu, foodstore; Gaylord, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–21–72.

Giant Food Markets, Inc., foodstore; No. 1, Kingsport, Tenn.; carryout, cashier, stock clerk; 20 to 22 percent; 1–31–72.

Goldblatt Bros., Inc., variety-department store; McKinley and Hickory Road, Mishawaka, IN; salesclerk, stock clerk; 5 to 7 percent; 1–23–72.

Haddad's, Inc., apparel store; 4825 McCorkle Avenue SW., South Charleston, WV; salesclerk; 5 to 23 percent; 1–31–72.

Hardy Super Market, Inc., foodstore; Shepherdsville, Ky.; carryout, stock clerk; 14 to 25 percent; 2–12–72.

Harrell's Table Supply, Inc., foodstore; Second Street, Soperton, Ga.; bagger, stock clerk; 29 to 42 percent; 1–31–72.

Harry Lenda, Inc., foodstore; 6121 Cass City Road, Cass City, MI; carryout, stock clerk; 13 to 20 percent; 1–31–72.

Hoosier Drugs, drugstore; 1301 119th Street, Whiting, IN; stock clerk, clerk-cashier, office clerk, delivery clerk; 19 to 25 percent; 2–8–72.

Hugh & Jessie Bennington, foodstore; Farmers Market, Cheney, Kans.; sacker, cleanup; 7 to 10 percent; 1–31–72.

International House of Pancakes, restaurant; 5171 Chouteau, Kansas City, MO; busboy (girl), kitchen helper, takeout clerk; 14 to 24 percent; 2–3–72.

Jennings Market, foodstore; 103 West Dakota Street; Butler, MO; stock clerk, carryout; 16 to 45 percent; 1–31–72.

Kay Baum, Inc., apparel stores, for the occupation of stock clerk, 4 to 21 percent, 2–18–72: Liberty at Thompson, Ann Arbor, MI; 16822 Kercheval, Detroit, MI; 1550 Woodward Avenue, Detroit, MI.

Kay's Affiliated Food Store, foodstore; 316 Main Street, Winona, TX; stock clerk, sacker, carryout; 20 to 22 percent; 1–31–72.

Kelloff's, Inc., foodstore; Antonito, CO; stock clerk, carryout; 4 to 28 percent; 2–19–72.

Land of OZ Grocery, foodstore; 126 East Main Street, Yukon, OK; sacker, carryout, stockclerk, checker; 38 to 45 percent; 2–13–72.

LeSueur Super Valu, foodstore; LeSueur, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–21–72.

Lovett's IGA Foodliner, foodstore; Carmack Boulevard, Columbia, TN; stock clerk, bagger; 12 to 15 percent; 2–3–72.

McDonald's Hamburgers, restaurants, for the occupation of general restaurant worker, 31 to 58 percent, 2–14–72, except as otherwise indicated; 290 East 69 Highway, Claycomo, MO; 4002 North Oak Street, Kansas City, MO (27 to 61 percent, 2–17–72); 3115 Raytown Road, Kansas City, MO; 8020 South 71 Highway, Kansas City, MO (1–28–72); 9066 East 50 Highway, Raytown, MO (27 to 61 percent).

Milaca Area Hospital, hospital; 150 10th Street NW., Milaca, MN; nurse's aide, dietary aide, housekeeping aide, laundry aide, office clerk; 3 to 5 percent; 1–31–72.

Milo's AG Market, foodstore; 204 South State Street, Preston, ID; bakery clerk, meat wrapper, stock clerk, carryout; 21 to 25 percent; 1–31–72.

Mr. Smorgasbord, Inc., restaurants, for the occupations of food preparer, busboy (girl), cashier, dishwasher, cleanup, 54 to 82 percent, 1–31–72, except as otherwise indicated: 6933 Indianapolis Boulevard, Hammond, IN; 136 East McKinley, Mishawaka, IN; 2800 Niles Avenue, St. Joseph, MI (2–1–72).

Newman's, apparel store; 4027 Franklin Street, Michigan City, IN; office clerk, stock clerk, marking clerk, fitting room checker; 8 to 9 percent; 2–2–72.

Pak-A-Sak Food Stores Inc., foodstore; Highway 24, Swansboro, NC; bagger, carryout; 9 to 10 percent; 1–31–72.

Pence-Ottawa North, Inc., foodstore; 305 North Main, Ottawa, KS; stock clerk, carryout, janitorial, bagger, cashier; 8 to 25 percent; 1–29–72.

Piggly Wiggly, foodstores, for the occupation of bagger, 1–31–72, except as otherwise indicated: 410 North Main Street, Arab, AL, 9 to 15 percent; Wright Shopping Center, Fort Walton Beach, Fla., 9 to 10 percent (1–21–72); 1165 27th Street, Columbus, GA, 10 to 13 percent (janitorial, bagger, bottle clerk).

Prince, Inc., foodstores, for the occupation of bagger: Brooks-Plaza Shopping Center, Fort Walton Beach, Fla., 10 percent, 1–20–72; Towncrest Shopping Center, Fort Walton Beach, Fla., 9 to 10 percent, 2–5–72.

Professional Services, restaurants, for the occupation of general restaurant worker, 4 to 22 percent, 2–8–72: Nos. 652 and 653, San Antonio, Tex.

Ream's Bargain Annex, Inc., foodstores, for the occupations of stock clerk, cleanup, bagger, 26 to 33 percent, 1–31–72: No. 5, Bountiful, Utah; No. 6, Salt Lake City, Utah; 4750 South Redwood Road, Taylorsville, UT.

Red & White Super Market, foodstore; 1503 Highland Avenue, Montgomery, AL; bagger, stock clerk; 10 to 21 percent; 2–17–72.

Rhea's, Inc., foodstore; Allegheny Center Mall, Pittsburgh, Pa.; salesclerk; 18 to 27 percent; 2–19–72.

Rushing & Swope Maverick Steak House, Inc., restaurant; Pasadena, Tex.; dishwasher, busboy (girl), cook, cleanup, janitorial, serving line helper; 20 to 21 percent; 2–16–72.

Saxons Sandwich Shoppe, restaurant; 2610 East Belt Line SE., Grand Rapids, MI; busboy (girl), coffee girl (boy), counterworker, dishwasher, food preparer, short order cook; 49 to 77 percent; 1–31–72.

Schensul's Cafeteria, Inc., restaurant; 3635 28th Street, Grand Rapids, MI; busboy (girl), coffee girl (boy), counter worker, dishwasher, food preparer, short order cook; 49 to 77 percent; 1–31–72.

Style Shop Inc., apparel store; 420 South Main Street, Elkhart, IN; office clerk, stock clerk, marking clerk, fitting room checker; 8 to 9 percent; 2–2–72.

Thornton & Thornton, foodstore; Odem, Tex.; carryout, stock clerk, janitorial; 12 to 25 percent; 2–8–72.

Top Save Department Store, Inc., variety-department store; Westgate Plaza, Streator, Ill.; salesclerk; 10 to 33 percent; 1–21–72.

Tower Super Markets, Inc., foodstore; Million Dollar Highway, Weedville, Pa.; checker, carryout, stock clerk, clerk, meat and produce wrapper; 17 to 37 percent; 1–26–72.

Vista at Emporia, Inc., restaurant; 825 West Sixth Street, Emporia, KS; cashier, fountain clerk, cook, dishwasher, general restaurant worker; 4 to 34 percent; 2–1–72.

Wabasha Super Valu, foodstore; Wabasha, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–21–72.

Walgren's Market, Inc., foodstore; West Main Street, New London, Iowa; carryout, stock clerk, checker, meat clerk; 13 percent; 2–12–71 to 1–29–72.

Whetstone Valley Nursing Home, nursing home; 1103 South Second Street, Milbank, SD; waiter-waitress, kitchen helper, tray carrier, yard worker; 4 to 18 percent; 2–12–71 to 12–30–71.

Wilke's Sure Save, foodstore; 124 Main Street, Fredericksburg, Iowa; checker, stock clerk, carryout; 17 to 26 percent; 1–31–72.

Willard's IGA, foodstore; Sixth and Pacific, Osawatomie, KS; stock clerk, sacker, carryout; 4 to 14 percent; 2–12–71 to 1–31–72.

Wood's 5 & 10¢ Store, variety-department store; West Hudson Street, Fayetteville, NC; salesclerk, stock clerk; 9 to 20 percent; 2–2–72.

Zumbrota Super Valu, foodstore; Zumbrota, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–21–72.

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 consideration 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 14th day of May 1971.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.71–7169 Filed 5–21–71;8:48 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 19, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42204—*Ethylene Glycol to Atlanta, Ga.* Filed by O. W. South, Jr., agent (No. A6255), for interested rail carriers. Rates on ethylene glycol, in tank carloads, as described in the application, from Wilmington, N.C., to Atlanta, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 57 to Southern Freight Association, agent, tariff ICC S–832.

FSA No. 42205—*Chlorine to Canton, N.C.* Filed by O. W. South, Jr., agent (No. A6256), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from specified points in West Virginia, to Canton, N.C.

Grounds for relief—Market competition.

Tariff—Supplement 125 to Traffic Executive Association-Eastern Railroads, Agent, tariff ICC C–611.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–7187 Filed 5–21–71;8:49 am]

[Notice 693]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 19, 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 of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72805. By order of May 14, 1971, the Motor Carrier Board approved the transfer to Carolina Transit Lines of Charlotte, Inc., Charlotte, N.C., of the operating rights in Certificate No. MC–124473 (Sub-No. 1), issued April 16, 1964, to Clyde N. Herron and Robert P. Gaddy, a partnership, doing business as Carolina Transit Lines, Charlotte, N.C., authorizing the transportation of passengers and their baggage, in charter operations, during the season extending from June 1 to August 31, inclusive, of each year, between Charlotte, N.C., and the site of the Y.M.C.A. Fresh Air Camp situated on the Catawba River in York County, S.C., near the Buster Boyd Bridge. Dotson G. Palmer, 1215 American Building, Charlotte, NC 28202, attorney for applicants.

No. C–72809. By order of May 13, 1971, the Motor Carrier Board approved the transfer to Sharkey Transportation, Inc.,

Burlington, Iowa, of the operating rights in Certificate No. MC–123294 (Sub-No. 14), issued July 18, 1967 to Warsaw Trucking Co., Inc., Warsaw, Ind., authorizing the transportation of such commodities as are sold by retail mail order houses from Quincy, Ill., to points in Illinois, Missouri, Iowa, and Wisconsin. Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226, Attorney for applicants.

No. MC–FC–72819. By order of May 14, 1971, the Motor Carrier Board approved the transfer to O'Neill Transfer Company, Inc., Portland, Oreg., of the operating rights in Certificate No. MC–78277 issued February 10, 1965, to McCabe Moving & Storage Co., a corporation, Portland, Oreg., authorizing the transportation of general commodities, with usual exceptions, between points within three miles of Portland, Oreg., including Portland; agricultural commodities and livestock, from points in Wasco, Sherman, Gilliam, Morrow, and Jefferson Counties, Oreg., to points served by railroads and to steamship docks in said counties, and livestock between points in Wasco County, Oreg., on the one hand, and, on the other, points in Clark, Skamania, Benton, Walla Walla, Franklin, and Adams Counties, Wash. Earle V. White, 2400 Southwest Fourth Avenue, Portland, OG 97201, attorney for applicants.

No. MC–FC–72820. By order of May 14, 1971, the Motor Carrier Board approved the transfer to P & C Trucking, Inc., Pinckneyville, Ill., of the operating rights in Certificate No. MC–125534 (Sub-No. 1), issued May 4, 1971, to Felix Frassato, Inc., Internal Revenue Service, successor in interest, Mt. Vernon, Ill., authorizing the transportation of lumber from specified counties in Indiana and Illinois to specified points and areas in Indiana, Wisconsin, Iowa and Missouri. Delmar O. Koebel, 107 West St. Louis Street, Lebanon, IL 62254, attorney for transferee.

No. MC–FC—72828. By order of May 10, 1971, the Motor Carrier Board approved the transfer to Stanley V. Majkut, doing business as Mobile Air Transport, Latham, Ill., of Certificate No. MC–125758, issued August 11, 1964, to Stanley Va. Majkut and Francis P. Rogers, a partnership, doing business as Mobile Air Transport, Schenectady, N.Y., authorizing the transportation of: General commodities, having a prior or subsequent movement by air (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over a regular route, from and to the Albany County Airport, N.Y., serving all intermediate points, and the off-route points of Hoosick Falls, N.Y., and North Bennington, Vt., over a specified circuitous routing. W. Norman Charles, 80 Bay Street, Glenn Falls, NY 12801, attorney for applicants.

No. MC–FC–72850. By order of May 14, 1971, the Motor Carrier Board approved the transfer to Selective Transportation Corporation, West New York, N.J., of the operating rights in Certificate No. MC–1305 issued April 29, 1964, to Selective Transportation Corp., West New York, N.J., authorizing the transportation of: General commodities, usual exceptions, between points in New York, Connecticut, and New Jersey within 50 miles of Columbus Circle, New York, N.Y. William Biederman, 280 Broadway, New York, NY 10007, attorney.

No. MC–FC–72853. By order of May 14, 1971, the Motor Carrier Board approved the transfer to West Coast Moving & Storage, Inc., Long Beach, Calif. of Certificates Nos. MC–24435 and MC–24435 (Sub-No. 2), issued April 19, 1966 and November 7, 1969, respectively, to City Van & Storage, Santa Fe Springs, Calif. authorizing the transportation of household goods as defined by the Commission and used household goods between specified points in California. R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017, attorney for applicants.

No. MC–FC–72854. By order of May 14, 1971, the Motor Carrier Board approved the transfer to Shapiro-Lampert Express Co., Inc., Commack, N.Y., of Permits Nos. MC–127480 (Sub-No. 1), and MC–127480 (Sub-No. 3), issued to Lampert Trucking, Inc., Commack, N.Y., authorizing the transportation of: Wearing apparel and piece goods, between specified points in New York. Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368, attorney.

No. MC–FC–72857. By order of May 14, 1971, the Motor Carrier Board approved the transfer to Dorothy L. Norton and Bradford Norton, a partnership, doing business as Norton's Bus and Taxi Co., Tyler Hill, Pa., of Certificate No. MC–79929, issued September 19, 1955, to William B. Coe and Grace E. Coe, a partnership, doing business as Coe's Taxi Service, Damascus, Pa., authorizing the transportation of passengers and their baggage, between Cochecton, N.Y., and Honesdale, Camp With-A-Wind, and Camp Swago, Pa. Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, applicants' practitioner.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–7188 Filed 5–21–71;8:49 am]

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PART II

DEPARTMENT OF THE INTERIOR

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Bureau of Mines

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Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Pursuant to the authority vested in the Secretary of the Interior under paragraph (i) of section 101, and in accordance with the provisions of section 101 of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801; Public Law 91–173), there was published in the FEDERAL REGISTER for December 19, 1970 (35 F.R. 19298), a notice of proposed rulemaking setting forth proposed mandatory safety standards which shall apply to all bituminous, anthracite, and lignite surface coal mines, including open pit and auger mines, and to the surface work areas of underground coal mines.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions or objections to the proposed Part 77. Approximately 26 associations, companies, and individuals submitted comments, suggestions, or objections. All were given careful and thorough consideration. A summary of the comments and an explanation of the actions taken with respect to them will be prepared by the Bureau of Mines and will be available 30 days from the date of this publication in the Office of the Deputy Director for Health and Safety, Room 4512, Bureau of Mines, Department of the Interior, Washington, DC 20240.

Some standards have been revised as suggested and in other instances revisions were made in view of the comments received, or to conform and clarify other provisions in view of changes and revisions which were made. Some of the suggestions could not be adopted because they were contrary to statutory provisions.

Part 77—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines—of Title 30, Code of Federal Regulations, Subchapter O—Coal Mine Health and Safety, as set forth below is herewith promulgated and shall become effective on July 1, 1971.

ROGERS C. B. MORTON,
Secretary of the Interior.

MAY 17, 1971.

Subpart A—General

Subpart B—Qualified and Certified Persons

Subpart C—Surface Installations

Subpart D—Thermal Dryers

Subpart E—Safeguards for Mechanical Equipment

Subpart F—Electrical Equipment—General

Subpart G—Trailing Cables

Subpart H—Grounding

AUTHORITY: The mandatory safety standards for surface coal mines and surface work areas of underground coal mines set forth in this Part 77 are issued in accordance with the authority vested in the Secretary of the Interior under the provisions of §§ 101(i) and 508 of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801; Public Law 91–173).

Subpart A—General

§ 77.1 Scope.

This Part 77 sets forth mandatory safety standards for bituminous, anthracite, and lignite surface coal mines, including open pit and auger mines, and to the surface work areas of underground coal mines, pursuant to section 101(i) of the Federal Coal Mine Health and Safety Act of 1969.

§ 77.2 Definitions.

For the purpose of this Part 77, the term:

(a) "Active workings" means any place in a coal mine where miners are normally required to work or travel;

(b) "American Table of Distances" means the current edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives;

(c) "Barricaded" means to obstruct passage of persons, vehicles, or flying materials;

(d) "Berm" means a pile or mound of material capable of restraining a vehicle;

(e) "Blasting agent" means any material consisting of a mixture of a fuel and oxidizer which—

(1) Is used or intended for use in blasting;

(2) Is not classed as an explosive by the Department of Transportation;

(3) Contains no ingredient classed as an explosive by the Department of Transportation; and,

(4) Cannot be detonated by a No. 8 blasting cap when tested as recommended in Bureau of Mines Information Circular 8179.

(f) "Blasting area" means the area near blasting operations in which concussion or flying material can reasonably be expected to cause injury.

(g) "Blasting cap" means a detonator containing a charge of detonating compound, which is ignited by electric current, or the spark of a fuse. Used for detonating explosives.

(h) "Blasting circuit" means electric circuits used to fire electric detonators or to ignite an igniter cord by means of an electric starter.

(i) "Blasting switch" means a switch used to connect a power source to a blasting circuit.

(j) "Box-type magazine" means a small, portable magazine used to store limited quantities of explosives or detonators for short periods of time in locations at the mine which are convenient to the blasting sites at which they will be used.

(k) "Capped fuse" means a length of safety fuse to which a detonator has been attached.

(l) "Capped primer" means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator.

(m) "Certified" or "registered", as applied to any person means a person certified or registered by the State in which the coal mine is located to perform duties prescribed by this Part 77, except that, in a State where no program of certification or registration is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification or registration shall be by the Secretary.

(n) "Detonating cord" or "detonating fuse" means a flexible cord containing a core of high explosive.

(o) "Detonator" means a device containing a small detonating charge that is used for detonating an explosive, including, but not limited to blasting caps, exploders, electric detonators, and delay electric blasting caps.

(p) "Electrical grounding" means to connect with the ground to make the earth part of the circuit.

(q) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. Explosives include, but are not limited to black powder, dynamite, nitroglycerin, fulminate, ammonium nitrate when mixed with a hydrocarbon, and other blasting agents.

(r) "Flash point" means the minimum temperature at which sufficient vapor is released by a liquid or solid to form a flammable vapor-air mixture at atmospheric pressure.

(s) "Low voltage" means up to and including 660 volts, "medium voltage" means voltages from 661 to 1,000 volts, and "high voltage" means more than 1,000 volts.

(t) "Misfire" means the complete or partial failure of a blasting charge to explode as planned.

(u) "Primer" or "Booster" means a package or cartridge of explosive which is designed specifically to transmit detonation to other explosives and which does not contain a detonator.

(v) "Qualified person" means, as the context requires,

(1) An individual deemed qualified by the Secretary and designated by the operator to make tests and examinations required by this Part 77; and,

(2) An individual deemed, in accordance with the minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and make tests of all electrical equipment.

(w) "Roll protection" means a framework, safety canopy, or similar protection for the operator when equipment overturns.

(x) "Safety can" means an approved container, of not over 5 gallons capacity, having a spring-closing lid and spout cover.

(y) "Safety fuse" means a train of powder enclosed in cotton, jute yarn, and waterproofing compounds, which burns at a uniform rate; used for firing a cap containing the detonating compound which in turn sets off the explosive charge.

(z) "Safety switch" means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area.

(aa) "Secretary" means the Secretary of the Interior or his delegate.

Subpart B—Qualified and Certified Persons

§ 77.100 Certified person.

(a)(1) The provisions of this Part 77 require that certain examinations and tests be made by a certified person. A certified person within the meaning of these provisions is a person who has been certified in accordance with the provisions of paragraph (b) of this § 77.100 to perform the duties, and make the examinations and tests which are required by this Part 77 to be performed by a certified person.

(2) A person who has been so certified shall also be considered to be a qualified person within the meaning of those provisions of this Part 77 which require that certain examinations, tests and duties be performed by a qualified person, except those provisions in Subparts F, G,

H, I, and J of this part relating to performance of electrical work.

(b) Pending issuance of Federal standards, a person will be considered, to the extent of the certification, a certified person to make examinations, tests and perform duties which are required by this Part 77 to be performed by a certified person:

(1) If he has been certified for such purpose by the State in which the coal mine is located; or

(2) If he has been temporarily certified for such purpose by the Secretary for periods of time not to exceed 6 months for each such temporary certification. The operator of the coal mine in which such person is employed shall make an application and a satisfactory showing that each such person has had at least 2 years experience at a coal mine or equivalent experience and such person demonstrates to the satisfaction of an authorized representative of the Secretary that he is able and competent to test for oxygen deficiency with a permissible flame safety lamp and to test for methane with a portable methane detector approved by the Bureau of Mines under Part 22 of this chapter (Bureau of Mines Schedule 8C), and to perform such other duties for which application for certification is made. Applications for temporary certification by the Secretary should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, PA 15213.

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

(a) The provisions of Subparts C, P, R, and T of this Part 77 require that tests for methane and for oxygen deficiency be made by a qualified person. A person is a qualified person for these purposes if he is a certified person for such purposes under § 77.100.

(b) Pending issuance of Federal standards, a person will be considered a qualified person for testing for methane and oxygen deficiency:

(1) If he has been qualified for this purpose by the State in which the coal mine is located; or

(2) If he has been qualified by the Secretary for these purposes upon a satisfactory showing by the operator of the coal mine that each such person has been trained and designated by the operator to test for methane and oxygen deficiency. Applications for Secretarial qualification should be submitted in writing to the Health and Safety Activity, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213.

§ 77.102 Tests for methane; oxygen deficiency; qualified person, additional requirement.

Notwithstanding the provisions of § 77.101, on and after December 30, 1971, no person shall be a qualified person for testing for methane and oxygen deficiency unless he has demonstrated to the satisfaction of an authorized representative of the Secretary that he is able and competent to make such tests and the Bureau of Mines has issued him a current card which qualifies him to make such tests.

§ 77.103 Electrical work; qualified person.

(a) An individual is a qualified person within the meaning of Subparts F, G, H, I, and J of this Part 77, to perform electrical work (other than work on energized surface high-voltage lines) if he has been qualified as a mine electrician by the State in which the mine is located and if the State required, as a condition of qualification at least 1 year experience in performing electrical work.

(b) If the State in which the mine is located does not require as a condition of qualification at least 1 year experience in performing electrical work or if a State has no program for qualifying persons as mine electricians, the Secretary, pending issuance of Federal standards which will give recognition to practical experience, may temporarily qualify persons for this purpose, for periods of time not to exceed 6 months, for each temporary qualification if the operator of the coal mine in which such persons are employed makes an application and a satisfactory showing that each such person:

(1) Has been performing electrical work, including the inspection, testing, and maintenance of electrical equipment and circuits, for 1 year preceding the application, or

(2) Has equivalent experience.

Applications for temporary Secretarial qualification and renewals for an additional 6 months should be submitted in writing to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, PA 15213.

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

An individual is a qualified person within the meaning of § 77.104 of this part for the purpose of repairing energized surface high-voltage lines only if he has had at least 2 years experience in electrical maintenance, and at least 2 years experience in the repair of energized high-voltage lines located on poles or structures.

§ 77.105 Qualified hoistman; slope or shaft sinking operation; qualifications.

(a) (1) A person is a qualified hoistman within the provisions of Subpart T of this part, for the purpose of operating a hoist at a slope or shaft sinking operation if he has at least 1 year experience operating a hoist plant or maintaining hoist equipment and is qualified by any State as a hoistman or its equivalency, or

(2) If a State has no program for qualifying persons as a hoistman, the Secretary may temporarily qualify persons for this purpose for periods of time not to exceed 6 months for each temporary certification if the operator of the slope or shaft sinking operation makes an application and a satisfactory showing that each such person has had 1 year experience in the operation of hoists.

(b) Applications for Secretarial qualification should be submitted to the Health and Safety Activity, Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, PA 15213.

§ 77.106 Records of certified and qualified persons.

The operator of each coal mine shall maintain a list of all certified and qualified persons designated to perform duties under this Part 77.

§ 77.107 Training programs.

Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining both qualified and certified persons needed to carry out functions prescribed in the Act.

§ 77.107–1 Plans for training programs.

On or before June 30, 1971, each operator shall submit to the District Manager of the Coal Mine Health and Safety District in which the mine is located a program or plan setting forth what, when, how, and where he will train and retrain persons whose work assignments require that they be certified or qualified. Such program shall provide: (a) For certified persons, annual training courses in the tasks and duties which they perform as certified persons, first aid, principles of mine rescue, and the provisions of this Part 77; and (b) for qualified persons, annual courses in performance of the tasks which they perform as qualified persons.

Subpart C—Surface Installations

§ 77.200 Surface installations; general.

All mine structures, enclosures, or other facilities (including custom coal preparation) shall be maintained in good repair to prevent accidents and injuries to employees.

§ 77.201 Methane content in surface installations.

The methane content in the air of any structure, enclosure or other facility shall be less than 1.0 volume per centum.

§ 77.201–1 Tests for methane; qualified person; use of approved device.

Tests for methane in structures, enclosures, or other facilities, in which coal is handled or stored shall be conducted by a qualified person with a device approved by the Secretary at least once during each operating shift, and immediately prior to any repair work in which welding or an open flame is used, or a spark may be produced.

§ 77.201–2 Methane accumulations; change in ventilation.

If, at any time, the air in any structure, enclosure or other facility contains 1.0 volume per centum or more of methane changes or adjustments in the ventilation of such installation shall be made at once so that the air shall contain

less than 1.0 volume per centum of methane.

§ 77.202 Dust accumulations in surface installations.

Coal dust in the air of, or in, or on the surfaces of, structures, enclosures, or other facilities shall not be allowed to exist or accumulate in dangerous amounts.

§ 77.203 Use of material or equipment overhead; safeguards.

Where overhead repairs are being made at surface installations and equipment or material is taken into such overhead work areas, adequate protection shall be provided for all persons working or passing below the overhead work areas in which such equipment or material is being used.

§ 77.204 Openings in surface installations; safeguards.

Openings in surface installations through which men or material may fall shall be protected by railings, barriers, covers or other protective devices.

§ 77.205 Travelways at surface installations.

(a) Safe means of access shall be provided and maintained to all working places.

(b) Travelways and platforms or other means of access to areas where persons are required to travel or work, shall be kept clear of all extraneous material and other stumbling or slipping hazards.

(c) Inclined travelways shall be constructed of nonskid material or equipped with cleats.

(d) Regularly used travelways shall be sanded, salted, or cleared of snow and ice as soon as practicable.

(e) Crossovers, elevated walkways elevated ramps, and stairways shall be of substantial construction, provided with handrails, and maintained in good condition. Where necessary toeboards shall be provided.

(f) Crossovers shall be provided where it is necessary to cross conveyors.

(g) Moving conveyors shall be crossed only at designated crossover points.

§ 77.206 Ladders; construction; installation and maintenance.

(a) Ladders shall be of substantial construction and maintained in good condition.

(b) Wooden members of ladders shall not be painted.

(c) Steep or vertical ladders which are used regularly at fixed locations shall be anchored securely and provided with backguards extending from a point not more than 7 feet from the bottom of the ladder to the top of the ladder.

(d) Fixed ladders shall not incline backwards at any point unless provided with backguards.

(e) Fixed ladders shall be anchored securely and installed to provide at least 3 inches of toe clearance.

(f) Fixed ladders shall project at least 3 feet above landings, or substantial handholds shall be provided above the landings.

§ 77.207 Illumination.

Illumination sufficient to provide safe working conditions shall be provided in and on all surface structures, paths, walkways, stairways, switch panels, loading and dumping sites, and working areas.

§ 77.208 Storage of materials.

(a) Materials shall be stored and stacked in a manner which minimizes stumbling or fall-of-material hazards.

(b) Materials that can create hazards if accidentally liberated from their containers shall be stored in a manner that minimizes the dangers.

(c) Hazardous materials shall be stored in containers of a type approved for such use by recognized agencies; such containers shall be labeled appropriately.

(d) Compressed and liquid gas cylinders shall be secured in a safe manner.

(e) Valves on compressed gas cylinders shall be protected by covers when being transported or stored, and by a safe location when the cylinders are in use.

§ 77.209 Surge and storage piles.

No person shall be permitted to walk or stand immediately above a reclaiming area or in any other area at or near a surge or storage pile where the reclaiming operation may expose him to a hazard.

§ 77.210 Hoisting of materials.

(a) Hitches and slings used to hoist materials shall be suitable for handling the type of materials being hoisted.

(b) Men shall stay clear of hoisted loads.

(c) Taglines shall be attached to hoisted materials that require steadying or guidance.

§ 77.211 Draw-off tunnels; stockpiling and reclaiming operations; general.

(a) Tunnels located below stockpiles, surge piles, and coal storage silos shall be ventilated so as to maintain concentrations of methane below 1.0 volume per centum.

(b) In addition to the tests for methane required by § 77.201 such tests shall also be made before any electric equipment is energized or repaired, unless equipped with a continuous methane monitoring device installed and operated in accordance with the provisions of § 77.211–1. Electric equipment shall not be energized, operated, or repaired until the air contains less than 1.0 volume per centum of methane.

§ 77.211–1 Continuous methane monitoring device; installation and operation; automatic deenergization of electric equipment.

Continuous methane monitoring devices shall be set to deenergize automatically electric equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume per centum of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically electric equipment when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume per centum of methane.

§ 77.212 Draw-off tunnel ventilation fans; installation.

When fans are used to ventilate draw-off tunnels the fans shall be:

(a) Installed on the surface;

(b) Installed in fireproof housings and connected to the tunnel openings with fireproof air ducts; and,

(c) Offset from the tunnel opening.

§ 77.213 Draw-off tunnel escapeways.

When it is necessary for a tunnel to be closed at one end, an escapeway not less than 30 inches in diameter (or of the equivalent, if the escapeway does not have a circular cross section) shall be installed which extends from the closed end of the tunnel to a safe location on the surface; and, if the escapeway is inclined more than 30 degrees from the horizontal it shall be equipped with a ladder which runs the full length of the inclined portion of the escapeway.

§ 77.214 Refuse piles; general.

(a) Refuse piles constructed on or after June 30, 1971, shall be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations and such piles shall not be located over abandoned openings or steamlines.

(b) Where new refuse piles are constructed over exposed coal beds the exposed coal shall be covered with clay or other inert material as the piles are constructed.

(c) A fireproof barrier of clay or inert material shall be constructed between old and new refuse piles.

(d) Roadways to refuse piles shall be fenced or otherwise guarded to restrict the entrance of unauthorized persons.

§ 77.215 Refuse piles; construction requirements.

(a) Refuse deposited on a pile shall be spread in layers and compacted in such a manner so as to minimize the flow of air through the pile.

(b) Refuse shall not be deposited on a burning pile except for the purpose of controlling or extinguishing a fire.

(c) Clay or other sealants shall be used to seal the surface of any refuse pile in which a spontaneous ignition has occurred.

(d) Surface seals shall be kept intact and protected from erosion by drainage facilities.

(e) Refuse piles shall not be constructed so as to impede drainage or impound water.

(f) Refuse piles shall be constructed in such a manner as to prevent accidental sliding and shifting of materials.

(g) No extraneous combustible material shall be deposited on refuse piles.

§ 77.216 Retaining dams; construction; inspection; records.

(a) If failure of a water or silt retaining dam will create a hazard, it shall be of substantial construction and shall be inspected at least once each week.

(b) Weekly inspections conducted pursuant to paragraph (a) of this § 77.216 shall be reported and the report shall be countersigned by any of the persons listed in paragraph (d) of § 77.1713.

Subpart D—Thermal Dryers

§ 77.300 Thermal dryers; general.

On and after June 30, 1971 dryer systems used for drying coal at high temperatures, hereinafter referred to as thermal dryers, including rotary dryers, continuous carrier dyes, vertical tray, and cascade dryers, multilouver dryers, suspension or flash dryers, and fluidized bed dryers, shall be maintained and operated in accordance with the provision of § 77.301 to § 77.306.

§ 77.301 Dryer heating units; operation.

(a) Dryer heating units shall be operated to provide reasonably complete combustion before heated gases are allowed to enter hot gas inlets.

(b) Dryer heating units which are fired by pulverized coal, shall be operated and maintained in accordance with the recommended standards set forth in the National Fire Protection Association Handbook, 12th Edition, Section 9, "Installation of Pulverized Fuel Systems," 1962.

§ 77.302 Bypass stacks.

Thermal dryer systems shall include a bypass stack, relief stack or individual discharge stack provided with automatic venting which will permit gases from the dryer heating unit to bypass the heating chamber and vent to the outside atmosphere during any shutdown operation.

§ 77.303 Hot gas inlet chamber dropout doors.

Thermal dryer systems which employ a hot gas inlet chamber shall be equipped with drop-out doors at the bottom of the inlet chamber or with other effective means which permit coal, fly-ash, or other heated material to fall from the chamber.

§ 77.304 Explosion release vents.

Drying chambers, dry-dust collectors, ductwork connecting dryers to dust collectors, and ductwork between dust collectors and discharge stacks shall be protected with explosion release vents which open directly to the outside atmosphere, and all such vents shall be:

(a) Hinged to prevent dislodgment;

(b) Designed and constructed to permit checking and testing by manual operation; and

(c) Equal in size to the cross-sectional area of the collector vortex finder when used to vent dry dust collectors.

§ 77.305 Access to drying chambers, hot gas inlet chambers and ductwork; installation and maintenance.

Drying chambers, hot gas inlet chambers and all ductwork is which coal dust may accumulate shall be equipped with tight sealing access doors which shall remain latched during dryer operation to prevent the emission of coal dust and the loss of fluidizing air.

§ 77.306 Fire protection.

Based on the need for fire protection measures in connection with the particular design of the thermal dryer, an authorized representative of the Secretary may require any of the following measures to be employed:

(a) Water sprays automatically actuated by rises in temperature to prevent fire, installed inside the thermal dryer systems, and such sprays shall be designed to provide for manual operation in the event of power failure.

(b) Fog nozzles, or other no less effective means, installed inside the thermal dryer systems to provide additional moisture or an artificial drying load within the drying system when the system is being started or shutdown.

(c) The water system of each thermal dryer shall be interconnected to a supply of compressed air which permits constant or frequent purging of all water sprays and fog nozzles or other no less effective means of purging shall be provided.

§ 77.307 Thermal dryers; location and installation; general.

(a) Thermal dryer systems erected or installed at any coal mine after June 30, 1971 shall be located at least 100 feet from any underground coal mine opening, and 100 feet from any surface installation where the heat, sparks, flames, or coal dust from the system might cause a fire or explosion.

(b) Thermal dryer systems erected or installed after June 30, 1971 may be covered by roofs, however, such systems shall not be otherwise enclosed unless necessary to protect the health and safety of persons employed at the mine. Where such systems are enclosed, they shall be located in separate fireproof structures of heavy construction with explosion pressure release devices (such as hinged wall panels, window sashes, or louvers), which provide at least 1 square foot of area for each 80 cubic feet of space volume and which are distributed as uniformly as possible throughout the structure.

§ 77.308 Structures housing other facilities; use of partitions.

Thermal dryer systems installed after June 30, 1971 in any structure which also houses a tipple, cleaning plant, or other operating facility shall be separated from all other working areas of such structure by a substantial partition capable of providing greater resistance to explosion pressures than the exterior wall or walls of the structure. The partition shall also include substantial, self-closing fire doors at all entrances to the areas adjoining the dryer system.

§ 77.309 Visual check of system equipment.

Frequent visual checks shall be made by the operator of the thermal dryer system control station, or by some other competent person, of the bypass dampers, air-tempering louvers, discharge mechanism, and other dryer system equipment.

§ 77.309–1 Control stations; location.

Thermal dryer system control stations constructed after June 30, 1971, shall be installed at a location which will give to the operator of the control station the widest field of visibility of the system and equipment.

§ 77.310 Control panels.

(a) All thermal dryer system control panels constructed after June 30, 1971 shall be located in an area which is relatively free of moisture and dust and shall be installed in such a manner as to minimize vibration.

(b) A schematic diagram containing legends which show the location of each thermocouple, pressure tap, or other control or gaging instrument in the drying system shall be posted on or near the control panel of each thermal drying system.

(c) Each instrument on the control panel shall be identified by a nameplate or equivalent marking.

(d) A plan to control the operation of each thermal dryer system shall be posted at or near the control panel showing a sequence of startup, normal shutdown, and emergency shutdown procedures.

§ 77.311 Alarm devices.

Thermal dryer systems shall be equipped with both audible and visual alarm devices which are set to operate when safe dryer temperatures are exceeded.

§ 77.312 Fail safe monitoring systems.

Thermal dryer systems and controls shall be protected by a fail safe monitoring system which will safely shut down the system and any related equipmeht upon failure of any component in the dryer system.

§ 77.313 Wet-coal feedbins; low-level indicators.

Wet-coal bins feeding thermal drying systems shall be equipped with both audible and visual low-coal-level indicators.

§ 77.314 Automatic temperature control instruments.

(a) Automatic temperature control instruments for thermal dryer system shall be of the recording type.

(b) Automatic temperature control instruments shall be locked or sealed to prevent tampering or unauthorized adjustment. These instruments shall not be set above the maximum allowable operating temperature.

(c) All dryer control instruments shall be inspected and calibrated at least once every 3 months and a record or certificate of accuracy, signed by a trained employee or by a servicing agent, shall be kept at the plant.

§ 77.315 Thermal dryers; examination and inspection.

Thermal dryer systems shall be examined for fires and coal-dust accumulations if the dryers are not restarted promptly after a shutdown.

Subpart E—Safeguards for Mechanical Equipment

§ 77.400 Mechanical equipment guards.

(a) Gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons shall be guarded.

(b) Overhead belts shall be guarded if the whipping action from a broken line would be hazardous to persons below.

(c) Guards at conveyor-drive, conveyor-head, and conveyor-tail pulleys shall extend a distance sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and the pulley.

(d) Except when testing the machinery, guards shall be securely in place while machinery is being operated.

§ 77.401 Stationary grinding machines; protective devices.

(a) Stationary grinding machines other than special bit grinders shall be equipped with:

(1) Peripheral hoods (less than 90° throat openings) capable of withstanding the force of a bursting wheel.

(2) Adjustable tool rests set as close as practical to the wheel.

(3) Safety washers.

(b) Grinding wheels shall be operated within the specifications of the manufacturer of the wheel.

(c) Face shields or goggles, in good condition, shall be worn when operating a grinding wheel.

§ 77.402 Hand-held power tools; safety devices.

Hand-held power tools shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

§ 77.403 Mobile equipment; canopies and roll protection.

Forklift trucks, front-end loaders, and bulldozers shall be provided with substantial canopies and roll protection when necessary to protect the operator.

§ 77.404 Machinery and equipment; operation and maintenance.

(a) Mobile and stationary machinery and equipment shall be maintained in safe operating condition and machinery or equipment in unsafe condition shall be removed from service immediately.

(b) Machinery and equipment shall be operated only by persons trained in the use of and authorized to operate such machinery or equipment.

(c) Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments.

(d) Machinery shall not be lubricated while in motion where a hazard exists, unless equipped with extended fittings or cups.

§ 77.405 Performing work from a raised position; safeguards.

(a) Men shall not work on or from a piece of mobile equipment in a raised position until it has been blocked in place securely. This does not preclude the use of equipment specifically designed as elevated mobile work platforms.

(b) No work shall be performed under machinery or equipment that has been raised until such machinery or equipment has been securely blocked in position.

§ 77.406 Drive belts.

(a) Drive belts shall not be shifted while in motion unless the machines are provided with mechanical shifters.

(b) Belt dressing shall not be applied while belts are in motion except where it can be applied without endangering a person.

§ 77.407 Power-driven pulleys.

(a) Belts, chains, and ropes shall not be guided onto power-driven moving pulleys, sprockets, or drums with the hands except on slow moving equipment especially designed for hand feeding.

(b) Pulleys of conveyors shall not be cleaned manually while the conveyor is in motion.

§ 77.408 Welding operations.

Welding operations shall be shielded and the area shall be well-ventilated.

§ 77.409 Shovels, draglines, and tractors.

(a) Shovels, draglines, and tractors shall not be operated in the presence of any person exposed to a hazard from its operation and all such equipment shall be provided with an adequate warning device which shall be sounded by the operator prior to starting operation.

(b) Shovels and draglines shall be equipped with handrails along and around all walkways and platforms.

§ 77.410 Mobile equipment; automatic warning devices.

Mobile equipment, such as trucks, forklifts, front-end loaders, tractors and graders, shall be equipped with an adequate automatic warning device which shall give an audible alarm when such equipment is put in reverse.

§ 77.411 Compressed air and boilers; general.

All boilers and pressure vessels shall be constructed, installed, and maintained in accordance with the standards and specifications of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

§ 77.412 Compressed air systems.

(a) Compressors and compressed-air receivers shall be equipped with automatic pressure-relief valves, pressure gages, and drain valves.

(b) Repairs involving the pressure system of compressors, receivers, or compressed-air-powered equipment shall not be attempted until the pressure has been relieved from that part of the system to be repaired.

(c) At no time shall compressed air be directed toward a person. When compressed air is used, all necessary precautions shall be taken to protect persons from injury.

(d) Safety chains or suitable locking devices shall be used at connections to machines of high-pressure hose lines of 1-inch inside diameter or larger, and between high-pressure hose lines of 1-inch inside diameter or larger, where a connection failure would create a hazard.

§ 77.413 Boilers.

(a) Boilers shall be equipped with guarded, well-maintained water gages and pressure gages placed so that they can be observed easily. Water gages and pipe passages to the gages shall be kept clean and free of scale and rust.

(b) Boilers shall be equipped with automatic pressure-relief valves; valves shall be opened manually at least once a week to determine that they will function properly.

(c) Blowoff valves shall be piped outside the building and shall have outlets so located or protected that persons passing by, near, or under them will not be scalded.

(d) Boiler installations shall be provided with safety devices, acceptable to the Bureau of Mines, to protect against hazards of flame outs, fuel interruptions, and low-water level.

(e) Boilers shall be inspected internally at least once a year by a licensed inspector and a certificate of inspection signed by the inspector shall be displayed in the vicinity of the boiler.

Subpart F—Electrical Equipment—General

§ 77.500 Electric power circuits and electric equipment; deenergization.

Power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for troubleshooting or testing.

§ 77.501 Electric distribution circuits and equipment; repair.

No electrical work shall be performed on electric distribution circuits or equipment, except by a qualified person or by a person trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons.

Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by the operator or his agent.

§ 77.501–1 Qualified person.

A qualified person within the meaning of § 77.501 is an individual who meets the requirements of § 77.103.

§ 77.502 Electric equipment; examination, testing, and maintenance.

Electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept.

§ 77.502–1 Qualified person.

A qualified person within the meaning of § 77.502 is an individual who meets the requirements of § 77.103.

§ 77.502–2 Electric equipment; frequency of examination and testing.

The examinations and tests required under the provision of this §77.502 shall be conducted at least monthly.

§ 77.503 Electric conductors; capacity and insulation.

Electric conductors shall be sufficient in size and have adequate current carrying capacity and be of such construction that a rise in temperature resulting from normal operation will not damage the insulating materials.

§ 77.503–1 Electric conductors.

Electric conductors shall be sufficient in size to meet the minimum current carrying capacity provided for in the National Electric Code, 1968. All trailing cables shall meet the minimum requirements for ampacity provided in the standards of the Insulated Power Cable Engineers Association—National Electric Manufacturers Association in effect when such cables are purchased.

§ 77.504 Electrical connections or splices; suitability.

Electrical connections or splices in electric conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

§ 77.505 Cable fittings; suitability.

Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires, other than cables, pass through metal frames, the holes shall be substantially bushed with insulated bushings.

§ 77.506 Electric equipment and circuits; overload and short-circuit protection.

Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads.

§ 77.506–1 Electric equipment and circuits; overload and short circuit protection; minimum requirements.

Devices providing either short circuit protection or protection against overload shall conform to the minimum requirements for protection of electric circuits and equipment of the National Electric Code, 1968.

§ 77.507 Electric equipment; switches.

All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

§ 77.508 Lightning arresters, ungrounded and exposed power conductors and telephone wires.

All ungrounded, exposed power conductors and telephone wires shall be equipped with suitable lightning arresters which are adequately installed and connected to a low resistance grounding medium.

§ 77.508–1 Lightning arresters; wires entering buildings.

Lightning arresters protecting exposed telephone wires entering buildings shall be provided at the point where each such telephone wire enters the building.

§ 77.509 Transformers; installation and guarding.

(a) Transformers shall be of the totally enclosed type, or shall be placed at least 8 feet above the ground, or installed in a transformer house, or surrounded by a substantial fence at least 6 feet high and at least 3 feet from any energized parts, casings, or wiring.

(b) Transformer stations shall be enclosed to prevent persons from unintentionally or inadvertently contacting energized parts.

(c) Transformer enclosures shall be kept locked against unauthorized entry.

§ 77.510 Resistors; location and guarding.

Resistors, heaters, and rheostats shall be located so as to minimize fire hazards and, where necessary, provided with guards to prevent personal contact.

§ 77.511 Danger signs at electrical installations.

Suitable danger signs shall be posted at all major electrical installations.

§ 77.512 Inspection and cover plates.

Inspection and cover plates on electrical equipment shall be kept in place at all times except during testing or repairs.

§ 77.513 Insulating mats at power switches.

Dry wooden platforms, insulating mats, or other electrically nonconductive material shall be kept in place at all switchboards and power-control switches where shock hazards exist. However, metal plates on which a person normally would stand and which are kept at the same potential as the grounded, metal, non-current-carrying parts of the power switches to be operated may be used.

§ 77.514 Switchboards; passageways and clearance.

Switchboards shall be installed to provide passageways or lanes of travel which permit access to the back of the switchboard from both ends for inspection, adjustment or repair. Openings permitting access to the rear of any switchboard shall be guarded, except where they are located in buildings which are kept locked.

§ 77.515 Bare signal or control wires; voltage.

The voltage on bare signal or control wires accessible to personal contact shall not exceed 40 volts.

§ 77.516 Electric wiring and equipment; installation and maintenance.

In addition to the requirements of § 77.503 and § 77.506, all wiring and electrical equipment installed after June 30, 1971, shall meet the requirements of the National Electric Code in effect at the time of installation.

Subpart G—Trailing Cables

§ 77.600 Trailing cables; short-circuit protection; disconnecting devices.

Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device, approved by the Secretary, of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

§ 77.601 Trailing cables or portable cables; temporary splices.

Temporary splices in trailing cables or portable cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or portable cables with exposed wires or splices that heat or spark under load shall not be used.

§ 77.602 Permanent splicing of trailing cables.

When permanent splices in trailing cables are made, they shall be:

(a) Mechanically strong with adequate electrical conductivity;

(b) Effectively insulated and sealed so as to exclude moisture; and,

(c) Vulcanized or otherwise made with suitable materials to provide good bonding to the outer jacket.

§ 77.603 Clamping of trailing cables to equipment.

Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections.

§ 77.604 Protection of trailing cables.

Trailing cables shall be adequately protected to prevent damage by mobile equipment.

§ 77.605 Breaking trailing cable and power cable connections.

Trailing cable and power cable connections between cables and to power sources shall not be made or broken under load.

§ 77.606 Energized trailing cables; handling.

Energized medium- and high-voltage trailing cables shall be handled only by persons wearing protective rubber gloves (see § 77.606–1) and, with such other protective devices as may be necessary and appropriate under the circumstances.

§ 77.606–1 Rubber gloves; minimum requirements.

(a) Rubber gloves (lineman's gloves) worn while handling high-voltage trailing cables shall be rated at least 20,000 volts and shall be used and tested in accordance with the provisions of §§ 77.704–6 through 77.704–8.

(b) Rubber gloves (wireman's gloves) worn while handling trailing cables energized by 660 to 1,000 volts shall be rated at least 1,000 volts and shall not be worn inside out or without protective leather gloves.

(c) Rubber gloves shall be inspected for defects before use on each shift and at least once thereafter during the shift when such rubber gloves are used for extended periods. All protective rubber gloves which contain defects shall be discarded and replaced prior to handling energized cables.

Subpart H—Grounding

§ 77.700 Grounding metallic sheaths, armors, and conduits enclosing power conductors.

Metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the Secretary.

§ 77.700–1 Approved methods of grounding.

Metallic sheaths, armors, and conduits in resistance grounded systems, where the enclosed conductors are a part of the system, will be approved if a solid connection is made to the neutral conductor; in all other systems, the following methods of grounding will be approved:

(a) A solid connection to metal waterlines having low resistance to earth;

(b) A solid connection to a grounding conductor, other than the neutral conductor of a resistance grounded system, extending to a low-resistance ground field;

(c) Any other method of grounding, approved by an authorized representative of the Secretary, which ensures that there is no difference in potential between such metallic enclosures and the earth.

§ 77.701 Grounding metallic frames, casings, and other enclosures of electric equipment.

Metallic frames, casings, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded by methods approved by an authorized representative of the Secretary.

§ 77.701–1 Approved methods of grounding of equipment receiving power from ungrounded alternating current power systems.

For purposes of grounding metallic frames, casings and other enclosures of equipment receiving power from ungrounded alternating current power systems, the following methods of grounding will be approved:

(a) A solid connection between the metallic frame; casing, or other metal enclosure and the grounded metallic sheath, armor, or conduit enclosing the power conductor feeding the electric equipment enclosed;

(b) A solid connection to metal waterlines having low resistance to earth;

(c) A solid connection to a grounding conductor extending to a low-resistance ground field; and,

(d) Any other method of grounding, approved by an authorized representative of the Secretary, which insures that there is no difference in potential between such metal enclosures and the earth.

§ 77.701–2 Approved methods of grounding metallic frames, casings, and other enclosures of electric equipment receiving power from a direct-current power system.

(a) The following methods of grounding metallic frames, casings, and other enclosures of electric equipment receiving power from a direct-current power system with one polarity grounded will be approved:

(1) A solid connection to the grounded power conductor of the system; and,

(2) Any other method, approved by an authorized representative of the Secretary, which insures that there is no difference in potential between such metal enclosures and the earth.

(b) A method of grounding of metallic frames, casings, and other enclosures of electric equipment receiving power from a direct-current power system other than a system with one polarity grounded, will be approved by an authorized representative of the Secretary if the method insures that there is no difference in potential between such frames, casings, and other enclosures, and the earth.

§ 77.701–3 Grounding wires; capacity.

Where grounding wires are used to ground metallic sheaths, armors, conduits, frames, casings, and other metallic enclosures, such grounding wires will be approved if:

(a) Where the power conductor used is No. 6 A.W.G., or larger, the cross-sectional area of the grounding wire is at least one-half the cross-sectional area of the power conductor.

(b) Where the power conductor used is less than No. 6 A.W.G., the cross-sectional area of the grounding wire is equal to the cross-sectional area of the power conductor.

§ 77.701–4 Use of grounding connectors.

If ground wires are attached to grounded power conductors, separate clamps, suitable for such purpose, shall be used and installed to provide a solid connection.

§ 77.702 Protection other than grounding.

Methods other than grounding which provide no less effective protection may be permitted by the Secretary or his authorized representative. Such methods may not be used unless so approved.

§ 77.703 Grounding frames of stationary high-voltage equipment receiving power from ungrounded delta systems.

The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

§ 77.703–1 Approved methods of grounding.

The methods of grounding stated in § 77.701–1 will be approved with respect to the grounding of frames of high-voltage equipment referred to in § 77.703.

§ 77.704 Work on high-voltage lines; deenergizing and grounding.

High-voltage lines shall be deenergized and grounded before work is performed on them, except that repairs may be permitted on energized high-voltage lines if (a) such repairs are made by a qualified person in accordance with procedures and safeguards set forth in §§ 77.704–1 through 77.704–11 of this Subpart H as applicable, and (b) the operator has tested and properly maintained the protective devices necessary in making such repairs.

§ 77.704–1 Work on high-voltage lines.

(a) No high-voltage line shall be regarded as deenergized for the purpose of performing work on it, until it has been determined by a qualified person (as provided in § 77.103) that such high-voltage line has been deenergized and grounded. Such qualified person shall by visual observation (1) determine that the disconnecting devices on the high-voltage circuit are in open position, and (2) insure that each ungrounded conductor of the high-voltage circuit upon which work is to be done is properly connected to the system grounding medium. In the case of resistance grounded or solid wye-connected systems, the neutral wire is the system grounding medium. In the case of an ungrounded power system,

either the steel armor or conduit enclosing the system or a surface grounding field is a system grounding medium;

(b) No work shall be performed on any high-voltage line which is supported by any pole or structure which also supports other high-voltage lines until: (1) All lines supported on the pole or structure are deenergized and grounded in accordance with all of the provisions of this § 77.704–1 which apply to the repair of deenergized surface high-voltage lines; or (2) the provisions of §§ 77.704–2 through 77.704–10 have been complied with, with respect to all energized lines, which are supported on the pole or structure.

(c) Work may be performed on energized surface high-voltage lines only in accordance with the provisions of §§ 77.704–2 through 77.704–10, inclusive.

§ 77.704–2 Repairs to energized high-voltage lines.

An energized high-voltage line may be repaired only when:

(a) The operator has determined that:

(1) Such repairs cannot be scheduled during a period when the power circuit could be properly deenergized and grounded;

(2) Such repairs will be performed on power circuits with a phase-to-phase nominal voltage no greater than 15,000 volts;

(3) Such repairs on circuits with a phase-to-phase nominal voltage of 5,000 volts or more will be performed only with the use of live line tools; and,

(4) Weather conditions will not interfere with such repairs or expose those persons assigned to such work to an imminent danger; and,

(b) The operator has designated a person qualified under the provisions of § 77.104 as the person responsible for carrying out such repairs and such person, in order to ensure protection for himself and other qualified persons assigned to perform such repairs from the hazards of such repair, has prepared and filed with the operator:

(1) A general description of the nature and location of the damage or defect to be repaired;

(2) The general plan to be followed in making such repairs;

(3) A statement that a briefing of all qualified persons assigned to make such repairs was conducted informing them of the general plan, their individual assignments, and the dangers inherent in such assignments;

(4) A list of the proper protective equipment and clothing that will be provided; and

(5) Such other information as the person designated by the operator feels necessary to describe properly the means or methods to be employed in such repairs.

§ 77.704–3 Work on energized high-voltage surface lines; reporting.

Any operator designating and assigning qualified persons to perform repairs on energized high-voltage surface lines under the provisions of § 77.704–2 shall maintain a record of such repairs. Such record shall contain a notation of the time, date, location, and general nature of the repairs made together with a copy of the information filed with the operator by the qualified person designated as responsible for performing such repairs.

§ 77.704–4 Simultaneous repairs.

When two or more persons are working on an energized high-voltage surface line simultaneously, and any one of them is within reach of another, such persons shall not be allowed to work on different phases or on equipment with different potentials.

§ 77.704–5 Installation of protective equipment.

Before repair work on energized high-voltage surface lines is begun, protective equipment shall be used to cover all bare conductors, ground wires, guys, telephone lines, and other attachments in proximity to the area of planned repairs. Such protective equipment shall be installed from a safe position below the conductors or other apparatus being covered. Each rubber protective device employed in the making of repairs shall have a dielectric strength of 20,000 volts, or more.

§ 77.704–6 Protective clothing; use and inspection.

All persons performing work on energized high-voltage surface lines shall wear protective rubber lineman's gloves, sleeves, and climber guards if climbers are worn. Protective rubber gloves shall not be worn wrong side out or without protective leather gloves. Protective devices worn by a person assigned to perform repairs on high-voltage surface lines shall be worn continuously from the time he leaves the ground until he returns to the ground and, if such devices are employed for extended periods, such person shall visually inspect the equipment assigned him for defects before each use and, in no case, less than twice each day.

§ 77.704–7 Protective equipment; inspection.

Each person shall visually inspect protective equipment and clothing provided him in connection with work on high-voltage surface lines before using such equipment and clothing, and any equipment or clothing containing any defect or damage shall be discarded and replaced with proper protective equipment or clothing prior to the performance of any electrical work on such lines.

§ 77.704–8 Protective equipment; testing and storage.

(a) All rubber protective equipment used on work on energized high-voltage surface lines shall be electrically tested by the operator in accordance with ASTM standards, Part 28, published February 1968, and such testing shall be conducted in accordance with the following schedule:

(1) Rubber gloves, once each month;

(2) Rubber sleeves, once every 3 months;

(3) Rubber blankets, once every 6 months;

(4) Insulator hoods and line hose, once a year; and

(5) Other electric protective equipment, once a year.

(b) Rubber gloves shall not be stored wrong side out. Blankets shall be rolled when not in use, and line hose, and insulator hoods shall be stored in their natural position and shape.

§ 77.704–9 Operating disconnecting or cutout switches.

Disconnecting or cutout switches on energized high-voltage surface lines shall be operated only with insulated sticks, fuse tongs, or pullers which are adequately insulated and maintained to protect the operator from the voltage to which he is exposed. When such switches are operated from the ground, the person using such devices shall wear protective rubber lineman's gloves, except where such switches are bonded to a metal mat as provided in § 77.513.

§ 77.704–10 Tying into energized high-voltage surface circuits.

If the work of forming an additional circuit by tying into an energized high-voltage surface line is performed from the ground, any person performing such work must wear and employ all of the protective equipment and clothing required under the provisions of §§ 77.704–5 and 77.704–6. In addition, the insulated stick used by such person must have been designed for such purpose and must be adequately insulated and be maintained to protect such person from the voltage to which he is exposed.

§ 77.704–11 Use of grounded messenger wires; ungrounded systems.

Solely for purposes of grounding ungrounded high-voltage power systems, grounded messenger wires used to suspend the cables of such systems may be used as a grounding medium.

§ 77.705 Guy wires; grounding.

Guy wires from poles supporting high-voltage transmission lines shall be securely connected to the system ground or be provided with insulators installed near the pole end.

Subpart I—Surface High-Voltage Distribution

§ 77.800 High-voltage circuits; circuit breakers.

High-voltage circuits supplying power to portable or mobile equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained and equipped with devices to provide protection against under voltage, grounded phase, short circuit and overcurrent. High-voltage circuits supplying power to stationary equipment shall be protected against overloads by either a circuit breaker or fuses of the correct type and capacity.

§ 77.800–1 Testing, examination, and maintenance of circuit breakers; procedures.

(a) Circuit breakers and their auxiliary devices protecting high-voltage circuits to portable or mobile equipment shall be tested and examined at least once each month by a person qualified as provided in § 77.103.

(b) Tests shall include:

(1) Breaking continuity of the ground check conductor where ground check monitoring is used; and,

(2) Actuating any of the auxiliary protective relays.

(c) Examination shall include visual observation of all components of the circuit breaker and its auxiliary devices, and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 77.800–2 Testing, examination, and maintenance of circuit breakers; record.

The operator shall maintain a written record of each test, examination, repair, or adjustment of all circuit breakers protecting high-voltage circuits. Such record shall be kept in a book approved by the Secretary.

§ 77.801 Grounding resistors.

The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

§ 77.801–1 Grounding resistors; continuous current rating.

The ground fault current rating of grounding resistors shall meet the "extended time rating" set forth in American Institute of Electrical Engineers, Standard No. 32.

§ 77.802 Protection of high-voltage circuits; neutral grounding resistors; disconnecting devices.

High-voltage circuits supplying portable or mobile equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit other high-voltage circuits to feed stationary electrical equipment, if, he finds that such exception will not pose a hazard to the miners. Disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

§ 77.803 Fail safe ground check circuits on high-voltage resistance grounded systems.

On and after September 30, 1971, all high-voltage, resistance grounded systems shall include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

§ 77.803–1 Fail safe ground check circuits; maximum voltage.

The maximum voltage used for ground check circuits under § 77.803 shall not exceed 96 volts.

§ 77.803–2 Ground check systems not employing pilot check wires; approval by the Secretary.

Ground check systems not employing pilot check wires shall be approved by the Secretary only if it is determined that the system includes a fail safe design which will cause the circuit interrupter to open when ground continuity is broken.

§ 77.804 High-voltage trailing cables; minimum design requirements.

(a) High-voltage trailing cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated conductor for the ground continuity check circuit. External ground check conductors may be used if they are not smaller than No. 8 (AWG) and have an insulation rated at least 600 volts.

(b) All such high-voltage trailing cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

§ 77.805 Cable couplers and connection boxes; minimum design requirements.

(a) (1) Couplers that are used in medium- or high-voltage power circuits shall be of the three-phase type and enclosed in a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, no less effective couplers constructed of materials other than metal.

(2) Cable couplers shall be adequate for the intended current and voltage.

(3) Cable couplers with any metal exposed shall be grounded to the ground conductor in the cable.

(4) Couplers shall be constructed to cause the ground check continuity conductor to break first and the ground conductor last when being uncoupled when pilot check circuits are used.

(b) Cable connection boxes shall be of substantial construction and designed to guard all energized parts from personal contact.

§ 77.806 Connection of single-phase loads.

Single-phase loads, such as transformer primaries, shall be connected phase to phase in resistance grounded systems.

§ 77.807 Installation of high-voltage transmission cables.

High-voltage transmission cables shall be installed or placed so as to afford protection against damage. They shall be placed to prevent contact with low-voltage or communication circuits.

§ 77.807–1 High-voltage powerlines; clearances above ground.

High-voltage powerlines located above driveways, haulageways, and railroad tracks shall be installed to provide the minimum vertical clearance specified in National Electrical Safety Code: *Provided, however*, That in no event shall any high-voltage powerline be installed less than 15 feet above ground.

§ 77.807–2 Booms and masts; minimum distance from high-voltage lines.

The booms and masts of equipment operated on the surface of any coal mine shall not be operated within 10 feet of an energized overhead powerline. Where the voltage of overhead powerlines is 69,000 volts, or more, the minimum distance from the boom or mast shall be as follows:

Nominal power line voltage (in 1,000 volts)	*Minimum distance (feet)*
69–114	12
115–229	15
230–344	20
345–499	25
500 or more	35

§ 77.807–3 Movement of equipment; minimum distance from high-voltage lines.

When any part of any equipment operated on the surface of any coal mine is required to pass under or by any energized high-voltage powerline and the clearance between such equipment and powerline is less than that specified in § 77.807–2 for booms and masts, such powerlines shall be deenergized or other precautions shall be taken.

§ 77.808 Disconnecting devices.

Disconnecting devices shall be installed at the beginning of each branch line in high-voltage circuits and they shall be equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when such devices are open.

§ 77.809 Identification of circuit breakers and disconnecting switches.

Circuit breakers and disconnecting switches shall be labeled to show which units they control, unless identification can be made readily by location.

§ 77.810 High-voltage equipment; grounding.

Frames, supporting structures, and enclosures of stationary, portable, or

mobile high-voltage equipment shall be effectively grounded.

§ 77.811 Movement of portable substations and transformers.

Portable substations and transformers shall be deenergized before they are moved from one location to another.

Subpart J—Low- and Medium-Voltage Alternating Current Circuits

§ 77.900 Low- and medium-voltage circuits serving portable or mobile three-phase alternating current equipment; circuit breakers.

Low- and medium-voltage circuits supplying power to portable or mobile three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained and equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

§ 77.900–1 Testing, examination, and maintenance of circuit breakers; procedures.

Circuit breakers protecting low- and medium-voltage circuits serving portable or mobile three-phase alternating current equipment and their auxiliary devices shall be tested and examined at least once each month by a person qualified as provided in § 77.103. In performing such tests, the circuit breaker auxiliaries or control circuits shall be actuated in any manner which causes the circuit breaker to open. All components of the circuit breaker and its auxiliary devices shall be visually examined and such repairs or adjustments as are indicated by such tests and examinations shall be carried out immediately.

§ 77.900–2 Testing, examination, and maintenance of circuit breakers; record.

The operator shall maintain a written record of each test, examination, repair or adjustment of all circuit breakers protecting low- and medium-voltage circuits serving three-phase alternating current equipment and such record shall be kept in a book approved by the Secretary.

§ 77.901 Protection of low- and medium-voltage three-phase circuits.

(a) Low- and medium-voltage circuits supplying power to portable or mobile three-phase alternating equipment shall contain:

(1) Either a direct or derived neutral grounded through a suitable resistor at the power source;

(2) A grounding circuit originating at the grounded side of the grounding resistor which extends along with the power conductors and serves as a grounding conductor for the frames of all the electric equipment supplied power from the circuit.

(b) Grounding resistors, where required, shall be of an ohmic value which limits the ground fault current to no more than 25 amperes. Such grounding resistors shall be rated for maximum fault current continuously and provide insulation from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Low- and medium-voltage circuits supplying power to three-phase alternating current stationary electric equipment shall comply with the National Electric Code.

§ 77.901–1 Grounding resistor; continuous current rating.

The ground fault current rating of grounding resistors shall meet the "extended time rating" set forth in American Institute of Electrical Engineers Standard No. 32.

§ 77.902 Low- and medium-voltage ground check monitor circuits.

On and after September 30, 1971, three-phase low- and medium-voltage resistance grounded systems to portable and mobile equipment shall include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken. Cable couplers shall be constructed to cause the ground check continuity conductor to break first and the ground conductor last when being uncoupled when pilot check circuits are used.

§ 77.902–1 Fail safe ground check circuits; maximum voltage.

The maximum voltage used for ground check circuits under § 77.902 shall not exceed 40 volts.

§ 77.902–2 Approved ground check systems not employing pilot check wires.

Ground check systems not employing pilot check wires shall be approved by the Secretary only after it has been determined that the system includes a fail safe design causing the circuit breaker to open when ground continuity is broken.

§ 77.902–3 Attachment of ground conductors and ground check wires to equipment frames; use of separate connections.

In grounding the frames of stationary, portable, or mobile equipment receiving power from resistance grounded systems, separate connections shall be used.

§ 77.903 Disconnecting devices.

Disconnecting devices shall be installed in circuits supplying power to portable or mobile equipment and shall provide visual evidence that the power is disconnected.

§ 77.904 Identification of circuit breakers.

Circuit breakers shall be labeled to show which circuits they control unless identification can be made readily by location.

§ 77.905 Connection of single-phase loads.

Single-phase loads shall be connected phase-to-phase in resistance grounded systems.

§ 77.906 Trailing cables supplying power to low-voltage mobile equipment; ground wires and ground check wires.

On and after September 30, 1971, all trailing cables supplying power to portable or mobile equipment from low-voltage three-phase resistance grounded power systems shall contain one or more ground conductors having a cross-sectional area of not less than one-half the power conductor. Such trailing cables shall include an insulated conductor for the ground continuity check circuit except where a no less effective device has been approved by the Secretary to assure continuity. Splices made in low-voltage trailing cables shall provide continuity of all components.

Subpart K—Ground Control

§ 77.1000 Highwalls, pits and spoil banks; plans.

Each operator shall establish and follow a ground control plan for the safe control of all highwalls, pits and spoil banks to be developed after June 30, 1971, which shall be consistent with prudent engineering design and will insure safe working conditions. The mining methods employed by the operator shall be selected to insure highwall and spoil bank stability.

§ 77.1000–1 Filing of plan.

The operator shall file a copy of such plan, and revisions thereof, with the Coal Mine Health and Safety District of Subdistrict office for the District or Subdistrict in which the mine is located, and shall identify the name and location of the mine; the Bureau of Mines identification number if known; and the name and address of the mine operator.

§ 77.1001 Stripping; loose material.

Loose hazardous material shall be stripped for a safe distance from the top of pit or highwalls, and the loose unconsolidated material shall be sloped to the angle of repose, or barriers, baffle boards, screens, or other devices be provided that afford equivalent protection.

§ 77.1002 Box cuts; spoil material placement.

When box cuts are made, necessary precautions shall be taken to minimize the possibility of spoil material rolling into the pit.

§ 77.1003 Benches.

To insure safe operation, the width and height of benches shall be governed by the type of equipment to be used and the operation to be performed.

§ 77.1004 Ground control; inspection and maintenance; general.

(a) Highwalls, banks, benches, and terrain sloping into the working areas shall be examined after every rain, freeze, or thaw before men work in such areas, and such examination shall be made and recorded in accordance with § 77.1713.

(b) Overhanging highwalls and banks shall be taken down and other unsafe ground conditions shall be corrected promptly, or the area shall be posted.

§ 77.1005 Scaling highwalls; general.

(a) Hazardous areas shall be scaled before any other work is performed in the hazardous area. When scaling of highwalls is necessary to correct conditions that are hazardous to persons in the area, a safe means shall be provided for performing uch work.

(b) Whenever it becomes necessary for safety to remove hazardous material from highwalls by hand, the hazardous material shall be approached from a safe direction and the material removed from a safe location.

§ 77.1006 Highwalls; men working.

(a) Men, other than those necessary to correct unsafe conditions, shall not work near or under dangerous highwalls or banks.

(b) Except as provided in paragraph (c) of this section, men shall not work between equipment and the highwall or spoil bank where the equipment may hinder escape from falls or slides.

(c) Special safety precautions shall be taken when men are required to perform repair work between immobilized equipment and the highwall or spoil bank and such equipment may hinder escape from falls or slides.

§ 77.1007 Drilling; general.

(a) Equipment that is to be used during a shift shall be inspected each shift by a competent person. Equipment defects affecting safety shall be reported.

(b) Equipment defects affecting safety shall be corrected before the equipment is used.

§ 77.1008 Relocation of drills; safeguards.

(a) When a drill is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast placed in a safe position.

(b) When a drill helper is used his location shall be made known to the operator at all times when the drill is being moved.

§ 77.1009 Drill; operation.

(a) While in operation drills shall be attended at all times.

(b) Men shall not drill from positions that hinder their access to the control levers, or from insecure footing or staging, or from atop equipment not designed for this purpose.

(c) Men shall not be on a mast while the drill bit is in operation unless a safe platform is provided and safety belts are used.

(d) Drill crews and others shall stay clear of augers or drill stems that are in motion. Persons shall not pass under or step over a moving stem or auger.

(e) In the event of power failure, drill controls shall be placed in the neutral position until power is restored.

(f) When churn drills or vertical rotary drills are used, drillers shall not be permitted to work under suspended tools, and when collaring holes, inspecting, or during any operation in which tools are removed from the hole, all tools shall be lowered to the ground or platform.

§ 77.1010 Collaring holes.

(a) Starter steels shall be used when collaring holes with hand-held drills.

(b) Men shall not hold the drill steel while collaring hoes, or rest their hands on the chuck or centralizer while drilling.

§ 77.1011 Drill holes; guarding.

Drill holes large enough to constitute a hazard shall be covered or guarded.

§ 77.1012 Jackhammers; operation; safeguards.

Men operating or working near jackhammers or jackleg drills, or other drilling machines shall position themselves so that they will not be struck or lose their balance if the drill steel breaks or sticks.

§ 77.1013 Air drills; safeguards.

Air shall be turned off and bled from the air hoses before hand-held air drills are moved from one working area to another.

Subpart L—Fire Protection

§ 77.1100 Fire protection; training and organization.

Firefighting facilities and equipment shall be provided commensurate with the potential fire hazards at each structure, enclosure and other facility (including custom coal preparation) at the mine and the employees at such facilities shall be instructed and trained annually in the use of such firefighting facilities and equipment.

§ 77.1101 Escape and evacuation; plan.

(a) Before June 30, 1971, each operator of a mine shall establish and keep current a specific escape and evacuation plan to be followed in the event of a fire.

(b) All employees shall be instructed on current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire.

(c) Plans for escape and evacuation shall include the designation and proper maintenance of adequate means for exit from all areas where persons are required to work or travel including buildings and equipment and in areas where persons normally congregate during the work shift.

§ 77.1102 Warning signs; smoking and open flame.

Signs warning against smoking and open flames shall be posted so they can be readily seen in areas or places where fire or explosion hazards exist.

§ 77.1103 Flammable liquids; storage.

(a) Flammable liquids shall be stored in accordance with standards of the National Fire Protection Association. Small quantities of flammable liquids drawn from storage shall be kept in properly identified safety cans.

(b) Unburied flammable-liquid storage tanks shall be mounted securely on firm foundations. Outlet piping shall be provided with flexible connections or other special fittings to prevent adverse effects from tank settling.

(c) Fuel lines shall be equipped with valves to cut off fuel at the source and shall be located and maintained to minimize fire hazards.

(d) Areas surrounding flammable-liquid storage tanks and electric substations and transformers shall be kept free from grass (dry), weeds, underbrush, and other combustible materials such as trash, rubbish, leaves and paper, for at least 25 feet in all directions.

§ 77.1104 Accumulations of combustible materials.

Combustible materials, grease, lubricants, paints, or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

§ 77.1105 Internal combustion engines; fueling.

Internal combustion engines, except diesels, shall be shut off and stopped before being fueled.

§ 77.1106 Battery-charging stations; ventilation.

Battery-charging stations shall be located in well-ventilated areas. Battery-charging stations shall be equipped with reverse current protection where such stations are connected directly to direct current power systems.

§ 77.1107 Belt conveyors.

Belt conveyors in locations where fire would create a hazard to personnel shall be provided with switches to stop the drive pulley automatically in the event of excessive slippage.

§ 77.1108 Firefighting equipment; requirements; general.

On and after June 30, 1971, each operator of a coal mine shall provide an adequate supply of firefighting equipment which is adapted to the size and suitable for use under the conditions present on the surface at the mine.

§ 77.1108–1 Type and capacity of firefighting equipment.

Firefighting equipment required under this § 77.1108 shall meet the following minimum requirements:

(a) *Waterlines.* Waterlines shall be capable of delivering 50 gallons of water a minute at a nozzle pressure of 50 pounds per square inch. Where storage tanks are used as a source of water supply, the tanks shall be of 1,000-gallon capacity for each 1,000 tons of coal processed (average) per shift.

(b) *Fire extinguishers.* Fire extinguishers shall be:

(1) Of the appropriate type for the particular fire hazard involved;

(2) Adequate in number and size for the particular fire hazard involved;

(3) Replaced immediately with fully discharged extinguishers after any discharge is made from an extinguisher; and

(4) Approved by the Underwriter's Laboratories, Inc., or the Factory Mutual Research Corp., or other competent testing agency acceptable to the Bureau of Mines.

(c) *Fire hose.* Fire hose and couplings shall meet the requirements of the

Underwriter's Laboratories, Inc., or Factory Mutual Research Corp.'s specifications. Cotton or cotton-polyester jacketed hose shall be treated in accordance with the U.S. Department of Agriculture Forest Service Specification 182 for mildew resistance. The water pressure at the hose nozzle shall not be excessively high so as to present a hazard to the nozzle operator.

§ 77.1109 Quantity and location of firefighting equipment.

Preparation plants, dryer plants, tipples, drawoff tunnels, shops, and other surface installations shall be equipped with the following firefighting equipment.

(a) Each structure presenting a fire hazard shall be provided with portable fire extinguishers commensurate with the potential fire hazard at the structure in accordance with the recommendations of the National Fire Protection Association.

(b) Preparation plants shall be equipped with waterlines, with outlet valves on each floor, and with sufficient fire hose to project a water stream to any point in the plant. However, where freezing conditions exist or water is not available, a 125-pound multipurpose dry powder extinguisher may be substituted for the purposes of this paragraph (b) for each 2,500 square feet of floor space in a wooden or other flammable structure, or for each 5,000 square feet of floor space in a metal, concrete-block, or other type of nonflammable construction.

(c)(1) Mobile equipment, including trucks, front-end loaders, bulldozers, portable welding units, and augers, shall be equipped with at least one portable fire extinguisher.

(2) Power shovels, draglines, and other large equipment shall be equipped with at least one portable fire extinguisher; however, additional fire extinguishers may be required by an authorized representative of the Secretary.

(3) Auxiliary equipment such as portable drills, sweepers, and scrapers, when operated more than 600 feet from equipment required to have portable fire extinguishers, shall be equipped with at least one fire extinguisher.

(d) Fire extinguishers shall be provided at permanent electrical installations commensurate with the potential fire hazard at such installation in accordance with the recommendations of the National Fire Protection Association.

(e) Two portable fire extinguishers, or the equivalent, shall be provided at each of the following combustible liquid storage installations:

(1) Near each above ground or unburied combustible liquid storage station; and,

(2) Near the transfer pump of each buried combustible liquid storage tank.

(f) Vehicles transporting explosives and blasting agents shall be equipped with fire protection as recommended in Code 495, section 20, National Fire Protection Association Handbook, 12th Edition, 1962.

§ 77.1110 Examination and maintenance of firefighting equipment.

Firefighting equipment shall be continuously maintained in a usable and operative condition. Fire extinguishers shall be examined at least once every 6 months and the date of such examination shall be recorded on a permanent tag attached to the extinguisher.

§ 77.1111 Welding, cutting, soldering; use of fire extinguisher.

One portable fire extinguisher shall be provided at each location where welding, cutting, or soldering with arc or flame is performed.

§ 77.1112 Welding, cutting, or soldering with arc or flame; safeguards.

(a) When welding, cutting, or soldering with arc or flame near combustible materials, suitable precautions shall be taken to insure that smoldering metal or sparks do not result in a fire.

(b) Before welding, cutting, or soldering is performed in areas likely to contain methane, an examination for methane shall be made by a qualified person with a device approved by the Secretary for detecting methane. Examinations for methane shall be made immediately before and periodically during welding, cutting, or soldering and such work shall not be permitted to commence or continue in air which contains 1.0 volume per centum or more of methane.

Subpart M—Maps

§ 77.1200 Mine map.

The operator shall maintain an accurate and up-to-date map of the mine, on a scale of not less than 100 nor more than 500 feet to the inch, at or near the mine, in an area chosen by the mine operator, with a duplicate copy on file at a separate and distinct location, to minimize the danger of destruction by fire or other hazard. The map shall show:

(a) Name and address of the mine;

(b) The property or boundary lines of the active areas of the mine;

(c) Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed 25-foot elevation levels, except that a broader spacing of contour lines may be approved by the District Manager for steeply pitching coalbeds. Contour lines may be placed on overlays or tracings attached to mine maps.

(d) The general elevation of the coalbed or coalbeds being mined, and the general elevation of the surface;

(e) Either producing or abandoned oil and gas wells located on the mine property;

(f) The location and elevation of any body of water dammed or held back in any portion of the mine: *Provided, however,* Such bodies of water may be shown on overlays or tracings attached to the mine maps;

(g) All prospect drill holes that penetrate the coalbed or coalbeds being mined on the mine property;

(h) All auger and strip mined areas of the coalbed or coalbeds being mined on the mine property together with the line of maximum depth of holes drilled during auger mining operations.

(i) All worked out and abandoned areas;

(j) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown;

(k) Underground mine workings underlying and within 1,000 feet of the active areas of the mine;

(l) The location and description of at least two permanent base line points, and the location and description of at least two permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys; and,

(m) The scale of the map.

§ 77.1201 Certification of mine maps.

Mine maps shall be made or certified by an engineer or surveyor registered by the State in which the mine is located.

§ 77.1202 Availability of mine map.

The mine map maintained in accordance with the provisions of § 77.1200 shall be available for inspection by the Secretary or his authorized representative.

Subpart N—Explosives and Blasting

§ 77.1300 Explosives and blasting.

(a) No explosives, blasting agent, detonator, or any other related blasting device or material shall be stored, transported, carried, handled, charged, fired, destroyed, or otherwise used, employed or disposed of by any person at a coal mine except in accordance with the provisions of §§ 77.1301 through 77.1304, inclusive.

(b) The term "explosives" as used in this Subpart N includes blasting agents. The standards in this Subpart N in which the term "explosives" appears are applicable to blasting agents (as well as to other explosives) unless blasting agents are expressly excluded.

§ 77.1301 Explosives; magazines.

(a) Detonators and explosives other than blasting agents shall be stored in magazines.

(b) Detonators shall not be stored in the same magazine with explosives.

(c) Magazines other than box type shall be:

(1) Located in accordance with the current American Table of Distances for storage of explosives.

(2) Detached structures located away from powerlines, fuel storage areas, and other possible sources of fire.

(3) Constructed substantially of noncombustible material or covered with fire-resistant material.

(4) Reasonably bullet resistant.

(5) Electrically bonded and grounded if constructed of metal.

(6) Made of nonsparking materials on the inside, including floors.

(7) Provided with adequate and effectively screened ventilation openings near the floor and ceiling.

(8) Kept locked securely when unattended.

(9) Posted with suitable danger signs so located that a bullet passing through the face of a sign will not strike the magazine.

(10) Used exclusively for storage of explosives or detonators and kept free of all extraneous materials.

(11) Kept clean and dry in the interior, and in good repair.

(12) Unheated, unless heated in a manner that does not create a fire or explosion hazard.

(d) Box-type magazines used to store explosives or detonators in work areas shall be constructed with only nonsparking material inside and equipped with covers or doors and shall be located out of the line of blasts.

(e) Secondary and box-type magazines shall be suitably labeled.

(f) Detonator-storage magazines shall be separated by at least 25 feet from explosive-storage magazines.

(g) Cases or boxes containing explosives shall not be stored in magazines on their ends or sides nor stacked more than 6 feet high.

(h) Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

§ 77.1302 Vehicles used to transport explosives.

(a) Vehicles used to transport explosives, other than blasting agents, shall have substantially constructed bodies, no sparking metal exposed in the cargo space, and shall be equipped with suitable sides and tail gates; explosives shall not be piled higher than the side or end.

(b) Vehicles containing explosives or detonators shall be maintained in good condition and shall be operated at a safe speed and in accordance with all safe operating practices.

(c) Vehicles containing explosives or detonators shall be posted with proper warning signs.

(d) Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured nonsparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

(e) Explosives and detonators shall be transported in separate vehicles unless separated by 4 inches of hardwood or the equivalent.

(f) Explosives or detonators shall be transported promptly without undue delays in transit.

(g) Explosives or detonators shall be transported at times and over routes that expose a minimum number of persons.

(h) Only the necessary attendants shall ride on or in vehicles containing explosives or detonators.

(i) Vehicles shall be attended, whenever practical and possible, while loaded with explosives or detonators.

(j) When vehicles containing explosives or detonators are parked, the brakes shall be set, the motive power shut off, and the vehicles shall be blocked securely against rolling.

(k) Vehicles containing explosives or detonators shall not be taken to a repair garage or shop for any purpose.

§ 77.1303 Explosives, handling and use.

(a) Persons who use or handle explosives or detonators shall be experienced men who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced men.

(b) Blasting operations shall be under the direct control of authorized persons.

(c) Substantial nonconductive closed containers shall be used to carry explosives, other than blasting agents to the blasting site.

(d) Damaged or deteriorated explosives or detonators shall be destroyed in a safe manner.

(e) Where electric blasting is to be performed, electric circuits to equipment in the immediate area to be blasted shall be deenergized before explosives or detonators are brought into the area; the power shall not be turned on again until after the shots are fired.

(f) Explosives shall be kept separated from detonators until charging is started.

(g) Areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged against unauthorized entry.

(h) Ample warning shall be given before blasts are fired. All persons shall be cleared and removed from the blasting area unless suitable blasting shelters are provided to protect men endangered by concussion or flyrock from blasting.

(i) Lead wires and blasting lines shall not be strung across power conductors, pipelines, railroad tracks, or within 20 feet of bare powerlines. They shall be protected from sources of static or other electrical contact.

(j) For the protection of underground workers, special precautions shall be taken when blasting in close proximity to underground operations, and no blasting shall be done that would be hazardous to persons working underground.

(k) Holes shall not be drilled where there is danger of intersecting a charged or misfired hole.

(l) Only wooden or other nonsparking implements shall be used to punch holes in an explosive cartridge.

(m) Tamping poles shall be blunt and squared at one end and made of wood, nonsparking material, or of special plastic acceptable to the Bureau of Mines.

(n) Delay connectors for firing detonating cord shall be treated and handled with the same safety precautions as blasting caps and electric detonators.

(o) Capped primers shall be made up at the time of charging and as close to the blasting site as conditions allow.

(p) A capped primer shall be prepared so that the detonator is contained securely and is completely embedded within the explosive cartridge.

(q) No tamping shall be done directly on a capped primer.

(r) Detonating cord shall not be used if it has been kinked, bent, or otherwise handled in such a manner that the train of detonation may be interrupted.

(s) Fuse shall not be used if it has been kinked, bent sharply, or handled roughly in such a manner that the train of deflagration may be interrupted.

(t) Blasting caps shall be crimped to fuses only with implements designed for that specific purpose.

(u) When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the following table for a particular size round:

Number of holes in a round	*Minimum burning time, minutes*
1	2
2–5	2⅔
6–10	3⅓
11–15	5

In no case shall any 40-second-per-foot safety fuse less than 36 inches long or any 30-second-per-foot safety fuse less than 48 inches long be used.

(v) The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all men concerned with blasting.

(w) Electric detonators of different brands shall not be used in the same round.

(x) Adequate priming shall be employed to guard against misfires, increased toxic fumes, and poor performance.

(y) Except when being tested with a blasting galvanometer:

(1) Electric detonators shall be kept shunted until they are being connected to the blasting line or wired into a blasting round.

(2) Wired rounds shall be kept shunted until they are being connected to the blasting line.

(3) Blasting lines shall be kept shunted until immediately before blasting.

(z) Completely wired rounds shall be tested with a blasting galvanometer before connections are made to the blasting line.

(aa) Permanent blasting lines shall be properly supported, insulated, and kept in good repair.

(bb) At least a 5-foot airgap shall be provided between the blasting circuit and the power circuit.

(cc) When instantaneous blasting is performed, the double-trunkline or loop system shall be used in detonating-cord blasting.

(dd) When instantaneous blasting is performed, trunklines, in multiple-row blasts, shall make one or more complete loops, with crossties between loops at intervals of not over 200 feet.

(ee) All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunklines.

(ff) Power sources shall be suitable for the number of electrical detonators to be fired and for the type of circuits used.

(gg) Electric circuits from the blasting switches to the blast area shall not be grounded.

(hh) Safety switches and blasting switches shall be labeled, encased in boxes, and arranged so that the covers of the boxes cannot be closed with the switches in the through-circuit or firing position.

(ii) Blasting switches shall be locked in the open position, except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

(jj) The key or other control to an electrical firing device shall be entrusted only to the person designated to fire the round or rounds.

(kk) If branch circuits are used when blasts are fired from power circuits, safety switches located at safe distances from the blast areas shall be provided in addition to the main blasting switch.

(ll) Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in that blasting area.

(mm) When safety fuse has been used, men shall not return to misfired holes for at least 30 minutes.

(nn) When electric blasting caps have been used, men shall not return to misfired holes for at least 15 minutes.

(oo) If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one should return to the hole until the danger has passed, but in no case within 1 hour.

(pp) Blasted areas shall be examined for undetonated explosives after each blast and undetonated explosives found shall be disposed of safely.

(qq) Blasted areas shall not be reentered by any person after firing until such time as concentrations of smoke, dust, or fumes have been reduced to safe limits.

(rr) In secondary blasting, if more than one shot is to be fired at one time, blasting shall be done electrically or with detonating cord.

(ss) Unused explosives and detonators shall be moved to a safe location as soon as charging operations are completed.

(tt) When electric detonators are used, charging shall be stopped immediately when the presence of static electricity or stray currents is detected; the condition shall be remedied before charging is resumed.

(uu) When electric detonators are used, charging shall be suspended and men withdrawn to a safe location upon the approach of an electrical storm.

§ 77.1304 Blasting agents; special provisions.

(a) Sensitized ammonium nitrate blasting agents, and the components thereof prior to mixing, shall be mixed and stored in accordance with the recommendations in Bureau of Mines Information Circular 8179, "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," or subsequent revisions.

(b) Where pneumatic loading is employed, before any type of blasting operation using blasting agents is put into effect, an evaluation of the potential hazard of static electricity shall be made. Adequate steps, including the grounding and bonding of the conductive parts of pneumatic loading equipment, shall be taken to eliminate the hazard of static electricity before blasting agent use is commenced.

(c) Pneumatic loading equipment shall not be grounded to waterlines, airlines, rails, or the permanent electrical grounding systems.

(d) Hoses used in connection with pneumatic loading machines shall be of the semiconductive type, having a total resistance low enough to permit the dissipation of static electricity and high enough to limit the flow of stray electric currents to a safe level. Wire-countered hose shall not be used because of the potential hazard from stray electric currents.

Subpart O—Man Hoisting

§ 77.1400 Man hoists and elevators.

The standards set forth in this Subpart O, apply only to hoists and elevators, together with their appurtenances, that are used for hoisting men.

§ 77.1401 Automatic controls and brakes.

Hoists and elevators shall be equipped with overspeed, overwind, and automatic stop controls and with brakes capable of stopping the elevator when fully loaded.

§ 77.1402 Rated capacity.

Hoists and elevators shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes and cables used.

§ 77.1402–1 Ropes and cables; specifications.

The American National Standards Institute "Specifications for the Use of Wire Ropes for Mines," M 11.1–1960, or the latest revision thereof, shall be used as a guide in the use, selection, installation, and maintenance of wire ropes used for hoisting.

§ 77.1402–2 Maximum load; posting.

The operator shall designate the maximum number of men permitted to ride on each hoist or elevator at one time; this limit shall be posted on each elevator and on each landing.

§ 77.1403 Inspection and maintenance.

(a) Hoists and elevators shall be examined daily and such examinations shall include, but not be limited to, the following:

(1) A visual examination of the rope for wear, broken wires, and corrosion, especially at excessive strain points;

(2) An examination of the rope fastenings for defects;

(3) An examination of the elevator for loose, missing, or defective parts;

(4) An examination of sheaves for broken flanges, defective bearings, rope alignment, and proper lubrication; and

(5) An examination of the automatic controls and brakes required under § 77.1401.

(b) A report of the daily examinations shall be signed by the person making such examination and the report shall be signed or countersigned by any of the persons listed in paragraph (d) of § 77.1713.

(c) Empty conveyances shall be operated at least one round trip before hoisting men after any repairs.

(d) Alterations or changes in a hoist or elevator which might affect its rated capacity shall be made only with the approval of the Coal Mine Health and Safety District Manager or Subdistrict Manager of the district in which the mine is located.

(e) The ropes and cables of hoists and elevators shall be kept well lubricated from end to end as recommended by the manufacturer.

Subpart P—Auger Mining

§ 77.1500 Auger mining; planning.

Auger mining shall be planned and conducted by the operator to insure against any hazard to underground workings located at or near such auger operations and all auger holes shall be located so as to prevent:

(a) The disruption of the ventilation system of any active underground mine;

(b) Inundation hazards from surface water entering any active underground mine;

(c) Damage to the roof and ribs of active underground workings; and

(d) Intersection of auger holes with underground mine workings known to contain dangerous quantities of impounded water.

§ 77.1501 Auger mining; inspections.

(a) The face of all highwalls, to a distance of 25 feet on both sides of each drilling site, shall be inspected by a certified person before any augering operation is begun, and at least once during each coal producing shift and all loose material shall be removed from the drilling site before persons are permitted to enter the drilling area. The results of all such inspections shall be recorded daily in a book approved by the Secretary.

(b) In addition, the face of all highwalls, to a distance of 25 feet on both sides of each drilling site, shall be inspected frequently by a certified person during any auger operation conducted either during or after a heavy rainfall or during any period of intermittent freezing and thawing and the results of such inspections shall be recorded as provided in paragraph (a) of this section.

(c) When an auger hole penetrates an abandoned or mined out area of an underground mine, tests for methane and oxygen deficiency shall be made at the collar of the hole by a qualified person using devices approved by the Secretary to determine if dangerous quantities of methane or oxygen-deficient air are present or being emitted. If such is found no further work shall be performed until the atmosphere has been made safe.

(d) Tests for oxygen deficiency shall be conducted with a permissible flame safety lamp or other means approved by the Secretary and all tests for methane shall be conducted with a methane detector approved by the Secretary.

(e) Internal combustion engines shall not be operated in the vicinity of any auger hole in which tests for methane or oxygen deficiency are being made.

§ 77.1502 Auger holes; restriction against entering.

No person shall be permitted to enter an auger hole except with the approval of the Coal Mine Health and Safety District Manager or Subdistrict Manager of the district in which the mine is located and under such conditions as may be prescribed by such managers.

§ 77.1503 Augering equipment; overhead protection.

(a) Auger machines which are exposed to highwall hazards, together with all those parts of any coal elevating conveyors where persons are required to work during augering operations, shall be covered with heavy gauge screen which does not obstruct the view of the highwall and is strong enough to prevent injuries to workmen from falling material.

(b) No work shall be done under any overhang and, when a crew is engaged in connecting or disconnecting auger sections under a highwall, at least one person shall be assigned to observe the highwall for possible movement.

§ 77.1504 Auger equipment; operation.

(a) Persons shall be kept clear of the auger train while it is in motion and shall not be permitted to pass under or over an auger train, except where adequate crossing facilities are provided.

(b) Persons shall be kept clear of auger sections being swung into position.

(c) No person, including the auger machine operator, shall, where practicable, be stationed in direct line with a borehole during augering operations.

(d) Operator of auger equipment shall not leave the controls of such equipment while the auger is in operation.

(e) Adequate illumination shall be provided for work areas after dark.

§ 77.1505 Auger holes; blocking.

Auger holes shall be blocked with highwall spoil or other suitable material before they are abandoned.

Subpart Q—Loading and Haulage

§ 77.1600 Loading and haulage; general.

(a) Only authorized persons shall be permitted on haulage roads and at loading or dumping locations.

(b) Traffic rules, signals, and warning signs shall be standardized at each mine and posted.

(c) Where side or overhead clearances on any haulage road or at any loading or dumping location at the mine are hazardous to mine workers, such areas shall be conspicuously marked and warning devices shall be installed when necessary to insure the safety of the workers.

§ 77.1601 Transportation of persons; restrictions.

No person shall be permitted to ride or be otherwise transported on or in the following equipment whether loaded or empty:

(a) Dippers, shovels, buckets, forks, and clamshells;

(b) The cargo space of dump trucks or haulage equipment used to transport coal or other material;

(c) Outside the cabs and beds of mobile equipment;

(d) Chain, belt, or bucket conveyors, except where such conveyors are specifically designed to transport persons; and

(e) Loaded buckets on aerial tramways.

§ 77.1602 Use of aerial tramways to transport persons.

Persons other than maintenance men shall not ride empty buckets on aerial tramways unless the following features are provided:

(a) Two independent brakes, each capable of holding the maximum load.

(b) Direct communication between terminals.

(c) Power drives with emergency power available in case of primary power failure.

(d) Buckets equipped with positive locks to prevent accidental tripping or dumping.

§ 77.1603 Trains and locomotives; authorized persons.

(a) Only authorized persons shall be permitted to ride on trains or locomotives and they shall ride in a safe position.

(b) Men shall not get on or off moving equipment, except that trainmen may get on or off of slowly moving trains.

§ 77.1604 Transportation of persons; overcrowding.

(a) No man-trip vehicle or other conveyance used to transport persons to and from work areas at surface coal mines shall be overcrowded and all persons shall ride in a safe position.

(b) Supplies, materials, and tools other than small handtools shall not be transported with men in man-trip vehicles unless such vehicles are specifically designed to make such transportation safe.

§ 77.1605 Loading and haulage equipment; installations.

(a) Cab windows shall be of safety glass or equivalent, in good condition and shall be kept clean.

(b) Mobile equipment shall be equipped with adequate brakes, and all trucks and front-end loaders shall also be equipped with parking brakes.

(c) Positive-action type brakes shall be provided on aerial tramways.

(d) Mobile equipment shall be provided with audible warning devices. Lights shall be provided on both ends when required.

(e) Guard nets or other suitable protection shall be provided where tramways pass over roadways, walkways, or buildings.

(f) Guards shall be installed to prevent swaying buckets from hitting towers.

(g) Aerial tramway cable connections shall be designed to offer minimum obstruction to the passage of wheels.

(h) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices, or other suitable devices.

(i) Ramps and dumps shall be of solid construction, of ample width, have ample clearance and headroom, and be kept reasonably free of spillage.

(j) Chute-loading installations shall be designed so that the men pulling chutes are not required to be in a hazardous position during loading operations.

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

(l) Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel and overturning at dumping locations.

(m) Roadbeds, rails, joints, switches, frogs, and other elements on railroads shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage.

(n) Where practicable, a minimum of 30 inches continuous clearance from the farthest projection of moving railroad equipment shall be provided on at least one side of the tracks; all places where it is not possible to provide 30-inch clearance shall be marked conspicuously.

(o) Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

(p) Positive-acting stop-blocks, derail devices, track skates, or other adequate means shall be installed wherever necessary to protect persons from runaway or moving railroad equipment.

(q) Switch throws shall be installed so as to provide adequate clearance for switchmen.

(r) Where necessary, bumper blocks or the equivalent shall be provided at all track dead ends.

§ 77.1606 Loading and haulage equipment; inspection and maintenance.

(a) Mobile loading and haulage equipment shall be inspected by a competent person before such equipment is placed in operation. Equipment defects affecting safety shall be recorded and reported to the mine operator.

(b) Carriers on aerial tramways, including loading and unloading mechanisms, shall be inspected each shift; brakes shall be inspected daily; ropes and supports shall be inspected as recommended by the manufacturer or as physical conditions warrant. Equipment defects affecting safety shall be reported to the mine operator.

(c) Equipment defects affecting safety shall be corrected before the equipment is used.

§ 77.1607 Loading and haulage equipment; operation.

(a) Vehicles shall follow at a safe distance; passing shall be limited to areas of adequate clearance and visibility.

(b) Mobile equipment operators shall have full control of the equipment while it is in motion.

(c) Equipment operating speeds shall be prudent and consistent with conditions of roadway, grades, clearance, visibility, traffic, and the type of equipment used.

(d) Cabs of mobile equipment shall be kept free of extraneous materials.

(e) Operators shall sit facing the direction of travel while operating equipment with dual controls.

(f) When an equipment operator is present, men shall notify him before getting on or off equipment.

(g) Equipment operators shall be certain, by signal or other means, that all persons are clear before starting or moving equipment.

(h) Where possible, aerial tramways shall not be started until the tramway operator has ascertained that everyone is in the clear.

(i) Dust control measures shall be taken where dust significantly reduces visibility of equipment operators.

(j) Dippers, buckets, loading booms, or heavy suspended loads shall not be swung over the cabs of haulage vehicles until the drivers are out of the cabs and in safe locations, unless the trucks are designed specifically to protect the drivers from falling material.

(k) Men shall not work or pass under the buckets or booms of loaders in operation.

(l) Tires shall be deflated before repairs on them are started and adequate means shall be provided to prevent wheel locking rims from creating a hazard during tire inflation.

(m) Electrically powered mobile equipment shall not be left unattended unless the master switch is in the off position, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken against rolling.

(n) Mobile equipment shall not be left unattended unless the brakes are set. The wheels shall be turned into a bank or berm, or shall be blocked, when such equipment is parked on a grade.

(o) Lights, flares, or other warning devices shall be posted when parked equipment creates a hazard to vehicular traffic.

(p) Dippers, buckets, scraper blades, and similar movable parts shall be secured or lowered to the ground when not in use.

(q) Shovel trailing cables shall not be moved with the shovel dipper unless cable slings or sleds are used.

(r) Equipment which is to be hauled shall be loaded and protected so as to prevent sliding or spillage.

(s) When moving between work areas, the equipment shall be secured in the travel position.

(t) Any load extending more than 4 feet beyond the rear of the vehicle body should be marked clearly with a red flag by day and a red light at night.

(u) Tow bars shall be used to tow heavy equipment and a safety chain shall be used in conjunction with each tow bar.

(v) Railroad cars shall be kept under control at all times by the car dropper. Cars shall be dropped at a safe rate and in a manner that will insure that the car dropper maintains a safe position while working and traveling around the cars.

(w) Railroad cars shall not be coupled or uncoupled manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from coupling or uncoupling cars from inside of curves.

(x) Persons shall wear safety belts when dropping railroad cars.

(y) Railcars shall not be left on sidetracks unless ample clearance is provided for traffic on adjacent tracks.

(z) Parked railcars, unless held effectively by brakes, shall be blocked securely.

(aa) Railroad cars and all trucks shall be trimmed properly when they have been loaded higher than the confines of their cargo space.

(bb) When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible or visible warning system shall be installed and operated to warn persons that the conveyor will be started.

(cc) Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length.

(dd) Adequate backstops or brakes shall be installed on inclined-conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel would be caused.

(ee) Aerial tram conveyor buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

§ 77.1608 Dumping facilities.

(a) Dumping locations and haulage roads shall be kept reasonably free of water, debris, and spillage.

(b) Where the ground at a dumping place may fail to support the weight of a loaded dump truck, trucks shall be dumped a safe distance back from the edge of the bank.

(c) Adequate protection shall be provided at dumping locations where persons may be endangered by falling material.

(d) Grizzlies, grates, and other sizing devices at dump and transfer points shall be anchored securely in place.

(e) If truck spotters are used, they shall be well in the clear while trucks are backing into dumping position and dumping; lights shall be used at night to direct trucks.

Subpart R—Miscellaneous

§ 77.1700 Communications in work areas.

No employee shall be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

§ 77.1701 Emergency communications; requirements.

(a) Each operator of a surface coal mine shall establish and maintain a communication system from the mine to the nearest point of medical assistance for use in an emergency.

(b) The emergency communication system required to be maintained under paragraph (a) of this section may be established by telephone or radio transmission or by any other means of prompt communication to any facility (for example, the local sheriff, the State highway patrol, or local hospital) which has available the means of communication with the person or persons providing emergency medical assistance or transportation in accordance with the provisions of paragraph (a) of this section.

§ 77.1702 Arrangements for emergency medical assistance and transportation for injured persons; reporting requirements; posting requirements.

(a) Each operator of a surface coal mine shall make arrangements with a licensed physician, medical service, medical clinic, or hospital to provide 24-hour emergency medical assistance for any person injured at the mine.

(b) Each operator shall make arrangements with an ambulance service, or otherwise provide for 24-hour emergency transportation for any person injured at the mine.

(c) Each operator shall, on or before June 30, 1971, report to the Coal Mine Health and Safety District Manager for the district in which the mine is located the name, title and address of the physician, medical service, medical clinic, hospital, or ambulance service with whom arrangements have been made, or otherwise provided, in accordance with the provisions of paragraphs (a) and (b) of this section.

(d) Each operator shall, within 10 days after any change of the arrangements required to be reported under the provisions of this section, report such changes to the Coal Mine Health and Safety District Manager. If such changes involve a substitution of persons, the operator shall provide the name, title, and address of the person substituted together with the name and address of the medical service, medical clinic, hospital, or ambulance service with which such person or persons are associated.

(e) Each operator shall, immediately after making an arrangement required

under the provisions of paragraphs (a) and (b) of this section, or immediately after any change, of such agreement, post at appropriate places at the mine the names, titles, addresses, and telephone numbers of all persons or services currently available under such arrangements to provide medical assistance and transportation at the mine.

§ 77.1703 First aid training; supervisory employees.

On or before September 30, 1971, each operator of a surface coal mine shall conduct a first aid training course for selected supervisory employees at the mine, and report in writing to the District Manager the names and job titles of all supervisory employees so trained. Thereafter, each operator shall, within 60 days after the selection of a new supervisory employee to be trained, report in writing to the Coal Mine Health and Safety District Manager the name and job title of such employee and the date on which such employee satisfactorily completed the first aid training course.

§ 77.1704 First aid training program; availability of instruction to all miners.

On or before December 30, 1971, each operator of a surface coal mine shall make available to all miners employed in the mine a course of instruction in first aid conducted by the operator or under the auspices of the operator, and such a course of instruction shall be made available to newly employed miners within 6 months after the date of employment.

§ 77.1705 First aid training program; retraining of supervisory employees; availability to all miners.

Beginning January 1, 1971, each operator of a surface coal mine shall conduct refresher first aid training programs each calendar year for all selected supervisory employees and make available refresher first aid training courses to all miners employed in the mine.

§ 77.1706 First aid training program; minimum requirements.

(a) All first aid training programs required under the provisions of §§ 77.1703 and 77.1704 shall include 10 class hours of training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

(b) Refresher first aid training programs required under the provisions of § 77.1705 shall include 5 class hours of refresher training in a course of instruction similar to that outlined in "First Aid, A Bureau of Mines Instruction Manual."

§ 77.1707 First aid equipment; location; minimum requirements.

(a) Each operator of a surface coal mine shall maintain a supply of the first aid equipment set forth in paragraph (b) of this section at or near each working place where coal is being mined, at each preparation plant and at shops and other surface installation where ten or more persons are regularly employed.

(b) The first aid equipment required to be maintained under the provisions of paragraph (a) of this section shall include at least the following:

(1) One stretcher;

(2) One broken-back board (if a splint-stretcher combination is used it will satisfy the requirements of both subparagraph (1) of this paragraph and this subparagraph (2));

(3) Twenty-four triangular bandages (15 if a splint-stretcher combination is used);

(4) Eight 4-inch bandage compresses;

(5) Eight 2-inch bandage compresses;

(6) Twelve 1-inch adhesive compresses;

(7) An approved burn remedy;

(8) Two cloth blankets;

(9) One rubber blanket or equivalent substitute;

(10) Two tourniquets;

(11) One 1-ounce bottle of aromatic spirits of ammonia or 1 dozen ammonia ampules; and,

(12) The necessary complements of arm and leg splints or two each inflatable plastic arm and leg splints.

(c) All first aid supplies required to be maintained under the provisions of paragraphs (a) and (b) of this section shall be stored in suitable, sanitary, dust tight, moisture proof containers and such supplies shall be accessible to the miners.

§ 77.1708 Safety program; instruction of persons employed at the mine.

On and after June 30, 1971, each operator of a surface coal mine shall establish and maintain a program of instruction with respect to the safety regulations and procedures to be followed at the mine and shall publish and distribute to each employee, and post in conspicuous places throughout the mine, all such safety regulations promulgated in accordance with the provisions of this section.

§ 77.1709 Safety training; inexperienced employees.

New employees shall be indoctrinated in safety rules and safe work procedures and inexperienced employees shall not be assigned to work duties until they have been trained thoroughly in safe work procedures related to the assigned work duties.

§ 77.1710 Protective clothing; requirements.

On and after June 30, 1971, each employee of a surface coal mine shall be required to wear protective clothing and devices as indicated below:

(a) Protective clothing or equipment and face-shields or goggles shall be worn when welding, cutting, or working with molten metal or when other hazards to the eyes exist.

(b) Suitable protective clothing to cover the entire body when handling corrosive or toxic substances or other materials which might cause injury to the skin.

(c) Protective gloves when handling materials or performing work which might cause injury to the hands; however, gloves shall not be worn where they would create a greater hazard by becoming entangled in the moving parts of equipment.

(d) A suitable hard hat when in or around a mine or plant where falling objects may create a hazard.

(e) Suitable protective footwear.

(f) Snug-fitting clothing when working around moving machinery or equipment.

(g) Safety belts and lines where there is danger of falling; a second person shall tend the lifeline when bins, tanks, or other dangerous areas are entered.

(h) Lifejackets or belts where there is danger from falling into water.

(i) Seatbelts in a vehicle where there is a danger of overturning and where roll protection is provided.

§ 77.1711 Smoking prohibition.

No person shall smoke or use an open flame where such practice may cause a fire or explosion.

§ 77.1712 Reopening mines; notification; inspection prior to mining.

Prior to reopening any surface coal mine after it has been abandoned or declared inactive by the operator, the operator shall notify the Coal Mine Health and Safety District Manager for the district in which the mine is located, and an inspection of the entire mine shall be completed by an authorized representative of the Secretary before any mining operations in such mine are instituted.

§ 77.1713 Daily inspection of surface coal mine; certified person; reports of inspection.

(a) At least once during each working shift, or more often if necessary for safety, each active working area and each active surface installation shall be examined by a certified person designated by the operator to conduct such examinations for hazardous conditions and any hazardous conditions noted during such examinations shall be reported to the operator and shall be corrected by the operator.

(b) If any hazardous condition noted during an examination conducted in accordance with paragraph (a) of this section creates an imminent danger, the person conducting such examination shall notify the operator and the operator shall withdraw all persons from the area affected, except those persons referred to in section 104(d) of the Act, until the danger is abated.

(c) After each examination conducted in accordance with the provisions of paragraph (a) of this section, each certified person who conducted all or any part of the examination required shall enter with ink or indelible pencil in a book approved by the Secretary the date and a report of the condition of the mine or any area of the mine which he has inspected together with a report of the nature and location of any hazardous condition found to be present at the mine. The book in which such entries are made shall be kept in an area at the mine designated by the operator to

minimize the danger of destruction by fire or other hazard.

(d) All examination reports recorded in accordance with the provisions of paragraph (c) of this section shall include a report of the action taken to abate hazardous conditions and shall be signed or countersigned each day by at least one of the following persons:

(1) The surface mine foreman;

(2) The assistant superintendent of the mine;

(3) The superintendent of the mine; or,

(4) The person designated by the operator as responsible for health and safety at the mine.

Subpart S—Trolley Wires and Trolley Feeder Wires

§ 77.1800 Cutout switches.

Trolley wires and trolley feeder wires, shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

§ 77.1801 Overcurrent protection.

Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

§ 77.1801–1 Devices for overcurrent protection.

Automatic circuit interrupting devices that will deenergize the affected circuit upon occurrence of a short circuit at any point in the system will meet the requirements of § 77.1801.

§ 77.1802 Insulation of trolley wires, trolley feeder wires, and bare signal wires; guarding of trolley wires and trolley feeder wires.

Trolley wires, trolley feeder wires, and bare signal wires shall be adequately guarded:

(a) At all points where men are required to work or pass regularly under the wires; and

(b) At man-trip stations.

The Secretary or his authorized representative shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons are required to work in proximity to trolley wires and trolley feeder wires.

Subpart T—Slope and Shaft Sinking

§ 77.1900 Slopes and Shafts; approval of plans.

(a) Each operator of a coal mine shall prepare and submit for approval by the Coal Mine Health and Safety District Manager for the district in which the mine is located, a plan providing for the safety of workmen in each slope or shaft that is commenced or extended after June 30, 1971. The plan shall be consistent with prudent engineering design. The methods employed by the operator shall be selected to minimize the hazards to those employed in the initial or subsequent development of any such slope or shaft, and the plan shall include the following:

(1) The name and location of the mine, and the Bureau of Mines mine identification number, if known;

(2) The name and address of the mine operator;

(3) A description of the construction work and methods to be used in the construction of the slope or shaft, and whether part or all of the work will be performed by a contractor and a description of that part of the work to be performed by a contractor.

(4) The elevation, depth and dimensions of the slope or shaft;

(5) The location and elevation of the coalbed;

(6) The general characteristics of the strata through which the slope or shaft will be developed;

(7) The type of equipment which the operator proposes to use when the work is to be performed by the operator. When work is to be performed by a contractor the operator shall, as soon as known to him, supplement the plan with a description of the type of equipment to be used by the contractor;

(8) The system of ventilation to be used; and

(9) Safeguards for the prevention of caving during excavation.

§ 77.1900–1 Compliance with approved slope and shaft sinking plans.

Upon approval by the Coal Mine Health and Safety District Manager of a slope or shaft sinking plan, the operator shall adopt and comply with such plan.

§ 77.1901 Preshift and onshift inspections; reports.

(a) Examinations of slope and shaft areas shall be made by a certified person for hazardous conditions, including tests for methane and oxygen deficiency:

(1) Within 90 minutes before each shift;

(2) At least once on any shift during which men are employed inside any slope or shaft during development; and

(3) Both before and after blasting.

(b) The surface area surrounding each slope and shaft shall be inspected by a certified person and all hazards in the vicinity shall be corrected before men are permitted to enter the excavation.

(c) All hazards found during any preshift or onshift inspection shall be corrected before men are allowed to enter, or continue to work in such slope or shaft. If hazardous conditions cannot be corrected, or excessive methane concentrations cannot be diluted, the excavation shall be vacated and no person shall be permitted to reenter the slope or shaft to continue excavation operations until the hazardous condition has been abated.

(d) No work shall be performed in any slope or shaft, no drilling equipment shall be started, and no electrical equipment shall be energized if the methane content in such slope or shaft is 1.0 volume per centum, or more.

(e) Nothing in this § 77.1901 shall prevent the specific assignment of men in the slope or shaft for purposes of abating excessive methane concentrations or any other hazardous condition.

(f) The results of all inspections conducted in accordance with the provisions of paragraph (a) of this section shall be recorded in a book approved by the Secretary.

§ 77.1901–1 Methane and oxygen deficiency tests; approved devices.

Tests for oxygen deficiency shall be made with a permissible flame safety lamp or other means approved by the Secretary, and tests for methane shall be made with a methane detector approved by the Secretary.

§ 77.1902 Drilling and mucking operations.

Diesel-powered equipment used in the drilling, mucking, or other excavation of any slope or shaft shall be permissible, and such equipment shall be operated in a permissible manner and shall be maintained in a permissible condition.

§ 77.1902–1 Permissible diesel-powered equipment.

Diesel-powered equipment which has been approved by the Bureau of Mines under Part 36 of this chapter (Bureau of Mines Schedule 31) is permissible under the provisions of this section.

§ 77.1903 Hoists and hoisting; minimum requirements.

(a) Hoists employed in transporting men and material during drilling, mucking, or other excavating operations in any slope or shaft shall have rated capacities consistent with the loads to be handled and the recommended safety factors of the ropes used in such hoists.

(b) The American National Standards Institute, "Specifications For The Use Of Wire Ropes For Mines," M 11.1–1960, or the latest revision thereof, shall be used as a guide in the use, selection, installation, and maintenance of wire ropes used for hoisting.

(c) Each hoist employed in drilling, mucking, or other excavating operations shall be equipped with an accurate and reliable indicator of the position of the cage, platform, or bucket, which shall be installed in clear view of the hoist operator.

§ 77.1904 Communications between slope and shaft bottoms and hoist operators.

(a) Two independent means of signaling shall be provided between the hoistman and all points in a slope or shaft where men are required to work. At least one of these means shall be audible to the hoistman. Signal codes used in any communication system shall be posted conspicuously at each slope and shaft.

(b) Signaling systems used for communication between slopes and shafts and the hoistman shall be tested daily.

§ 77.1905 Hoist safeguards; general.

(a) Hoists used to transport persons shall be equipped with brakes capable of

stopping and holding the cage, bucket, platform, or other device when fully loaded.

(b) When persons are transported by a hoist, a second person familiar with and qualified to stop the hoist shall be in attendance, except where the hoist is fully equipped with overspeed, overwind, and automatic stop devices.

§ 77.1906 Hoists; daily inspection.

(a) Hoists used to transport persons shall be inspected daily, and each such inspection shall include examination of the headgear (headframe, sheave wheels, etc.), ropes, connections, links and chains, and other facilities.

(b) Prior to each working shift, and before a hoist is returned to service after it has been out of normal service for any reason, it shall be operated by the hoistman through one complete cycle of operation before any person is permitted to be transported.

(c) The results of all inspections conducted in accordance with this section shall be recorded in a book approved by the Secretary, and shall be signed by the person making the inspection and shall be signed or countersigned by any of the persons listed in paragraph (d) of § 77.1713.

§ 77.1907 Hoist construction; general.

(a) Hoisting ropes shall be equipped with a spelter-filled socket or a thimble with an adequate number of clamps properly spaced and installed along the rope.

(b) Cages, buckets, or slope cars when used for hoisting or lowering men shall be provided with two bridle chains or cables connected securely to the rope at least 3 feet above the socket or thimble and which are securely fastened to the cage, bucket or slope car.

(c) Where hooks are used to attach cages or buckets to the socket or thimble of a hoisting rope, they shall be self-closing.

(d) Hoisting ropes shall contain at least three full turns on the hoist drum when the rope is extended to its maximum working length. At least one full turn of the hoist rope shall be placed around the drum shaft or around the spoke of a free drum and both shall be fastened securely by means of clamps.

§ 77.1908 Hoist installations; use.

(a) Where men are transported by means of a hoist and the depth of the shaft exceeds 50 feet, the hoist rope shall be suspended from a substantial hoisting installation which shall be high enough to provide working clearance between the bottom of the sheave and the top of the cage or bucket.

(b) Where men are transported by means of a hoist and the depth of the shaft exceeds 100 feet, temporary shaft guides and guide attachments, or other no less effective means, shall be installed to prevent the cage, platform, or bucket from swinging.

(c) All guides and guide attachments, or other no less effective means, installed in accordance with paragraph (b) of this section shall be maintained to a depth of not less than 75 feet from the bottom of the shaft.

(d) Where crossheads are used, the cage, platform, or bucket shall not be hung more than 10 feet below the crosshead.

(e) Where men are required to embark or disembark from a cage, platform or bucket suspended over or within a shaft, a loading platform shall be installed to insure safe footing.

(f) During the development of each slope or shaft, either a ladder or independently powered auxiliary hoist shall be provided to permit men to escape quickly in the event of an emergency.

(g) No person shall be permitted to ride the rim of any bucket or on the top of a loaded bucket.

(h) The number of persons permitted to ride in cages, skips, or buckets shall be limited so as to prevent overcrowding.

(i) Persons shall not be permitted to ride on a cage, skip, or bucket with tools or materials, except when necessary to handle equipment while in transit. Materials shall be secured to prevent shifting while being hoisted.

(j) The speed of buckets transporting persons shall not exceed 500 feet per minute and not more than 200 feet per minute when within 100 feet of any stop.

(k) A notice of established speeds shall be posted in clear view of the hoistman.

(l) Conveyances being lowered in a shaft in which men are working shall be stopped at least 15 feet above such men and shall be lowered further only after the hoistman has received a signal that all men who may be endangered by the conveyance are in the clear.

(m) No skip or bucket shall be raised or lowered in a slope or shaft until it has been trimmed to prevent material from falling back down the slope or shaft.

(n) Measures shall be taken to prevent material from falling back into the shaft while buckets or other conveyances are being unloaded.

(o) Properly attached safety belts shall be worn by all persons required to work in or over any shaft where there is a drop of 10 or more feet, unless other acceptable means are provided to prevent such persons from falling into the shaft.

§ 77.1908–1 Hoist operation; qualified hoistman.

Hoists shall be under the control of and operated by a qualified hoistman when men are in a slope or shaft.

§ 77.1909 Explosives and blasting; use of permissible explosives and shot-firing units.

Except as provided in § 77.1909–1, only permissible explosives and permissible shot-firing units shall be used in sinking shafts and slopes.

§ 77.1909–1 Use of nonpermissible explosives and nonpermissible shot-firing units; approval by Health and Safety District Manager.

Where the Coal Mine Health and Safety District Manager has determined that the use of nonpermissible explosives and nonpermissible shot-firing units will not pose a hazard to any person during the development of a slope or shaft, he may, after written application by the operator, approve the use of such explosives and shot-firing units and issue a permit for the use of such explosives and devices setting forth the safeguards to be employed by the operator to protect the health and safety of any person exposed to such blasting.

§ 77.1910 Explosives and blasting; general.

(a) Light and power circuits shall be disconnected or removed from the blasting area before charging and blasting.

(b) All explosive materials, detonators, and any other related blasting material employed in the development of any slope or shaft shall be stored, transported, carried, charged, and fired in accordance with the provision of Subpart N, "Explosives and Blasting," of this Part 77. Except as provided in paragraph (c) of this section, all shots shall be fired from the surface.

(c) Where tests for methane have been conducted and methane has not been found and only permissible blasting units are being employed, shots may be fired from an upper level of the slope or shaft.

(d) Except as provided in paragraph (c) of this section, all men shall be removed from the slope or shaft prior to blasting.

(e) Blasting areas in slopes or shafts shall be covered with mats or other suitable material when the excavation is too shallow to retain blasted material.

(f) Where it is impracticable to prepare primers in the blasting area, primers may be prepared on the surface and carried into the shaft in specially constructed, insulated, covered containers.

(g) No other development operation shall be conducted in a shaft or at the face of a slope while drill holes are being charged and until after all shots have been fired.

(h) The sides of the slope or shaft between the overhead platform and the bottom where men are working shall be examined after each blast and loose material removed.

(i) Loose rock and other material shall be removed from timbers and platforms after each blast before men are lowered to the shaft bottom.

§ 77.1911 Ventilation of slopes and shafts.

(a) All slopes and shafts shall be ventilated by mechanical ventilation equipment during development. Such equipment shall be examined before each shift and the quantity of air in the slope or shaft measured daily by a certified person and the results of such examinations and tests recorded in a book approved by the Secretary.

(b) Ventilation fans shall be:

(1) Installed on the surface;

(2) Installed in fireproof housing and connected to the slope or shaft opening with fireproof air ducts;

(3) Designed to permit the reversal of the air current, and located in an area which will prevent a recirculation of air from the slope or shaft or air contamination from any other source;

(4) Equipped with an automatic signal device designed to give an alarm in the event the fan slows or stops which can be seen or heard by any person on duty in the vicinity of the fan, except where fans are constantly attended.

(5) Offset not less than 15 feet from the shaft; and

(6) Equipped with air ducts which are fire resistant and maintained so as to prevent excessive leakage of air;

(i) Flexible ducts shall be constructed to permit ventilation by either exhausting or blowing methods and when metal air ducts are used, they shall be grounded effectively to remove static and other electrical charges;

(ii) Ducts shall extend as close to the bottom as necessary to ventilate properly.

(c) A qualified person, designated by the operator, shall be assigned to maintain each ventilating system.

(d) The fan shall be operated continuously when men are below the surface. Any accidental stoppage or reduction in airflow shall be corrected promptly; however, where repairs cannot be made immediately, development work below the surface shall be stopped and all the men not needed to make necessary repairs shall be removed to the surface.

§ 77.1912 Ladders and stairways.

(a) Substantial stairways or ladders shall be used during the construction of all shafts where no mechanical means are provided for men to travel.

(b) Landings at intervals of not more than 30 feet shall be installed.

(c) Shaft ladders shall project 3 feet above the collar of the shaft, and shall be placed at least 3 inches from the side of the shaft.

§ 77.1913 Fire-resistant wood.

Except for crossties, timbers, and other wood products which are permanently installed in slopes and shafts, shall be fire resistant.

§ 77.1914 Electrical equipment.

(a) Electric equipment employed below the collar of a slope or shaft during excavation shall be permissible and shall be maintained in a permissible condition.

(b) The insulation of all electric conductors employed below the collar of any slope or shaft during excavation shall be of the flame resistant type.

(c) Only lamps and portable flood lights approved by the Bureau of Mines under Part 19 and Part 20 of this chapter (Bureau of Mines Schedules 6D and 10C) shall be employed below the collar of any slope or shaft.

§ 77.1915 Storage and handling of combustible materials.

(a) Compressed and liquefied gas, oil, gasoline, and other petroleum products shall not be stored within 100 feet of any slope or shaft opening.

(b) Other combustible material and supplies shall not be stored within 25 feet of any slope or shaft opening.

(c) Pyritic slates, bony coal, culm or other material capable of spontaneous combustion shall not be used for fill or as surfacing material within 100 feet of any slope or shaft opening.

(d) Areas surrounding the opening of each slope or shaft shall be constructed to insure the drainage of flammable liquids away from the slope or shaft in the event of spillage.

(e) Oily rags, waste, waste paper, and other combustible waste material disposed of in the vicinity of any slope or shaft opening shall be stored in closed containers until removed from the area.

§ 77.1916 Welding, cutting, and soldering; fire protection.

(a) One portable fire extinguisher shall be provided where welding, cutting, or soldering with arc or flame is performed.

(b) Welding, cutting, or soldering with arc or flame within or in the vicinity of any slope or shaft, except where such operations are performed in fireproof enclosures, shall be done under the supervision of a qualified person who shall make a diligent search within or in the vicinity of the slope or shaft for fire during and after such operations.

(c) Before welding, cutting, or soldering is performed in any slope or shaft designed to penetrate into any coalbed below the surface, an examination for methane shall be made by a qualified person with a device approved by the Secretary for detecting methane. Examination for methane shall be made immediately before and periodically during welding, cutting, or soldering and such work shall not be permitted to commence or continue in air which contains 1.0 volume per centum or more of methane.

(d) Noncombustible barriers shall be installed below welding, cutting, or soldering operations in or over a shaft.

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