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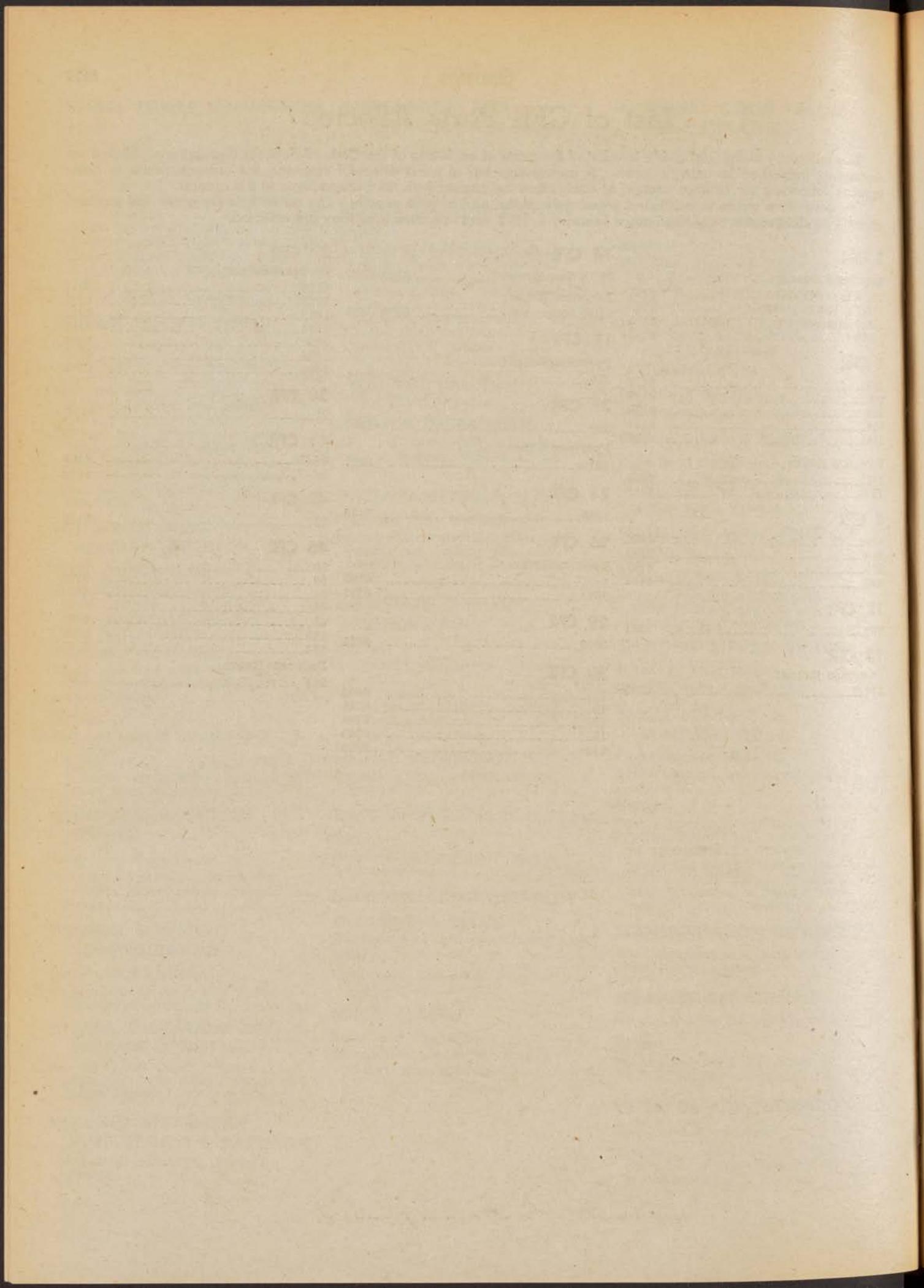
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Title 3—The President

EXECUTIVE ORDER 11660

Amending Executive Order No. 11640, Further Providing for the Stabilization of the Economy

By virtue of the authority vested in me by the Constitution and statutes of the United States, particularly the Economic Stabilization Act of 1970, as amended, it is hereby ordered as follows:

SECTION 1. Subsection (a) of section 1 of Executive Order No. 11640¹ of January 26, 1972, is amended by inserting in lieu of the first sentence thereof the following:

“The Pay Board and Price Commission established by sections 7 and 8 of Executive Order No. 11627 of October 15, 1971, are hereby continued, except to the extent that the language prescribing the composition of the Pay Board and the Price Commission has been modified by sections 7(b) and 8(b) of this Order, as amended, and shall act as agencies of the United States. The Chairman of each of these bodies, acting in accordance with the majority vote of its members, shall, pursuant to the goals established by the Cost of Living Council, take such steps as may be necessary, and authorized by or pursuant to this Order, to stabilize prices, rents, wages, and salaries.”

SEC. 2. Subsection (b) of section 7 of Executive Order No. 11640 is amended by inserting in lieu of the first four sentences thereof the following:

“The Board shall be composed of such members as the President has appointed or may, from time to time, appoint and who are serving pursuant to such appointment. Such members shall be appointed by and with the advice and consent of the Senate; except that the foregoing requirement with respect to Senate confirmation does not apply to any member of the Board who was serving, pursuant to appointment by the President, on December 22, 1971, and who continues to serve pursuant to such appointment, after such time. The members of the Board shall serve at the pleasure of the President and one of the members designated by the President shall serve as Chairman.”

SEC. 3. (a) Subsection (b) of section 8 of Executive Order No. 11640 is amended by inserting in lieu of the first two sentences thereof the following:

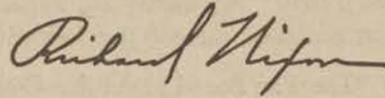
“The Commission shall be composed of such members as the President has appointed or may, from time to time, appoint and who are serving

¹ 37 F.R. 1213.

pursuant to such appointment. Such members shall be appointed by and with the advice and consent of the Senate; except that the foregoing requirement with respect to Senate confirmation does not apply to any member of the Commission who was serving, pursuant to appointment by the President, on December 22, 1971, and who continues to serve pursuant to such appointment, after such time."

SEC. 3. (b) The penultimate sentence of section 8(b) of Executive Order No. 11640 is amended by deleting "Executive Director of the Board" and inserting in lieu thereof "Executive Director of the Commission".

SEC. 4. All orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, Executive Order No. 11627, as amended, and Executive Order No. 11640, and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect, unless and until altered, amended, or revoked by competent authority.



THE WHITE HOUSE,
March 23, 1972.

[FR Doc.72-4706 Filed 3-23-72; 4:30 pm]

NOTE: For the President's remarks and statement of March 23, 1972, in connection with E.O. 11660, above, see Weekly Comp. of Pres. Docs., Vol. 8, No. 13; issue of March 27, 1972.

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

[Amdt. 3]

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Miscellaneous Amendments

On February 16, 1972, there was published in the FEDERAL REGISTER (37 F.R. 3440) a notice of proposed rule making to amend the regulations governing the operations of the Special Food Service Program for Children (7 CFR Part 225). Responses to the proposed regulations were received from 52 individuals and organizations, including several members of the Congress. The principal comments, recommendations, and suggestions submitted and the changes made from the proposed amendments published on February 16 are discussed below:

1. Section 225.2 *Definitions*. Four respondents suggested that the definition of "in-kind contributions" be expanded. After review, it was concluded that the proposed definition, together with the proposed new § 225.7(e) (12) (iv), was sufficient to provide the necessary basic guidance to service institutions and State agencies. However, the word "equipment" has been substituted for the word "goods."

2. Section 225.7 *Requirements for participation*. Many respondents expressed dissatisfaction with the proposed regulation that applications for special summer program were to be filed before April 1 in order to receive priority consideration, pointing out that some service institutions would find it difficult this year to complete the necessary program planning prior to that date. The final regulations change the April 1 date to April 17 for this calendar year; the April 1 date will apply in subsequent years.

Sixteen respondents objected to the proposed priorities for the consideration of applications. Some of these objections were based upon the belief that it was intended that service institutions would be accorded the first priority only if they limited their funding request to the approximate amount of the funds they used in the preceding year. Language changes have been made to clarify the manner in which the priorities are to be applied. A sentence in the proposed regulations was deleted to eliminate the requirement that local interest, as indicated by the level of local financial support and in-kind contributions, would be considered in determining which applications were to be approved. A number of respondents objected to the type and kind of information to be supplied by the service institutions in its application

for the program. Some of the objections were based upon the belief that service institutions would be required to submit data on the percentage of mothers working outside the area in which the program was to be operated. Neither the proposed regulations nor the final regulations require the submission of such data. If the service institution wishes to base its eligibility for the program on the fact that it will serve children from areas in which there is a high concentration of working mothers, the proposed and final regulations do require the service institution to supply data on the percentage of working mothers in the area. Some modifications have been made with respect to the information to be supplied, but operating experience has demonstrated that if the necessary preprogram planning is undertaken by the service institution, the requested information will be available to the service institution.

The language in this section concerning the maintenance of records on in-kind contributions was changed to make it clear that a service institution was not required to utilize in-kind contributions in its program. Several respondents expressed concern that there was insufficient time to use a competitive bid procedure, as proposed under paragraph (c) of this section, prior to submission of program applications. A new subparagraph was added under paragraph (b) to indicate that those service institutions which will be required to use a competitive bid procedure are not required to complete such procedures prior to submitting a program application.

3. Section 225.10 *Reimbursement payments*. A number of respondents suggested an increase in the proposed level of reimbursement payments, especially in the proposed level of payments in circumstances of severe need. A number of these suggestions appeared to be based upon the belief that the enabling legislation authorized Federal assistance up to 100 percent of operating costs. Federal assistance, by statute, is authorized in an amount up to 80 percent of operating costs in circumstances of severe need. The final regulations provide for the level of reimbursement payments set forth in the proposed regulations.

4. Section 225.18 *Special responsibilities of State agencies*. This section was reworded to make it clear that, in approving applications, the State agency, or FNSRO where appropriate, shall utilize the information supplied in the application to insure that service institutions which will serve more than one meal a day have made appropriate plans to avoid the overlapping of meal services.

5. Changes of a clarifying nature have been made in §§ 220.7 and 225.10. Accordingly, the Special Food Service Program for Children regulations are amended as follows:

§ 225.1 [Amended]

1. In § 225.1, the word "pilot" is deleted wherever it appears.

2. In § 225.2, paragraph (p) is amended to delete the phrase "providing for children from such areas food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year;" and new paragraphs (i-1) and (p-1) are added, as follows:

§ 225.2 Definitions.

(i-1) "In-kind contributions" means personal services donated to the program, and food (other than USDA-donated food) and other equipment donated to the program.

(p-1) "Special summer program" means a food service conducted by a private nonprofit institution or a public institution during the summer months which provides for children from areas in which poor economic conditions exist or areas in which there are high concentrations of working mothers a food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year.

3. In § 225.4, the opening sentence of paragraph (a), and paragraph (b) are revised; as follows:

§ 225.4 Apportionment of funds to States.

(a) Except when otherwise authorized by law, any Federal funds made available for the purposes of section 13 of the Act for any fiscal year shall be apportioned among the States in accordance with the following provisions:

(b) All of the funds available to any State for the program shall be withheld by FNS if the State agency is not permitted by law or is otherwise unable to disburse the funds apportioned or allocated to it to any service institution in the State, and the funds so withheld shall be disbursed directly to service institutions in such State.

4. In § 225.5, the first sentence of paragraph (a) is revised to read as follows:

§ 225.5 Payments to States.

(a) The funds apportioned or allocated to any State shall be made available by means of Letters of Credit issued by FNS to appropriate Federal Reserve Banks in favor of the State agency. * * *

5. In § 225.7, a new paragraph (a-1) is added; in paragraph (b), subparagraphs (5), (6), and (7) are revised and new subparagraphs (14) and (15) are added; new paragraphs (b-1) and (b-2) are

added; the opening paragraph of paragraph (c) is revised; in paragraph (e), subparagraph (5) is revised and subdivision (iv) is added under subparagraph (12); paragraph (f) is revised, and a new paragraph (i) is added, as follows:

§ 225.7 Requirements for participation.

(a-1) To the extent that funds are available for special summer programs, the State agency, or FNSRO where applicable, shall consider for approval those applications which are filed before April 17 in the calendar year 1972, and before April 1 in subsequent calendar years, in the following priority: (1) First, applications from service institutions which participated in special summer programs during the prior calendar year for an amount not in excess of the approximate level of funds used by each such service institution in the prior calendar year. Such service institutions which are applying for funds which are in excess of the approximate amount used in the prior calendar year shall be considered for the portion of their application which is in excess of the approximate amount used in the prior calendar year in accordance with subparagraph (3) of this paragraph; (2) Second, applications from service institutions which did not participate in special summer programs during the prior calendar year; (3) Third, applications from service institutions considered under subparagraph (1) of this paragraph above for that portion of the application of each such service institution which is in excess of the approximate amount of funds used in the prior calendar year. Approval of applications received after April 17 in the calendar year 1972, and April 1 in subsequent calendar years, will be dependent on the funds available for special summer programs after allowance is made for financing programs for which applications were received prior to April 17 in the calendar year 1972, and April 1 in subsequent calendar years. Applications received after April 17 in the calendar year 1972, and April 1 in subsequent calendar years, shall be considered in the order of the date of receipt of such applications.

(b) * * * (5) unless such information and data are to be supplied for each food service site under the provisions of paragraph (b-1) of this section, the proportion of children from low-income families to be served and data to demonstrate that the service institution will operate for children from areas in which poor economic conditions exist, including, but not limited to pertinent data from Model City target areas within the community, departments of welfare, zoning commissions, census tracts, or the local school systems; (6) unless such information and data are to be supplied for each food service site under the provisions of paragraph (b-1) of this section, data to demonstrate that at least half of the mothers in such area are engaged in work outside the home, if the application is based solely upon the service of

children from areas in which there is a high percentage of working mothers; (7) types of meals to be served and the method to be used to provide such meals; * * * (14) a description of the competitive bid procedure that will be used if such service institution is required to use such procedure under paragraph (c) of this section; and (15) where appropriate, a justification of the need of the service institution for financial assistance in meeting operating costs in lieu of reimbursement for meals under paragraph (e) of § 225.10. Such justification shall include an estimate of the total cost of the food service and of the total resources, other than Federal assistance under this part, available to support the food service, including the fair value of in-kind contributions which are to be used in meeting the operating costs of the food service.

(b-1) Service institutions operating special summer programs shall attach to their applications information sheets on each food service site. Such information sheets shall include, as a minimum the following: The site name, location, estimated average daily attendance, the estimated average daily number of children who will receive free or reduced price meals due to their inability to pay for such meals, a description of any organized activities and supervision thereof, a description of the food service area, planned meal service, dates and hours of operation, data to document that the site will serve children from areas in which poor economic conditions exist or data to demonstrate that the site will serve children from areas in which at least half of the mothers work outside the home if the application is based solely upon the service of children from areas in which there is a high percentage of working mothers, and, if the general public has access to the food service site, the methods to be used to determine those children who are to participate in the special summer program.

(b-2) A service institution shall submit with its application a policy statement describing the procedure to be used in determining the eligibility of children for free or reduced price meals in accordance with the provisions of the notice of October 18, 1968 (33 F.R. 15674).

(c) Any service institution may contract with a food service management company or other commercial enterprise for the preparation or delivery at food service sites of complete meals, or components of such meals, for service to children. Any service institution operating a program serving 500 or more children daily and contracting with a food service management company or other commercial enterprise to so prepare or deliver such meals or components thereof, shall use a competitive bid procedure in the selection of such company or enterprise. Any service institution may employ a food service management company to operate its feeding program. A service institution that so employs a food service management company shall remain responsible for seeing that the feed-

ing operation is in conformity with its agreement with the State agency, or FNSRO where applicable. Any service institution using a food service management company in the conduct of a feeding operation serving 500 or more children daily shall use a competitive bid procedure in the selection of the food service management company. The contract between the service institution, and the food service management company shall expressly provide that:

(e) * * *

(5) Make no discrimination against any child because of his inability to pay the full price of the meals and assure that there will be no overt identification of any such child by use of any special tokens or tickets or by any other means;

(12) * * *

(iv) *In-kind contributions.* Service institutions authorized to receive financial assistance in meeting operating costs in lieu of reimbursement for meals under paragraph (e) of § 225.10 shall maintain records of in-kind contributions if such contributions are to be used in meeting the operating costs of the food service. The value assigned to such in-kind contributions shall be based upon prices or wages prevailing in the area for similar foods, equipment and services.

(f) A service institution may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of this part shall be embodied in a written agreement between the service institution and the school. In the event that the school is receiving Federal assistance for its food service program under the provisions of Parts 210, 215, 220 or 250 of this chapter, the agreement shall also provide that payments made to the school under such agreement shall be deposited into the school's nonprofit food service account and all expenditures made by the school in connection with such agreement shall be paid from such account.

(i) Service institutions approved for participation shall operate their food service program in accordance with the provisions of this part and any instructions and handbooks issued by FNS or the State Agency which are not inconsistent with provisions of this part.

6. In § 225.10, paragraph (e) is revised to read as follows:

§ 225.10 Reimbursement payments.

(e) Notwithstanding any other provision of this section, where all or nearly all the attending children are in need of free meals and the service institution is financially unable to meet this need, the State agency, or FNSRO where applicable, may authorize financial assistance to such service institution, in lieu of reimbursement for meals, in an amount not to exceed 80 per centum of the operating

costs of its food service, i.e., the cost of obtaining, preparing, and serving food (including the fair evaluation of in-kind contributions), or 100 per centum of the cash expenditure for such operating cost, whichever is the lesser: *Provided, however*, That such financial assistance shall not exceed 60 cents for a lunch or supper, 20 cents for a breakfast, and 15 cents for supplemental food.

7. In § 225.18, a new paragraph (a-1) is added as follows:

§ 225.18 Special responsibilities of State agencies.

(a-1) The State agency, or FNSRO where applicable, shall not approve any applications for special summer programs in which more than one type of meal will be served at a site unless information contained in the application is sufficient to demonstrate that each meal for which reimbursement will be claimed will meet all the requirements for that type of meal as set forth in § 225.9, and that more than one type of meal will not be served during the same period of time. The State agency, or FNSRO where applicable, shall consider the adequacy of meal delivery, storage, and distribution schedules to assure that overlapping of meal service will not occur.

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER (3-25-72).

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: March 23, 1972.

PHILIP C. OLSSON,
Acting Assistant Secretary.

[FR Doc. 722-4703 Filed 3-24-72; 8:52 am]

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

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment

Pursuant to Marketing Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit 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 proposals submitted by the Administrative Committee (established pursuant to said amended marketing order), which includes a recommendation by an 8 to 2 vote of the committee that certain provisions of the order, including § 909.41 *Assessments*, be suspended from January 1 through August 31, 1972, and the office be closed as of January 31, 1972.

The Deputy Assistant Secretary issued such suspension docket on March 14, 1972, suspending certain provisions of the order including the aforesaid § 909.41 for the period January 1 through August 31, 1972.

The committee has billed handlers for assessments until such suspension date, and the committee has ceased incurring expenses, as the office was closed on January 31, 1972. In view of the foregoing it is hereby found and determined that:

§ 909.210 Expenses and rate of assessment.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1971, through December 31, 1971, will amount to \$18,000.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at \$0.04 per carton, or equivalent quantity of grapefruit.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in public rule-making procedure and good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit grown in the designated production area for the period September 1, through December 31, 1971, are now complete; (2) the relevant provisions of said marketing order require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period; and (3) such period began on September 1, 1971, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: March 22, 1972.

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

[FR Doc. 72-4620 Filed 3-24-72; 8:51 am]

[Lemon Reg. 526]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.826 Lemon Regulation 526.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), 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 infor-

mation, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 21, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period March 26, 1972, through April 1, 1972, is hereby fixed at 200,000 cartons.

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

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

Dated: March 23, 1972.

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

[FR Doc. 72-4654 Filed 3-24-72; 8:51 am]

[Orange Reg. 1]

PART 914—ORANGES GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

§ 914.301 Orange Regulation 1.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 914 (7

CFR Part 914), regulating the handling of oranges grown in the interior district in Florida, 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 Interior Orange Marketing Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(i) The need for the regulation stems from the current market situation which reflects a recent decline in prices for Florida interior oranges, and a strong threat that shipments during next week, in the absence of regulations, would be in excess of the market demand. Such excess shipments would most likely further depress prices for Florida interior oranges, which at the end of February 1972, were only 76 percent of parity. The need for the regulation is also based on the prospective marketing conditions. The present market is slow and there is no indications of an improvement in the demand. Thus, a regulation is needed to prevent excessive shipments during the week of March 27 through April 2, 1972.

(ii) There is not sufficient time to give preliminary notice and engage in public rule making procedure because (a) the last reported price decline occurred on March 16, 1972, (b) the total shipments of oranges during the week ended March 19, 1972, did not become available until March 21, 1972, and the effect of such shipments on the market could not be fully evaluated before that date, and (c) shipments likely to be made in the absence of regulations, and the amount of oranges needed to satisfy the market demand for the period March 27 through April 2, 1972, could not be anticipated at an earlier date.

(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; 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 Interior oranges 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 Interior oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 21, 1972.

(b) *Order.* (1) The quantity of oranges grown in the Interior District which may be handled during the period March 27 through April 2, 1972, is hereby fixed at 175,000 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "oranges," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

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

Dated: March 23, 1972.

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

[FR Doc.72-4704 Filed 3-24-72; 8:52 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 450.6]

PART 1861—ROUTINE

Subpart E—Federal Statute of Limitations

TIME WITHIN WHICH COURT ACTION MUST BE CONDEMNED

Section 1861.72, Subpart E of Part 1861, Title 7, Code of Federal Regulations (37 F.R. 1457) is amended by revising paragraphs (a) and (d) to clarify the procedure to be followed to prevent the Federal Statute of Limitations from being asserted as a defense in suits on Farmers Home Administration claims in connection with the conversion of security property and the starting of a new statutory period.

As revised § 1861.72 (a) and (d) read as follows:

§ 1861.72 Time within which court action must be commenced.

(a) *Conversion of security property.* The Act provides a 3-year time limitation for actions founded upon a tort. Conversion of FHA security property is deemed a tort. The Act also provides that an action for conversion of property of the United States may be brought within 6 years after the right of action accrues. To avoid any question as to which statute of limitations applies, FHA em-

ployees should make every reasonable effort to meet the 3-year time limitation. In the event that this is not done, FHA employees should proceed as indicated in the last sentence of § 1861.73.

(d) *Starting a new statutory period.* In tort claims a partial payment or a written acknowledgment of debt does not expressly start a new statutory period. For contract claims a new statutory period may be commenced during the running of an existing statutory period or after it has been completed by:

(1) Part payment.
(2) Acknowledgment of the debt by execution of Form FHA 460-10, "New Promise to Pay," or other form approved by the Office of the General Counsel (OGC) if Form FHA 460-10 is not legally satisfactory for use in the particular State or case.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529; Order of Director, OEO, 29 F.R. 14764)

Dated: March 21, 1972.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.72-4580 Filed 3-24-72; 8:48 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 100—STATEMENT OF ORGANIZATION

Section 100.4 is amended as follows: In paragraph (b), the last phrase of item 7 is revised; in subparagraph (2) of paragraph (c), the listing of Class A ports of entry of District No. 7 is revised. As amended, § 100.4(b) and (c) (2) read, in part, as follows:

§ 100.4 Field Service.

(b) *District offices.* The following districts, which are designated by numbers, have fixed headquarters and are divided as follows:

7. *Buffalo, N.Y.* The district office in Buffalo, N.Y., has jurisdiction over the State of New York except that part within the jurisdiction of District No. 3; also, over the United States immigration office at Toronto, Ontario, Canada.

(c) *Suboffices.* * * *
 (2) *Ports of entry for aliens arriving by vessel or by land transportation.* * * *

DISTRICT NO. 7—BUFFALO, N.Y.

CLASS A

- Alexandria Bay, N.Y.
- Buffalo, N.Y.
- Cape Vincent, N.Y.
- * Champlain, N.Y.
- * Chateaugay, N.Y.
- Clayton, N.Y.
- * Fort Covington, N.Y.
- Lewiston, N.Y.
- * Massena, N.Y.
- * Mooers, N.Y.
- Morristown, N.Y.
- * Niagara Falls, N.Y.
- * Ogdensburg, N.Y.
- Oswego, N.Y.
- Rochester, N.Y.
- Rouses Point, N.Y.
- * Thousand Islands Bridge, N.Y.
- * Trout River, N.Y.
- Youngstown, N.Y.

PART 214—NONIMMIGRANT CLASSES

In § 214.2, paragraph (h) is amended in the following respects: In subparagraph (3) the heading is revised; in subparagraph (4), the last sentence of subdivision (ii) is revised, and subdivision (iii) is revised. As amended, § 214.2(h) (3) and (4) read, in part, as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

- (h) *Temporary employees.* * * *
- (3) *Petition for alien to perform temporary service or labor.* * * *
- (4) *Petition for alien trainee.* * * *
 (ii) *Productive employment.* The source of any remuneration received by a trainee and whether or not any benefit will accrue to the petitioner are not material, but a trainee shall not be permitted to engage in productive employment if such employment will displace a U.S. resident. A hospital approved by the American Medical Association or the American Osteopathic Association for either an internship or residence program may petition to classify as a trainee a medical student attending a medical school abroad if he will engage in employment as an extern during his medical school vacation.

(iii) *Description of training.* There shall be attached to each petition for a trainee a statement describing the kind of training to be given and setting forth the proportion of time that will be devoted to productive employment; the number of hours that will be spent respectively in classroom instruction, and in on-the-job training without supervision; the position or duties for which this training will prepare him; the reason why such training cannot be obtained in the alien's country, and why it is necessary for the alien to be trained in the United States.

PART 299—IMMIGRATION FORMS

The listing of Forms in § 299.1 *Prescribed forms* is amended to reflect the current edition date of the following forms:

§ 299.1 *Prescribed forms.*

- | Form No., title, and description |
|---|
| I-53 (1-1-72) Alien Address Report. |
| I-90 (7-17-71) Application by Lawful Permanent Resident Alien for Alien Registration Receipt Card, Form I-151. |
| I-129B (3-1-71) Petition to Classify Nonimmigrant as Temporary Worker or Trainee. |
| I-129F (8-1-71) Petition to Classify Status of Alien Fiance or Fiancee for Issuance of Nonimmigrant Visa. |
| I-131 (7-1-71) Application for Permit to Reenter the United States. |
| I-140 (8-29-71) Petition to Classify Preference Status of Alien on Basis of Profession or Occupation. |
| I-143 (7-1-71) Application for Extension of Permit to Reenter the United States. |
| I-305 (11-1-71) Receipt of Immigration Officer—United States Bonds or Notes, or Cash, Accepted as Security on Immigration Bond. |
| I-352 (9-1-71) Immigration Bond. |
| I-486A (9-1-71) Medical Examination and Immigration Interview. |
| I-538 (4-1-71) Application by Nonimmigrant F-1 Student for Permission to Accept Employment. |
| I-600 (11-1-71) Petition to Classify Orphan as an Immediate Relative. |
| N-585 (4-1-71) Application for Information from or Copies of Immigration and Naturalization Records. |
| SW-434 (7-1-71) Mexican Border Visitors Permit. |

PART 499—NATIONALITY FORMS

The listing of forms in § 499.1 *Prescribed forms* is amended to reflect the current edition date of the following forms:

§ 499.1 *Prescribed forms.*

- | Form No., title, and description |
|--|
| N-400 (6-1-71) Application to File Petition for Naturalization. |
| N-402 (8-31-71) Application to File Petition for Naturalization in Behalf of a Child (under Sec. 322 or 323, Immigration and Nationality Act). |

Form No., title, and description
 N-407 (8-31-71) Petition for Naturalization (in behalf of a child, under Sec. 322 or 323, Immigration and Nationality Act).

N-585 (4-1-71) Application for Information from or Copies of Immigration and Naturalization Records.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (3-25-72). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to § 100.4(b) and (c)(2) relate to agency management; the amendment to § 214.2(h)(3) is editorial in nature; the amendment to § 214.2(h)(4)(ii) is clarifying in nature; the amendment to § 214.2(h)(4)(iii) relates to agency procedure; and the amendments to §§ 299.1 and 499.1 are editorial in nature.

Dated: March 21, 1972.

RAYMOND F. FARRELL,
*Commissioner of
 Immigration and Naturalization.*

[FR Doc.72-4609 Filed 3-24-72;8:50 am]

Title 12—BANKS AND BANKING

Chapter VII—National Credit Union Administration

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Incorporation by Reference

On January 11, 1972, notice of proposed rule making regarding incorporation by reference of National Credit Union Administration publications was published in the FEDERAL REGISTER (37 F.R. 339-340). After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

Under § 701.2(d), delete publications (12) and (14), and renumber publications (13) and (15) as (12) and (13) respectively.

Effective date. This regulation is effective April 3, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

MARCH 20, 1972.

§ 701.2 **Incorporation by reference.**

(a) The publications used by Federal credit unions, which are identified and described in this chapter, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and the regulations issued thereunder.

(b) Copies of the publications prescribed in this chapter may be obtained on request addressed to National Credit

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72-WE-1-AD, Amdt. 39-1414]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series and C-9A (DC-9-32F) Airplanes

The preamble to the FEDERAL REGISTER publication of Amendment 39-1389 (37 F.R. 2570), AD 72-3-5, effective March 7, 1972, provided for a 30-day comment period. Interested parties have submitted several comments. The agency has examined these comments, and, for the reasons set forth, determined that in the public interest, AD-72-3-5 may be substantially revised without adversely affecting safety.

Several operators, recommended that, due to service experience, scheduling difficulty, and recent supply problems, the compliance times should be extended. With respect to the latter, the manufacturer has revised the delivery schedule so as to preclude accomplishment of the AD, as adopted. Inspections of stock replacements have resulted in rejection of many parts previously believed available. As an interim and additional action, the AD is being amended to provide for visual inspections of the universal fitting and rod end assembly pending accomplishment of the modifications described in Douglas Service Bulletin 27-146, Revision 1, dated December 20, 1971, or later FAA-approved revisions.

One comment stated that, due to variations in the thickness of the cadmium plating, the material hardness test of the rod ends was not sufficiently reliable. The agency does not concur; accomplishment of the hardness test per the service bulletin requires prior removal of the cadmium plating.

The AD is being revised to provide for a visual inspection to check proper installation per Douglas Service Bulletin 55-4, dated October 25, 1966, or later FAA-approved revisions; initial and repetitive visual inspections for cracks or failures per instructions set forth in the AD; and accomplishment of the modifications described in Douglas Service Bulletin 27-146, Revision 1, dated December 20, 1971, or later FAA-approved revisions.

Since this amendment is based upon those conditions existing at the time of the adoption of AD 72-3-5, which conditions continue to exist, except as modified by the information received in the comment period, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment to AD 72-3-5 effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation

Regulations, Amendment 39-1389 (37 F.R. 2570), AD 72-3-5, is amended, as follows:

Compliance required as indicated.

To prevent possible jamming of the elevator and loss of elevator power assist in the down direction in the event of failure of the elevator boost cylinder rod end, accomplish the following:

A. Within the next 300 hours' time in service after March 7, 1972, visually inspect the universal fitting, P/N 4918072-1, and rod end assembly, P/N 4918153-1, attaching the elevator power control actuating cylinders to the elevator structure, for proper installation per paragraph 2 of Douglas Service Bulletin 55-4, dated October 25, 1966, or later FAA-approved revisions, or an equivalent inspection approved by the Chief, Aircraft Engineering Division, FAA Western Region. If this inspection reveals an improper installation of the rod end assembly, remove and replace with a new part in accordance with the instructions specified in Service Bulletin 55-4, dated October 25, 1966, or later FAA-approved revisions, prior to further flight.

B. Within the next 300 hours' time in service after March 7, 1972, and at intervals not to exceed 300 hours' time in service thereafter, visually inspect the left and right hand elevator boost cylinder rod end assemblies, P/N 4918153-1, for cracks or a failed part. If a cracked or failed part is found, replace with a new part prior to further flight.

C. Within 1,200 hours' time in service after March 7, 1972, unless already accomplished, perform the following inspections and modifications in accordance with the instructions contained in Douglas Service Bulletin 27-146, Revision 1, dated December 20, 1971, or later FAA-approved revisions, or an equivalent inspection and modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(1) Inspect the left hand and right hand elevator boost cylinder rod end assembly, P/N 4918153-1, for cracks or a failed part and determine the material hardness of undamaged parts. Remove cadmium plating prior to material hardness test, per the Douglas Service Bulletin.

If a failed or cracked part is found or if the material hardness is below 32.5 on the Rockwell "C" Scale (145,000 p.s.i. ult. tensile strength) or above 43 on the Rockwell "C" Scale (200,000 p.s.i. ult. tensile strength), replace with a new part.

(2) Modify the left and right hand side of the horizontal stabilizer assembly, left and right hand elevators and hinge eyebolt, P/N YD-211-B or DMD6-9A1-501, and

(3) Install new elevator boost cylinder rod end assembly retainer, P/N 4911152-1.

This amendment becomes effective March 25, 1972.

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

Issued in Los Angeles, Calif., on March 14, 1972.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc. 72-4550 Filed 3-24-72; 8:47 am]

[Docket No. 71-CE-8-AD, Amdt. 39-1415]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 172 Airplanes

On April 28, 1971, the agency issued an advance notice of proposed rule making (ANPRM) which concerned itself

Union Administration, 1325 K Street NW., Washington, DC 20456.

(c) Revisions or amendments of the publications may be issued from time to time by the National Credit Union Administration. An historic file of such amendments or revisions is maintained and made available for inspection at the National Credit Union Administration, 1325 K Street NW., Washington, DC 20456.

(d) The publications listed below, and more fully described in §§ 701.14 and 701.15, are hereby incorporated by reference:

(1) Handbook for Federal Credit Unions,

(2) Accounting Manual for Federal Credit Unions,

(3) Supervisory Committee Manual for Federal Credit Unions,

(4) Credit Manual for Federal Credit Unions,

(5) Federal Credit Union Bylaws,

(6) Guide to Standard Amendments to the Federal Credit Union Charter and Bylaws,

(7) Organizing a Federal Credit Union,

(8) Data Processing guidelines for Federal Credit Unions,

(9) Sale and Redemption of U.S. Savings Bonds by Federal Credit Unions,

(10) NCUA Bulletin,

(11) Annual Report of Operations,

(12) State Chartered Credit Unions,

(13) Accounting Machine Handbook for Federal Credit Unions.

(e) Copies of these publications are on file with the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. The text of any changes in said publications will be filed with the Director, Office of the Federal Register, and a notice thereof will be periodically published in the FEDERAL REGISTER.

§ 701.14 Instructions for officials.

The National Credit Union Administration has published a number of manuals and booklets for use by officials of Federal credit unions in carrying out their duties. These publications, as listed and described below, are hereby incorporated by reference.

§ 701.15 Other publications.

In addition to the publications listed in § 701.14 the National Credit Union Administration publishes the following materials which are hereby incorporated by reference.

[FR Doc. 72-4605 Filed 3-24-72; 8:49 am]

with inflight engine power loss in Cessna Model 172 series airplanes. It proposed several courses of action and requested public reaction to the several proposals. About 650 responsive comments were received from the public which among other things revealed that there was approximately 123 additional incidents reported of inflight power interruptions making a total of some 189 occurrences. Over 40 percent of these reported occurrences resulted in the airplane descending 2,000 to 6,000 feet before engine power could be regained. Eleven forced landings including two since June 1971 resulted in major airplane damage.

As indicated in the ANPRM both the agency and Cessna have been investigating and studying this problem in an effort to find a cause and cure. It has been determined that vapor formation in the fuel system is the likely cause for the reported power interruptions. This determination is based on tests conducted by Cessna with FAA participation which disclosed (1) natural fuel vapor or air would collect in the fuel supply lines; however quantities were insufficient to completely block the lines and cause power interruption; (2) power interruption would occur when air was mechanically injected into the lines to simulate larger quantities of fuel vapor or air. It is important to mention that carburetor icing, improper leaning, contaminated fuel, etc., may also cause power interruption.

On December 31, 1969, the manufacturer issued Cessna Service Letter SE69-26 advising owners that a fuel modification kit was available at owner's expense which incorporated vent lines between the main fuel supply line and the fuel tank vent interconnect to relieve the buildup of vapor in the system. However, because of the relative infrequency of the occurrences when compared to the size of the fleet in service, Cessna with the agency's concurrence initiated a program to develop an alternative to mandatory modification of the aircraft. Tests revealed that fuel management techniques when utilized would prevent occurrences of engine power loss if caused by vapor. Specifically, if the pilot, after conducting a prolonged climb and prior to putting the aircraft in cruise configuration, switches the fuel selector valve to either left or right tank a vapor formation sufficient to result in power interruptions can be avoided. Operating on a single fuel tank increases the fuel flow in the fuel line as compared to using fuel from both tanks. This increase in flow rate reduces the tendency for vapor to collect in the fuel supply line. When the opposite tank is inoperative, vapor in this fuel line will return back to the fuel tank. The tests also indicated that if despite operating the aircraft on one fuel tank engine power interruption occurs due to accumulation of vapor formation, power can be restored immediately by switching to the opposite tank.

The agency has advised that a notice of proposed rule making (NPRM) would be issued after consideration of the com-

ments received in response to the ANPRM. However, as a result of the information gained from the ANPRM and the tests conducted by Cessna with FAA participation, we now conclude that no useful purpose would be served by a NPRM. Accordingly, we intend to issue an AD as an adopted rule which in our view will provide an adequate level of safety. This AD, will impose an operating limitation and require installation of a placard to reflect this operating limitation. However, since the operating history indicates that once the fuel system modification kit has been installed loss of engine power from this cause does not occur, the AD also provides that the placard need not be installed or followed if the vent modification system is incorporated in the aircraft.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. Applies to the following airplanes:

Models	Serial Numbers Affected
172	28000 through 29999
172	36000 through 36999
172	46001 through 46754
172A	46755 through 47746
172B	17247747 through 17248734
172C	17248735 through 17249544
172D	17249545 through 17250572
172E	17250573 through 17251822
172F	17251823 through 17253392
172G	17253393 through 17254892
172H	17254893 through 17256512
172I	17256513 through 17257161
172K	17257162 through 17258855

Compliance: Required as indicated, unless already accomplished.

To reduce the possibility of engine power interruption at altitudes above 5,000 feet caused by vapor formation in the fuel lines, accomplish the following:

(A) Effective now, the airplane must be operated on a single fuel tank immediately upon reaching cruise altitudes above 5,000 feet.

(B) On or before April 1, 1972, install at the fuel selector valve applicable Cessna placards P/N's 0509021-1, 0509021-2, or 0509021-3 as provided with Cessna Service Letter SE72-7, dated March 17, 1972, or any FAA-approved equivalent placard which reads as follows:

Switch to Single Tank Operation
Immediately Upon Reaching Cruise Altitudes
Above 5,000 Feet.

(C) Compliance with the provisions of Paragraphs A and B is no longer required when the fuel system has been modified by the installation of applicable Cessna Kit No. SK172-31B or SK172-32 referenced by Cessna Service Letter SE72-7, dated March 17, 1972, or by the accomplishment of any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective March 25, 1972.

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

Issued in Kansas City, Mo., on March 15, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.
[FR Doc.72-4551 Filed 3-24-72;8:47 am]

[Airworthiness Docket No. 71-SW-55,
Amdt. 39-1412]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Model SA26 Series Aircraft

Amendment 39-1353 (36 F.R. 23200), AD 71-25-5 requires inspection of the wing for cracks and repair if necessary on Swearingen Model SA26-T and SA26-AT airplanes. After issuing Amendment 39-1353, the agency determined that the use of P/N 61475-14-72.9 washer assembly is not required upon wing attachment bolt reinstallation. Therefore, the AD is being superseded by a new AD that changes the washer requirement to simplify the wing bolt reinstallation which is now described in Swearingen Service Bulletin 57-40-015. Some minor clarifications have also been included.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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

SWEARINGEN. Applies to Models SA26-T and SA26-AT airplanes with 2250 or more hours time in service.

Compliance required as indicated.

To detect cracking of certain wing center section and outer wing front spar structural components, accomplish the following:

(a) Within the next 50 hours time in service after January 10, 1972, and thereafter at intervals not to exceed 100 hours, visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks. The area to be inspected includes the skin around the ten screws common to the skin and the outboard wing attachment fitting outboard of the wing production break at W.S. 99.

(1) If no wing panel skin cracks are found during the inspections of this paragraph, the inspections specified in paragraph (b) must be performed thereafter at intervals not to exceed 500 hours.

(2) If wing panel skin cracks are found during the inspections of this paragraph, the inspections specified in paragraph (b) must be performed thereafter at intervals not to exceed 250 hours. Repair skin cracks in accordance with standard practices outlined in AC 43.13-1 or in accordance with a method approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(b) Within the next 50 hours time in service after January 10, 1972, and thereafter at

intervals as specified in paragraphs (a) (1) or (2) above, remove the left and right front spar lower cover plates (inboard and outboard of W.S. 99) and outer wing front spar lower attachment bolts. Inspect the left and right front spar lower cap attachment fittings (inboard and outboard W.S. 99) for cracks by visual and dye penetrant methods.

(1) If no cracks are found, reinstall the attachment bolt and cover plate in accordance with Swearingen Service Bulletin 57-40-015 dated January 18, 1972, or later FAA approved revision, or by an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(2) Retorque wing attachment bolt assembly to 5,000- to 5,500-inch pounds of torque after 100 hours of flight following attachment bolt reinstallation.

(3) If fatigue cracks are found in any wing attachment fitting during the inspection required by this paragraph, replace the following parts prior to further flight:

(i) Right and left outer panel and center section lower front spar caps including the four wing attachment fittings.

(ii) The skin panels adjacent to the outer wing attachment fittings.

(4) If a stress corrosion crack is found in a wing attachment fitting, replace the affected fitting. A stress corrosion crack is identified by its direction (spanwise) and its location (lower face of the wing attachment fitting).

(c) Replacement of parts required by paragraph (b) (3) will permit the establishment of new initial inspection times for the inspections of paragraphs (a) and (b). The new initial inspection time is 2,250 hours time in service after parts replacement.

(d) Initial compliance with the requirements of Amendment 39-1353, AD 71-25-5, will constitute initial compliance with the requirements of this AD since the inspections required are the same. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(e) Notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, of the location and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. (Report approved by the Bureau of the Budget under BOB No. 04-R0174.)

This supersedes Amendment 39-1353 (36 F.R. 23200), AD 71-25-5.

This amendment becomes effective March 28, 1972.

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

Issued in Fort Worth, Tex., on March 10, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-4549 Filed 3-24-72; 8:47 am]

Title 29—LABOR

Chapter XX—Occupational Safety and Health Review Commission PART 2200—RULES OF PROCEDURE Definitions

Pursuant to section 12(g) of the Occupational Safety and Health Act of 1970

(29 U.S.C. sec. 661(f), 84 Stat. 1603-1605), the Occupational Safety and Health Review Commission has by official action adopted the following amendment to its previously published interim rules of procedure (36 F.R. 17409-17417 (1971)).

No notice of proposed rule making is required as this amendment is a rule of agency organization. 5 U.S.C. section 553(b) (A), 80 Stat. 383. This amendment shall be effective upon publication in the FEDERAL REGISTER (3-25-72).

Section 2200.1(e) of the Commission's interim rules of procedure published at 36 F.R. 17410 is deleted, and the following substituted therefor:

§ 2200.1 Definitions.

(e) The term "Judge" or "Occupational Safety and Health Review Commission Judge" means any person appointed by the Chairman of the Commission as a hearing examiner pursuant to section 12 of the Act and any hearing examiner appointed pursuant to section 11 of the Administrative Procedure Act and assigned by the Chairman of the Commission to hear and decide a matter pending before the Review Commission in accordance with 5 U.S.C. 3344.

The term "Hearing Examiner" is deleted wherever it appears and replaced with "Occupational Safety and Health Review Commission Judge." Whenever a plural form of the former title appears it is to be replaced by a plural form of the new title.

The term "Examiner" is deleted wherever it appears and replaced with "judge." Whenever a plural form of the former title appears, it is to be replaced with a plural form of the new title.

Dated: March 21, 1972.

By the Commission.

ROBERT D. MORAN,
Chairman.

JAMES F. VAN NAMEE,
Commissioner.

ALAN P. BURCH,
Commissioner.

[FR Doc.72-4589 Filed 3-24-72; 8:49 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER E—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards for Certain Liquid Preparations Containing Methyl Salicylate (Wintergreen Oil)

In the FEDERAL REGISTER of September 29, 1971 (36 F.R. 19124), the Com-

missioner of Food and Drugs proposed child protection packaging standards for liquid preparations containing methyl salicylate (wintergreen oil). The 30-day period allowed for comments was extended to January 19, 1972, by subsequent notices (36 F.R. 21832, 25235).

In response, comments were received from three consumers, a consumer interest group, the American Academy of Pediatrics, three pharmaceutical manufacturers, a pharmaceutical trade association, and a fire equipment company. One of the 10 comments supports the standards as proposed. The principal points raised by the other comments and the Commissioner's conclusions are as follows:

A. *Nonconsumer packages.* A manufacturer suggests that packages containing 1 pint or more of methyl salicylate and commonly stocked in pharmacies for compounding or dispensing prescriptions be exempted from the proposed special packaging standards. Similarly, a consumer suggests that methyl salicylate-containing industrial cleaners, products not likely to come in contact with children, be exempted. The fire equipment company questions the applicability of these standards to odorizing ampoules containing methyl salicylate that are used in carbon dioxide fire extinguishing systems. The person who places a substance subject to a special packaging standard into a container or package must determine if that container or package is in fact for delivery to the consumer for use or storage of its contents in the household. If it is not, the standard does not apply. The responsibility, however, for repackaging prescribed drugs in accordance with the standard rests with the individual dispensing such substance at the retail or user level.

B. *Removal of methyl salicylate from the market.* A consumer recommends that a nondangerous substitute be required for methyl salicylate. The Commissioner concludes that the Poison Prevention Packaging Act of 1970 does not authorize such action. The child protection packaging standards herein promulgated are designed to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance.

C. *Broader coverage.* The American Academy of Pediatrics suggests that all liquid preparations containing 1 to 5 percent methyl salicylate be considered for special packaging when the total quantity of methyl salicylate in the package exceeds 2 grams. The Commissioner concludes that existing human experience data from Poison Control Centers do not support such extension of coverage. The Commissioner is prepared to reconsider this suggestion upon presentation of adequate data indicating that such action is warranted and necessary to achieve the objectives of the act.

D. *Pressurized spray containers.* The consumer interest group urges immediate standards for aerosol containers. Reasons cited include possible flammability and explosion hazards associated with pressurized spray containers. They

also recommend that the packaging of methyl salicylate in pressurized spray containers be prohibited since such containers are toy-like in appearance and can be considered packaging which is unnecessarily attractive to children. The Commissioner concludes that such potential hazards are not peculiar to pressurized containers of methyl salicylate, but are associated with the containers themselves, regardless of content. Such hazards are being investigated by the agency. Furthermore, the Commissioner is unaware of data to support a finding that pressurized spray containers are in fact unnecessarily attractive to children.

E. Wintergreen odor. The consumer interest group comments that, pursuant to section 3(d) of the act, the standards should prohibit packaging which allows the emission of wintergreen odor because such packaging is unnecessarily attractive to children. Wintergreen odor is an inherent characteristic of methyl salicylate; it is not due to the addition of any fragrance as is common for other consumer commodities. The special packaging standards promulgated below should provide sufficient protection to children. If they do not, the Commissioner will consider whether the odor can be sufficiently masked or de-characterized and whether further action is appropriate.

F. Restricted-flow requirement. 1. The consumer interest group objects to the proposed restricted-flow requirement because three activations of the container could provide a child with the amount of methyl salicylate mentioned in the proposal's preamble as reportedly fatal. They recommend that the requirement either be reduced to a 1 milliliter opening per activation or eliminated. This is a misinterpretation of the proposed standard since the restricted-flow requirement was in addition to the child-resistant effectiveness requirement.

2. The pharmaceutical trade association, endorsed by comment from a manufacturer, objects to the restricted-flow requirement on grounds that it is unnecessary to achieve the purposes of the act; that it is not technically feasible, practicable, and appropriate; that it violates section 3(d) of the act because it prescribes a specific package design; and that it may be dangerous. They state that a separate, subsidiary safety device should not be required only upon the theoretical ground that the safety cap might fall or be subsequently removed and disregarded in the household. They state that methyl salicylate is incompatible with plastic in that it is known to permeate flexible plastics. Thus, product integrity could not be assured. The Commissioner notes that specific data justifying these statements was not presented. They also state that since flexible plastics could not be used, industry would be limited to glass or other rigid containers designed for shaking, and that shaking could be dangerous because it provides poor control in preventing contact of the preparations with sensitive areas of the body. Furthermore, they contend that ordinary filling time for such containers on the assembly line

would increase by as much as 75 percent.

3. The Commissioner, on the basis of available scientific information and expert scientific opinion, concludes that the restricted-flow requirement is not necessary in light of the child-resistant effectiveness requirement and the usage pattern of methyl salicylate in the household. Accordingly, the requirement has been deleted from the standard.

G. Technically feasible, practicable, and appropriate. The trade association and a manufacturer question whether special packaging meeting the proposed effectiveness specifications would be technically feasible, practicable, and appropriate as required by section 3(a)(2) of the act. On the basis of reports and data from industry and other relevant information, the Commissioner finds that the special packaging required herein is:

1. Technically feasible, because technology exists to produce special packages conforming to the standard. At least 11 different special packages have been tested in accordance with § 295.10 (21 CFR 295.10) that meet or exceed the child-resistant effectiveness and adult-use effectiveness specifications in § 295.3 (b).

2. Practicable in that it is susceptible to modern mass production and assembly line techniques. Reported production data indicates a capability to adequately meet the needs of the affected industries.

3. Appropriate since special packaging is not detrimental to the integrity of the substance and will not interfere with its storage or use.

No comments were received concerning the finding made by the Commissioner pursuant to section 3(a)(1) of the act, and the finding is hereby confirmed.

H. Effective date. The pharmaceutical trade association expresses concern over the effective date of the standard, noting that substantial leadtime may be required before special packaging will be available in sufficient quantities. The Commissioner concludes that a period of 180 days is a necessary, reasonable, and sufficient time to allow affected persons to achieve full compliance with the standards established by this order. A sufficient amount of special packaging for liquid preparations containing methyl salicylate is not presently available to permit promulgating an effective date of less than 180 days.

I. Exemptions. The legislative history of this act indicates that exemptions from special packaging standards may be granted, and the preamble to the document promulgating § 295.10 (36 F.R. 22151) indicates that the Commissioner is prepared to grant individual exemptions. Any request for an exemption from a special packaging standard will be considered by the Commissioner. Such a request must be made in writing directed to the Commissioner and must furnish reasonable grounds therefor, including, but not limited to, available human experience data, relevant experimental data, toxicity information, product and packaging specifications, labeling, marketing history, and the justification for

the exemption. If such request furnishes reasonable grounds therefor, the Commissioner will publish a notice in the FEDERAL REGISTER proposing amendment of the standards. Following such publication, the proceedings shall be the same as prescribed by section 5 of the act.

Therefore, having evaluated the comments received and other relevant material, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below. Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471-74), and under authority delegated to the Commissioner (21 CFR 2.120), a new subparagraph (3) is added to § 295.2 (a) as follows (§§ 295.2 and 295.3 were promulgated in the FEDERAL REGISTER of February 16, 1972; 37 F.R. 3427):

§ 295.2 Substances requiring "special packaging."

(a) *Substances.* The Commissioner of Food and Drugs has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

(3) *Methyl salicylate.* Liquid preparations containing more than 5 percent by weight of methyl salicylate, other than those packaged in pressurized spray containers, shall be packaged in accordance with the provisions of § 295.3 (a), (b), and (c).

Effective date. This order shall become effective 180 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471-74)

Dated: March 23, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 72-4637 Filed 3-24-72; 8:51 am.]

Title 24—HOUSING AND URBAN DEVELOPMENT

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

SUBCHAPTER A—NATIONAL INSURANCE DEVELOPMENT PROGRAM

[Docket No. R-72-174]

PART 1906—STANDARD REINSURANCE CONTRACT

Offer of Reinsurance Against Riots or Civil Disorders

The purpose of the following amendment is to provide for the offering of the

Standard Reinsurance Contract by publication in the FEDERAL REGISTER of a notice of offer to provide reinsurance against riots or civil disorders. The terms and conditions of the Standard Reinsurance Contract being offered will be published as part of the notice of offer. This amendment does not affect any rights, duties, obligations, or liabilities arising under the Standard Reinsurance Contract (1971-72), or under any prior Standard Reinsurance Contract.

Since the notice of offer required by this amendment must be published in the FEDERAL REGISTER in time for acceptance by eligible insurance companies on or before April 30, 1972, for the May 1, 1972, to April 30, 1973, contract year, notice and public procedure upon this amendment are not practicable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

Part 1906 of Subchapter A of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. The table of contents to Part 1906 is amended by the addition of a new § 1906.40 to read as follows:

Sec.
1906.40 Notice of offer of reinsurance.

2. Part 1906 is amended by the addition of a new § 1906.40, to read as follows:

§ 1906.40 Notice of offer of reinsurance.

(a) Commencing with the Standard Reinsurance Contract for the May 1, 1972, to April 30, 1973, contract year, Federal reinsurance against riots or civil disorders shall be offered to eligible insurance companies by publication in the FEDERAL REGISTER of a notice of offer to provide reinsurance against riots or civil disorders. The notice of offer shall include an offer to provide reinsurance, a statement of the method by which the offer may be accepted, and the terms and conditions of the Standard Reinsurance Contract being offered.

(b) Copies of the terms and conditions of the Standard Reinsurance Contract offered in the notice of offer shall be maintained for public inspection at the office of the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, during regular business hours and may be obtained by writing to the Administrator at the above address.

(c) Notwithstanding any provision of any other section in this part, the terms and conditions of any Standard Reinsurance Contract shall govern with respect to that contract if the contract has been offered in the manner provided in paragraph (a) of this section.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); sec. 1103, 82 Stat. 566; 12 U.S.C. 1749bbb-17; and Secretary's delegation of authority published at 34 F.R. 2680, Feb. 27, 1969)

Effective date. This amendment shall be effective on publication in the FEDERAL REGISTER (3-25-72).

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-4562 Filed 3-24-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration SOLICITATION OF OFFERS AND FIXED-PRICE SUPPLY CONTRACTS

Chapter 5A of Title 41 is amended as follows:

PART 5A-3—PROCUREMENT BY NEGOTIATION

Part 5A-3 is amended by the addition of new Subpart 5A-3.70, as follows:

Subpart 5A-3.70—Solicitation of Offers

Sec.
5A-3.7001 Preparation of solicitation of offers.
5A-3.7002 Oral solicitations.
5A-3.7003 Bidders mailing lists.

AUTHORITY: The provisions of this Subpart 5A-3.70 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c).

Subpart 5A-3.70—Solicitation of Offers

§ 5A-3.7001 Preparation of solicitation of offers.

(a) In addition to the forms prescribed in Subpart 1-16.2 for negotiated supply contracts, the basic forms to be used for requesting offers on negotiated contracts shall be the same forms prescribed in Subpart 1-16.1 and § 5A-2.201-70 for use when soliciting bids under advertised contracts. Generally, solicitation of offers shall be in writing. However, in appropriate cases as prescribed in § 5A-3.7002 proposals or quotations may be solicited orally, provided that the resulting definitive contract is prepared on the prescribed contract form for signature by both parties.

(b) Solicitations shall contain the information necessary to enable a prospective offeror to prepare an offer. All such information shall be set forth in full in the solicitation except that Standard Forms 32, General Provisions (Supply Contract), and 33A, Solicitation Instructions and Conditions, and GSA Form 1424, GSA Supplemental Provisions (or GSA Form 1246, GSA Supplemental Provisions (A.I.D. Procurement), if applicable) may be incorporated by reference in the same manner as prescribed in § 5A-2.201-70 for advertised contracts after ensuring that the forms have been received by the offerors or quoters.

§ 5A-3.7002 Oral solicitations.

(a) Oral solicitations are authorized for small purchases (see Subparts 1-3.6, 5-3.6, and 5A-3.6) and for the procurement of perishable subsistence.

(b) Oral solicitations, other than those described in paragraph (a), above, also are authorized in cases where the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances

may include those listed in § 1-3.202. However, oral solicitation is not to be considered justified solely because a high issue Priority Designator has been assigned to the requirement or because public exigency has been determined to exist.

(c) In addition to other applicable documentation requirements of Subpart 1-3.3, the contract record should include a résumé of the circumstances which justified use of an oral solicitation, the item description, quantity, deliveries required, sources solicited, prices quoted (including name of individual contacted), date and time contacted, and the solicitation number which was provided to the prospective sources. Should the issuance of the resulting contractual instrument be unduly delayed, the contract file shall be documented to describe the reasons for the delay and justify award based on the oral solicitation.

(d) The oral method of solicitation, pursuant to this section, shall not be used without prior approval at a level higher than the contracting officer but not below grade GS-13.

(e) Use of oral solicitation does not relieve the contracting officer from complying with other applicable procurement regulations, e.g., post-award notice to offerors (see § 1-3.103), price negotiation policies and techniques (see Subparts 1-3.8, 5-3.8, and 5A-3.8), and submission of same terms and conditions to all offerors.

§ 5A-3.7003 Bidders mailing lists.

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with §§ 1-2.205 and 5A-2.205.

PART 5A-7—CONTRACT CLAUSES

The table of contents of Part 5A-7 is amended to add the following new entry:

Sec.
5A-7.170-4 Drawings referencing product or material specifications.

Subpart 5A-7.1—Fixed-Price Supply Contracts

Subpart 5A-7.1 is amended to add a new § 5A-7.170-4 as follows:

§ 5A-7.170-4 Drawings referencing product or material specifications.

The following clause shall be included in all solicitations for offers where the specification includes drawings:

REFERENCES TO SPECIFICATIONS IN DRAWINGS

If military or other drawings are made a part of this contract, any reference in the drawings to specifications or standards shall be considered as reference to the issue of such documents currently in effect on the issue date of the solicitation for offers.

Effective date. This regulation is effective 30 days after the date shown below, but may be observed earlier.

Dated: March 15, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-4604 Filed 3-24-72;8:49 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

CLINICAL TRAINING IN PHYSICIAN'S OFFICE

This amendment of Veterans Administration regulations provides for recognition as part of the institutional training the clinical training phase of a school's medical specialty education program if given in a physician's office and if otherwise approved by the Council on Medical Education of the American Medical Association.

In § 21.4275(c), subparagraph (1) is amended to read as follows:

§ 21.4275 Professional courses.

(c) *Medical and dental specialty courses.* (1) Medical and dental specialty courses such as X-ray technician, medical technician, medical records librarian, physical therapist, and dental technician courses whether accredited or nonaccredited offered by a school will be measured on the basis of credit hours or clock hours of attendance, whichever is appropriate. Required clinical training given in an affiliated hospital, clinic, laboratory or medical center will be assessed as institutional training when it is an integral part of the course, the completion thereof is a prerequisite to the successful completion of the course, the student remains enrolled in the course during the clinical training period, and the training is under the direction and supervision of the school. Clinical training given in a physician's office, also called externship, will be recognized as part of the institutional training if the course is accredited by the Council on Medical Education, American Medical Association. If the course is not so accredited such practical or on-the-job training or experience in a physician's office may not be included unless the program is approved as a cooperative course.

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

This VA Regulation is effective the date of approval.

Approved: March 20, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-4594 Filed 3-24-72;8:49 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Periodic Check on Sterile Techniques for Human Whole Blood

On November 12, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 21696) proposing to amend Part 73 of the Public Health Service regulations by amending § 73.3004(b) to require that a periodic check on sterile technique need only be performed when Whole Blood (Human) is prepared in an open or vented system.

Views and arguments respecting such proposal were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER and notice was given of intention to make any amendments that were adopted effective 30 days after publication in the FEDERAL REGISTER.

After consideration of all comments submitted, the following amendment to Part 73 of the Public Health Service regulations is hereby adopted to become effective 30 days after publication in the FEDERAL REGISTER.

Dated: March 16, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Section 73.3004(b) is amended by revising the first sentence to read as follows:

§ 73.3004 General requirements.

(b) *Periodic check on sterile technique.* Where blood is collected in an open system, that is, where the blood container is entered, at least one container of such blood that upon visual examination appears normal shall be tested each month between the 18th and 24th day after collection, as a continuing check on technique of blood collection, as follows: * * *

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216, sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[FR Doc.72-4560 Filed 3-24-72;8:48 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 72-59R]

REFERENCE SPECIFICATIONS, STANDARDS, AND CODES

Miscellaneous Amendments to Chapter

The purpose of these amendments to the engineering regulations is:

(1) To make editorial changes, primarily correcting errors that occurred in the 1968 revision of Subchapter F (33 F.R. 18808);

(2) To reflect changes in adopted industry standards and specifications;

(3) To adopt additional standards;

(4) To reflect technological advances;

(5) To interpret current regulations; and

(6) To allow aluminum as a material for the fabrication of independent fuel tanks.

These amendments were proposed in a notice of proposed rule making published in the FEDERAL REGISTER of February 24, 1971 (36 F.R. 3425), and in the Merchant Marine Council Public Hearing Agenda (CG-249) dated March 29, 1971. The proposed amendments in this document were identified as Item PH 2-71.

The Merchant Marine Council held a public hearing on March 29, 1971, in Washington, D.C., on the amendments proposed in the notice. Interested persons were given the opportunity to submit written comments both before and at the public hearing and to make oral comments concerning all the proposed amendments at the public hearing.

Item PH 2-71 included two proposals: Item PH 2a-71 concerns miscellaneous changes to 46 CFR Subchapters F, Q, and T; and Item PH 2b-71 concerns the allowance by the Coast Guard of aluminum as a material for the fabrication of independent fuel tanks for gasoline and diesel fuel service.

Nineteen comments were received on Item PH 2a-71. Three of these comments supported the proposals. One comment suggested that the words "physical properties" proposed in the amendments to footnotes 10 and 11 of Table 56.60-1(a) be changed to "mechanical properties" to clarify the intent of the rule. This suggestion has been approved and the footnotes to the table have been changed in accordance with the suggestion.

One comment questioned the adoptions of ANSI B 31.7 for nuclear power piping as proposed on pages 30 through 33 of the Merchant Marine Public Hearing Agenda (CG-249). This comment pointed out that the ASME's 1971 edition of the "Boiler and Pressure Vessel Code" will contain a new section III, "Nuclear Power Plant Components, Division 1, Metal Components" that includes nuclear piping. The requirements on piping in the new section III are adopted from ANSI B 31.7 with necessary modifications to make them consistent and compatible with the requirements of other components in the system. Since ASME is the sponsor of both ANSI B 31.7 and the "Boiler and Pressure Vessel Code," the commentator pointed out the probability of industry and governmental agency acceptance and use of the new section III. The Coast Guard determined that other government agencies, both Federal and State, intended to use the new section III and decided not to adopt B 31.7 at this time. Accordingly, the adoption of B 31.7 which appears on pages 30 through 33 of the Merchant Marine Public Hearing

Agenda (CG-249) dated March 29, 1971, is hereby withdrawn.

A comment suggested that since an accumulation of sediment near the bottom of a tank could disable the gage closure device required in the proposed § 58.50-10(a)(4)(iii), the fuel level gage should continue to be installed on the topmost part of the tank. The Coast Guard accepted the intent of this comment and changed § 58.50-10(a)(4)(iii) to permit liquid level gages to penetrate at a point that is more than 2 inches from the bottom of the tank.

A comment suggested that the designation "Class A nuclear vessels" in the proposed amendment to § 162.001-2(a) be changed to "Class 1 nuclear vessels" for consonance with the 1971 ASME Code. The Coast Guard accepted this comment and made the change in the rule.

A comment pointed out that according to Item 70-198 in the minutes of the Boiler and Pressure Vessel Committee, Form P-1 (Flow Test Report) will be eliminated on January 1, 1972. It was suggested that the Coast Guard reflect this deletion in the proposed § 162.002-6(c). The Coast Guard accepted this suggestion and changed the words "or by submitting a copy of flow test report ASME Form P-1" to "or in the form of a copy of the capacity test data report" in § 162.002-6(c).

A comment suggested that the words "but is below 375° F." should be added to the proposed § 56.01-10(c)(1)(xiii). It was pointed out that the addition would be consonant with § 56.50-15(h) and would complete the temperature limitation for easy reference by a designer. The Coast Guard accepted the suggestion and changed § 56.01-10(c)(1)(xiii) to read as follows: "Hot water heating systems where the temperature is greater than 250° F. but is less than 375° F."

One comment stated that the proposed amendment to § 56.50-15(b) could be interpreted as permitting the piping to be designed to a lesser specification. The commentator proposed that the amendment be changed to reflect the wording of article PG 58.1.2.2 in section I of the ASME Boiler and Pressure Vessel Code. The Coast Guard accepted the comment and changed the first sentence of § 56.50-15(b) to read as follows: "Main superheater outlet piping systems, desuperheater piping systems and other auxiliary superheated piping systems led directly from the boiler superheater shall be designed for a pressure not less than the pressure at which the superheater safety valve is set."

A comment disagreed with the proposed amendment to § 56.50-15(1)(2). The commentator objected to the requirement of a back pressure trip device on the basis that it is an added source for propulsion failure during critical maneuvering periods and it may be difficult to test during periodic inspections. The Coast Guard recognizes that the alternatives to a simple relief valve add complexity to the machinery but does not accept this as a sufficient basis for re-

jection. The Coast Guard determined that the required device provides necessary protection. Accordingly, the Coast Guard did not approve the suggestion made in the comment for the deletion of the back pressure trip device. However, one change was made to § 56.50-15(1)(2) in accordance with a suggestion by a second commentator. In order to provide the proper protection, the Coast Guard changed the requirement that the back pressure trip device must close the inlet valve when the exhaust side pressure exceeds the maximum allowable pressure to require the closure prior to when the exhaust side pressure exceeds the maximum allowable pressure.

Three comments pertaining to the proposed amendments to § 56.50-105(a)(5) suggested relaxations of the requirements for the materials and fabrication methods for low temperature piping. The Coast Guard considered the proposed regulation to accommodate all appropriate portions of the suggestions and approved the regulation with only minor editorial changes.

One comment concerning the proposed § 162.002-5 stated that the use of three-fourths of an inch as a minimum safety valve size for unfired steam generators and auxiliary boilers is not adequate. This opinion was made without supporting evidence. The Coast Guard determined that the minimum size was supportable and rejected the suggestion. The proposed regulation was adopted but the form was changed to promote reader understanding and facilitate reference.

The remainder of the comments concerned minor editorial changes, primarily typographical errors, which were accepted.

Item PH 2b-71 received five comments. One comment supported the proposal. Three comments opposed the change on the basis that aluminum is a poor material for the transportation of oil and other hazardous cargoes. One comment called attention to a missing caption. The comments in opposition to the proposal were not based on current information on metallurgy and structural design. Accordingly, the amendment is adopted.

In accordance with the foregoing, Parts 50, 52, 54, 56, 58, 162, and 182 of Title 46 of the Code of Federal Regulations are amended as follows:

SUBCHAPTER F—MARINE ENGINEERING

PART 50—GENERAL PROVISIONS

1. By amending § 50.15-20(a) by adding a new subparagraph (12) to read as follows:

§ 50.15-20 Additional standards.

(a) * * *
(12) Fluid Controls Institute, Inc.,
Post Office Box 1485, Pompano Beach,
FL 33061.

2. By amending the table in § 50.25-1 (a) by adding a 14th product to read as follows:

§ 50.25-1 [Amended]

TABLE 50.25-1(A)—CERTIFICATION REQUIREMENTS FOR CERTAIN PRODUCTS

Identification No.	Product	Verification by	Listing in C.G-190
14.....	Valves and fittings designed for hydraulic service, as described in § 58.30-15(f), that require testing as per § 58.30-17.	Specific letter.	Yes.

PART 52—POWER BOILERS

§ 52.01-1 [Amended]

3. By amending the table in § 52.01-1 (a) as follows:

a. By adding the words "PG-2 replaced by ----- Table 54.01-5(a)" as the first entry.

b. By striking the words "PG-105 and" in the 17th entry and inserting the words "PG-104 through" in place thereof.

4. By revising § 52.01-120(a)(2) and (7) to read as follows:

§ 52.01-120 Safety valves and safety relief valves (modifies PG-67 through PG-72).

(a) * * *

(2) Propulsion boilers and their superheaters must have approved safety valves that meet the requirements in Subpart 162.001 of Part 162 of this chapter. Auxiliary boilers or unfired steam generators must have approved safety valves that meet the requirements in Subpart 162.001 or Subpart 162.002 of Part 162 of this chapter. The total rated relieving capacity of the approved safety valves must meet the requirements in § 52.01-120(a)(4).

(7) On new installations the safety valve nominal size for propulsion boilers and superheaters must not be less than 1½ inches nor more than 4 inches. Safety valves 1½ to 4½ inches may be used for replacements on existing boilers. The nominal size of a safety valve is the nominal diameter (as defined in § 56.07-5(b)) of the inlet opening.

PART 54—PRESSURE VESSELS

§ 54.01-1 [Amended]

5. By striking the 25th entry in the table in § 54.01-1(a) and replacing it with two entries to read as follows:

TABLE 54.01-1(a)—LIMITATIONS AND MODIFICATIONS IN THE ADOPTION OF DIVISION 1 OF SECTION VIII, ASME CODE

Paragraphs in section VIII, ASME Code and disposition	Unit of this part
UW-2(a) replaced by-----	54.01-5(b) and 54.20-2.
UW-2(b) replaced by-----	54.01-5(b).

§ 54.01-5 [Amended]

6. By amending the table in § 54.01-5 (b) by revising the first entry in the third column for class I vessels and footnotes 2 and 3 to read as follows:

TABLE 54.01-5(b)—WELDED PRESSURE VESSEL CLASSIFICATION

***	Minimum joint requirements ¹	***
***	(1) for category A, (1) or (2) for category B. All categories C and D shall be full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.	***

¹ See § 54.20-2(a)
² See § 54.20-2(b)

7. By revising § 54.01-35(b) (4) to read as follows:

§ 54.01-35 Corrosion (modifies UG-25).

(b) ***
(4) Not normally need additional thickness allowance when the effective stress (either S or SE depending on the design formula used) is 80 percent or less of the allowable stress listed in section VIII of the ASME Code for calculating thickness.

8. By amending Subpart 54.20 by adding § 54.20-2 to read as follows:

§ 54.20-2 Fabrication for Dangerous Substances (Replaces UW-2(a)).

(a) Pressure vessels containing dangerous articles or substances as defined in Subchapters N or O of this chapter shall be of the class and construction required by Subchapters D, I, O, or, when not specified, of the class as determined by the Commandant.

(b) Class III pressure vessels must not be used for the storage or stowage of dangerous substances unless there is specific authorization in Subchapters D, I, N, or O.

9. By amending Table 56.01-5(a) by deleting the unit reference "56.35-5" in the 15th entry, and the entire 16th entry reading:

"120.2.3 modified by----- 56.35-5."

PART 56—PIPING SYSTEMS AND APPURTENANCES

10. By revising § 56.01-10(c) (1) (x) and (xiii) to read as follows:

§ 56.01-10 Plan approval.

(c) ***
(1) ***
(x) Sanitary drains, soil drains, deck drains, and overboard discharge piping.

(xiii) Hot water heating systems where the temperature is greater than 250° F. but is less than 375° F.

§ 56.07-10 [Amended]

11. By amending § 56.07-10 (c) by striking the words "as specified by the Commandant" in the first sentence and inserting the words "that provides 100 percent volumetric examination of the material (e.g., Supplemental Requirement S6.1 to ASTM-A375 for ultrasonics, or other forms of nondestructive examination as specified by the Commandant)" in place thereof.

12. By amending § 56.10-5(c) by inserting a new subparagraph (2-a) to read as follows:

§ 56.10-5 Pipe.

(c) ***
(2-a) Copper-nickel alloys may be used for water and steam service within the design stress and temperature limitations indicated in ANSI B 31.1.

13. By amending § 56.25-20(b) by revising the second sentence to read as follows:

§ 56.25-20 Bolting.

(b) *** Carbon steel bolts must have USA Standard (USAS-B 18.2) square or heavy hexagon heads and must have USA Standard heavy, semifinished hexagonal nuts. ***

14. By revising § 56.30-40(f) to read as follows:

§ 56.30-40 Flexible pipe couplings of the compression or slip-on type.

(f) Flexible couplings must not be used in cargo holds or in any other space where leakage, undetected flooding, or impingement of liquid on vital equipment may disable the ship, or in tanks where the liquid conveyed in the piping system is not compatible with the liquid in the tank. Where flexible couplings are not allowed by this subpart, joints must be screwed, flanged and bolted, or welded.

§ 56.35-5 [Revoked]

15. By revoking § 56.35-5.
16. By amending § 56.50-15 by deleting the second sentence of paragraph (b) and revising the first sentence of paragraph (b) and the entire paragraph (i) to read as follows:

§ 56.50-15 Steam and exhaust piping.

(b) Main superheater outlet piping systems, desuperheated piping systems, and other auxiliary superheated piping systems led directly from the boiler superheater shall be designed for a pressure not less than the pressure at which the superheater safety valve is set. ***

(i) Where positive shutoff valves are fitted in the exhaust lines of machinery, and the exhaust side, including engine steam cylinders and chests, turbine casings, exhaust piping and shutoff

valves, is not designed for the full inlet pressure, the exhaust side must be protected from over pressure by one of the following means:

(1) A full flow relief valve in the exhaust side so set and of sufficient capacity to prevent the exhaust side from being accidentally or otherwise subjected to a pressure in excess of its maximum allowable pressure.

(2) A sentinel relief valve or other warning device fitted on the exhaust side together with a back pressure trip device which will close the inlet valve prior to the exhaust side pressure exceeding the maximum allowable pressure. A device that will throttle the inlet valve, so that the exhaust side does not exceed the maximum allowable pressure, may be substituted for the back pressure trip.

§ 56.50-70 [Amended]

17. By revoking § 56.50-70(b) (4).
18. By amending § 56.50-85(a) by revising subparagraph (4) and adding subparagraph (4-a) to read as follows:

§ 56.50-85 Tank vent piping.

(a) ***
(4) Vents of fresh water tanks must extend above the weather deck unless they terminate within the machinery space, in which case they shall terminate well above the deep loadline. Vents for tanks having no boundary in common with the hull, and which terminate in the machinery space, need not extend above the deep loadline.

(4-a) Vents from ballast and fuel oil tanks shall extend above the weather deck and the vents from oil tanks shall terminate not less than 3 feet from any opening into living quarters.

19. By amending § 56.50-95 by deleting the third and fourth sentences of paragraph (d) (1) and by adding a new paragraph (b) (4) to read as follows:

§ 56.50-95 Overboard discharges and shell connections.

(b) ***
(4) Sanitary pump discharges leading directly overboard or via a holding tank must meet the standards prescribed by this paragraph. The location of the sanitary system openings within the vessel determines whether the requirements of subparagraph (2) or (3) of this paragraph are applicable.

§ 56.50-96 [Amended]

20. By striking out the words "and (e) (3)" in the first sentence of § 56.50-96 (a) and inserting "(e) (3), and (f)" in place thereof.

21. By revising § 56.50-105 (a) (5) and (b) (1) to read as follows:

§ 56.50-105 Low temperature piping.

(a) ***
(5) Other requirements. All other requirements contained in this part for Class I piping apply to Class I-L systems. Pressure testing must comply with

Subpart 56.97 and nondestructive testing of circumferentially welded joints must comply with Table 56.95-10. Seamless grade tubular products must be used except, when the service pressure does not exceed 250 p.s.i., the Commandant may give special consideration to appropriate grades of pipe and tubing that are welded without the addition of filler metal in the root pass. Production procedures and quality control programs for welded products must be accepted by the Commandant.

(b) * * *

(1) Materials must be the same as those required by paragraph (a)(1) of this section except that pipe and tubing of appropriate grades welded without the addition of a filler metal may be used. The Commandant may give special consideration to tubular products welded with the addition of filler metal.

22. By amending the third column in Table 56.50-105 for the product form "Wrought welding fittings (carbon and low alloy steels)" by striking the grade "WPL0" and inserting the grade "WPL1" in place thereof.

§ 56.60-1 [Amended]

23. By amending Table 56.60-1(a) as follows:

a. By deleting the first entry below the product form "Tube, seamless", which reads: "A83 carbon steel boiler tubes PG 23.1, sec. 1, ASME Code (10)."

b. By revising footnotes 10 and 11 to read as follows:

TABLE 56.60-1(a)—ADOPTED SPECIFICATIONS AND STANDARDS (MODIFIES TABLE 126.1)

¹⁰ When used in piping systems, a certificate shall be furnished by the manufacturer certifying that the mechanical properties at room temperature specified in ASTM A520 have been met. Without this certification, use is limited to applications within heat exchangers.

¹¹ When used in piping systems, a certificate shall be furnished by the manufacturer certifying that the mechanical properties for A192 in ASTM A520 have been met. Without this certification, use is limited to applications within heat exchangers.

24. By amending Table 56.60-1(b) by adding two new entries below the MSS Standards and a new "FCI Standard" with one entry to read as follows:

TABLE 56.60-1(b)—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS (MODIFIES TABLE 126.1)

MSS Standards (Manufacturer's Standardization Society of the Valve and Fittings Industry, 420 Lexington Avenue, New York, NY 10017):

SP-72 Ball Valves with Flanged or Butt-Welding Ends for General Service.
SP-73 Silver Brazing Joints for Wrought and Cast Solder Joint Fittings.

FCI Standards (Fluid Control Institute, Inc., Post Office Box 1484, Pompano Beach, FL 33061); FCI 69-1 Pressure Rating Standard for Steam Traps.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

25. By revising § 58.10-15(e) to read as follows:

§ 58.10-15 Gas turbine installations.

(e) *Noise level.* The standard for the protection of persons from noise ex-

posure is in 41 CFR 50.204.10 except when there is a specific standard approved by the Commandant.

§ 58.50-5 [Amended]

26. By amending Table 58.50-5(a) by adding a new material "aluminum" and footnotes 5 and 6 to read as follows:

TABLE 58.50-5(a)

Material	A. S. T. M. specification (latest edition)	Thickness in inches and gage numbers ¹ vs. tank capacities for—		
		1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks ²
Aluminum ³	B 209, Alloy 5086 ⁴	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3)

¹ Anodic to most common metals. Avoid dissimilar metal contact with tank body.
² And other alloys acceptable to the Commandant.

§ 58.50-10 [Amended]

27. By amending Table 58.50-10(a) by adding a new material "Aluminum" and footnotes 5 and 6 to read as follows:

TABLE 58.50-10(a)

Material	A. S. T. M. specification (latest edition)	Thickness in inches and gage numbers ¹ vs. tank capacities for—		
		1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks ²
Aluminum ³	B209, Alloy 5086 ⁴	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3)

¹ Anodic to most common metals. Avoid dissimilar metal contact with tank body.
² And other alloys acceptable to the Commandant.

28. By amending § 58.50-10(a)(4) by revising the introductory text and adding subdivision (iii) to read as follows:

§ 58.50-10 Diesel fuel tanks.

(a) * * *

(4) Openings for fill and vent pipes must be on the topmost surface of a tank. There must be no openings in the bottom, sides, or ends of a tank except as follows:

(iii) Liquid level gages must penetrate at a point that is more than 2 inches from the bottom of the tank.

pressures in excess of 30 pounds per square inch that are installed on merchant vessels subject to inspection by the Coast Guard. * * *

31. By revising the first sentence of § 162.012-4(b) to read as follows:

§ 162.012-4 Construction and workmanship.

(b) The nominal size of a safety valve must be the nominal diameter of the inlet opening. * * *

32. By amending Part 162 by adding Subpart 162.002 after Subpart 162.001 to read as follows:

Subpart 162.002—Safety Valves (Auxiliary Boilers for Steam Service in Excess of 30 Pounds Per Square Inch Gage)

Sec.
162.002-1 Applicable specification and referenced material.
162.002-2 Scope.
162.002-3 Materials.
162.002-4 Construction, adjustment, and testing.
162.002-5 Marking.
162.002-6 Procedure for approval.

AUTHORITY: The provisions of this Subpart 162.002 issued under R.S. 4405, as amended, 4462, as amended, sec. 1, 63 Stat. 496, 545, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 14 U.S.C. 2, 633, 49 U.S.C. 1655(b)(1); 48 CFR 1.46.

SUBCHAPTER Q—SPECIFICATIONS

PART 162—ENGINEERING EQUIPMENT

29. By revising the heading of Subpart 162.001 to read as follows:

Subpart 162.001—Safety Valves (Propulsion Boilers for Steam Service in Excess of 30 Pounds Per Square Inch Gage)

30. By revising the first sentence of § 162.001-2(a) to read as follows:

§ 162.001-2 Scope.

(a) This specification concerns the requirements for the design, construction, and testing of spring loaded safety valves intended for use on propulsion boilers and Class 1 nuclear vessels designed for

§ 162.002-1 Applicable specifications and referenced material.

(a) There are no other specifications applicable to this subpart except as noted in this subpart.

(b) The following referenced material from industry standards of the issue in effect on the date a safety valve is manufactured shall form a part of the regulations of this subpart (see §§ 2.75-17 through 2.75-19 and Subpart 50.15 of Part 50 of this chapter):

(i) ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code (see § 50.15-5 of this chapter): The following paragraphs from section I of the ASME Code:

(i) PG-67 through PG-72, design, construction, and adjustments, see § 162.002-5.

(ii) PG-110, markings, see § 162.002-5(a).

(iii) PG-69, tests, see § 162.002-6(c).

(c) A copy of this specification and the referenced material listed in this section shall be kept on file by the manufacturer, together with the approved plans, specifications, and certificate of approval. It is the manufacturer's responsibility to have the latest issue, including addenda and changes of the referenced material on hand when manufacturing equipment prescribed by this subpart.

(1) The ASME Code may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

§ 162.002-2 Scope.

This specification prescribes requirements for the design, construction, and testing of spring loaded safety valves intended for use on unfired steam generators and auxiliary boilers designed for pressures in excess of 30 pounds per square inch gage and installed on merchant vessels subject to inspection by the U.S. Coast Guard.

§ 162.002-3 Materials.

(a) The materials used in the manufacture of safety valves must conform to the applicable requirements of Subchapter F of this chapter except as otherwise specified in this subpart.

(b) Safety valve bodies must be made of carbon or alloy forged or cast steel, cast bronze, or of such other equivalent material as may be approved by the Commandant.

(c) Internal parts must be made of materials possessing corrosion and heat resisting qualities suitable for the service conditions to which they will be subjected.

(d) Springs used in safety valves must be of the best quality spring steel consistent with the design of the valve and the service requirement.

(e) Cast iron must not be used in the construction of any part of the safety valve except in caps or lifting bars. When used for these parts, the elongation shall be at least 5 percent in a 2-inch gage length.

(f) Nonmetallic material is prohibited in the construction of safety valve pressure parts except for gaskets and packing.

§ 162.002-4 Construction, adjustment, and testing.

(a) Safety valves must be designed, constructed, adjusted and tested in accordance with PG-67 through PG-72 of the ASME Code section I except as indicated in this subpart.

(b) The nominal size of a safety valve as used in this specification means the nominal diameter of the inlet opening.

(c) A safety valve must—

(1) Be between ¾ and 4 inches nominal pipe size;

(2) Have flanged or screwed inlet and outlet connections except that welded end inlets may be authorized by the Commandant;

(3) Not have screwed inlets larger than 2-inch nominal pipe size;

(4) Be constructed so that no shocks detrimental to the valve or boiler are produced when lifting or closing;

(5) Be designated to pop open instantly and reach full lift and capacity at the maximum accumulation, as determined by the flow rating test prescribed by § 162.002-6(c);

(6) Have a closure after popping that is clean and sharp;

(7) Operate satisfactorily without wire-drawing or chattering at any stage of operation; and

(8) Not have the set pressure exceed 150 p.s.i.

(d) A spring must—

(1) Be designed so that it will not be compressed solid when the valve is discharging at the maximum relieving capacity approved by the Commandant; and

(2) Not show a permanent set exceeding 1 percent of its free length 10 minutes after being released from a cold compression test closing the spring solid.

(e) The spring may be reset for any pressure not more than 10 percent above or 10 percent below that for which the safety valve is marked.

(f) The huddling device must have a suitable stop for fixing it after adjustment is completed.

§ 162.002-5 Marking.

(a) Each valve must be marked by the manufacturer in accordance with PG-110 of the ASME Code except that the ASME symbol may be omitted.

(b) The official Coast Guard approval number must be marked on each valve in

addition to the data required in paragraph (a) of this section. The minimum wording for showing the approval number, which will be assigned by the Commandant (MMT), must be "USCG 162.002/-----" or "USCG 162.002 -----"

§ 162.002-6 Procedure for approval.

(a) *General.* Safety valves which are intended for use as described in § 162.002-2 must be approved by the Commandant (MMT), U.S. Coast Guard Headquarters, Washington, D.C. 20590.

(b) *Plan submission.* Manufacturers desiring to secure approval of a design or type of safety valve must submit to the Commandant drawings in triplicate clearly showing the design together with the material specifications of the component parts. If the design is changed, the manufacturer shall submit amended drawings to the Commandant for reapproval.

(c) *Preapproval tests.* Before approval is granted, manufacturers must have flow tests conducted in accordance with PG-69 of the ASME Code. The manufacturer must submit evidence that such tests have been conducted in the form of certification of ASME capacities by the National Board of Boiler and Pressure Vessel Inspectors or in the form of a copy of the capacity test data report and a table of relieving capacities for each size of valve for which approval is required. Such data must be forwarded by the manufacturer to the Commandant (MMT) with plan submission.

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 182—MACHINERY INSTALLATION

33. By revising § 182.15-15(b)(4) to read as follows:

§ 182.15-15 Gasoline engine exhaust cooling.

(b) * * * * *

(4) Vertical exhaust piping must be water-jacketed or suitably insulated between the engine manifold and the spark arrester.

§ 182.15-25 [Amended]

34. By amending Table 182.15-25(a) (1) by adding a new material "Aluminum" and footnotes 4 and 5 to read as follows:

TABLE 182.15-25(a) (1)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers ¹ vs. tank capacities for—		
		1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks
Aluminum ⁴	B209, Alloy 5086 ⁵	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3)

¹ Anodic to most common metals. Avoid dissimilar metal contact with tank body.
² And other alloys acceptable to the Commandant.

RULES AND REGULATIONS

§ 182.20-25 [Amended]

35. By amending Table 182.20-25(a)(1) by adding a new material "Aluminum" and footnotes 3 and 4 to read as follows:

TABLE 182.20-25(a)(1)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers ¹ vs. tank capacities for—		
		1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks
Aluminum ²	B209, Alloy 5086 ⁴	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3)

¹ Anodic to most common metals. Avoid dissimilar metal contact with tank body;
And other alloys acceptable to the Commandant.

(R.S. 4405, as amended, 4462, as amended, sec. 1, 63 Stat. 496, 545, sec. 6(b)(1), 80 Stat. 937;
46 U.S.C. 375, 416, 14 U.S.C. 2, 633, 49 U.S.C. 1655(b)(1), 49 CFR 1.46)

Effective date. These amendments shall become effective on April 28, 1972.

Dated: March 15, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 72-4448 Filed 3-24-72; 8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

INCOME TAX

Imposition of Tax on Foreign Corporations; Return Requirements; Income Affected by Treaty

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 six copies, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by April 24, 1972. 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 April 24, 1972. 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, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office 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] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1), and the Procedure and Administration Regulations (26 CFR Part 301), to the amendments of the Internal Revenue Code of 1954 made by sections 104 (exclusive of subsections (c), (g), (h), (i), and (1) thereof) and 105 (exclusive of subsections (e) and (f) thereof) of the Foreign Investors Tax Act of 1966 (80 Stat. 1555-1559, 1562-1565), such regulations are hereby amended as provided in the following paragraphs. The proposed regulations relating to deductions of foreign corporations will be published at a later date with notice of proposed rule making.

PARAGRAPH 1. Section 1.11-1 is amended by revising paragraph (a) to read as follows:

§ 1.11-1 Tax on corporations.

(a) Every corporation, foreign or domestic, is liable to the tax imposed under section 11 except (1) corporations specifically excepted under such section from such tax; (2) corporations expressly exempt from all taxation under subtitle A of the Code (see section 501); and (3) corporations subject to tax under section 511(a). For taxable years beginning after December 31, 1966, foreign corporations engaged in trade or business in the United States shall be taxable under section 11 only on their taxable income which is effectively connected with the conduct of a trade or business in the United States (see section 882(a)(1)). For definition of the terms "corporations," "domestic," and "foreign," see section 7701(a) (3), (4), and (5), respectively. It is immaterial that a domestic corporation, and for taxable years beginning after December 31, 1966, a foreign corporation engaged in trade or business in the United States, which is subject to the tax imposed by section 11 may derive no income from sources within the United States. The tax imposed by section 11 is payable upon the basis of the returns rendered by the corporations liable thereto, except that in some cases a tax is to be paid at the source of the income. See subchapter A (sections 6001 and following), chapter 61 of the Code, and section 1442.

PAR. 2. Section 1.245 is amended by revising subsection (a) of section 245, by redesignating subsection (b) of such section as subsection (c) and by revising such subsection, by adding after subsection (a) of such section a new subsection (b), and by revising the historical note, to read as follows:

§ 1.245 Statutory provisions; dividends received from certain foreign corporations.

SEC. 245. Dividends received from certain foreign corporations—(a) General rule. In the case of dividends received from a foreign corporation (other than a foreign personal holding company) which is subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation's taxable year in which such dividends are paid (or, if the corporation has not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation has been in existence as of the close of such taxable year) such foreign corporation has been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States, there shall be allowed as a deduction in the case of a corporation—

(1) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of its earnings

and profits specified in paragraph (2) of the first sentence of section 316(a), but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such earnings and profits as the gross income of such foreign corporation for the taxable year which is effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources for such taxable year, and

(2) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of that part of its earnings and profits specified in paragraph (1) of the first sentence of section 316(a) accumulated after the beginning of such uninterrupted period, but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such accumulated earnings and profits as the gross income of such foreign corporation, which is effectively connected with the conduct of a trade or business within the United States, for the portion of such uninterrupted period ending at the beginning of such taxable year bears to its gross income from all sources for such portion of such uninterrupted period.

For purposes of this subsection, the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of paragraph (2), there shall not be taken into account any taxable year within such uninterrupted period if, with respect to dividends paid out of the earnings and profits of such year, the deduction provided by subsection (b) would be allowable.

(b) Certain dividends received from wholly owned foreign subsidiaries—(1) In general. In the case of dividends described in paragraph (2) received from a foreign corporation by a domestic corporation which, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

(2) Eligible dividends. Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

(A) All of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and

(B) All of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

(3) Exception. Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

(A) The taxable year of the domestic corporation in which such dividends are received, or

(B) The taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

(c) Property distributions. For purposes of subsections (a) and (b), the amount of any distribution of property other than money

shall be the amount determined by applying section 301(b)(1)(B).

[Sec. 245 as amended by sec. 5(c), Rev. Act 1962 (76 Stat. 977); sec. 104 (d) and (e), Foreign Investors Tax Act 1966 (80 Stat. 1558)]

PAR. 3. Section 1.245-1 is amended by revising so much thereof as precedes the examples in paragraph (d) to read as follows:

§ 1.245-1 Dividends received from certain foreign corporations.

(a) *General rule.* (1) A corporation is allowed a deduction under section 245(a) for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if, for an uninterrupted period of not less than 36 months ending with the close of the foreign corporation's taxable year in which the dividends are paid, (i) the foreign corporation is engaged in trade or business in the United States, and (ii) 50 percent or more of the foreign corporation's entire gross income is effectively connected with the conduct of a trade or business in the United States by that corporation. If the foreign corporation has been in existence less than 36 months as of the close of the taxable year in which the dividends are paid, then the applicable uninterrupted period to be taken into consideration in lieu of the uninterrupted period of 36 or more months is the entire period such corporation has been in existence as of the close of such taxable year. An uninterrupted period which satisfied the twofold requirement with respect to business activity and gross income may start at a date later than the date on which the foreign corporation first commenced an uninterrupted period of engaging in trade or business within the United States, but the applicable uninterrupted period is in any event the longest uninterrupted period which satisfies such twofold requirement. The deduction under section 245(a) is allowable to any corporation, whether foreign or domestic, receiving dividends from a distributing corporation which meets the requirements of that section.

(2) Any taxable year of a foreign corporation which falls within the uninterrupted period described in section 245(a)(2) shall not be taken into account in applying section 245(a)(2) and this paragraph if the 100 percent dividends received deduction would be allowable under paragraph (b) of this section, whether or not in fact allowed, with respect to any dividends payable, whether or not in fact paid, out of the earnings and profits of such foreign corporation for that taxable year. Thus, in such case the foreign corporation shall be treated as having no earnings and profits for that taxable year for purposes of determining the dividends received deduction allowable under section 245(a) and this paragraph. However, that taxable year may be taken into account for purposes of determining whether the foreign corporation meets the requirements of sec-

tion 245(a) that, for the uninterrupted period specified therein, the foreign corporation is engaged in trade or business in the United States and meets the 50 percent gross income requirement.

(b) *Dividends from wholly owned foreign subsidiaries.* (1) A domestic corporation is allowed a deduction under section 245(b) for any taxable year beginning after December 31, 1966, for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if—

(i) The domestic corporation owns either directly or indirectly all of the outstanding stock of the foreign corporation during the entire taxable year of the domestic corporation in which the dividends are received, and

(ii) The dividends are paid out of earnings and profits of a taxable year of the foreign corporation during which (a) the domestic corporation receiving the dividends owns directly or indirectly throughout such year all of the outstanding stock of the foreign corporation, and (b) all of the gross income of the foreign corporation from all sources is effectively connected for that year with the conduct of a trade or business in the United States by that corporation.

(2) The deduction allowed by section 245(b) does not apply if an election under section 1562, relating to the privilege of a controlled group of corporations to elect multiple surtax exemptions, is effective for either the taxable year of the domestic corporation in which the dividends are received or the taxable year of the foreign corporation out of the earnings and profits of which the dividends are paid.

(c) *Rules of application.* (1) Except as provided in section 246, the deduction provided by section 245 for any taxable year is the sum of the amounts computed under paragraphs (1) and (2) of section 245(a) plus, in the case of a domestic corporation for any taxable year beginning after December 31, 1966, the sum of the amounts computed under section 245(b)(2).

(2) To the extent that a dividend received from a foreign corporation is treated as a dividend from a domestic corporation in accordance with section 243(d) and § 1.243-3, it shall not be treated as a dividend received from a foreign corporation for purposes of this section.

(3) For purposes of section 245(a) and (b), the amount of a distribution shall be determined under subparagraph (B) (without reference to subparagraph (C)) of section 301(b)(1).

(4) In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316-2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and

profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent accounting year. See also paragraph (c) of § 1.243-3 and paragraph (a)(6) of § 1.243-4.

(5) For purposes of this section the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation.

(6) For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

PAR. 4. Section 1.301 is amended by redesignating subsection (f) of section 301 as subsection (g) and adding a new subsection (f) after subsection (e) of such section, by revising section 301(b)(1)(C), and by revising the historical note, to read as follows:

§ 1.301 Statutory provisions; distributions of property.

SEC. 301. *Distributions of property.* * * *
(b) *Amount distributed*—(1) *General rule.* * * *

(C) *Certain corporate distributees of foreign corporation.* Notwithstanding subparagraph (B), if the shareholder is a corporation and the distributing corporation is a foreign corporation, the amount taken into account with respect to property (other than money) shall be the fair market value of such property; except that if any deduction is allowable under section 245 with respect to such distribution, then the amount taken into account shall be the sum (determined under regulations prescribed by the Secretary or his delegate) of—

(i) The proportion of the adjusted basis of such property (or, if lower, its fair market value) properly attributable to gross income which is effectively connected with the conduct of a trade or business within the United States, and

(ii) The proportion of the fair market value of such property properly attributable to gross income which is not effectively connected with the conduct of a trade or business within the United States.

For purposes of clause (i), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of

clause (ii), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is not effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources without the United States.

(f) *Special rules for distributions of antitrust stock to corporations*—(1) *Definition of antitrust stock.* For purposes of this subsection, the term "antitrust stock" means stock received, by a corporation which is a party to a suit described in section 1111(d) (relating to definition of antitrust order), in a distribution made after September 6, 1961, either pursuant to the terms of, or in anticipation of, an antitrust order (as defined in subsection (d) of section 1111).

(2) *Amount distributed.* Notwithstanding subsection (b) (1) (but subject to subsection (b) (2)), for purposes of this section the amount of a distribution of antitrust stock received by a corporation shall be the fair market value of such stock.

(3) *Basis.* Notwithstanding subsection (d), the basis of antitrust stock received by a corporation in a distribution to which subsection (a) applies shall be the fair market value of such stock decreased by so much of the deduction for dividends received under the provisions of section 243, 244, or 245 as is, under regulations prescribed by the Secretary or his delegate, attributable to the excess, if any, of—

(A) The fair market value of the stock, over

(B) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the stock, increased by the amount of gain which is recognized to the distributing corporation by reason of the distribution.

(g) *Special rules.* (1) For distributions in redemption of stock, see section 302.

(2) For distributions in partial or complete liquidation, see part II (sec. 331 and following).

(3) For distributions in corporate organizations and reorganizations, see part III (sec. 351 and following).

(4) For partial exclusion from gross income of dividends received by individuals, see section 116.

[Sec. 301 as amended by sec. 2, Act of Feb. 2, 1962 (Public Law 87-403, 76 Stat. 5); secs. 5 (a) and (b) and 13(f) (2), Rev. Act 1962 (76 Stat. 977, 1035); sec. 231(b) (2), Rev. Act 1964 (78 Stat. 105); sec. 1(b) (1), Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 597); sec. 1(b) (2), Act of Sept. 12, 1966 (Public Law 89-570, 80 Stat. 762); and sec. 104(f), Foreign Investors Tax Act 1966 (80 Stat. 1559); secs. 211(b) (1) and (2), and 905(b) (2), Tax Reform Act 1969 (83 Stat. 570, 714)]

Par. 5. Section 1.301-1 is amended by revising subparagraphs (3) and (5) of paragraph (n) to read as follows:

§ 1.301-1 Rules applicable with respect to distributions of money and other property.

(n) *Distributions of certain property by foreign corporations to corporate shareholders.* * * *

(3) The amount taken into account under section 301(c) shall be the sum of—

(i) The portion computed under subparagraph (2) (i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for

the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(ii) The portion computed under subparagraph (2) (ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such portion of such uninterrupted period,

(iii) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for the taxable year which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(iv) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is not effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such portion of such uninterrupted period, and

(v) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (iii) of this paragraph.

For purposes of subdivisions (i) and (ii) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For purposes of subdivisions (iii) and (iv) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources without the United States shall be treated as gross income which is not effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

(5) The application of this paragraph may be illustrated by the following examples:

Example (1). Corporation A (a foreign corporation filing its income tax returns on a calendar year basis) whose stock is 100 percent owned by corporation B (a domestic corporation filing its income tax returns on a calendar year basis) for the first time engaged in trade or business in the United States on January 1, 1966, and qualifies under section 245(a) for the entire period beginning on that date and ending on December 31, 1970. During the period January 1, 1966, through December 31, 1969, 80 percent of corporation A's gross income is treated as effectively connected for that period with the conduct of a trade or business in the United States by that corporation, and for 1970, 90 percent of corporation A's gross income is treated as effectively connected for that year with the conduct of a trade or business in the United States by that corporation. As of December 31, 1969, A has earnings and profits of \$50,000 accumulated during the period January 1, 1966, through December 31, 1969, and for the year 1970 A has earnings and profits of \$10,000. On December 31, 1970, corporation A distributes to corporation B 100 shares of stock in domestic corporation C which have an adjusted basis of \$40,000 in A's hands and a fair market value of \$100,000. Corporation A makes no other distribution during 1970. Since a deduction is allowable to B under section 245(a) with respect to the distribution, and since the fair market value of the property (\$100,000) exceeds the adjusted basis of the property in A's hands (\$40,000), the amount of the distribution taken into account under section 301(c) is \$50,500, which is the sum of—

(i) \$9,000, i.e., \$10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(ii) \$24,000, i.e., \$30,000 (the portion of the adjusted basis of property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) \$2,500, i.e., \$25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 (\$100,000 multiplied by \$10,000/\$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970), and

(iv) \$15,000, i.e., \$75,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 (\$100,000 multiplied by \$30,000/\$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period).

Example (2). Assume the same facts as in example (1) except that as of December 31, 1969, A has earnings and profits of \$20,000

accumulated during the period January 1, 1966, through December 31, 1969. Since a deduction is allowable to B under section 245(a) with respect to the distribution and since the fair market value of the property (\$100,000) exceeds the adjusted basis of the property in A's hands (\$40,000), the amount of the distribution taken into account under section 301(c) is \$62,500, which is the sum of—

(i) \$9,000, i.e., \$10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for such year),

(ii) \$16,000, i.e., \$20,000 (the portion of the adjusted basis of the property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) \$2,500, i.e., \$25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 (\$100,000 multiplied by \$10,000/\$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(iv) \$10,000, i.e., \$50,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 (\$100,000 multiplied by \$20,000/\$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income of that period), and

(v) \$25,000, the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of sources other than earnings and profits for 1970 and earnings and profits accumulated during the uninterrupted period described in section 245(a) (\$100,000 multiplied by \$10,000/\$40,000).

PAR. 6. Section 1.881 is amended by revising section 881 and by adding a historical note, as follows:

§ 1.881 Statutory provisions; tax on income of foreign corporations not connected with United States business.

Sec. 881. *Tax on income of foreign corporations not connected with U.S. business—(a) Imposition of tax.* There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a foreign corporation as—

(1) Interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) Gains described in section 631 (b) or (c),

(3) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts which under section 1232 are considered as gains from the sale or exchange of property which is not a capital asset, and

(4) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated as being so contingent under section 871(e),

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(b) *Doubling of tax.* For doubling of tax on corporations of certain foreign countries, see section 891.

[Sec. 881 as amended by sec. 104(a), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

PAR. 7. Section 1.881-1 is amended to read as follows:

§ 1.881-1 Manner of taxing foreign corporations.

(a) *Classes of foreign corporations.* For purposes of the income tax, foreign corporations are divided into two classes, namely, foreign corporations which at no time during the taxable year are engaged in trade or business in the United States and foreign corporations which, at any time during the taxable year, are engaged in trade or business in the United States.

(b) *Manner of taxing—(1) Foreign corporations not engaged in U.S. business.* A foreign corporation which at no time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.881-2, on all income received from sources within the United States which is fixed or determinable annual or periodical income and on other items of income enumerated under section 881(a). Such a foreign corporation is also taxable on certain income from sources within the United States which, pursuant to § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(2) *Foreign corporations engaged in U.S. business.* A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.882-1, on all income from whatever source derived, whether or not fixed or determinable annual or periodical income, which is effectively connected for the taxable year with the conduct of a trade or business in the United States. Such a foreign corporation is also taxable, as provided in § 1.882-1, on income received from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States and consists of (i) fixed or determinable annual or periodical income, or (ii) other items of income enumerated in section 881(a). A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is also taxable on certain income from sources within the United States which, pursuant to § 1.882-2, is treated as effectively connected for the taxable

year with the conduct of a trade or business in the United States.

(c) *Meaning of terms.* For the meaning of the term "engaged in trade or business in the United States," as used in this section, see section 864(b) and the regulations thereunder. For determining when income, gain, or loss of a foreign corporation for the taxable year is effectively connected for that year with the conduct of a trade or business in the United States, see section 864(c) and the regulations thereunder, and § 1.882-2. For the definition of the term "foreign corporation," see section 7701(a) (3) and (5).

(d) *Rules applicable to foreign insurance companies—(1) Corporations qualifying under subchapter L.* A foreign corporation carrying on an insurance business in the United States at any time during the taxable year, which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, shall be taxable for such year under that part on its entire taxable income (whether derived from sources within or without the United States) which is, or which pursuant to section 882 (d) or (e) and § 1.882-2 is treated as, effectively connected for the taxable year with the conduct of a trade or business in the United States. Any income derived by that foreign corporation from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States is taxable as provided in section 881(a) and § 1.882-1. See sections 842 and 861 through 864, and the regulations thereunder.

(2) *Corporations not qualifying under subchapter L.* A foreign corporation which carries on an insurance business in the United States at any time during the taxable year, and which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would not qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, and a foreign insurance company which does not carry on an insurance business in the United States at any time during the taxable year, shall be taxable—

(i) Under section 881(a) and § 1.881-2 or § 1.882-1 on its income from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States,

(ii) Under section 882(a)(1) and § 1.882-1 on its income (whether derived from sources within or without the United States) which is effectively connected for the taxable year with the conduct of a trade or business in the United States, and

(iii) Under section 882(a)(1) and § 1.882-1 on its income from sources within the United States which pursuant to section 882 (d) or (e) and § 1.882-2,

is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(e) *Other provisions applicable to foreign corporations*—(1) *Accumulated earnings tax*. For the imposition of the accumulated earnings tax upon the accumulated taxable income of a foreign corporation formed or availed of for tax avoidance purposes, whether or not such corporation is engaged in trade or business in the United States, see section 532 and the regulations thereunder.

(2) *Personal holding company tax*. For the imposition of the personal holding company tax upon the undistributed personal holding company income of a foreign corporation which is a personal holding company, whether or not such corporation is engaged in trade or business in the United States, see sections 541 through 547, and the regulations thereunder. Except in the case of a foreign corporation having personal service contract income to which section 543(a) (7) applies, a foreign corporation is not a personal holding company if all of its stock outstanding during the last half of the taxable year is owned by non-resident alien individuals, whether directly or indirectly through foreign estates, foreign trusts, foreign partnerships, or other foreign corporations. See section 542(c) (7).

(3) *Foreign personal holding companies*. For the mandatory inclusion in the gross income of the United States shareholders of the undistributed foreign personal holding company income of a foreign personal holding company, see section 551 and the regulations thereunder.

(4) *Controlled foreign corporations*—(i) *Subpart F income and increase of earnings invested in U.S. property*. For the mandatory inclusion in the gross income of the U.S. shareholders of the subpart F income, of the previously excluded subpart F income withdrawn from investment in less developed countries, and of the increase in earnings invested in U.S. property, of a controlled foreign corporation, see sections 951 through 964, and the regulations thereunder.

(ii) *Certain accumulations of earnings and profits*. For the inclusion in the gross income of U.S. persons as a dividend of the gain recognized on certain sales or exchanges of stock in a foreign corporation, to the extent of certain earnings and profits attributable to the stock which were accumulated while the corporation was a controlled foreign corporation, see section 1248 and the regulations thereunder.

(5) *Changes in tax rate*. For provisions respecting the effect of any change in rate of tax during the taxable year on the income of a foreign corporation, see section 21 and the regulations thereunder.

(6) *Consolidated returns*. Except in the case of certain corporations organized under the laws of Canada or Mexico and maintained solely for the purpose of complying with the laws of that country as to title and operation of property, a

foreign corporation is not an includible corporation for purposes of the privilege of making a consolidated return by an affiliated group of corporations. See section 1504 and the regulations thereunder.

(7) *Adjustment of tax of certain foreign corporations*. For the application of pre-1967 income tax provisions to corporations of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a corporation of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(f) *Effective date*. This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-1 (Rev. as of Jan. 1, 1971).

PAR. 8. Section 1.881-2 is amended to read as follows:

§ 1.881-2 Taxation of foreign corporations not engaged in U.S. business.

(a) *Imposition of tax*. (1) This section applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States. However, see also § 1.882-2 where such corporation has an election in effect for the taxable year in respect to real property income or receives interest on obligations of the United States. Except as otherwise provided in § 1.871-12, a foreign corporation to which this section applies is not subject to the tax imposed by section 11 or section 1201(a) but, pursuant to the provisions of section 881(a), is liable to a flat tax of 30 percent upon the aggregate of the amounts determined under paragraphs (b) and (c) of this section which are received during the taxable year from sources within the United States. Except as specifically provided in such paragraphs, such amounts do not include gains from the sale or exchange of property. To determine the source of such amounts, see sections 861 through 863, and the regulations thereunder.

(2) The tax of 30 percent is imposed by section 881(a) upon an amount only to the extent the amount constitutes gross income.

(3) Deductions shall not be allowed in determining the amount subject to tax under this section.

(4) Except as provided in § 1.882-2, a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States has no income, gain, or loss for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States. See section 864(c)(1)(B) and § 1.864-3.

(5) Gains and losses which, by reason of section 882(d) and § 1.882-2, are treated as gains or losses which are effectively connected for the taxable year with the conduct of a trade or business in the United States by such a foreign corporation shall not be taken into ac-

count in determining the tax under this section. See, for example, paragraph (c) (2) of § 1.871-10.

(b) *Fixed or determinable annual or periodical income*. The tax of 30 percent imposed by section 881(a) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 881(a) (1) as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 881(a), see section 306(f) and paragraph (h) of § 1.306-3.

(c) *Other income and gains*—(1) *Items subject to tax*. The tax of 30 percent imposed by section 881(a) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 631 (b) or (c), relating to the treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) [Reserved]

(iii) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871-11 as being so contingent.

(2) *Determination of amount of gain*. The tax of 30 percent imposed upon the gains described in subparagraph (1) of this paragraph applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(a) upon the excess of net long-term capital gain over the net short-term capital loss; (ii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iii) except in the case of gains described in subparagraph (1) (ii) of this paragraph, whether or not the gains are considered to be gains from the sale or exchange of property which is a capital asset.

(d) *Credits against tax*. The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), by section 39 (relating to certain uses of gasoline and lubricating oil), and by section 6402 (relating to

overpayments of tax) shall be allowed against the tax of a foreign corporation determined in accordance with this section.

(e) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-2 (Rev. as of Jan. 1, 1971).

PAR. 9. Section 1.882 is amended by revising section 882 and by adding a historical note, as follows:

§ 1.882 Statutory provisions; tax on income of foreign corporations connected with United States business.

SEC. 882. *Tax on income of foreign corporations connected with United States business—(a) Normal tax and surtax—(1) Imposition of tax.* A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11 or 1201(a) on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Determination of taxable income.* In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) *Gross income.* In the case of a foreign corporation, gross income includes only—

(1) Gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) Gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) *Allowance of deductions and credits—*

(1) *Allocation of deductions—(A) General rule.* In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary or his delegate.

(B) *Charitable contributions.* The deduction for charitable contributions and gifts provided by section 170 shall be allowed whether or not connected with income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Deductions and credits allowed only if return filed.* A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary or his delegate a true and accurate return, in the manner described in subtitle F, including therein all the information which the Secretary or his delegate may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 32 for tax withheld at source or the credit provided by section 39 for certain uses of gasoline and lubricating oil.

(3) *Foreign tax credit.* Except as provided by section 906, foreign corporations shall not be allowed the credit against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(4) *Cross reference.* For rule that certain

foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

(d) *Election to treat real property income as income connected with U.S. business—(1) In general.* A foreign corporation which during the taxable year derives any income—

(A) From real property located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631 (b) or (c), and

(B) Which, but for this subsection would not be treated as income effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

(2) *Election after revocation, etc.* Paragraphs (2) and (3) of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(e) *Interest on U.S. obligations received by banks organized in possessions.* In the case of a corporation created or organized in, or under the law of, a possession of the United States which is carrying on the banking business in a possession of the United States, interest on obligations of the United States shall—

(1) For purposes of this subpart, be treated as income which is effectively connected with the conduct of a trade or business within the United States, and

(2) Shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year.

(f) *Returns of tax by agent.* If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return required under section 6012 shall be made by the agent.

[Sec. 882 as amended by sec. 104(b)(1), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

PAR. 10. Section 1.882-1 is amended to read as follows:

§ 1.882-1 Taxation of foreign corporations engaged in U.S. business or of foreign corporations treated as having effectively connected income.

(a) *Segregation of income.* This section applies for purposes of determining the tax of a foreign corporation which at any time during the taxable year is engaged in trade or business in the United States. It also applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States but has for the taxable year real property income or interest on obligations of the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United

States by that corporation. A foreign corporation to which this section applies must segregate its gross income for the taxable year into two categories, namely, the income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation and the income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. A separate tax shall then be determined upon each such category of income, as provided in paragraph (b) of this section. The determination of whether income or gain is or is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation shall be made in accordance with section 864(c) and §§ 1.864-3 through 1.864-7. For purposes of this section income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 882 (d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation.

(b) *Imposition of tax—(1) Income not effectively connected with the conduct of a trade or business in the United States.* If a foreign corporation to which this section applies derives during the taxable year from sources within the United States income or gains described in section 881 (a) and paragraph (b) or (c) of § 1.881-2 which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, such income or gains shall be subject to a flat tax of 30 percent of the aggregate amount of such items. This tax shall be determined in the manner, and subject to the same conditions, set forth in § 1.881-2 as though the income or gains were derived by a foreign corporation not engaged in trade or business in the United States during the taxable year, except that in applying paragraph (c) of such section there shall not be taken into account any gains which are taken into account in determining the tax under section 882(a)(1) and subparagraph (2) of this paragraph.

(2) *Income effectively connected with the conduct of a trade or business in the United States—(i) In general.* If a foreign corporation to which this section applies derives income or gains which are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, the taxable income or gains shall, except as provided in § 1.871-12, be taxed in accordance with section 11 or, in the alternative, section 1201(a). See sections 11(f) and 882(a)(1). Any income of the foreign corporation which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation shall not be taken into account in determining either the rate or amount of such tax.

(ii) *Determination of taxable income.* The taxable income for any taxable year for purposes of this subparagraph consists only of the foreign corporation's taxable income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation; and, for this purpose, it is immaterial that the trade or business with which that income is effectively connected is not the same as the trade or business carried on in the United States by that corporation during the taxable year. See example (2) in § 1.864-4(b). In determining such taxable income all amounts constituting, or considered to be, gains or losses for the taxable year from the sale or exchange of capital assets shall be taken into account if such gains or losses are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(iii) *Cross references.* For rules for determining the gross income and deductions for the taxable year, see section 882 (b) and (c) (1) and the regulations thereunder.

(c) *Change in trade or business status.* The principles of paragraph (c) of § 1.871-8 shall apply to cases where there has been a change in the trade or business status of a foreign corporation.

(d) *Credits against tax.* The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), section 33 (relating to the foreign tax credit), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), and section 6042 (relating to overpayments of a tax) shall be allowed against the tax determined in accordance with this section. However, the credits allowed by sections 33 and 38 shall not be allowed against the flat tax of 30 percent imposed by section 881(a) and paragraph (b) (1) of this section. For special rules applicable in determining the foreign tax credit, see section 906(b) and the regulations thereunder. For the disallowance of certain credits where a return is not filed for the taxable year see section 882(c) (2) and the regulations thereunder.

(e) *Payment of estimated tax.* Every foreign corporation which for the taxable year is subject to tax under section 11 or 1201(a) and this section must make payment of its estimated tax in accordance with section 6154 and the regulations thereunder. In determining the amount of the estimated tax the foreign corporation must treat the tax imposed by section 881 (a) and paragraph (b) (1) of this section as though it were a tax imposed by section 11.

(f) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-1 (Rev. as of Jan. 1, 1971).

PAR. 11. Section 1.882-2 is amended to read as follows:

§ 1.882-2 *Income of foreign corporation treated as effectively connected with U.S. business.*

(a) *Election as to real property income.* A foreign corporation which dur-

ing the taxable year derives any income from real property which is located in the United States, or derives income from any interest in any such real property, may elect, pursuant to section 882(d) and § 1.871-10, to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The election may be made whether or not the foreign corporation is engaged in trade or business in the United States during the taxable year for which the election is made or whether or not the corporation has income from real property which for the taxable year is effectively connected with the conduct of a trade or business in the United States, but it may be made only with respect to income from sources within the United States which, without regard to section 882(d) and § 1.871-10, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The income to which the election applies shall be determined as provided in paragraph (b) of § 1.871-10 and shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a) (1) and paragraph (b) (2) of § 1.882-1. Section 871 (d) (2) and (3) and the provisions of § 1.871-10 thereunder shall apply in respect of an election under section 882(d) in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(b) *Interest on U.S. obligations received by banks organized in possessions.* Interest received from sources within the United States during the taxable year on obligations of the United States by a foreign corporation created or organized in, or under the law of, a possession of the United States and carrying on the banking business in a possession of the United States during the taxable year shall be treated, pursuant to section 882 (e) and this paragraph, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. This paragraph applies whether or not the foreign corporation is engaged in trade or business in the United States at any time during the taxable year but only with respect to income which, without regard to this paragraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Any interest to which this paragraph applies shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a) (1) and paragraph (b) (2) of § 1.882-1. To the extent that deductions are connected with interest to which this paragraph applies, they shall be treated for purposes of section 882(c) (1) and the regulations thereunder as connected with income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. An election by the taxpayer is not required in respect of the income to which

this paragraph applies. For purposes of this paragraph the term "possession of the United States" includes Guam, the Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(c) *Treatment of income.* Any income in respect of which an election described in paragraph (a) of this section is in effect, and any interest to which paragraph (b) of this section applies, shall be treated, for purposes of paragraph (b) (2) of § 1.882-1 and paragraph (a) of § 1.1441-4, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. A foreign corporation shall not be treated as being engaged in trade or business in the United States merely by reason of having such income for the taxable year.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

PAR. 12. Section 1.882-3 is amended to read as follows:

§ 1.882-3 *Gross income of a foreign corporation.*

(a) *In general—(1) Inclusions.* The gross income of a foreign corporation for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. For the determination of the sources of income, see sections 861 through 863, and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 882 (d) and (e), §§ 1.864-3 through 1.864-7, and § 1.882-2.

(2) *Exchange transactions.* Even though a foreign corporation which effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b) (2) and paragraph (c) or (d) of § 1.864-2, be engaged in trade or business in the United States during the taxable year through the effecting of such transactions, nevertheless it shall be required to include in gross income for the taxable year the gains and profits from those transactions to the extent required by paragraph (c) of § 1.881-2 or by paragraph (a) of § 1.882-1.

(3) *Exclusions.* For exclusions from gross income of a foreign corporation, see § 1.883-1.

(b) *Foreign corporations not engaged in U.S. business.* In the case of a foreign

corporation which at no time during the taxable year is engaged in trade or business in the United States the gross income shall include only (1) the gross income from sources within the United States which is described in section 881 (a) and paragraphs (b) and (c) of § 1.881-2, and (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(c) *Foreign corporations engaged in U.S. business.* In the case of a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year, the gross income shall include (1) the gross income from sources within and without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (3) the gross income from sources within the United States which is described in section 881(a) and paragraphs (b) and (c) of § 1.881-2 and is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-2 (Rev. as of Jan. 1, 1971).

PAR. 13. Section 1.883-1 is amended by revising paragraphs (b) and (c), and by adding new paragraph (d), as follows:

§ 1.883-1 Exclusions from gross income of foreign corporations.

(b) *Tax convention.* Income of any kind which is exempt from tax under the provisions of a tax convention or treaty to which the United States is a party is not included in the gross income of a foreign corporation. Income on which the tax is limited by tax convention is included in the gross income of a foreign corporation if it is not otherwise excluded from gross income. See §§ 1.871-12 and 1.894-1.

(c) *Other exclusions.* Income which is from sources without the United States, as determined under the provisions of sections 861 through 863 and the regulations thereunder, is not included in the gross income of a foreign corporation unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for

excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business within the United States see section 864(c) (4) and § 1.864-5.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.883-1 (Rev. as of Jan. 1, 1971).

PAR. 14. Section 1.884 is amended by revising section 884 and by adding an historical note, as follows:

§ 1.884 Statutory provisions; cross references.

SEC. 884. *Cross references.* (1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

[Sec. 884 as amended by sec. 104(m), Foreign Investors Tax Act 1966 (80 Stat. 1563); sec. 101(j) (21), Tax Reform Act 1969 (83 Stat. 528)]

PAR. 15. Section 1.894 is amended by revising section 894 and by adding an historical note, as follows:

§ 1.894 Statutory provisions; income affected by treaty.

SEC. 894. *Income affected by treaty—(a) Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(b) *Permanent establishment in United States.* For purposes of applying any exemption from, or reduction of, any tax provided by any treaty to which the United States is a party with respect to income which is not effectively connected with the conduct of a trade or business within the United States, a nonresident alien individual or a foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year. This subsection shall not apply in respect of the tax computed under section 877(b).

[Sec. 894 as amended by sec. 105(a), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 16. Section 1.894-1 is amended to read as follows:

§ 1.894-1 Income affected by treaty.

(a) *Income exempt under treaty.* Income of any kind is not included in gross income and is exempt from tax under subtitle A (relating to income taxes), to the extent required by any treaty or

convention obligation of the United States. See § 1.871-12 for the manner of determining the tax liability of a nonresident alien individual or foreign corporation whose gross income includes income on which the tax is reduced under a tax convention.

(b) *Taxpayer treated as having no permanent establishment in the United States—(1) In general.* A nonresident alien individual or a foreign corporation, that is engaged in trade or business in the United States through a permanent establishment located therein at any time during a taxable year beginning after December 31, 1966, shall be deemed not to have a permanent establishment in the United States at any time during that year for purposes of applying any exemption from, or reduction in the rate of, any tax under subtitle A of the Code which is provided by any income tax convention with respect to income which is not effectively connected for that year with the conduct of a trade or business in the United States by the taxpayer. This paragraph applies to all treaties or conventions entered into by the United States, whether entered into before, on, or after November 13, 1966. It is not considered to be contrary to any obligation of the United States under a treaty or convention to which it is a party. The benefit granted under section 894(b) and this paragraph applies only to those items of income derived from sources within the United States which are subject to the tax imposed by section 871(a) or 881(a), and section 1441, 1442, or 1451, on the noneffectively connected income received from sources within the United States by a nonresident alien individual or a foreign corporation. The benefit does not apply to any income from real property in respect of which an election is in effect for the taxable year under § 1.871-10 or in determining under section 877(b) the tax of a nonresident alien individual who has lost United States citizenship at any time after March 8, 1965. The benefit granted by section 894(b) and this paragraph is not elective.

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

Example (1). M, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that dividends received from sources within the United States by a corporation of country X not having a permanent establishment in the United States are subject to tax under chapter 1 of the Code at a rate not to exceed 15 percent. During 1967, M is engaged in business in the United States through a permanent establishment located therein and receives \$100,000 in dividends from domestic corporation B, which under section 861(a) (2)(A) constitute income from sources within the United States. Under section 864(c) (2) and § 1.864-4(c), the dividends received from B are not effectively connected for 1967 with the conduct of a trade or business in the United States by M. Although M has a permanent establishment in the United States during 1967, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment in the

United States during that year with respect to the dividends. Accordingly, in accordance with paragraph (c) (3) of § 1.871-12 the tax on the dividends is \$15,000, that is, 15 percent of \$100,000, determined without the allowance of any deductions.

Example (2). T, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that an enterprise of country X is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that enterprise from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of X which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, T is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, T is engaged in a business (business B) in the United States which is not carried on through a permanent establishment. During 1967, T receives from sources within the United States \$60,000 in service fees through the operation of business A and \$10,000 in dividends through the operation of business B, both of which amounts are, under section 864(c) (2) (B) and § 1.864-4 (c) (3), effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b), this paragraph, and § 1.871-12 do not apply. Accordingly, for 1967 T's entire income of \$70,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance with section 882(a) (1) and paragraph (b) (2) of § 1.882-1.

Example (3). S, a corporation organized in foreign country W, uses the calendar year as the taxable year. The United States and country W are parties to an income tax convention which provides in part that a corporation of country W is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that corporation from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country W which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, S is engaged in business in the United States through a permanent establishment located therein and derives from sources within the United States \$100,000 in service fees which, under section 864(c) (2) (B) and § 1.864-4(c) (3), are effectively connected for that year with the conduct of a trade or business in the United States by S and which are considered to be industrial or commercial profits under the tax convention with country W. During 1967, S also derives from sources within the United States, through another

business it carries on in foreign country X, \$10,000 in sales income which, under section 864(c) (3) and § 1.864-4(b), is effectively connected for that year with the conduct of a trade or business in the United States by S and \$5,000 in dividends which, under section 864(c) (2) (A) and § 1.864-4(c) (2), are not effectively connected for that year with the conduct of a trade or business in the United States by S. The sales income is considered to be industrial or commercial profits under the tax convention with country W. Although S is engaged in a trade or business in the United States during 1967 through a permanent establishment located therein, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment therein with respect to the \$5,000 in dividends. Accordingly, in accordance with paragraph (c) of § 1.871-12, for 1967 S is subject to a tax of \$750 on the dividends (\$5,000 × .15) and a tax, determined under section 882(a) and § 1.882-1, on its \$110,000 industrial or commercial profits.

Example (4). (a) N, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country Z shall not exceed 15 percent of the amount distributed if the recipient does not have a permanent establishment in the United States or, where the recipient does have a permanent establishment in the United States, if the shares giving rise to the dividends are not effectively connected with the permanent establishment. The tax convention also provides that if a corporation of country Z is engaged in industrial or commercial activity in the United States through a permanent establishment in the United States, income tax may be imposed by the United States on so much of the industrial or commercial profits of such corporation as are attributable to the permanent establishment in the United States.

(b) During 1967, N is engaged in a business (business A) in the United States which is not carried on through a permanent establishment in the United States. In addition, N has a permanent establishment in the United States through which it carries on another business (business B) in the United States. During 1967, N holds shares of stock in domestic corporation D which are not effectively connected with N's permanent establishment in the United States. During 1967, N receives \$100,000 in dividends from D which, pursuant to section 864(c) (2) (A) and § 1.864-4(c) (2), are effectively connected for that year with the conduct of business A. Under section 861(a) (2) (A) these dividends are treated as income from sources within the United States. In addition, during 1967, N receives from sources within the United States \$150,000 in sales income which, pursuant to section 864(c) (3) and § 1.864-4(b), is effectively connected with the conduct of a trade or business in the United States and which is considered to be industrial or commercial profits under the tax convention with country Z. Of these total profits, \$70,000 is from business A and \$80,000 is from business B. Only the \$80,000 of industrial or commercial profits is attributable to N's permanent establishment in the United States.

(c) Since N has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. However, N is entitled to the reduced rate of tax under the tax convention with country Z with respect to the dividends because the shares of stock are not effectively connected with N's permanent establishment in the

United States. Accordingly, assuming that there are no deductions connected with N's industrial or commercial profits, the tax for 1967, determined as provided in paragraph (c) of § 1.871-12, is \$46,900 as follows:

Tax on nontreaty income:		
\$80,000 × 48	-----	\$38,400
Less \$25,000 × 26	-----	6,500
		31,900
Tax on treaty income:		
\$100,000 (gross dividends) × .15	---	15,000
Total tax	-----	46,900

Example (5). M, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that a corporation of country Z is not subject to tax under chapter 1 of the Code in respect of its commercial and industrial profits except such profits as are allocable to its permanent establishment in the United States. The regulations in this chapter under the tax convention with country Z provide that a corporation of country Z having a permanent establishment in the United States is subject to U.S. tax upon its industrial and commercial profits from sources within the United States and that its industrial and commercial profits from such sources are deemed to be allocable to the permanent establishment in the United States. During 1967, M is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, M is engaged in a business (business B) in foreign country X and none of such business is carried on in the United States. During 1967, M receives from sources within the United States \$40,000 in sales income through the operation of business A and \$10,000 in sales income through the operation of business B, both of which amount's are, under section 864(c) (3) and § 1.864-4(b), effectively connected for that year with the conduct of a trade or business in the United States by that corporation. The sales income is considered to be industrial and commercial profits under the tax convention with country Z. Since M has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. Accordingly, for 1967 M's entire income of \$50,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance with section 882(a) (1) and paragraph (b) (2) of § 1.882-1.

(c) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.894-1 (Rev. as of Jan. 1, 1971).

PAR. 17. The following new section is inserted immediately after § 1.895-1:

§ 1.896 Statutory provisions; adjustment of tax on nationals, residents, and corporations of certain foreign countries.

SEC. 896. *Adjustment of tax on nationals, residents, and corporations of certain foreign countries—(a) Imposition of more burdensome taxes by foreign country.* Whenever the President finds that—

(1) Under the laws of any foreign country, considering the tax system of such foreign country, citizens of the United States not residents of such foreign country or domestic corporations are being subjected to more burdensome taxes, on any item of income

received by such citizens or corporations from sources within such foreign country, than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country,

(2) Such foreign country, when requested by the United States to do so, has not acted to revise or reduce such taxes so that they are no more burdensome than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country, and

(3) It is in the public interest to apply pre-1967 tax provisions in accordance with the provisions of this subsection to residents or corporations of such foreign country,

the President shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for taxable years beginning after such proclamation, be determined under this subtitle without regard to amendments made to this subchapter and chapter 3 on or after the date of enactment of this section [November 13, 1966].

(b) *Imposition of discriminatory taxes by foreign country.* Whenever the President finds that—

(1) Under the laws of any foreign country, citizens of the United States or domestic corporations (or any class of such citizens or corporations) are, with respect to any item of income, being subjected to a higher effective rate of tax than are nationals, residents, or corporations of such foreign country (or a similar class of such nationals, residents, or corporations) under similar circumstances;

(2) Such foreign country, when requested by the United States to do so, has not acted to eliminate such higher effective rate of tax; and

(3) It is in the public interest to adjust, in accordance with the provisions of this subsection, the effective rate of tax imposed by this subtitle on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations),

the President shall proclaim that the tax on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations) shall, for taxable years beginning after such proclamation, be adjusted so as to cause the effective rate of tax imposed by this subtitle on such similar income to be substantially equal to the effective rate of tax imposed by such foreign country on such item of income of citizens of the United States or domestic corporations (or such class of citizens or corporations). In implementing a proclamation made under this subsection, the effective rate of tax imposed by this subtitle on an item of income may be adjusted by the disallowance, in whole or in part, of any deduction, credit, or exemption which would otherwise be allowed with respect to that item of income or by increasing the rate of tax otherwise applicable to that item of income.

(c) *Alleviation of more burdensome or discriminatory taxes.* Whenever the President finds that—

(1) The laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that citizens of the United States not residents of such foreign country or domestic corporations are no longer subject to more burdensome taxes on the item of income derived by such citizens or corporations from sources within such foreign country, or

(2) The laws of any foreign country with respect to which the President has made a proclamation under subsection (b) have been modified so that citizens of the United States or domestic corporations (or any class of such citizens or corporations) are no longer subject to a higher effective rate of tax on the item of income,

he shall proclaim that the tax imposed by this subtitle on the similar income of nationals, residents, or corporations of such foreign country shall, for any taxable year beginning after such proclamation, be determined under this subtitle without regard to such subsection.

(d) *Notification of Congress required.* No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

(e) *Implementation by regulations.* The Secretary or his delegate shall prescribe such regulations as he deems necessary or appropriate to implement this section.

[Sec. 896 as added by sec. 105(b), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 18. Section 1.952 is amended by revising subsection (b) of section 952 and the historical note to read as follows:

§ 1.952 Statutory provision; subpart F income defined.

Sec. 952. *Subpart F income defined.* * * *

(b) *Exclusion of United States income.* In the case of a controlled foreign corporation, subpart F income does not include any item of income from sources within the United States which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

[Sec. 952 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); and amended by sec. 104(j), Foreign Investors Tax Act 1966 (80 Stat. 1562)]

PAR. 19. Section 1.952-1 is amended by revising paragraph (b) to read as follows:

§ 1.952-1 Subpart F income defined.

(b) *Exclusion of U.S. income—(1) Taxable years beginning before January 1, 1967—(i) In general.* Notwithstanding paragraph (a) of this section and except as provided in subdivision (ii) of this subparagraph, a controlled foreign corporation's subpart F income for any taxable year beginning before January 1, 1967, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if for the taxable year a tax is imposed with respect to such income in accordance with section 882(a). The deductions attributable to such items of gross income shall not be taken into account for purposes of sections 951 through 964. Any item which is required to be excluded from gross income or which is taxed at a re-

duced rate under an applicable treaty obligation of the United States shall not be excluded from the gross income of a controlled foreign corporation under this subdivision. See section 952(b).

(ii) *Treatment of U.S. income of foreign insurance companies.* The subpart F income for any taxable year of a controlled foreign corporation beginning before January 1, 1967, which is a foreign insurance company, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if such income is described in section 819(a), 822(e), or 832(d) and, for such taxable year, a tax is imposed with respect to such income in accordance with section 802(a), 821(a), or 831(a), as the case may be. The deductions attributable to such items of gross income shall not be taken into account for purposes of sections 951 through 964. See paragraph (d) of § 1.953-4 and section 11(e) (2).

(2) *Taxable years beginning after December 31, 1966.* Notwithstanding paragraph (a) of this section, a controlled foreign corporation's subpart F income for any taxable year beginning after December 31, 1966, shall not include any item of income from sources within the United States which is effectively connected for that year with the conduct by such corporation of a trade or business in the United States unless, pursuant to a treaty to which the United States is a party, such item of income either is exempt from the income tax imposed by chapter 1 (relating to normal taxes and surtaxes) of the Code or is subject to such tax at a reduced rate. Thus, for example, dividends received from sources within the United States by a foreign corporation engaged in business in the United States during the taxable year, which are not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, shall not be excluded from subpart F income under section 952(b) and this subparagraph even though such dividends are subject to the tax of 30 percent imposed by section 881(a). Also, for example, if, by reason of an income tax convention to which the United States is a party, an amount of interest from sources within the United States which is effectively connected for the taxable year with the conduct of a business in the United States by a foreign corporation is subject to tax under chapter 1 at a flat rate of 15 percent, as provided in § 1.871-12, such interest is not excluded from subpart F income under section 952(b) and this subparagraph. The deductions attributable to items of income which are excluded from subpart F income under this subparagraph shall not be taken into account for purposes of section 952.

(3) *Rule applicable under section 956(b) (2).* For purposes only of paragraph (b) (1) (viii) of § 1.956-2, an item of income derived by a controlled foreign corporation from sources within the United

States with respect to which for the taxable year a tax is imposed in accordance with section 882(a) shall be considered described in section 952(b) whether or not such item of income would have constituted subpart F income for such year.

PAR. 20. Section 1.953 is amended by revising section 953(b)(3)(F) and the historical note to read as follows:

§ 1.953 Statutory provisions; income from insurance of United States risks.

Sec. 953. *Income from insurance of U.S. risks.* * * *

(b) *Special rules.* * * *

(3) * * *
(F) Section 832(c)(5) (certain capital losses).

[Sec. 953 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); as amended by sec. 104(m)(2), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 21. Section 1.954-1 is amended by revising paragraph (c) to read as follows:

§ 1.954-1 Foreign base company income.

(c) *Gross income and deductions to be taken into account.* For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954-2, foreign base company sales income as defined in § 1.954-3, and foreign base company services income as defined in § 1.954-4 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. For determination of gross income and deductions for purposes of section 954, see section 952 and the regulations thereunder. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply. However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraphs (1), (2), and (4) of section 954(b) and paragraph (b) of this section and expenses, taxes, and other deductions allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder.

PAR. 22. Section 1.970-1 is amended by revising paragraph (b)(3) to read as follows:

§ 1.970-1 Export trade corporations.

(b) *Amount by which export trade income shall reduce subpart F income.* * * *

(3) *Determination of export promotion expense limitation.* For purposes of determining the limitation contained in subparagraph (2)(i) of this paragraph for any taxable year of the export trade corporation, there shall be taken into account with respect to those items or categories of export trade income which constitute foreign base company income the entire amount of those export promotion expenses which are directly related to such items or categories of income and a ratable part of any other export promotion expenses which are indirectly related to such items or categories of income, except that no export promotion expense shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such corporation under section 882(c) and the regulations thereunder shall be taken into account.

PAR. 23. Section 1.971-1 is amended by revising paragraph (b)(1)(viii) to read as follows:

§ 1.971-1 Definitions with respect to export trade corporations.

(b) *Export trade income*—(1) *General rule.* * * *

(viii) *Deductions to be taken into account.* Export trade income of a controlled foreign corporation for any taxable year shall be the amount determined by deducting from the items or categories of gross income described in subdivisions (i) through (vii) of this subparagraph the entire amount of those expenses, taxes, and other deductions properly allocable to such items or categories of income. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder shall be taken into account.

PAR. 24. Section 1.1248 is amended by revising subsection (d)(4) of section 1248 and the historical note to read as follows:

§ 1.1248 Statutory provisions; gain from certain sales or exchanges of stock in certain foreign corporations.

Sec. 1248. *Gain from certain sales or exchanges of stock in certain foreign corporations.* * * *

(d) *Exclusions from earnings and profits.* * * *

(4) *U.S. income.* Any item includible in gross income of the foreign corporation under this chapter—

(A) For any taxable year beginning before January 1, 1967, as income derived from sources within the United States of a foreign corporation engaged in trade or business within the United States, or

(B) For any taxable year beginning after December 31, 1966, as income effectively connected with the conduct by such corporation of a trade or business within the United States.

This paragraph shall not apply with respect to any item which is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

[Sec. 1248 as added by sec. 15, Rev. Act 1962 (72 Stat. 1041); and amended by sec. 104(k), Foreign Investors Tax Act 1966 (80 Stat. 1562)]

PAR. 25. Section 1.1248-2 is amended by revising paragraph (d)(2)(i) to read as follows:

§ 1.1248-2 Earnings and profits attributable to a block of stock in simple cases.

(d) *Earnings and profits accumulated for a taxable year.* * * *

(2) *Special rules.* (i) The earnings and profits of the corporation accumulated—

(a) For any taxable year beginning before January 1, 1967 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(b) For any taxable year beginning after December 31, 1966 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b)(2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the United States person occurs before January 1, 1967, the provisions of (a) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d)(4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year (computed without any reduction for distributions).

PAR. 26. Section 1.1248-3 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 1.1248-3 Earnings and profits attributable to stock in complex cases.

(b) *Earnings and profits accumulated for a taxable year.* * * *

(2) *Special rules.* (i) The earnings and profits of the corporation accumulated—

(a) For any taxable year beginning before January 1, 1967, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(b) For any taxable year beginning after December 31, 1966, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) (2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the U.S. person occurs before January 1, 1967, the provisions of (a) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d) (4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year.

PAR. 27. Section 1.1249 is amended by revising section 1249(a) and the historical note to read as follows:

§ 1.1249 *Statutory provisions; gain from certain sales or exchanges of patents, etc., to foreign corporations.*

SEC. 1249. *Gain from certain sales or exchanges of patents, etc., to foreign corporations—*(a) *General rule.* Gain from the sale or exchange after December 31, 1962, of a patent, an invention, model, or design (whether or not patented), a copyright, a secret formula or process, or any other similar property right to any foreign corporation by any United States person (as defined in section 7701(a) (30)) which controls such foreign corporation shall, if such gain would (but for the provisions of this subsection) be gain from the sale or exchange of a capital asset or of property described in section 1231, be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

[Sec. 1249 as added by sec. 16, Revenue Act 1962 (76 Stat. 1045); as amended by sec. 104(m) (3), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 28. Section 1.1563-1 is amended by revising paragraph (b) (2) (ii) (b) to read as follows:

§ 1.1563-1 *Definition of controlled group of corporations and component members.*

- (b) *Component members.* * * *
(2) *Excluded members.* * * *
(ii) * * *

(b) A foreign corporation not subject to taxation under section 882(a) for the taxable year,

PAR. 29. Section 1.6012-2 is amended by revising paragraph (g) to read as follows:

§ 1.6012-2 *Corporations required to make returns of income.*

(g) *Returns by foreign corporations—*

(1) *Requirement of return—*(i) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, every foreign corporation which is engaged in trade or business in the United States at any time during the taxable year or which has income which is subject to taxation under subtitle A of the Code shall make a return on Form 1120-F. Thus, for example, a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year is required to file a return on Form 1120-F even though (a) it has no income which is effectively connected with the conduct of a trade or business in the United States, (b) it has no income from sources within the United States, or (c) its income is exempt from income tax by reason of an income tax convention or any section of the Code. However, if the foreign corporation has no gross income for the taxable year, it is not required to complete the return schedules but must attach a statement to the return indicating the amount and nature of any exclusions claimed.

(ii) *Treaty income.* If the gross income of a foreign corporation includes treaty income, as defined in paragraph (b) (1) of § 1.871-12, a statement shall be attached to the return on Form 1120-F showing with respect to that income—

- (a) The amounts of tax withheld,
(b) The names and post office addresses of withholding agents, and
(c) Such other information as may be required by the return form or by the instructions issued with respect to the form, to show the taxpayer's entitlement to the reduced rate of tax under the tax convention.

(iii) *Balance sheet and reconciliation of income.* At the election of the taxpayer, the balance sheets and reconciliation of income, as shown on Form 1120-F, may be limited to—

- (a) The assets of the corporation located in the United States and to its other assets used in the trade or business conducted in the United States, and
(b) Its income effectively connected with the conduct of a trade or business in the United States and its other income from sources within the United States.

(2) *Exceptions—*(i) *Return not required when tax is fully paid at source—*

(a) *In general.* A foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States is not required to make a return for the taxable year if its tax liability for the taxable year is fully satisfied by the withholding of tax at

source under chapter 3 of the Code. For purposes of this subdivision, some of the items of income from sources within the United States upon which the tax liability will not have been fully satisfied by the withholding of tax at source under chapter 3 of the Code are:

(1) Interest upon so-called tax-free covenant bonds upon which, in accordance with section 1451 and § 1.1451-1, a tax of only 2 percent is required to be withheld at source,

(2) In the case of bonds or other evidence of indebtedness issued after September 25, 1965, amounts described in section 881(a) (3),

(3) Accrued interest received in connection with the sale of bonds between interest dates, which, in accordance with paragraph (h) of § 1.1441-4, is not subject to withholding of tax at source.

(b) *Corporations not included.* This subdivision (i) shall not apply—

(1) To a foreign corporation which has income for the taxable year which is treated under section 882 (d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation,

(2) To a foreign corporation making a claim under § 301.6402-3 of this chapter (Procedure and Administration Regulations) for the refund of an overpayment of tax for the taxable year, or

(3) To a foreign corporation described in paragraph (c) (2) (i) of § 1.532-1 whose accumulated taxable income for the taxable year is determined under paragraph (b) (2) of § 1.535-1.

(ii) *Beneficiaries of estates or trusts.* A foreign corporation which is a beneficiary of an estate or trust which is engaged in trade or business in the United States is not required to make a return for the taxable year merely because it is deemed to be engaged in trade or business within the United States under section 875(2). However, such foreign corporation will be required to make a return if it otherwise satisfies the conditions of subparagraph (1) (i) of this paragraph for making a return.

(iii) *Special returns and schedules.* The provisions of paragraphs (b) through (f) of this section shall apply to a foreign corporation except that a foreign corporation which is an insurance company to which paragraph (c) (3) of this section applies shall make a return on Form 1120-F and not on Form 1120. If a foreign corporation which is an insurance company to which paragraph (c) (1) or (2) of this section applies has income for the taxable year from sources within the United States which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, the corporation shall attach to its return on Form 1120L or 1120M, as the case may be, a separate schedule showing the nature and amount of the items of such income, the rate of tax applicable thereto, and the amount of tax withheld therefrom under chapter 3 of the code.

(3) *Representative or agent for foreign corporation*—(i) *Cases where power of attorney is not required.* The responsible representative or agent within the United States of a foreign corporation shall make on behalf of his principal a return of, and shall pay the tax on, all income coming within his control as representative or agent which is subject to the income tax under subtitle A of the code. The agency appointment will determine how completely the agent is substituted for the principal for tax purposes. Any person who collects interest or dividends on deposited securities of a foreign corporation, executes ownership certificates in connection therewith, or sells such securities under special instructions shall not be deemed merely by reason of such acts to be the responsible representative or agent of the foreign corporation. If the responsible representative or agent does not have a specific power of attorney from the foreign corporation to file a return in its behalf, the return shall be accompanied by a statement to the effect that the representative or agent does not possess specific power of attorney to file a return for such corporation but that the return is being filed in accordance with the provisions of this subdivision.

(ii) *Cases where power of attorney is required.* Whenever a return of income of a foreign corporation is made by an agent acting under a duly authorized power of attorney for that purpose, the return shall be accompanied by the power of attorney in proper form, or a copy thereof specifically authorizing him to represent his principal in making, executing, and filing the income tax return. Form 2848 may be used for this purpose. The agent, as well as the taxpayer, may incur liability for the penalties provided for erroneous, false, or fraudulent returns. For the requirements regarding signing of returns, see § 1.6062-1. The rules of paragraph (e) of § 601.504 of this chapter (Statement of Procedural Rules) shall apply under this subparagraph in determining whether a copy of a power of attorney must be certified.

(iii) *Limitation.* A return of income shall be required under this subparagraph only if the foreign corporation is otherwise required to make a return in accordance with this paragraph.

(4) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a foreign corporation, see section 882(c) (2) and the regulations thereunder, and paragraph (b) (2) and (3) of § 1.535-1.

(5) *Effective date.* This paragraph applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012-2(g) (Rev. as of Jan. 1, 1971).

PAR. 30. Section 1.6062-1 is amended by revising paragraph (a) (3) to read as follows:

§ 1.6062-1 *Signing of returns, statements, and other documents made by corporations.*

(a) *Returns.* * * *

(3) *By agents.* A return with respect to income required to be made by an agent for a foreign corporation shall be signed by such agent. See paragraph (g) of § 1.6012-2.

PAR. 31. Section 1.6302-1 is amended by revising paragraph (a) to read as follows:

§ 1.6302-1 *Use of Government depositaries in connection with corporation income and estimated income taxes.*

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation shall deposit with a Federal Reserve bank all payments of tax imposed by chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax. For taxable years ending after December 31, 1971, this paragraph does not apply to a foreign corporation which has no office or place of business in the United States. For taxable years ending before January 1, 1972, and on or after December 31, 1968, this paragraph does not apply to a foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States. For taxable years ending before December 31, 1968, this paragraph does not apply to a foreign corporation.

PAR. 32. Section 301.6402-3 is amended by adding a new paragraph (e) to read as follows:

§ 301.6402-3 *Special rules applicable to income tax.*

(e) In the case of a nonresident alien individual or a foreign corporation the claim for refund must show the taxpayer's entire income subject to tax, whether or not the tax has been fully satisfied at the source upon a portion of such income. If the overpayment has resulted from the withholding of tax at source under chapter 3 of the Code, a statement shall be attached to the claim for refund declaring that the person making the claim is the beneficial owner of the income and showing (1) the amounts of tax withheld, with the names and post office addresses of withholding agents, (2) the name in which the tax was withheld if other than that of the taxpayer, and, if applicable, (3) facts sufficient to show that, at the time the income was derived, the taxpayer was entitled to the benefit of a reduced rate of, or exemption from, tax with respect to that income under the provisions of an income tax convention to which the United States is a party. Upon request of the Director of International Operations the taxpayer shall also submit such evidence as may be required to show that the taxpayer is the beneficial owner of

the income. In no case may a claim for refund of overwithheld tax be made by a nonresident alien individual or foreign corporation if the taxpayer has received a repayment or reimbursement of such tax in accordance with paragraph (a) of § 1.1461-4 of this chapter (Income Tax Regulations). See also § 1.1464-1 of this chapter.

[FR Doc.72-4484 Filed 3-24-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1421]

1973 WHEAT LOAN AND PURCHASE PROGRAM

Undesirable Varieties of Wheat

Notice of proposed determinations relative to the discounts for undesirable varieties of wheat under the 1973 wheat loan and purchase program.

Commodity Credit Corporation is conducting a general review of its discounts on certain varieties of wheat and proposes to take such action with respect to these discounts as it determines to be desirable for the 1973 wheat loan and purchase program.

Statutory authority for the foregoing determinations is contained in section 403 of the Agricultural Act of 1949, as amended, which provides that appropriate adjustments may be made in the loan and purchase rate for any commodity for differences in grade, type, quality, location, and other factors.

Prior to making determinations with respect to the 1973 discount program for undesirable varieties of wheat, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after 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 Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on March 20, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72-4581 Filed 3-24-72;8:48 am]

[7 CFR Part 1495]

BARTER PROGRAM

Disposition of Agricultural Commodities

Commodity Credit Corporation (CCC) is preparing to revise certain policies,

procedures, and requirements governing its barter program. Under the revision:

All exports of agricultural commodities will be from U.S. private stocks. Under the present program, the barter contractor may export private stocks or commodities delivered by CCC under his barter contract.

The eligibility of commodities and destinations for barter export purposes will be determined by the CCC announcement of eligibility in effect as of the date of an export sale, irrespective of the date of the barter contract. Under the present program, the commodity-country eligibility is determined by the CCC announcement in effect as of the date of the barter contract.

A commodity export may not be applied against a barter contract unless (1) the export seller notified CCC of the sale within 10 days after the sale and CCC recorded the sale or (2) the export took place within 30 days after the sale. As a rule, an export sale will be recorded only if it provides for export not later than 14 months after the date of the sale. However, CCC may record sales with longer export periods if it appears that the exports will further the barter program objectives.

CCC will revise or amend its publication entitled "Disposition of Agricultural Commodities Under the CCC Barter Program" (34 F.R. 19496, 7 CFR Part 1495), to give effect to the changes in the program. CCC will also issue regulations governing the recording of export sales with CCC by adding to Part 1495 of Subchapter C, Chapter XIV, Title 7 of the Code of Federal Regulations, a new Subpart B, reading as follows:

Subpart B—Recording Sales of Agricultural Commodities Eligible for Export Under the Barter Program

NOTE: This Subpart B states the terms and conditions upon which export sellers of agricultural commodities may record their sales with CCC in order that exports under such sales may be applied to CCC barter contracts. Sec.

- 1495.11 The barter program.
- 1495.12 Definitions.
- 1495.13 General statement.
- 1495.14 Notices of sale.
- 1495.15 CCC action.
- 1495.16 Amendment of sale.
- 1495.17 Suspension or Debarment.
- 1495.18 Application of exports to barter contracts.

AUTHORITY: The provisions of this Subpart B issued under secs. 4(d) and 5 (d) and (f), 62 Stat. 1070, as amended; 15 U.S.C. 714b(d), 714c (d) and (f).

§ 1495.11 The barter program.

The policies, procedures, and requirements of the barter program are contained in CCC's publication entitled "Disposition of Agricultural Commodities Under the CCC Barter Program" (7 CFR 1495). U.S. firms interested in the barter program may obtain copies of the contract form, general contractual provisions, and information regarding barter offers and eligibility of commodities and destinations from the office of the Assistant Sales Manager, Commercial Credit and Barter, Export Marketing

Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 1495.12 Definitions.

As used herein:

(a) "Announcements" means announcements, rules, regulations, and letters to all barter contractors issued by or on behalf of CCC containing information and requirements concerning commodities eligible for exportation under the barter program, dollar value, and other aspects of the barter program.

(b) "Barter contract" means a CCC contract with a U.S. firm for the export of U.S. agricultural commodities and the financing of certain offshore procurement for U.S. Government agencies.

(c) "CCC" means Commodity Credit Corporation, a federally incorporated agency of the United States of America within the U.S. Department of Agriculture.

(d) "Date of export sale" means the date on which the export sale contract was entered into between the export seller and the foreign buyer.

(e) "Eligible commodity" means a commodity which was acquired by the exporter from private stocks, which is listed in announcements in effect on the date of export sale of the commodity as eligible for export hereunder, and which meets any additional requirements of such announcements.

(f) "Eligible destination" means a country or area which is listed in announcements in effect on the date of export sale of a commodity as an eligible export destination for the commodity hereunder.

(g) "Export sale" means the sale of an eligible agricultural commodity to a foreign buyer for export to an eligible destination, supported by written evidence establishing that the sale was made. Such evidence may consist of a signed contract of sale, an exchange of correspondence or telegrams between the parties, or a confirming memorandum of sale sent by seller to buyer or vice versa. It must show agreement between the parties regarding the export sale, the date of such agreement, the name and address of the export seller, name and address of the foreign buyer, the approximate total dollar value, kind, class or grade, and quantity of the commodity sold, approximate delivery period, export destination, and any substantive conditions or contingencies of the sale.

§ 1495.13 General statement.

(a) CCC barter contracts require the export of eligible agricultural commodities to eligible destinations. These destinations are generally countries or areas that are not good U.S. commercial markets. The eligibility of the commodities and the destinations under policies established for the barter program is subject to continuous review and revision as necessary. However, in order to protect exporters who sell their commodities with the expectation of applying the exports to barter contracts, barter contracts provide that exports may be applied thereunder if the commodities sold and the destinations were eligible at the time of

sale, even though the eligibility may have changed after the date of the sale. If such exports are made more than 30 days after the dates of the export sales, the sales must have been recorded with CCC under § 1495.14. The export seller need not be a barter contractor or an agent of a barter contractor at the time of sale or recording. In general, the sale must provide for export within 14 months after the date of the sale. An export taking place within 30 days after the date of the export sale may be applied to a barter contract without prior notification to CCC of the sale, but the seller may record such a sale with CCC if he so desires.

(b) This procedure is presently applicable to payment-arrangement-type contracts and will be applicable to other types of barter contracts when new forms of such barter contracts are developed.

§ 1495.14 Notices of sale.

(a) An export seller may record with CCC only export sales of eligible commodities to eligible destinations. Such sales must provide for export not more than 14 months after the dates of such sales: *Provided*, That sales providing for later export may be recorded by CCC if it determines that such later exports will be consistent with barter program policies and objectives.

(b) In order to record an export sale with CCC, an export seller must furnish to CCC a written notice of the sale, which must be delivered, mailed, or filed with the telegraph company not later than 10 days after the date of the export sale. The notice must contain the following information and other material:

- (1) Name and address of the export seller.
- (2) Date of the export sale.
- (3) Name and address of the foreign buyer.
- (4) Destination of the commodity exports under the sale.
- (5) Total dollar value of the commodity sold, computed on the basis of the net selling price to the foreign buyer, basis f.a.s. or f.o.b. export carrier at a named U.S. coastal range of export (e.g., Pacific, Gulf, Atlantic), U.S. point of export, or, if transshipped through Canada, the Canadian port; excluding ocean freight and marine and war risk insurance and reflecting discounts or other allowances to foreign buyer.
- (6) Kind, class or grade, and quantity of the commodity sold.
- (7) The month or period of export.
- (8) Such other pertinent information as CCC may request.

(9) A certification by the export seller that the information as to the date and other information shown in the notice are true and correct and that he has in his possession written evidence thereof, and an agreement by the export seller to furnish such evidence to CCC upon request and to permit access to any directly pertinent books, documents, papers, and records by representatives of CCC and the Comptroller General of the United States.

(c) If the export seller would not customarily make public the information contained in his notifications of export

sales and desires that such information not be disclosed, he should request that the information not be divulged, with reasons therefor, and specify the period over which such information should be protected.

§ 1495.15 CCC action.

If the notification appears to be acceptable, CCC will (a) record the sale and (b) notify the export seller, stating the number assigned for identification of any exports thereunder which are applied to a barter contract. The recording of a sale to a country designated "A" for the commodity will be conditional if CCC does not have on file a CCC determination of additionality for the exports. If the notification does not appear to be acceptable, CCC will so notify the export seller. Generally, CCC will notify the seller within three (3) CCC working days after the receipt of the seller's notification. However, more than 3 days may be required in some instances, such as when the export seller has had no previous transactions with CCC.

§ 1495.16 Amendment of sale.

If there is any extension of time for delivery or other amendment to the terms of an export sale recorded under this subpart, the export seller must notify CCC at the earliest possible time. The reason for the amendment must be explained, and the seller must have in his possession written evidence thereof between the seller and the foreign buyer, to be available upon request of CCC. CCC shall have the right to cancel the recording of the sale if the amendment is not in the best interest of CCC and consistent with the barter program objectives or if CCC is not informed promptly of the amendment. CCC shall also have the right to reject export documentation not in conformity with the terms of the sale or the provisions of the original notification and any amendatory notice.

§ 1495.17 Suspension or debarment.

A recording of an export sale shall become void and will be canceled if the export seller is suspended or debarred from doing business with CCC.

§ 1495.18 Application of exports to barter contracts.

(a) The recording of a sale with CCC does not obligate the export seller to apply the ensuing export to a barter contract nor does it assure him that the export will be so applied.

(b) Eligible exports may be applied to a barter contract only in accordance with the terms and conditions of the barter contract and any applicable CCC announcements.

(c) Prior to exportation, the export seller must become a barter contractor or an agent of a barter contractor in order for his export to be applied to the barter contract. He may be designated as agent through written notice by the contractor to CCC and acceptance of the designation by CCC. However, such a formal designation and acceptance are not necessary if the barter contractor submits the export documentation and

certifies that the export seller acted as the agent of the contractor.

(d) Only the barter contractor who entered into such barter contract with CCC or his agent may submit evidence of exportation for such applications.

(e) If an export seller's sale has not been recorded by CCC but his exports are being applied to a barter contract within 30 days after the date of sale, the barter contract requires the submission to CCC of the same information and other material as is required under § 1495.14(b).

(f) In all cases, it will be necessary for the barter contractor to assure himself that the export he is applying to his barter contract is eligible for such application under the barter contract and this announcement.

Prior to issuing the foregoing regulations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Assistant Sales Manager, Commercial Credit and Barter, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration all submissions must be received not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 4959, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250.

Signed at Washington, D.C., on March 22, 1972.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity
Credit Corporation; and General
Sales Manager, Export
Marketing Service.

[FR Doc.72-4610 Filed 3-22-72; 3:38 pm]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 284]

DETERMINATION OF RESIDUAL VALUES

Notice of Proposed Rule Making

Notice is hereby given that the Maritime Subsidy Board/Maritime Administration, Department of Commerce, are seeking comments and supporting rationale on the criteria to be used in formulating a rule determining residual values of vessels for purposes of:

(1) Sections 606 and 607 of the Merchant Marine Act, 1936, as amended, prior to amendment by Public Law 91-469 (Merchant Marine Act of 1970) (hereinafter "old sections 606-607"); and

(2) All other programs under the Merchant Marine Act, 1936, as amended (including title XI mortgage insurance) (hereinafter "all other maritime programs").

By amendment 2 to the third revision of General Order 24, 35 F.R. 7894 (May

22, 1970), the residual value was changed from 2½ percent to 17 percent of the original construction cost based on "the salvage (resale) value of the vessel." Since that amendment was issued, the percentage and the criteria used for determining the 17 percent residual value has been subject to considerable disagreement. The disagreement culminated in a decision of the U.S. District Court for the District of Columbia that amendment 2 to the third revision of General Order 24 was null and void because the proper criterion to be used under the old sections 606-607 was scrap value, not resale value. *American Mail Line Ltd. v. Stans*, Civil No. 1824-70 (D. D.C. Feb. 2, 1972).

Because of this decision, it is necessary for the Board to redetermine residual values based on "scrap" values for purposes of old sections 606-607. The Board/Maritime Administration, however, also desire to examine and redetermine residual values for all other maritime programs. It is to be noted that to the extent that "scrap" value is a factor in determining residual values for all other maritime programs, the same criteria for determining scrap value will be used as are used for old sections 606-607. Thus, the criteria for determining scrap value will be uniform under all maritime programs.

Prior to the formulation and publication of a proposed rule on residual values, it is requested that interested parties comment on:

- (1) The criteria to be used in determining scrap value and
- (2) The criteria to be used in determining residual values for all other maritime programs.

Comments should include supporting arguments.

Comments should be submitted within 30 days from the date of publication, in quadruplicate, to the Secretary, Maritime Subsidy Board/Maritime Administration, Department of Commerce, Washington, D.C. 20235.

Dated: March 21, 1972.

By Order of the Maritime Subsidy Board/Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Subsidy
Board/Maritime Administration.

[FR Doc.72-4621 Filed 3-24-72; 8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

GRAS AND FOOD ADDITIVE STATUS

Proposed Procedures for Affirmation and Determination

The Commissioner of Food and Drugs is conducting a study of generally recognized as safe (GRAS) food ingredients listed in § 121.101 (21 CFR 121.101). A

notice of this study was published in the FEDERAL REGISTER of October 23, 1971 (36 F.R. 20546). The criteria by which these ingredients will be judged to be GRAS or food additives were published previously in the FEDERAL REGISTER of June 25, 1971 (36 F.R. 12093). The Commissioner is therefore proposing a procedure by which he may, on his own initiative, affirm the GRAS status of substances that are subject to this review and are found to meet the GRAS criteria.

The GRAS list review is not intended to cover all direct GRAS substances at this time and does not cover any indirect GRAS substances. The Commissioner is, therefore, also proposing a mechanism under which an interested person may petition him, or he may decide on his own initiative, to review the GRAS status of other substances not being considered within the present GRAS list review.

A food ingredient which is found not to meet the GRAS criteria may be eliminated from the food supply completely or may be permitted to remain in food subject to a food additive regulation or may be permitted to remain in food pursuant to an interim food additive regulation pending further study to resolve whatever questions may exist with respect to the ingredient. Section 121.3(g) (21 CFR 121.3(g)) provides that an interim food additive regulation may be promulgated under these circumstances when a responsible and substantial question of safety has been raised regarding a substance previously listed as GRAS, but the main weight of the scientific evidence still establishes safety within certain limits. The Commissioner is, therefore, proposing to establish procedures for interim food additive regulations.

Finally, new knowledge may at any time raise questions about the safety or functionality of regulated direct and indirect food additives as well as GRAS food ingredients. Depending upon the existing scientific information about an additive, the fact that a scientific investigation raises a question concerning the safety or functionality of the additive may or may not justify its immediate removal from the food supply. As with GRAS substances, an interim food additive order is justified under these circumstances, if informed and competent scientists conclude with reasonable certainty that the additive is not harmful and that use of the additive can be continued without harm to the public health for a limited period of time while the question raised is being resolved.

The Commissioner has concluded that the promulgation of interim food additive regulations is in accordance with the provisions of sections 409 (c) and (d) of the Federal Food, Drug, and Cosmetic Act, governing the issuance of regulations prescribing the conditions of safe use for an additive. Both the Senate and the House Report on the Food Additives Amendment of 1958 relied upon testimony from scientific witnesses that "it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness

of any chemical substance." The Senate report stated that a food additive order is justified where there is a "reasonable certainty in the minds of competent scientists that the additive is not harmful," and that standard is proposed here. The conclusion that an interim food additive order is or is not justified will depend upon the nature of the question raised, the reliability of the other scientific data pertinent to the additive, the purpose for which the additive is used, and the availability of alternative ingredients. An interim regulation will be predicated upon the undertaking by an interested person or the Food and Drug Administration of whatever tests are necessary to resolve the questions raised and will be permitted only where there is no reasonable likelihood of a health hazard.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-88, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 121 as follows:

1. By adding the following two new sections to Subpart A:

§ 121.40 Affirmation of GRAS status.

(a) The Commissioner, either on his own initiative or on the petition of an interested person, may affirm the GRAS status of substances that directly or indirectly become components of food.

(b) (1) If the Commissioner concludes on his own initiative that a substance is GRAS, he will place all of the data and information on which he relies on public file in the office of the Hearing Clerk and will publish in the FEDERAL REGISTER a notice giving the name of the substance, its proposed uses, and any limitations proposed for purposes other than safety.

(2) The FEDERAL REGISTER notice will allow a period of 60 days during which any interested person may review the data and information and/or file comments with the Hearing Clerk. Copies of all comments received shall be made available for examination in the Hearing Clerk's office.

(3) The Commissioner will evaluate all comments received. If he concludes that there is convincing evidence that the substance is GRAS as defined in § 121.1(k), he will publish a notice in the FEDERAL REGISTER listing the substance in Subpart B of this part as GRAS.

(4) If, after evaluation of the comments, the Commissioner concludes that there is a lack of convincing evidence that the substance is GRAS and that it should be considered a food additive subject to section 409 of the act, he shall publish a notice thereof in the FEDERAL REGISTER in accordance with § 121.41.

(c) (1) Persons seeking the affirmation of GRAS status of substances as provided for in § 121.3(e), except those subject to the NAS-NRC GRAS list survey (36 F.R. 20546), shall file with the Commissioner of Food and Drugs a petition for GRAS affirmation in triplicate in the form for a food additive petition contained in § 121.51(c). Such petition

shall contain information to establish that the GRAS criteria as set forth in § 121.3(b) have been met. Recommendation for any changes in the monograph in "Food Chemicals Codex" should be included when applicable. Information and reports or other data on the past use of the substance in foods or food contact surfaces (including the date when use began, foods in which used, levels of use, as well as any complaints related to the safety of the product) should be included. Evidence that the substance is identical to a GRAS counterpart of natural biological origin, and similar data may also be submitted to support the safety of the substance.

(2) Within 30 days after the date of filing the petition, the Commissioner will place the petition on public file in the office of the Hearing Clerk and will publish a notice of filing in the FEDERAL REGISTER giving the name of the petitioner and a brief description of the petition including the name of the substance, its proposed uses, and any limitations proposed for reasons other than safety. A copy of the notice will be mailed to the petitioner at the time the original is sent to the FEDERAL REGISTER.

(3) The notice of filing in the FEDERAL REGISTER will allow a period of 60 days during which any interested person may review the petition and/or file comments with the Hearing Clerk. Copies of all comments received shall be made available for examination in the Hearing Clerk's office.

(4) The Commissioner will evaluate the petition and all available information including all comments received. If the petition and such information provide convincing evidence that the substance is GRAS as defined in § 121.1(k), he will publish a notice in the FEDERAL REGISTER listing the substance in Subpart B of this part as GRAS.

(5) If after evaluation of the petition and all available information the Commissioner concludes that there is a lack of convincing evidence that the substance is GRAS and that it should be considered a food additive subject to section 409 of the act, he shall give notice thereof in the FEDERAL REGISTER in accordance with § 121.41.

§ 121.41 Determination of food additive status.

(a) The Commissioner may, in accordance with § 121.40(b) (4) or § 121.40(c) (5), publish a notice in the FEDERAL REGISTER determining that a substance is not GRAS and is a food additive subject to section 409 of the act.

(b) (1) The Commissioner may, on his own initiative or on the basis of a petition filed in triplicate by an interested person, publish a notice in the FEDERAL REGISTER proposing to determine that a substance is not GRAS and is a food additive subject to section 409 of the act. The Commissioner will place all of the data and information on which he relies on public file in the office of the Hearing Clerk and will include in the FEDERAL REGISTER notice the name of the substance, its known uses, and a summary of the basis for the determination.

(2) The FEDERAL REGISTER notice will allow a period of 60 days during which any interested person may review the data and information and/or file comments with the Hearing Clerk. Copies of all comments shall be made available for examination in the Hearing Clerk's office.

(3) The Commissioner will evaluate all comments received. If he concludes that there is a lack of convincing evidence that the substance is GRAS or is otherwise exempt from the definition of food additive in section 201(s) of the act, he will publish a notice thereof in the FEDERAL REGISTER. If he concludes that there is convincing evidence that the substance is GRAS, he will publish a notice in the FEDERAL REGISTER listing the substance in Subpart B of this part as GRAS.

(c) A FEDERAL REGISTER notice determining that a substance is a food additive shall provide for the use of the additive in food or food contact surfaces as follows:

- (1) It may promulgate a food additive regulation governing use of the additive.
- (2) It may promulgate an interim food additive regulation governing use of the additive.
- (3) It may require discontinuation of the use of the additive.
- (4) It may adopt any combination of the above three approaches for different uses or levels of use of the additive.

2. By adding a new section to Subpart H and changing the subpart heading, as follows:

Subpart H—Food Additives Permitted in Food for Human Consumption or in Contact With Food on an Interim Basis Pending Additional Study

§ 121.4000 General.

(a) Substances having a history of use in food for human consumption or in food contact surfaces may at any time have their safety or functionality brought into question by new information which in itself is not conclusive. An interim food additive regulation for the use of any such substance may be promulgated in this subpart when new information raises a substantial question about the safety or functionality of the substance but there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of the substance for a limited period of time while the question raised is being resolved by further study.

(b) No interim food additive regulation may be promulgated if the new information is conclusive with respect to the question raised or if there is a reasonable likelihood that the substance is harmful or that continued use of the substance will result in harm to the public health.

(c) The Commissioner may propose an interim food additive regulation on his own initiative or on the basis of a petition filed in triplicate by an interested person. A final order promulgating an interim food additive regulation shall provide that continued use of the

substance in food is subject to each of the following conditions:

(1) Use of the substance in food or food contact surfaces must comply with whatever limitations the Commissioner deems to be appropriate under the circumstances.

(2) Within 30 days following the effective date of the regulation an interested person shall satisfy the Commissioner in writing that studies adequate and appropriate to resolve the question raised about the substance have been undertaken, or the Food and Drug Administration may undertake the studies. The Commissioner may extend this 30-day period if necessary to review and act on proposed protocols. If no such commitment is made or adequate and appropriate studies are not undertaken, a notice shall immediately be published in the FEDERAL REGISTER revoking the interim food additive regulation effective upon publication.

(3) A progress report shall be filed on the studies every January 1 and July 1 until completion. If the progress report is inadequate or if the Commissioner concludes that the studies are not being pursued promptly and diligently or if interim results indicate a reasonable likelihood that a health hazard exists, a notice will promptly be published in the FEDERAL REGISTER revoking the interim food additive regulation effective upon publication.

(d) Promptly upon completion of the studies undertaken on the ingredient, the Commissioner will review all available data, will terminate the interim food additive regulation, and will either issue a food additive regulation or will require elimination of the substance from the food supply.

(e) The Commissioner may consult with advisory committees, professional organizations, or other experts in the field in evaluating:

- (1) Whether an interim food additive regulation is justified,
- (2) The type of studies necessary and appropriate to resolve questions raised about a substance,
- (3) Whether interim results indicate the reasonable likelihood that a health hazard exists, or
- (4) Whether the data available at the conclusion of those studies justify a food additive regulation.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 17, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 72-4564 Filed 3-24-72; 8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-CE-1]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lyons, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

A new public use instrument approach procedure has been developed for the Lyons Airport, Lyons, Kans., predicated on a relocated nondirectional navigational aid located at this airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Lyons, Kans.

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

1. § 71.181 (37 F.R. 2143), the following transition area is added:

LYONS, KANS.

That airspace extending upward from 700 feet above the surface, within a 5 mile radius of the Lyons Airport (latitude 38°20'30" N., longitude 98°13'45" W.) and 3 miles either side of the 350° bearing from the airport, extending from 5 miles to 8.5 miles north and that airspace extending upward from 1,200 feet above the surface, 9.5 miles west of and 4.5 miles east of the 350° bearing from 1.5 miles south to 18.5 miles north of

the airport, excluding that airspace that overlies the Hutchinson, Kans., transition area.

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

Issued in Kansas City, Mo., on February 23, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-4553 Filed 3-24-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-CE-2]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition areas at Oswego and Coffeyville, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

New public use VOR/DME instrument approach procedures have been developed for Miami, Okla., and Coffeyville, Kans., Municipal Airports. Accordingly, it is necessary to alter the Oswego, Kans., and Coffeyville, Kans., transition areas to adequately protect aircraft executing these new approach procedures.

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

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

OSWEGO, KANSAS

That airspace extending upward from 1,200 feet above the surface beginning at latitude

37°00'00" N., longitude 94°57'30" W., thence NE to a point 22 miles west of the 358° radial of the Neosho, Missouri VORTAC and 5 miles south of the 085° radial of the Oswego, Kansas VORTAC, thence west along a line 5 miles south of the 085° radial of the Oswego, Kans. VORTAC to a point 7 miles east of the 206° radial of the Oswego, Kans. VORTAC, thence northeast along a line 7 miles east of and parallel to the 206°/027° radials of the Oswego, Kans. VORTAC to a point 20 miles northeast of the Oswego VORTAC, thence northwest to a point 10 miles NW of the 027 radial of the Oswego VORTAC, thence southwest parallel to the 027° radial of the Oswego VORTAC to a point 7 miles northeast of the 306° radial of the Oswego VORTAC, thence north-west parallel to the 306° radial of the Oswego VORTAC to a point 5 miles east of the 186° radial of the Chanute, Kansas VORTAC, thence S parallel to the 186° radial of the Chanute, Kansas VORTAC to the 37° parallel (latitude 37°00'00" N.), thence to the point of beginning, excluding the Parsons, Kans. transition area.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

COFFEYVILLE, KANSAS

That airspace extending upward from 700' above the surface within a Seven-mile radius of the Coffeyville, Kans. Municipal Airport (latitude 37°05'45" N., longitude 95°34'25" W.); and within 3 miles either side of the 163° bearing from the airport extending from 7 miles to 8 miles south of the airport.

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

Issued in Kansas City, Mo., on February 23, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-4554 Filed 3-24-72;8:47 am.]

[14 CFR Part 71]

[Airspace Docket No. 72-CE-5]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Rolla, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

A new public use instrument approach procedure has been developed for the Rolla Downtown Airport, Rolla, Mo., consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Rolla, Mo.

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

In § 71.181 (37 F.R. 2143), the following transition area is added:

ROLLA, Mo.

That airspace extending upward from 700 feet above the surface within a 5.5-statute-mile radius of the Rolla Downtown Airport (latitude 37°56'10" N., longitude 91°48'55" W.).

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

Issued in Kansas City, Mo., on February 23, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-4555 Filed 3-24-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-23]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Lauderdale, Fla. (Executive Airport), control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with

this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

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

The Fort Lauderdale (Executive Airport) control zone described in § 71.171 (37 F.R. 2056) would be amended as follows:

" * * * long. 80°10'15" W.); * * * " would be deleted and " * * * long. 80°10'15" W.); within 2 miles each side of the 083° bearing from Tropic RBN (lat. 26°11'08" N., long. 80°17'49" W.), extending from the 5-mile-radius zone to 1.5 miles east of the RBN; * * * " would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the revised SDF Runway 8 Instrument Approach Procedure to Fort Lauderdale-Executive Airport.

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

Issued in East Point, Ga., on March 15, 1972.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-4556 Filed 3-24-72; 8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release IC-7070]

SALES OF DEBENTURES GUARANTEED BY SMALL BUSINESS ADMINISTRATION

Proposed Definition and Exemptions

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rules 3c-3 and 18c-2 (17 CFR 270.3c-3, 270.18c-2) under the Investment Company Act of 1940 (Act) (15 U.S.C. 80a-1 et seq.) to enable small business investment companies licensed under the Small Business Investment Act of 1958 (15 U.S.C. 671 et seq., 72 Stat. 690) to make full use of new statutory power of the Small Business Administration (SBA) to guarantee debentures issued by such SBIC's without violating certain provisions of the Investment Company Act. The proposed rules would be adopted pursuant to the authority granted to the Commission in sections 6(c) and 38(a) of the Act (15 U.S.C. 80a-3(c) (1), 80a-37(a)).

The adoption of these rules is proposed by the Commission in response to a request from the SBA. The SBA's request was prompted by the enactment December 22, 1971 of Public Law 92-213 (85 Stat. 776). The statute, in pertinent part, reads as follows:

To encourage the formation and growth of small business investment companies the administration is authorized (but only to the extent that the necessary funds are not available to said company from private sources on reasonable terms) when authorized in appropriate Acts, to purchase, or to guarantee the timely payment of all principal and interest as scheduled on, debentures issued by such companies. Such purchases or guarantees may be made by the Administration on such terms and conditions as it deems appropriate, pursuant to regulations issued by the Administration. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection * * *

Section 3(c) (1) of the Act (15 U.S.C. 80a-3(c) (1)) excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering. Beneficial ownership by a company is deemed to be beneficial ownership by one person unless the company owns 10 percent or more of the outstanding voting securities of the issuer in which case beneficial ownership is deemed to be that of the holders of such company's outstanding securities. Rule 3c-2 (17 CFR 270.3c-2), however, provides that beneficial ownership by a company owning 10 percent or more of the outstanding voting securities of SBIC will be deemed beneficial ownership by one person so long as the value of all securities of SBIC's owned by such company does not exceed 5 percent of the value of its total assets.

The SBA has requested that the Commission adopt a rule which would provide that SBIC's not now subject to the Act by virtue of the section 3(c) (1) exception from the definition of investment company would not become subject to the Act if they sell SBA guaranteed debentures in a public offering and also, if as a result of such sale, the number of their security holders should exceed 100.

Section 18(c) of the Act (15 U.S.C. 80a-18(c)) provides, among other things, that it is unlawful for any registered closed-end investment company to issue and sell more than one class of senior security representing indebtedness. Such a company may issue indebtedness in one or more series provided that no such series shall have a preference or priority over any other series upon distribution of assets or with respect to payment of interest or dividends.

Therefore, the SBA has requested an extension of the exemption afforded by Rule 18c-1 (17 CFR 270.18c-1) which permits SBIC's, notwithstanding the provisions of section 18(c), to have outstanding more than one class of debt securities provided all such securities are privately held by the SBA or institutional investors, not publicly distributed, and without equity features.¹ The extension of the exemption to cover issuance of SBA guaranteed debentures to the public

¹ See Investment Company Act Releases 3324 and 3361, September 12 and November 17, 1961 (26 F.R. 8912, 11240).

is necessary because some SBIC's are indebted to SBA on subordinated and unsubordinated debt instruments, and, in addition, some SBIC's may be indebted to private and institutional investors under yet another class of debt instruments.

In the Commission's view, the guarantee of a government agency backed by the full faith and credit of the United States removes securities so guaranteed from the area of concern for investor protection that is the primary purpose of the Investment Company Act. The guarantee will bring those securities bearing it within the definition of "government security" contained in section 2(a) (16) of the Act (15 U.S.C. 80a-2(a) (16)).² Section 3(a) (2) of the Securities Act of 1933 (15 U.S.C. 77c(a) (2)) exempts such securities from that Act's registration provisions. There is no comparable exception under the Investment Company Act for issuers of government securities, however, and, therefore, it is necessary to provide exemptions which will permit their issuance without violating the Act or causing an issuer who would not otherwise have to do so to register as an investment company.

Proposed Rule 3c-2 provides that the term "public offering" as used in section 3(c) (1) of the Act would not be deemed to include an offer and sale of a debenture having no equity features, issued by a licensed SBIC, guaranteed by the SBA and backed by the full faith and credit of the United States. The rule also provides that holders of such securities will be counted as one person for the purpose of section 3(c) (1).

Proposed Rule 18c-2 exempts from the provisions of section 18(c) of the Act additional classes of senior securities representing indebtedness issued by licensed SBIC's provided they are guaranteed by the SBA, are backed by the full faith and credit of the United States, have no equity features and are subordinated to any other unsecured debt securities not issued pursuant to the rule or, if not subordinated, by their terms provide that they will have no preference over other unsecured debt. The provision on subordination was included because an SBA claim against the SBIC in case the guarantee is invoked might raise questions as to the Government's priority over other creditors.³ Although debentures purchased or guaranteed by the SBA are subordinated to any other debts of an SBIC issuer, the SBA has authority to elect not to subordinate.⁴ While it appears under present law that the SBA as guarantor would not have greater

² Section 2(a) (16) (of the Act) defines "government security" as, "any security issued or guaranteed as to principal or interest by the United States, or by a person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing."

³ 31 U.S.C. 191 (R.S. 3466).

⁴ 15 U.S.C. 683 (72 Stat. 692, as amended, 75 Stat. 752, 78 Stat. 146, 81 Stat. 270).

rights than the original holder of the security, this provision of the rule was added to insure protection of holders of other unsecured debt issued by the SBIC. Also, because some SBIC's received orders of the Commission exempting them from the provisions of the Investment Company Act on condition that they not issue and sell their securities to any person other than the SBA, the rule provides that sales of SBA guaranteed securities to the public as covered by the rule would not cause such SBIC's to lose their exemptions.

Section 6(c) of the Act provides that the Commission may, among other things, adopt rules which conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 38(a), as here pertinent, provides that the Commission shall have authority to make such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act.

The text of the proposed rules is as follows:

Commission action: The Commission proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding a new § 270.3c-3^a and a new § 270.18c-2 reading as follows:

§ 270.3c-3 Definition of certain terms used in section 3(c)(1) of the Act with respect to certain debt securities offered by small business investment companies.

The term "public offering" as used in section 3(c)(1) of the Act shall not be deemed to include the offer and sale by a small business investment company, licensed under the Small Business Investment Act of 1958, of any debt security issued by it which is (a) not convertible into, exchangeable for, or accompanied by any equity security and (b) guaranteed as to timely payment of principal and interest by the Small Business Administration and backed by the full faith and credit of the United States. The holders of any securities offered and sold as described in this § 270.3c-3 shall be counted, in the aggregate, as one person for purposes of section 3(c)(1) of the Act.

§ 270.18c-2 Exemptions of certain debentures issued by small business investment companies.

(a) The issuance or sale of any class of senior security representing indebted-

ness by a small business investment company licensed under the Small Business Investment Act of 1958 shall not be prohibited by section 18(c) of the Act provided such senior security representing indebtedness is (1) not convertible into, exchangeable for, or accompanied by an option to acquire any equity security; (2) fully guaranteed as to timely payment of all principal and interest by the Small Business Administration and backed by the full faith and credit of the United States; and (3) subordinated to any other debt securities is not issued pursuant to this § 270.18c-2 or, if such security is not so subordinated, that such security, according to its own terms, will not be preferred over any other unsecured debt securities in the payment of principal and interest; and further provided that all other debt securities then outstanding issued by such small business investment company were issued as permitted by § 270.18c-1 or this § 270.18c-2.

(b) Any security issued and sold as permitted by paragraph (a) of this § 270.18c-2 shall be deemed for purposes of § 270.18c-1 or this chapter to be privately held by the Small Business Administration and for purposes of § 270.18c-1 shall not be deemed to be publicly held outstanding indebtedness.

(c) The issuance or sale of any security as permitted by paragraph (a) of this § 270.18c-2 shall not be deemed to be a sale to any person other than the Small Business Administration by any small business investment company licensed under the Small Business Investment Company Act of 1958 which is exempt from any provision of the Investment Company Act, if such exemption is conditioned on such company not offering or selling its securities to any person other than the Small Business Administration.

All interested persons are invited to submit their views and comments on proposed Rules 3c-3 and 18c-2. Written statements of views and comments in respect of the proposed rules should be submitted to the Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549, on or before March 31, 1972. All such communications will be available for public inspection. Less than 30 days notice is being given as permitted by section 553 (d) (1) and (d) (3) of the Administrative Procedure Act since the proposed rules grant exemptions or relieve restrictions and are necessary to carry out the congressional intent expressed in Public Law 92-213.

(Secs. 6(c), 38(a), 54 Stat. 800, 841, 15 U.S.C. 80a-6(c), 80a-37(a))

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

MARCH 20, 1972.

[FR Doc. 72-4572 Filed 3-24-72; 8:48 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1617, 1622, 1623, 1624, 1625, 1628, 1630]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

Section 1617.10 is amended to read as follows:

§ 1617.10 Duty of registrant separated from active duty in Armed Forces.

Every registrant who is separated from active duty in the Armed Forces, who has not discharged his current military obligation under the Military Selective Service Act, and who does not have a Registration Certificate (SSS Form 2) shall, within 10 days after the date of his separation, request his local board to return his Registration Certificate (SSS Form 2) if available or to issue to him a duplicate Registration Certificate (SSS Form 2). The registrant shall make this request by a letter mailed to his local board or on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) which he shall file with his own or any other local board.

Section 1622.27 is amended to read as follows:

§ 1622.27 Class 2-D: Registrant deferred because of study preparing for or relating to the ministry.

In Class 2-D shall be placed any registrant who has requested such deferment and who is preparing for the ministry under the direction of a recognized church or religious organization and (a) who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled, or (b) who is satisfactorily pursuing a full-time course of instruction in or at the direction of a recognized theological or divinity school, or (c) who having completed theological or divinity school is

^a A former § 270.3c-3 relating to an exemption for certain group annuity contracts which provided for administration of funds held by an insurance company in a segregated account was rescinded by the Commission effective July 1, 1971, Release No. IC-6430, 36 F.R. 7898.

a student in a full-time graduate program or is a full-time intern. The registrant's studies must be related to and lead toward entry into service as a regular or duly ordained minister of religion as defined in section 16(g) of the Military Selective Service Act and satisfactory progress in these studies, as required by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

Section 1623.9 is amended to read as follows:

§ 1623.9 Registrants transferred for classification.

(a) After completing the Registration Questionnaire (SSS Form 100), and before the local board of origin has undertaken the classification of a registrant other than his preliminary classification into Class 1-H, he may be transferred to another local board for classification under procedures prescribed by the Director if he is so far from his local board as to make complying with notices an extreme hardship.

(b) After completing the Registration Questionnaire (SSS Form 100), a registrant may be transferred to another local board for classification at any time under procedures prescribed by the Director (1) when the local board cannot act on his case because of disqualification under provisions of § 1604.55 of this chapter, or (2) when a majority of the members of the local board, or a majority of the members of every panel thereof if the board has separate panels, withdraw from consideration of the registrant's classification because of any conflicting interest, bias, or other reason.

(c) The Director or the State Director of Selective Service may transfer a registrant to another local board for classification at any time (1) when any member of the local board cannot act on the registrant's case because of disqualification under the provisions of § 1604.55 of this chapter, or (2) when the State Director of Selective Service deems such transfer to be necessary in order to assure equitable administration of the selective service law.

Paragraph (b) of § 1624.1 *Opportunity for personal appearance* is amended to read as follows:

§ 1624.1 Opportunity for personal appearance.

(b) A registrant who has filed a claim for classification in Class 1-O, Class 1-A-O, or Class 3-A, upon his written request, shall be afforded an opportunity to appear in person before the local board before his classification is determined by the local board. Should such registrant appear in person before the local board in advance of his classification being determined, the provisions of § 1624.4 shall apply and he shall not be afforded an opportunity to appear concerning such classification after such determination.

Section 1625.2 is amended to read as follows:

§ 1625.2 Reopening of classification.

(a) The local board will reopen and consider anew the classification of a registrant (1) upon the written request of the Director of Selective Service or the State Director of Selective Service and upon receipt of such request shall immediately cancel any order to report for induction or alternate service which may have been issued to the registrant; (2) who is in Class 1-H and becomes subject to processing for induction according to these regulations and the rules prescribed by the Director; (3) in any classification for the purpose of classifying him in Class 1-H according to these regulations and the rules prescribed by the Director; (4) upon the written request of the registrant that is accompanied by written information presenting facts not considered when the registrant was classified which, if true in the opinion of the board, would justify a change in the registrant's classification; or (5) upon its own motion if such action is based upon facts not considered when the registrant was classified which, in the opinion of the board, would justify a change in the registrant's classification: *Provided*, That in the event of subparagraph (4) or (5) of this paragraph the classification of a registrant shall not be reopened after the local board has mailed to such registrant an order for induction or alternate service or, in the event the order to report for induction or alternate service was postponed and a subsequent letter from the local board establishes the date for induction or for reporting for alternate service, unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

Section 1628.7 is amended to read as follows:

§ 1628.7 Postponement of Armed Forces examination.

The issuance of an Order to Report for Armed Forces Examination (SSS Form 223) may be delayed in case of death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control. The forwarding of a registrant for examination under an Order to Report for Armed Forces Examination (SSS Form 223) may be postponed by the local board to a date certain not later than 60 days from the date of such postponement in case of death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control. The Director or State Director of Selective Service may, for good cause, direct the local board to extend such postponement. Any postponement under this section shall be terminated whenever the cause therefor has ceased to exist or upon the request of the registrant.

Section 1630.4 is amended to read as follows:

§ 1630.4 Classification of volunteers.

(a) When a registrant who is not in a deferred class files an Application for Voluntary Induction (SSS Form 254) he shall be processed for induction regardless of the class in which he is classified.

(b) When a registrant in a deferred class other than Class 4-F files an Application for Voluntary Induction (SSS Form 254) he shall be classified in Class 1-A as soon as possible.

(c) When a registrant in Class 1-A-O files an Application for Voluntary Induction (SSS Form 254) he shall be processed for induction.

CURTIS W. TARR,
Director.

MARCH 22, 1972.

[FR Doc.72-4619 Filed 3-24-72; 8:50 am]

**SMALL BUSINESS
ADMINISTRATION**

[13 CFR Part 107]

**SMALL BUSINESS INVESTMENT
COMPANIES**

Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958 (Act), 15 U.S.C. 687, it is proposed to amend, as set forth below, Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations, revised as of January 1, 1971, and amended in 36 F.R. 18858, 37 F.R. 3950, by amending § 107.203. Prior to final adoption of such amendment consideration will be given to any comments pertaining thereto which are submitted in writing, in triplicate, to the Office of the Associate Administrator for Investment, Small Business Administration, Washington, D.C. 20416, within a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Information. The proposed amendment to § 107.203 would set forth the terms and conditions under which SBA will henceforth purchase, sell, or guarantee debt securities of licensees pursuant to section 303(b) of the Act.

Section 107.203 would be amended to provide in a paragraph (a), in addition to the language now contained in § 107.203, authority for SBA to guarantee debt securities of licensed SBICs, and to require licensees to hold SBA harmless from any loss which SBA may sustain by reason of such guaranty. A new paragraph (b) would set forth, for debt securities issued after the effective date of the proposed amendment, the events of default which will enable SBA to accelerate the licensee's debt; in certain cases, such acceleration will take effect upon notice by SBA, in other cases it will take effect without notice. The events of default set forth in the proposed regulation are substantially the same as those hitherto

PROPOSED RULE MAKING

stated in the debt securities forms adopted by SBA, and will make possible a considerably shortened form to be used by licensees. The proposed regulation would also make clear that the regulation, as in effect when the debt securities are issued, will remain in effect as to such debt securities notwithstanding future changes; such future changes in this regulation will apply only to debt securities issued by licensees after their promulgation.

It is proposed to amend Part 107 by amending § 107.203 to read as follows:

§ 107.203 SBA purchase, sale or guaranty of debt securities of licensee.

(a) SBA may, in its discretion, and upon such terms and conditions and for such consideration as it shall deem reasonable, sell, assign, transfer, or otherwise dispose of any debenture, or other evidence of debt or security held in connection with any loan made or guaranteed by SBA under the Act. In such event and upon notice thereof by SBA, licensee will make all payments of principal and interest as shall be directed by SBA. Licensee shall hold SBA harmless from any and all damages or losses which SBA may sustain by reason of such disposal or its guaranty, limited, however, to the extent of licensee's liability under such security, plus court costs and reasonable attorney fees incurred by SBA.

(b) A licensee issuing a debt security pursuant to section 303(b) of the Act after the effective date of this regulation, shall be deemed to have agreed to the following terms and conditions, as in effect at the time of such issuance and as if fully set forth in such security:

(1) Upon written notice by SBA, the entire indebtedness of the licensee issued to, held, or guaranteed by SBA may be declared immediately due and payable to SBA upon the happening of any one or more of the following events:

(i) Default in the payment of the principal or interest under any debenture, note, or obligation of the licensee, issued to, held or guaranteed by SBA;

(ii) Nonperformance or violation by the licensee, as determined by SBA, of any one or more of the terms and conditions of any loan or obligation of the

licensee, issued to, held, or guaranteed by SBA, or of any agreement with or conditions imposed by SBA;

(iii) Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or regulations promulgated thereunder, as they may be amended from time to time;

(iv) Failure of the licensee to notify SBA within twenty (20) days from the date of an event of default or nonperformance by the licensee under any debenture, note or indebtedness of the licensee issued to or held by anyone other than SBA.

(2) The entire indebtedness of the licensee issued to, held, or guaranteed by SBA shall immediately become due and payable to SBA without notice, presentation, or demand, whenever—

(i) Licensee is insolvent, or

(ii) Not having sufficient property to pay all its debts, licensee makes a voluntary assignment thereof, or

(iii) Licensee commits an act of bankruptcy as defined in 11 U.S.C. section 21, or

(iv) A petition is filed in commencement of any bankruptcy of reorganization proceeding, receivership, dissolution, or other similar creditors' rights proceeding, by or against the licensee.

whichever event shall first occur.

(3) Except with the prior written consent of SBA, licensee will not

(i) Repurchase or retire any of its capital stock,

(ii) Make any distribution to its shareholders other than dividends out of retained earnings, or

(iii) Increase the salaries or other compensation of any officer, director, or employee beyond the amounts approved by SBA. In applying this provision, compensation to an officer, director or employee of a wholly owned corporation shall be deemed paid by licensee.

(4) Without prior SBA written approval, licensee will not employ or tender any office of employment to, or retain for professional services any person who on the date of the latest debt security issued by licensee pursuant to section 303(b) of the Act, or within 1 year prior to said date,

(i) Shall have served as an officer, attorney, agent, or employee of SBA and
(ii) As such, shall have occupied a position or engaged in activities which SBA shall have determined involved discretion with respect to the granting of assistance under the Act.

for a period of 2 years from such date.

(5) Any failure on the part of SBA at any time to require the performance by licensee of any one or more of the terms or provisions of any loan or obligation of licensee issued to, held or guaranteed by SBA shall in no way affect SBA's right thereafter to enforce the same, nor shall the waiver by SBA of any term or provision of any loan or obligation of licensee issued to, held, or guaranteed by SBA be taken or held to be a waiver of any succeeding breach of any such term or provision.

(6) If the licensee fails to maintain either the capital requirement under section 303(b)(1) or section 303(b)(2)(A) of the Act or the investment ratio requirement under section 303(b)(2)(B), and the regulations promulgated thereunder from time to time, then the aggregate amount of the outstanding indebtedness evidenced by debt securities issued by licensee pursuant to section 303(b) which exceeds the maximum amount permitted under section 303(b)(1) shall, upon written notice by SBA, be immediately due and payable to SBA. In the event of such an acceleration of payment, SBA in its sole discretion shall determine which debenture or debentures, or parts thereof, shall be subject thereto.

(7) The debt securities hereafter issued by a licensee pursuant to section 303(b) of the Act, and SBA's claims relating thereto, shall be subordinate to all other debts of the licensee, but shall have priority over all classes of stock of the licensee upon any dissolution, winding-up, liquidation, or judicial reorganization of the licensee, unless such debt securities provide otherwise.

Dated: March 23, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc. 72-4715 Filed 3-24-72; 9:50 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series 4-72]

5% PERCENT TREASURY NOTES OF SERIES F-1975

Offering of Notes

MARCH 22, 1972.

I. Offering of notes. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.26 percent of their face value for \$1,750 million, or thereabouts, of notes of the United States, designated 5% percent Treasury Notes of Series F-1975. Tenders will be received up to 1:30 p.m., e.s.t., Tuesday, March 28, 1972. The notes will be issued under competitive and noncompetitive bidding, as set forth in section III hereof.

II. Description of notes. 1. The notes will be dated April 3, 1972, and will bear interest from that date at the rate of 5% percent per annum, payable on a semi-annual basis on November 15, 1972, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1975, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1 million. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing U.S. notes.

III. Tenders and allotments. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., e.s.t., Tuesday, March 28, 1972. Each tender must state the face amount of notes bid for, which must be \$1,000 or a multiple thereof, and

the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.26 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed \$200,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes," which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for \$200,000 or less without stated price from any one bidder will be accepted in full at the average price¹ (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes

¹ Average price may be at, or more or less than \$100.00.

of this issue at a specific rate or price, until after 1:30 p.m., e.s.t., Tuesday, March 28, 1972.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. Payment. 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before April 3, 1972, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depository will be permitted to make settlement by credit in its Treasury Tax and Loan Account for notes allotted to it for itself and its customers.

V. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN B. CONNALLY,
Secretary of the Treasury.

[FR Doc.72-4680 Filed 3-24-72;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management CALIFORNIA

Notice of Filing of California State Protraction Diagram

MARCH 15, 1972.

Notice is hereby given that effective May 1, 1972, the following protraction

diagram is officially filed and of record in the California State Office, Bureau of Land Management, Sacramento, Calif. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. of the above date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

California Protraction Diagram No. 182
Approved December 20, 1971

MOUNT DIAULO MERIDIAN, CALIFORNIA

T. 3 S., R. 10 W.,
Sec. 6, all;
T. 2 S., R. 11 W.,
Secs. 7, 18, 26, all;
T. 3 S., R. 11 W.,
Sec. 1, all.

Copies of this diagram are for sale at two dollars (\$2.00) each by the Survey Records Office, Bureau of Land Management, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

CHIYO S. TOMONO,
Acting Chief, Branch of
Records and Data Management.

[FR Doc.72-4520 Filed 3-24-72;8:46 am]

National Park Service

DINOSAUR NATIONAL MONUMENT, COLORADO AND UTAH

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that a public hearing will be held beginning at 1:15 p.m. on May 25, 1972, at the Vernal Junior High School, 721 West First Street South, Vernal, UT, and on May 27, 1972, at the Moffat County Courthouse, Craig, Colo., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 44,000 acres within the Dinosaur National Monument. The monument is located in Moffat County in northwestern Colorado, and in Uintah County in northeastern Utah.

A packet containing a draft master plan and preliminary wilderness study report, and providing additional information about the proposal, may be obtained from the Superintendent, Dinosaur National Monument, Post Office Box 101, Dinosaur, CO 81610, or from the Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, NE 68102.

A description of the preliminary boundaries and a map of the area proposed for establishment as wilderness are available for review in the above offices and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, DC.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearing,

provided they notify the Hearing Officer, in care of the Superintendent, Dinosaur National Monument, Post Office Box 101, Dinosaur, CO 81610, by May 23 of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

- (1) Governors of the States or their representatives.
- (2) Members of Congress.
- (3) Members of the State Legislatures.
- (4) Official representatives of the counties in which the proposed wilderness is located.
- (5) Officials of other Federal agencies or public bodies.
- (6) Organizations in alphabetical order.
- (7) Individuals in alphabetical order.
- (8) Others not giving advance notice, to the extent there is remaining time.

Dated: March 14, 1972.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.72-4518 Filed 3-24-72;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-281]

PACIFIC FAR EAST LINE, INC.

Notice of Application Amendment

Notice is hereby given that the application of Pacific Far East Line, Inc. for an extension of its subsidized service on Trade Route No. 29 (U.S. Pacific/Far East) to include up to 24 calls annually at ports in Oregon, Washington, British Columbia, and Alaska, which was noticed in the FEDERAL REGISTER of August 13, 1971 (36 F.R. 15133), has been amended so as to include the information that the

proposed extended operation contemplates the probable employment of containerhips as well as LASH vessels.

Any person, firm, or corporation having any interest in such amended application and desiring to comment on relevant issues should, by the close of business on April 7, 1972, submit such comment to the Secretary, Maritime Subsidy Board in writing, in triplicate. Any comment thus submitted will become a part of the consolidated proceeding in Dockets Nos. S-267, S-268, S-271, and S-273.

Dated: March 22, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-4622 Filed 3-24-72;8:51 am]

Office of Import Programs NEUROPSYCHIATRIC INSTITUTE AT UCLA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 8(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00207-00-46040. Applicant: The Neuropsychiatric Institute at UCLA, Department of Mental Hygiene, 760 Westwood Plaza, Los Angeles, CA 90024. Article: Accessories for an Elmiskop IA electron microscope. Manufacturer: Siemens AG, West Germany.

Intended use of article: The articles are accessories for an existing electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-4521 Filed 3-24-72;8:46 am]

ROCKLAND STATE HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00220-00-11000. Applicant: Rockland State Hospital, Research Center, Orangeburg, N.Y. 10962. Article: Mid peak matcher, LKB 9060. Manufacturer: LKB Produkter AB, Sweden.

Intended use of article: The article is an accessory for an existing mass spectrometer.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-4522 Filed 3-24-72; 8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00213-00-46040. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, CA 94720. Article:

Electro magnetic shutter with exposure meter. Manufacturer: Siemens AG, West Germany.

Intended use of article: The article is an accessory for an existing electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-4523 Filed 3-24-72; 8:46 am]

UNIVERSITY OF CHICAGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (27 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00209-00-46040. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Large angle goniometer hot stage. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article is an accessory for an existing electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-4524 Filed 3-24-72; 8:46 am]

UNIVERSITY OF OKLAHOMA
MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00075-01-90000. Applicant: University of Oklahoma Medical Center, c/o Central Shipping & Receiving, 600 North Oklahoma, Oklahoma City, OK 73104. Article: Rotating anode X-ray generator, GX6. Manufacturer: Elliot Automation Radar Systems, Ltd., United Kingdom.

Intended use of article: The article is intended to be used to provide high-intensity X-radiation for single crystal X-ray diffraction studies of proteins.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size and a rotating target for maximum X-ray power. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 18, 1972, that both of the characteristics described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-4525 Filed 3-24-72; 8:46 am]

WASHINGTON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00201-00-46040. Applicant: Washington University, Ophthalmology Department, 660 South Euclid Avenue, St. Louis, MO 63110. Article: Universal camera (Cassette) and magazine plus extra film holders and light tight boxes. Manufacturer: Siemens AG, West Germany.

Intended use of article: The articles are accessories to an existing electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-4526 Filed 3-24-72; 8:46 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00616-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Millimeter car-

cinotron, Model CO 40B. Manufacturer: Compagnie Generale de Telegraphie Sans Fil, France.

Intended use of article: The article will be used in conjunction with a polarized proton target to perform an experiment which will involve measurement of the resultant asymmetries in the scattering of K^+ , K^- mesons and anti protons upon polarized protons when the direction of polarization is reversed.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a wide band continuous power source in the region of 69 to 71 gigahertz (GHz). We are advised by the National Bureau of Standards (NBS) in its memorandum dated January 21, 1972, that the capability described above is pertinent to the applicant's intended use. NBS also advises it knows of no domestically manufactured instrument providing an equivalent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-4527 Filed 3-24-72; 8:46 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

MERCK SHARP & DOHME RESEARCH
LABORATORIESNotice of Filing of Petition for Food
Additive

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 2B2775) has been filed by Merck Sharp & Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, N.J. 07065, proposing that §121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of benzyl bromoacetate as a preservative in food-packaging adhesives.

Dated: March 16, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-4497 Filed 3-24-72; 8:46 am]

WITCO CHEMICAL CORP.

Notice of Filing of Petition for Food
Additive

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 2A2777) has been filed by Witco Chemical Corp., 400 North Michigan Avenue, Chicago, Ill. 60611, proposing that §121.1099 *Defoaming agents* (21 CFR 121.1099) be amended to provide for the safe use of white mineral oil which conforms to the provisions of §121.1146 *White mineral oil* (21 CFR 121.1146) as a component of defoaming agents intended for use in water used for washing cut potatoes before the potatoes are fried in deep fat, provided the level of mineral oil in such water does not exceed 0.003 percent.

Dated: March 16, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-4498 Filed 3-24-72; 8:46 am]

Office of Education
PUBLIC INFORMATIONNotice of Policy for Provision of
Special Statistical Compilations and
Surveys

On October 29, 1971, a notice of proposed policy for provision of special statistical compilations and surveys by the Office of Education was published in the FEDERAL REGISTER (36 F.R. 20781). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed policy.

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

Effective date. This policy shall be effective as of the date of the publication of this document in the FEDERAL REGISTER (3-25-72).

Dated: February 28, 1972.

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

Approved: March 20, 1972.

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

This statement constitutes a guide to policies governing the creation of special statistical information, records, and related materials pursuant to section 417 of the General Education Provisions Act (20 U.S.C. 1231f).

Sec. 1 *Basic policy.* The basic policy of the Office of Education is to make its collected statistical information available, subject to section 5, as widely and promptly as possible unless:

(a) The data being requested are not edited, in which case the release of the data normally is deferred until editing is complete;

(b) The confidentiality of data would be violated;

(c) Estimated data are involved (see section 3 below); or

(d) Manpower or other resources available to the office are insufficient to comply with the request in the span of time specified.

Data will be accompanied, when appropriate, by information on technical

quality (for example, sampling error) relevant to the anticipated use of the data.

Sec. 2 Exempted data. Nonconfidential data shall be prepared and made available subject to precautions to prevent inadvertent disclosure of confidential data by comparisons to published aggregates (18 U.S.C. 1905). The furnishing of data and other materials under this policy statement shall be subject to the applicable provisions of 45 CFR Part 5. Requests for aggregate data containing confidential information shall be honored provided the data cannot be related to any one person or entity. The Office of Education uses a formula, similar to that used by the Bureau of the Census, to ensure that confidential data cannot be inferred from any data cell.

Sec. 3 Estimated data. Estimated data shall be prepared by the Office of Education provided the revealing of imputed data for individual reporting units is not involved.

Sec. 4 Cost of data. The statistical computations, surveys and other data made available by the Office of Education pursuant to 20 U.S.C. 1231f shall be furnished subject to prepayment of the estimated or the previously established actual cost of the work.

Sec. 5 Special provisions regarding the availability and publication of Office of Education data. (a) In instances in which data are available in published form, but not in the format in which they are being requested, the data shall be made available in the special format requested, subject to the resources available to the Office of Education. Normally, a charge will be made for such services.

(b) Any data prepared in response to special requests enter the public domain and may be published, released to other requestors, or otherwise used by the Office of Education.

(c) Data will be released by the Office of Education prior to office publication subject only to the limitations noted above. Data released prior to office publication, however, will be marked "Preliminary, subject to revision." Explanatory notes including those required by adherence to technical standards, noted in writing to the requestor by the responsible project officer, may be designated as integral to the data to be reproduced with the data (20 U.S.C. 1231f).

The fee schedule for provision of special statistical compilations and surveys will be issued separately.

[FR Doc. 72-4538 Filed 3-24-72; 8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. N-72-108]

NATIONAL INSURANCE DEVELOPMENT PROGRAM

Notice of Offer To Provide Reinsurance Against Riots or Civil Disorders

The purposes of this notice of offer are
(1) to publicly offer Federal reinsurance

against excess aggregate losses resulting from riots or civil disorders to insurance companies eligible for such coverage for the May 1, 1972, to April 30, 1973, contract year; (2) to provide the method by which the offer may be accepted; and (3) to set forth the terms and conditions of the Standard Reinsurance Contract (1972-73).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the May 1, 1972, to April 30, 1973, contract year must appear in time for acceptance by eligible insurance companies on or before April 30, 1972, this notice of offer to provide reinsurance against riots or civil disorders is effective upon publication in the FEDERAL REGISTER.

The Standard Reinsurance Contract (1972-73) provides for an aggregate basic premium reduced from the rate of \$0.15 per \$100 of direct premiums earned under the 1971-72 Standard Reinsurance Contract to a rate of \$0.05 per \$100 of direct premiums earned. The additional premium rate has been changed from the 1971-72 contract year rate of \$0.10 per \$100 of direct premiums earned, payable once (if required), to an additional premium, the maximum amount of which is four times the amount of the company's aggregate basic premium.

Payment of an additional premium will be required if the total amount of all excess aggregate losses paid by the reinsurer under all Standard Reinsurance Contracts issued for the period between May 1, 1972, and April 30, 1973, exceeds the total amount of all aggregate basic premiums under all such contracts.

The additional premium shall be equal to: The amount of the company's aggregate basic premium if there is an excess of all paid losses over all aggregate basic premiums; twice that amount if the excess is greater than the total amount of all aggregate basic premiums but is less than or equal to twice that amount; three times that amount if the excess is greater than twice the total amount of all aggregate basic premiums but is less than or equal to three times that amount; four times that amount, if the excess exceeds three times the total amount of all aggregate basic premiums under all such contracts.

Both the aggregate basic premium and the additional premium, if any, are payable on an advance estimated basis as specified in the Contract. Interest shall accrue at six per centum (6%) per annum on any portion of any amount due the reinsurer which is not paid to the reinsurer within 30 days from its due date.

Three exclusions, pertaining to nuclear energy related loss, to loss to aircraft while the aircraft is in flight, and to aircraft hijacking related loss, have been added to the Contract.

The offer to provide reinsurance is as follows:

OFFER TO PROVIDE REINSURANCE

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (12 U.S.C. 1749bbb-

1749bbb-21), to all regulations promulgated thereunder, and to the terms and conditions set forth below, the Federal Insurance Administrator (hereinafter referred to as the reinsurer) offers to enter into the Standard Reinsurance Contract (1972-73), the terms and conditions of which are as printed hereinbelow, with any eligible insurance company which accepts this offer. The reinsurer's offer to provide reinsurance is effective upon publication of this notice in the FEDERAL REGISTER (3-25-72).

METHOD OF ACCEPTANCE OF OFFER

(1) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the reinsurer. If the date and time of dispatch of the notice of acceptance are no later than midnight, e.s.t., April 30, 1972, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., May 1, 1972. If the date and time of dispatch of the notice of acceptance are later than midnight, e.s.t., April 30, 1972, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., on the day after such notice of acceptance is dispatched. The date and time of dispatch of the notice of acceptance must be clearly shown either by telegraph dispatch notation or postmark.

(2) The telegram or letter accepting this offer of reinsurance must indicate the States in which reinsurance on lines of mandatory coverage is to be provided and must specifically designate for each such State the lines of optional coverage for which reinsurance is to be provided. This notice of acceptance shall be in substantially the following form:

The [name of insurer or insurers] hereby accepts the offer as filed with the Office of the Federal Register of the Standard Reinsurance Contract (1972-73) pursuant to the Urban Property Protection and Reinsurance Act of 1968 for the mandatory and [specify] optional lines in the following States: [specify].

(3) Any company accepting this offer of reinsurance shall be supplied copies of the Standard Reinsurance Contract, Form HUD-1601, for execution and return to the reinsurer.

TERMS AND CONDITIONS OF THE STANDARD REINSURANCE CONTRACT (1972-73)

[At this point in the contract, the insurance company or companies reinsured are required to list the names and addresses of the principal company and all property insurance companies under common or related ownership or control as defined in the contract, and space is provided for the execution of the contract by the parties.]

THIS CONTRACT, made by and between the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") and the company or companies specified above (hereinafter referred to as the "Company"):

WITNESSETH:

Subject to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and to the terms and conditions herein set forth, the Reinsurer hereby obligates itself to pay, as reinsurance of the Company, the amount of the Company's excess aggregate losses resulting from riots or civil disorders in such lines of mandatory and optional coverage as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVIII.

SECTION I. Policies reinsured. This Standard Reinsurance Contract applies to:

(A) All policies or contracts of direct property insurance issued by the Company to any property owner, except for policies for which the business is handled for or through any State pool or any other continuing organization, pool, or association of insurers, and

(B) The Company's participations in State pools and, as may be approved by the Rein-

suror, in other continuing organizations, pools, or associations of insurers,

which policies, contracts, or participations are in force on the effective date hereof or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed below as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVIII.

LINE OF MANDATORY COVERAGE

- (A) Fire and extended coverage;
- (B) Vandalism and malicious mischief;
- (C) Other allied lines of fire insurance;
- (D) Burglary and theft; and
- (E) Those portions of multiple peril policies covering similar perils to those provided in (A), (B), (C), (D);

LINE OF OPTIONAL COVERAGE

- (F) Inland marine;
- (G) Glass;
- (H) Boiler and machinery;
- (I) Ocean marine; and
- (J) Aircraft physical damage.

Sec. II. *Premiums.* The aggregate basic premium due the Reinsurer for the reinsurance coverage provided under this contract shall be computed by applying an annual rate of five hundredths of one per centum (0.05%) to an aggregate premium base consisting of the sum of the products of the company's direct premiums earned in each State for each reinsured line for the calendar year 1972 multiplied by the specified percentage of such earned premium, as defined in section XVII of this contract.

If the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between May 1, 1972, and April 30, 1973, exceeds the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts, the Company shall be obligated to pay the Reinsurer, at or subsequent to adjustment, an additional premium determined on the basis of the amount of the remainder derived by subtracting the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts from the total amount of all excess aggregate losses paid by the Reinsurer under all such contracts. The amount of the additional premium shall be equal to the product of the Company's aggregate basic premium multiplied:

By a factor of one, if the remainder is less than or equal to the total amount of all aggregate basic premiums under all such contracts;

By a factor of two, if the remainder is greater than the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to twice that amount;

By a factor of three, if the remainder is greater than twice the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three times that amount; or

By a factor of four, if the remainder is greater than three times the total amount of all aggregate basic premiums under all such contracts.

An advance premium, which shall be an estimated premium only, shall be computed by the Company on the basis of its direct premiums earned in the calendar year 1971 in the manner required for the computation of the aggregate basic premium. If any line of insurance is added during the term of this contract for which the Company had no premium writings in 1971, the premium base for the advance premium shall be estimated by State for the period from the date of

attachment of coverage to the expiration date of this contract. In no event shall the advance premium be less than \$25 for each State in which reinsurance is provided under this contract. The advance premium shall be paid to the Reinsurer without demand within 30 days from the effective date of coverage.

At the option of the Reinsurer and prior to adjustment, the Company shall pay the additional premium on an estimated basis. An estimated additional premium payment equal to the amount of the Company's advance premium shall be payable to the Reinsurer if the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued by the Reinsurer for the period between May 1, 1972, and April 30, 1973, exceeds the total amount of all estimated premiums collected by the Reinsurer under all such contracts (the total amount of all advance premiums plus the total amount of any estimated additional premium payments). The total amount of estimated additional premium payments, whether required separately or concurrently, shall not exceed four times the amount of the Company's advance premium. The actual amount of the additional premium shall subsequently be computed and adjusted in accordance with the provisions of the preceding paragraphs and section VII.

With the exception of the advance premium which is due without demand of the Reinsurer within 30 days from the effective date of coverage, premium amounts shall be due 30 days after the demand of the Reinsurer. Interest shall accrue at six per centum (6%) per annum on any portion of any premium amount which is not received on or before 30 days from its due date.

The aggregate basic premium, together with any additional premium which may be due the Reinsurer in accordance with the preceding paragraphs, shall be deemed fully earned on the date that such reinsurance coverage attaches, except as otherwise provided in section VI.

Sec. III. *Assessments.* If any other company (or companies) reinsured by the Reinsurer under a like Standard Reinsurance Contract incurs aggregate losses in reinsured lines in any State during the period of this contract, which in total exceed its net retention for all such lines, and as a result lodges claims against the Reinsurer, then the Company, on demand of the Reinsurer, shall pay to the Reinsurer an assessment sufficient to meet the Company's equitable share of all such excess aggregate losses incurred in the State, but only to the extent that such losses exceed the unused net amount of all reinsurance premiums paid or payable by all reinsured companies into the National Insurance Development Fund for the period from August 1, 1968, through April 30, 1973 (including interest earned thereon), for reinsurance in such State. Such share shall be in the proportion that—

(A) The amount, if any, by which the Company's net retention in lines reinsured hereunder in such State exceeds the Company's aggregate losses in such lines, bears to

(B) The aggregate amount of unabsorbed net retention for all the lines of insurance of all companies reinsured hereunder in such State,

but such share shall not exceed the amount of the Company's unabsorbed net retention under (A). An assessment will be required only after the termination of coverage provided by this contract.

Sec. IV. *Claims.* The Company shall advise the Reinsurer by letter (A) of all losses from a single occurrence which exceed \$50,000 and (B) whenever it appears that aggregate losses have been incurred in an amount equal to ninety per centum (90%) of the Com-

pany's net retention in any State, on the basis of its direct premiums earned and reported to the Reinsurer for the calendar year 1971.

When the Company incurs aggregate losses which exceed its net retention in any State, the Company may make claim upon the Reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the Reinsurer, and following the receipt of such certifications and documentation the Reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the Reinsurer to be appropriate (including advance payments made on the basis of preliminary certifications of loss filed in advance of the final determination of the ultimate amount of losses paid), pay to the Company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

If the ultimate amount of losses to be paid by the Company has not been finally determined when the certification of loss is filed, the Company shall, in due course, file one or more supplementary certifications of loss and thereafter the Reinsurer or the Company, as the case may be, shall pay the balance due.

Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1971 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct premiums earned in reinsured lines for the calendar year 1972.

Sec. V. *Inception and expiration dates.* Provided the Company has requested reinsurance by States and lines of coverage on or before April 30, 1972, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t., on May 1, 1972, and shall expire at 12 p.m. (midnight), e.s.t., on April 30, 1973, unless sooner terminated.

If the Company applies for coverage on or after May 1, 1972, this contract shall be effective from 12:01 a.m., e.s.t., on the day after such application is dispatched, as determined by the date of postmark or telegram, provided the Company requests coverage by State and line and otherwise complies with the eligibility requirements of this contract.

This contract applies only to losses occurring during the term hereof, as follows:

(A) If at the inception of this contract any riot or civil disorder is in progress, no coverage shall be provided for losses resulting therefrom unless this contract is a continuation of coverage from the previous year's contract.

(B) If this contract terminates while a riot or civil disorder covered hereby is in progress, no coverage shall be provided for any losses resulting therefrom which occur after the date and time of termination of this contract.

Sec. VI. *Cancellations.* Reinsurance under this contract may be canceled by the Company in its entirety or with respect to any State upon written notice by the Company to the Reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the Reinsurer in accordance with the provisions of this contract, subject to any adjustments which may be required under section VII; provided, however, that no coverage shall attach under this contract if the Company has willfully concealed or misrepresented any material fact with respect thereto.

Reinsurance under this contract may be canceled by the Reinsurer in its entirety or with respect to any State upon 30 days' written notice to the Company of such cancellation, stating the reasons for cancellation, which shall be limited to one or more of the

following grounds: Fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the Reinsurer, and the grounds set forth in the second paragraph of section XII.

Whenever the Reinsurer determines, in his discretion, that any cancellation of reinsurance is involuntary and without fault on the part of the Company, the premium due the Reinsurer for the coverage afforded under this contract shall be prorated in the ratio of—

(A) The number of days for which coverage was provided prior to the cancellation of such coverage plus thirty, to

(B) The total number of days of coverage provided under this contract from the inception of such coverage up to and including April 30, 1973.

In the event of any cancellation of reinsurance coverage under this section, the net retention and assessment of such Company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1972. Refunds of premiums, if any, due the Company upon cancellation may, at the discretion of the Reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of section VII hereof.

Sec. VII. *Adjustments.* The Company shall report to the Reinsurer within 60 days after request its direct premiums earned for the calendar year 1972 in all reinsured lines in all States for which reinsurance was provided under this contract, for the purpose of computing and adjusting the reinsurance premium due to the Reinsurer with respect to the coverage provided. The direct premiums earned to be reported for any line of insurance added during the contract term for any State in which the Company had no premium writings in such line in 1972 shall be the direct premiums earned for the first four months of 1973 as estimated by the Company, subject to audit by the Reinsurer.

In no event shall the adjusted amount of direct premiums earned by the Company result in a basic premium to the Reinsurer in an amount less than \$25 for each State during the contract year, which shall constitute the minimum adjusted reinsurance premium for any State under this contract.

On or before July 31, 1973, or such later date as may be permitted at the option of the Reinsurer, the Company shall report to the Reinsurer its aggregate losses.

Any overpayment or underpayment between the Reinsurer and the Company shall be adjusted and paid in accordance with the obligations assumed hereinunder.

Sec. VIII. *Insolvency.* In the event of insolvency of the Company the reinsurance under this contract shall be payable by the Reinsurer to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the company under all policies, contracts, or participation shares reinsured without diminution because of the insolvency of the Company.

It is further agreed that the liquidator, or receiver, or statutory successor of the Company shall give written notice to the Reinsurer of the pendency of any claim against the Company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the Company or its liquidator, receiver, or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as part of the

expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

Sec. IX. *Errors and Omissions.* Inadvertent delays, errors, or omissions made in connection with any transaction under this contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error, or omission is rectified as soon as possible after discovery.

Sec. X. *Restriction of benefits.* No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Sec. XI. *Participation in statewide plans.* No reinsurance shall be offered or effective under this contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available, and the Company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this section. Except with respect to its runoff business after ceasing to do business within a State, the Company shall not be eligible for reinsurance under this contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The Company shall file and maintain with the State insurance authority in each State in which it is participating in the statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a copy of each such statement with the Reinsurer. The Company shall not direct any agent, broker, or other producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The Company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to utilize the programs and facilities available under such statewide plans.

In the event that the Company after the inception of this contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the Company with respect to that State as of the effective date of the withdrawal.

Sec. XII. *Limitations on reinsurance.* Reinsurance hereunder shall not be applicable to insurance policies subsequently written in a State by the Company after the close of the second full regular session of the appropriate State legislative body following August 1, 1968, if the State has not enacted legislation to reimburse the Reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb-9(a)), paid by the Reinsurer under this contract.

The Reinsurer shall cancel coverage, in accordance with the provisions of this contract, with respect to any State in which—

(A) the Reinsurer has found (after consultation with the State insurance authority) that (1) it is necessary to have a suitable program adopted, in addition to required

statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (2) the Company is not fully participating in the statewide plan; and, where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(B) following a merger, acquisition, consolidation, or reorganization involving the Company and one or more insurers with or without such reinsurance, the surviving insurer does not meet all criteria of eligibility for reinsurance and within ten days pay any reinsurance premiums due; or

(C) the Reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the Reinsurer's statutory or regulatory criteria or has become inoperative.

Notwithstanding the foregoing provisions, reinsurance may at the election of the Company be continued, up to and including April 30, 1973, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this section, provided the Company pays the reinsurance premiums in such amounts as may be required. For the purposes of this section, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made.

Reinsurance under this contract shall be subject to all of the provisions of the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb-1749bbb-21, as amended, and to all regulations duly promulgated by the Reinsurer pursuant thereto prior to the inception of any particular coverage provided under this contract.

Sec. XIII. *Arbitration.* If any misunderstanding or dispute arises between the Company and the Reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provision of this contract, other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the Reinsurer. The Company and the Reinsurer may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make his determination. If the Company and the Reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the Reinsurer.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the Reinsurer. The Company and the Reinsurer shall bear equally all expenses of the arbitration.

Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section shall, upon objection by the Reinsurer or the Company, be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

Sec. XIV. *Access to books and records.* The Reinsurer and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The Com-

pany shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under this contract. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after final adjustment of such claims.

SEC. XV. *Information and annual statements.* The Company shall furnish to the Reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, in such form as the Reinsurer, in cooperation with the State insurance authority, shall prescribe; and the Company shall file with the Reinsurer a true and correct copy of the Company's Fire and Casualty Annual Statement, or amendment thereof, as filed with the State insurance authority of the Company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The Company shall also file with the Reinsurer an equivalent of page 14 of such annual statement for each State in which reinsurance is provided under this contract.

SEC. XVI. *Exclusions.* Reinsurance under this contract shall not be applicable with respect to any claim for:

(A) All or any part of a loss which is the direct or indirect result of controlled or uncontrolled nuclear reaction, radiation, or radioactive contamination; or

(B) Any loss to any aircraft while the aircraft is in flight, including that period between the time when power is turned on for the purpose of taxiing connected to takeoff until the time when the landing run has ended, taxiing has been completed, and power has been turned off; or

(C) Any loss to any aircraft, or resulting from collision with aircraft, which is precipitated or caused by hijacking of any aircraft or attempt thereat, including loss from wrongful seizure, wrongful diversion from course or flight pattern, or wrongful exercise of command or control, of an aircraft, by any person or person, through the use of force or violence or the threat of force or violence.

SEC. XVII. *Definitions.* As used in this contract the term—

(1) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State and allocable to a State in which reinsurance is provided;

(2) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under this contract which, as determined by the Reinsurer:

(A) Are under common ownership and ordinarily operate on a group basis; or

(B) Are under single management direction; or

(C) Are otherwise determined by the Reinsurer to have substantially common or interrelated ownership, direction, management, or control;

then all such related, associated, or affiliated companies, excluding nonadmitted companies which are not specifically included by endorsement to this contract, shall be reinsured only as one aggregate entity;

(3) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems of insurability, such as for a particular class or type of business;

(4) "Direct premiums earned" means direct premiums earned as reported in column 2 on page 14 of the Company's Fire and Casualty Annual Statement for the specified calendar year, in the form adopted by the National Association of Insurance Commis-

sioners, subject to (A) adjustment as approved by the Reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (B) such other appropriate adjustments as may be approved or required by the Reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 on page 14, subject to a maximum credit of 20 per centum (20%) of direct premiums earned for any one line of insurance;

(5) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of—

(A) Ninety percent of the Company's aggregate losses in excess of its net retention, until the Company's 10 percent share of aggregate losses under this provision (A) equals the amount of its net retention;

(B) Ninety-five percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A)) in excess of twice its net retention, until the Company's 5 percent share of aggregate losses under this provision (B) equals the amount of its net retention; and

(C) Ninety-eight percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A) and (B)) in excess of an amount equal to three times its net retention;

(6) "Losses" means all claims proved, approved, and paid by the Company under reinsured policies, resulting from riots or civil disorders occurring in a State during the period of this contract, after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of eight per centum (8%) of the first \$25,000 of any such claim, plus three per centum (3%) of the amount by which such claim exceeds \$25,000 but is less than \$100,000, plus one per centum (1%) of the amount by which the claim exceeds \$100,000; it does not mean any claim excluded under section XVI;

(7) "Net retention" means the amount of aggregate losses that the Company must stand before the Reinsurer's liability hereunder attaches and shall be one aggregate figure for each State which shall be the larger of either \$1,000 or the amount determined by applying a factor of two and one-half per centum (2½%) to the specified percentage of the Company's direct premiums earned in the State for the calendar year 1972 on those lines of insurance hereby reinsured;

(8) "Riot" means:

(A) Any tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in concert, in the execution of a common purpose by the unlawful use of force and violence resulting in property damage of any kind;

"Civil disorder" means:

(B) Any pattern of unlawful incidents taking place within close proximity as to time and place and involving property damage intentionally caused by persons apparently having civil disruption, civil disobedience, or civil protest as a primary motivation, at least two of which incidents result in property damage in excess of \$1,000 each; or

(C) Any occurrence of property damage in excess of \$2,000 caused by persons whose unlawful conduct in causing the occurrence clearly manifests their primary purpose of civil disruption, civil disobedience, or civil protest;

(9) "Specified percentage" means one hundred per centum (100%) of the direct premiums earned for each line of insurance

reinsured under this contract, except that the specified percentage of Homeowners multiple peril shall be eighty-five per centum (85%) and that of Commercial multiple peril shall be sixty-five per centum (65%);

(10) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(11) "State pool" means any State Fair Plan pool or insurance placement facility which is intended to meet the requirements of Part A of the Urban Property Protection and Reinsurance Act of 1968 (82 Stat. 558, 84 Stat. 1791, 12 U.S.C. 1749bbb-3-1749bbb-6a).

SEC. XVIII. *Schedule of coverages.* The Company shall indicate with an (X) in the appropriate column and line those States in which the mandatory lines are to be reinsured under this contract. Coverage of mandatory lines may be designated only for those States in which the Company is eligible for reinsurance in accordance with section XI of this contract.

The Company shall also indicate by State with an (X) in the appropriate column and line any optional lines which are to be reinsured under this contract. Coverage of optional lines is available only for those States in which the mandatory lines are reinsured.

[The schedule of mandatory and optional coverages by State and line is set forth at this point in the contract.]

Effective date. This notice of offer shall be effective upon publication in the FEDERAL REGISTER (3-25-72).

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc. 72-4563 Filed 3-24-72; 8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-317, 50-318]

BALTIMORE GAS & ELECTRIC CO.

Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing

In the matter of Baltimore Gas & Electric Co. (Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2), Dockets Nos. 50-317, 50-318.

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Baltimore Gas & Electric Co. (the licensee) which would authorize the licensee to possess, use, and operate the Calvert Cliffs Nuclear Power Station, Units Nos. 1 and 2, pressurized water reactors (the facilities), located on the licensee's site in Calvert County, Md., at steady-state power levels not to exceed 2,570 megawatts (thermal) for each unit in accordance with the provisions of the licenses and the technical specifications appended thereto, upon the submission of a favorable safety evaluation of the application by the Commission's Division of Reactor Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility licenses (as amended) complies with the requirements of the Atomic

Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Provisional Construction Permits Nos. CPPR-63 and CPPR-64, issued by the Commission on July 7, 1969.

Prior to issuance of any operating license, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permits Nos. CPPR-63 and CPPR-64. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Atomic Energy Act of 1954, as amended, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the licensee will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facilities are subject to the provisions of section C of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970. Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the provisional construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, Baltimore Gas & Electric Company may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the provisional construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating licenses. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order. In accordance with 10 CFR 2.714, a petition for leave to intervene which is not timely filed will be dismissed unless the petitioner shows good cause for failure to file it on time.

For further details pertinent to the matters under consideration, see (1) the application for the facility operating

licenses dated January 25, 1968, as amended; (2) the licensee's environmental report dated November 16, 1970, and the Commission's draft detailed statement of environmental considerations dated March 10, 1971, which were prepared under the Commission's regulations in effect prior to September 9, 1971; (3) the licensee's supplemental environmental report dated November 8, 1971; (4) the Commission's draft detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D, dated January 20, 1972; and as they become available, (5) the report of the Advisory Committee on Reactor Safeguards on the application for a facility operating license for the Calvert Cliffs facility; (6) the Commission's final detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D; (7) the safety evaluation prepared by the Division of Reactor Licensing; (8) the proposed facility operating licenses; and (9) the technical specifications which will be attached as Appendix A to the proposed facility operating licenses, all of which documents are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, DC, and at the Calvert County Courthouse, Route 2, Prince Frederick, Md.

Copies of items (3) to the extent of supply, (4), and (5), (6), (7), and (8) when available, may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 20th day of March 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director.

Division of Reactor Licensing.

[FR Doc.72-4596 Filed 3-24-72; 8:49 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO. ET AL.

Order Extending Provisional Construction Permit Completion Date

Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co.

By application dated February 28, 1972, Philadelphia Electric Co., acting on behalf of itself and as representative of the Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-37. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Peach Bottom Atomic Power Station Unit No. 2, at Philadelphia Electric Co.'s site in Peach Bottom, York County, Pa.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the

Commission's regulations: *It is hereby ordered.* That the latest completion date specified in Provisional Construction Permit No. CPPR-37 is extended from April 1, 1972, to October 1, 1972.

Dated at Bethesda, Md., this 20th day of March 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director.

Division of Reactor Licensing.

[FR Doc.72-4597 Filed 3-24-72; 8:49 am]

[Docket No. 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Order Extending Provisional Construction Permit Completion Date

Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co.

By application dated February 28, 1972, Philadelphia Electric Co., acting on behalf of itself and as representative of the Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-38. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Peach Bottom Atomic Power Station Unit No. 3, at Philadelphia Electric Co.'s site in Peach Bottom, York County, Pa.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations, *It is hereby ordered.* That the latest completion date specified in Provisional Construction Permit No. CPPR-38 is extended from October 1, 1972 to November 30, 1973.

Dated at Bethesda, Md., this 20th day of March 1972.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director.

Division of Reactor Licensing.

[FR Doc.72-4598 Filed 3-24-72; 8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24266]

WORLD AIRWAYS, INC., AND KOREAN AIR LINES CO., LTD.

Notice of Proposed Approval

Joint application of World Airways, Inc. and Korean Air Lines Co., Ltd. for disclaimer of jurisdiction or approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 24266.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends

to issue the order set forth below under delegated authority on March 24, 1972. Prior to that date, interested persons may file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., March 20, 1972.

[SEAL]

A. M. ANDREWS,
Director, Bureau of
Operating Rights.

ORDER OF APPROVAL

Issued under delegated authority.

By application filed March 3, 1972, World Airways, Inc. (World) and Korean Air Lines Co., Ltd. (KAL) request that the Board disclaim jurisdiction over, or in the alternative, approve pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act) an agreement whereby World will dry-lease to KAL two Boeing 707-373C aircraft.

World is a U.S. supplemental air carrier. KAL holds Board authority as a foreign air carrier, pursuant to Board Order 71-4-161, April 23, 1971, and conducts scheduled air transportation with jet aircraft between the Republic of Korea and the coterminals Hawaii and Los Angeles, Calif. KAL currently leases one Boeing aircraft from World to meet its present needs. KAL now requires two additional Boeing 707 aircraft to provide additional cargo and passenger services between Korea and the United States.

The agreement involves the lease of two B-707-373C aircraft for a period commencing on March 24, 1972 and April 11, 1972 through June 30, 1976. Rental will be at the rate of \$95,000 per month. KAL will have complete and exclusive control of the aircraft, providing its own crew, fuel, and so forth, under the terms of the lease.

In support of their request the applicants submit that KAL presently engages in air transportation of cargo to the United States; that on April 1, 1972, it intends to increase cargo service from Seoul to Los Angeles from three to six flights per week; and that, on April 18, 1972, it will commence passenger service to Honolulu and Los Angeles with three flights weekly. They state further that the application was prompted by reason of the fact that the aircraft to be leased may constitute a substantial part of the properties of World, since the two aircraft will constitute approximately 10.6 percent of the current value of World's aircraft and related spares and parts; that World presently has one other aircraft under lease to KAL; and that the combined value of the three aircraft would represent approximately 15.6 percent of World's aircraft and spare engines. It is further submitted that World's lease of the subject aircraft will not interfere with any of World's current or projected commitments under its military or commercial contracts, and that approval of the lease agreement will not result in the control of an air carrier engaged in air transportation, nor will it result in creating a monopoly or tend to restrain competition. Moreover, the applicants contend that the rent payments will be of benefit to World, as well as to the United States in its balance of payments position.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application, it is concluded that the lease involves a substantial part of the properties of World and, therefore, is subject to section 408 of the Act.¹ However, it is further concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. It appears that the lease will enable KAL to expand its present services without depriving World of aircraft necessary to meet its own commitments.² In addition, the subject lease is substantially similar to other such leases approved by the Board.³ Under all the circumstances, it is not found that the lease transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled. Further, it is found that the application, to the extent that it requests a disclaimer of jurisdiction, should be dismissed.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing.⁴

Accordingly, it is ordered, That:

1. The subject lease by KAL of two Boeing 707-373C aircraft and related parts and spare engines from World be and it hereby is approved; and

2. To the extent not granted herein, the application be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of this order.

This order shall be effective upon issuance and the filing of such petitions shall not stay its effectiveness.

[SEAL]

HARRY J. ZINK,
Secretary.

[FR Doc.72-4567 Filed 3-24-72; 8:48 am]

CIVIL SERVICE COMMISSION

DIRECTOR, CHILD AND FAMILY SERVICES DIVISION, COMMUNITY SERVICES ADMINISTRATION

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found on

¹ Cf., Frontier Airlines, Inc. and Allegheny Airlines, Inc., Orders 70-11-13 and 70-11-14, respectively, both dated Nov. 4, 1970.

² The application indicates that, as of Dec. 31, 1971, World owned 17 transport aircraft including 6 Boeing 727's, 8 Boeing 707's and 3 Douglas DC-8's.

³ Cf., World Airways, Inc. and Pakistan International Airways, Inc., Order 70-8-44, Aug. 12, 1970.

⁴ It is further found, pursuant to 14 CFR 385.6 that the actions taken herein are governed by prior Board precedent and policy, and that immediate action is required to enable effectuation of the transaction; therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

February 29, 1972, a manpower shortage for a single position of Director, Child and Family Services Division, GS-101-15, Community Services Administration, Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.72-4487 Filed 3-24-72; 8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality March 13-March 17, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

SOIL CONSERVATION SERVICE

Final, March 7

Butler and Chase Counties, Kans. Conservation land treatment over two watersheds, with construction of 30 floodwater retarding structures. Approximately 18 miles of intermittent streams will be inundated. Comments made by Army COE, EPA, HEW, DOI, and State agencies. (ELR Order No. 2086, 58 pages) (NTIS Order No. PB-200 794-F)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314 (202) 693-6346.

Final, March 9

Mermantau River, La. Enlargement and realignment of 43 miles of navigation channel in Bayous Nezpique and des Cannes, in the Mermantau River, and in Lake Arthur. A loss of 2,000 acres of wildlife habitat will occur. Unspecified numbers of archeological sites are also located in the area. Comments made by EPA, HEW, DOI, and State agencies. (ELR Order No. 3008, 48 pages) (NTIS Order No. PB-200 776-F)

Final, March 10

Little Blue Channel Improvement, Little Blue River, Mo. Construction of channel realignment structures and a ring levee around Lake City Army Ammunition Plant in Jackson County. The purpose of the project is flood control. It will

detrimentally alter 22 miles of stream environment and riparian wildlife habitat, and result in lowered fish production and loss of wildlife habitat. Comments made by USDA, EPA, DOI, State, and local agencies, and concerned citizens. (ELR Order No. 3026, 48 pages) (NTIS Order No. PB-202 916-F)

Skiatook Lake, Osage County, Okla. Construction of Skiatook Lake, on Hominy Creek. The purposes of the project include water supply and quality control, recreation, fish and wildlife management, and flood control. Approximately 10,540 acres of land will be permanently inundated and an additional 3,410 acres will be periodically inundated. Fifty-seven families, one State highway, several roads, pipelines, and other utilities, and 25 graves will be displaced by the project. Comments made by USDA, EPA, DOI, State, and local agencies, and concerned citizens. (ELR Order No. 3027, 199 pages)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, (202) 755-0940.

Final, March 8

Carmel, Monterey County, Calif. Construction of an ocean outfall sewer extension in Carmel Bay. The project will lower existing conditions of pollution near the shoreline. It will also, however, discharge wastewater in an area that is included in a proposed enlargement of the Point Lobos Underwater Reserve of the California State Park system. Comments made by Army COE, DOC, HEW, DOI, USCG, State, and local agencies, and concerned citizens. (ELR Order No. 2084, 73 pages) (NTIS Order No. PB-202 585-F)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, (202) 755-6186.

Final, March 13

Marshall Union Apartments, Portland, Oreg. Proposed construction of a 12-story high-rise structure of 243 apartment units, designed specifically for senior citizens. The visual impact of the structure is considered in the statement. Comments made by EPA, HEW, State, and local agencies, and concerned citizens. (ELR Order No. 3034, 39 pages) (NTIS Order No. PB-203 312-F)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Ralph E. Cushman, Special Assistant, Office of Administration, Washington, D.C. 20546 (202) 967-8107.

Final, February 18

Jet Propulsion Laboratory, Los Angeles County, Calif. The statement describes the mission, facilities, and community setting of the laboratory. At present the lab supports NASA principally in the conduction of research, development, and flight project activities related to exploration of the planets and interplanetary space with automated spacecraft. Comments made by EPA. (ELR Order No. 1950, 37 pages) (NTIS Order No. PB-207 332-F)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401 (615) 755-2002.

Final, March 10

Nolichucky project, Greene County, Tenn. Proposed strengthening of the dam on the Nolichucky River, retirement of its powerplant, and development of a waterfowl sanctuary and nature study program. The sanctuary would encompass 2,200 acres; total project cost is estimated at \$2,700,000. Comments made by USDA, DOC, DOD, EPA, HEW, HUD, PFC, OEO, State, and local agencies. (ELR Order No. 3035, 57 pages) (NTIS Order No. PB-204 844-F)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,¹ Director, Office of Program Co-ordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462-4357.

FEDERAL AVIATION AGENCY

Final, March 14

Fort Dodge Municipal Airport, Webster County, Iowa. Request for Federal financial assistance to construction, mark and high intensity light a NE/SW runway (150' x 6,500'); reconstruct the entrance road; reconstruct and light the general and commercial aviation aprons, etc. Approximately 385 acres will be acquired for the project, and two through five families will be displaced. Comments made by USDA, DOC, DOI, State and local agencies. (ELR Order No. 3028, 83 pages) (NTIS Order No. PB-201 767-F)

Fall City Richardson County, Nebr. Request for Federal financial assistance to acquire 39 acres of land to construct a 3,400' x 60' NW/SE runway and apron, and to install MIRL, VASI, a lighted windcone and segmented circle at the Falls City Municipal Airport. Comments made by USDA, ARMY COE, EPA, DOI, HUD, and local agencies. (ELR Order No. 3031, 28 pages) (NTIS Order No. PB-204 665-F)

Herkimer County Airport, Herkimer County, N.Y. Request for Federal financial assistance to acquire land and construct a 4,000' x 75' runway, with apron, taxiway, and access road, lighting, AVASI and REILS, etc. One family will be displaced. Comments made by Army, COE, DOI, DOT, State, and local agencies. (ELR Order No. 3032, 27 pages) (NTIS Order No. PB-193 960-F)

Macomb Airport, McDonough County, Ill. Request for Federal financial assistance to acquire 108 acres of land and extend, light, and mark runway. Comments made by USDA, DOI, DOT, State, and local agencies. (ELR Order No. 3039, 32 pages) (NTIS Order No. PB-205 794-F)

FEDERAL HIGHWAY WORKS ADMINISTRATION

Final, March 9

Kings Mountain Bypass, Gaston and Cleveland Counties, N.C. Relocation and reconstruction of U.S. 74, from two to four lanes, for a distance of 7.3 miles. Approximately 120 families and three businesses will be displaced by the project. Comments made by USDA, Army COE, EPA, GSA, DOI, OEO, State, and regional agencies. (ELR Order No. 2093, 47 pages) (NTIS Order No. PB-200 326-F)

Corridor "F," Campbell and Claiborne Counties, Tenn. Three projects in the State Route 63 corridor are involved. The proposed action, reconstruction of 10.54 miles of S.R. 63, would displace nine residences and cross several streams. Comments made by USDA, Army COE,

¹ Mr. Convisser's office will refer you to the regional office from which the statement originated.

EPA, DOI, TVA, State, and local agencies, and concerned citizens. (ELR Order No. 2094, 91 pages) (NTIS Order No. PB-202 899-F)

State Highway 1, Santa Barbara County, Calif. Reconstruction of 5.7 miles of S.H. 1. This is the final section of a four-lane planned access freeway from south of Lompoc to Santa Maria. Two present and one future interchanges are planned. Comments made by USAF, HEW, DOI, State, and local agencies. (ELR Order No. 3001, 94 pages) (NTIS Order No. PB-200 335-F)

F-022-1(6), Salina, Utah. Construction of a two-lane, 40-foot wide highway, from Salina Connection to I-70, a total distance of 2 miles. One residence will be displaced by the action. Comments made by EPA, HUD, DOI, State, and local agencies. (ELR Order No. 3003, 36 pages) (NTIS Order No. PB-202 801-F)

U.S. COAST GUARD

Contact: D. B. Charter, Jr., Commander, U.S. Coast Guard, Chief, Environmental Coordination Branch, 400 Seventh Street SW., Washington, D.C. 20591, (202) 426-9573.

Final, March 14

Point Conception, Calif. Proposed testing of a high seas oil containment barrier, in order to furnish verification of the prototype design. The test will determine the combined effects of waves and currents on barrier motions and oil retention efficiency in rough water. Two tests, one using 900 bbls. of soybean oil in 3-5-foot seas and the second without oil in 5-10-foot seas, will be conducted in international waters 5 to 30 miles west of Point Conception. Comments made by Army, COE, USN, State agencies of California, Florida, and Mississippi, and local California agencies. (ELR Order No. 3038, 34 pages) (NTIS Order No. PB-204 564-F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc. 72-4586 Filed 3-24-72; 8:49 am]

ENVIRONMENTAL PROTECTION AGENCY CHEMAGRO CORP.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408 (d) (1), 409(b) (5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d) (1), 348(b) (5)), notice is given that a pesticide petition (PP 2F1242) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide O,O-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in or on the raw agricultural commodities lima beans and vines at 12 parts per million and citrus fruit at 0.1 part per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5012) proposing establishment of a food additive tolerance (21 CFR Part 121) of 25 parts per million for residues of O,O-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in dried

citrus pulp resulting from application of the insecticide to growing citrus fruit.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure with detection by thermionic flame ionization.

Dated: March 17, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4488 Filed 3-24-72; 8:45 am]

CIBA AGROCHEMICAL CO. AND NOR-AM AGRICULTURAL PRODUCTS, INC.

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 2H5011) has been filed by Ciba Agrochemical Co., Division of Ciba-Geigy Corp., Ardsley, N.Y. 10502, and NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, proposing establishment of a tolerance (21 CFR Part 121) of 25 parts per million for residues of the insecticide *N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) in or on dry apple pomace from application of the insecticide to apples.

Dated: March 16, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4489 Filed 3-24-72; 8:45 am]

MONSANTO CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8 *Withdrawal of petition without prejudice* of the pesticide procedural regulations (40 CFR 180.8), Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166, has withdrawn its petition (PP 0F0985), notice of which was published in the FEDERAL REGISTER of June 30, 1970 (35 F.R. 10609), proposing establishment of tolerances for residues of the herbicide 2-chloro-*N*-(isobutoxymethyl)-2',6'-acetoxylidide, including its metabolites calculated as 2-chloro-*N*-(isobutoxymethyl)-2',6'-acetoxylidide, in or on the raw agricultural commodities sugar beet tops at 0.2 part per million and sugar beet roots at 0.05 part per million (negligible residue).

Dated: March 16, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4490 Filed 3-24-72; 8:45 am]

NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 2F1238) has been filed by NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide formetanate hydrochloride (*m*-[[dimethylamino)methylene]amino]phenyl methylcarbamate hydrochloride) in or on the raw agricultural commodities grapes and peaches at 5 parts per million, nectarines at 4 parts per million, and plums and prunes at 2 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5010) proposing establishment of food additive tolerances (21 CFR Part 121) for residues of formetanate hydrochloride in or on raisins at 20 parts per million resulting from application of the insecticide to growing grapes and in or on dried prunes at 8 parts per million resulting from application of the insecticide to growing prunes.

The analytical method proposed in the petition for determining residues of the insecticide is a procedure in which the residue is hydrolyzed to 3-aminophenol and then analyzed colorimetrically after diazotization and coupling with *N*-1-naphthylethylenediamine dihydrochloride.

Dated: March 16, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4491 Filed 3-24-72; 8:45 am]

RHODIA, INC.

Notice of Filing of Petition for Food Additive

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 2H5013) has been filed by Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, NJ 08903, proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the insecticide phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) *O,O*-diethyl phosphorodithioate) in dried apple pomace at 40 parts per million from application of the insecticide to the raw agricultural commodity apples.

Dated: March 16, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4492 Filed 3-24-72; 8:45 am]

VELSICOL CHEMICAL CORP.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 2F1228) has been filed by Velsicol Chemical Corp., 1725 K Street NW., Washington, DC 20006, proposing establishment of tolerances (40 CFR Part 180) for total residues of the insecticide leptomphos (*O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate) and its metabolites *O*-(4-bromo-2,5-dichlorophenyl) *O*-methyl phenylphosphonate, 4-bromo-2,5-dichlorophenol, and *O*-(2,5-dichlorophenyl) *O*-methyl phenylphosphonothioate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, and lettuce at 5 parts per million; tomatoes at 2 parts per million; cottonseed at 0.3 part per million; fat, meat, and meat byproducts of cattle at 0.25 part per million; potatoes at 0.15 part per million; milk at 0.1 part per million; fresh corn including sweet corn (kernels plus cob with husk removed) at 0.05 part per million; and eggs and fat, meat, and meat byproducts of poultry at 0.04 part per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 2H5007) proposing establishment of food additive tolerances (21 CFR Part 121) for total residues of the insecticide and its aforementioned metabolites in or on sweet corn canning waste (cobs and husks) at 15 parts per million and crude oil of cotton at 2 parts per million.

The analytical methods proposed in the pesticide petition for determining residues of the insecticide and its aforementioned metabolites are gas chromatographic procedures with a flame photometric detector for determining phosphorus containing components and an electron capture detector for determining nonphosphorous-containing components.

Dated: March 17, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-4493 Filed 3-24-72; 8:46 am]

FEDERAL MARITIME COMMISSION CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels	Certificate No.	Owner/operator and vessels	Certificate No.	Owner/operator and vessels
01014	Robert Bornhofen Reederei: Wilhelm Bornhofen. ¹	04151	Ulterwyk Shipping Ltd.: Annleea U. Drucilla U.	05892	Luedtke Engineering Co.: Dredge Duluth.
01064	Reinauer Transportation Co., Inc.: R.T.C. 320.	04172	Eklöf Marine Corp.: M. V. Chem Trader. E12. E17. Mary A. Whalen. John J. Tabeling. Motor Barge 31. M. V. Special T. M. V. Jet Trader. M. V. Senior. M. V. Hudson.	06011	Mitsui Kinkai Kisen Kabushiki Kaisha: Tsukubasan Maru. ⁹
01071	Kommanditselskabet AF 19. August 1968 (Komplementar: P.F.S. Heering): Heering Mille.	04178	Canada Steamship Lines Ltd.: Coverdale.	06073	Southern Marine Drilling Co.: Stormdrill V.
01111	Trade Lines, Inc.: Nikos Kazantzakis.	04289	Dixie Carriers, Inc.: DXE 235-DC. DXE 236-DC. DEX 237-BDC. DXE-2303. DXE-2304.	06170	The Deltona Corp.: 515 N.
01115	Marastro Compania Naviera S.A.: Trade Fortitude.	04403	Triangle Towing Co., Inc.: GTC-1.	06202	Helner Braasch Seereederei- Gesellschaft MS "Hamburger Dom" KG: Hamburger Dom.
01171	Compagnia Marittima Bananiera Italiana P.A.: Mare Caribico.	04429	Heiner Braasch Seereederei Gesell- schaft MS Hamburger Fleet MS Hamburger Brücke KG: Hamburger Brücke.	06248	Commercial Corp. "Sovrybflot": Nogliki. Akademik Knipovitch. Kalitva.
01302	Boston Fuel Transportation, Inc.: B.F.T. No. 50.	04518	Tokusui K.K.: Kakimaru No. 1.	06699	Compania Maritima Clavelina S.A.: Ponza.
01334	American President Lines, Ltd.: President Van Buren.	04564	Yamashita-Shinnihon Kisen Kaisha: Yamazuru Maru. ⁶ Tohbei Maru. ⁷ Wakazuru Maru. ⁸	06300	The Delaware River and Bay Au- thority: S.S. Delaware. S.S. Cape May. S.S. New Jersey. M.V. Cape Henlopen.
01428	The Ocean Steam Ship Co., Ltd.: Onitsha.	04594	The Valley Line Co.: M/V 224.	06339	Panoceanic Marine Products Co. Inc.: Ocean Glory No. 3.
01465	Scottish Ship Management, Ltd.: Cape Leeuwin.	04750	Tosul Enyo Gyogyo Kabushiki Kaisha: Tosulmaru No. 10.	06412	Yokkaichi Enyo Gyogyo Kabushiki Kaisha: Sanho Maru.
02202	Humble Oil & Refining Co.: Ellis 2003.	04921	Hamman Transportation Co.: Cape May. Cape Cod. C. W. Dove.	06433	Marean Shipping Ltd.: Marean.
02131	Houlder Line, Ltd.: Thorpe Grange.	05090	Esso Petroleum Co. Ltd.: Esso Hibernia. Esso Caledonia.	06473	Rakennustoimisto Jussi Ketola: Finnbuilder.
02270	Enso-Gutzeit Osakeyhtiö: Flinsallor.	05258	Schnitzer Leasing, Inc.: Big Brute. Lois. B. F. Irvine. White. SS-7. SS-9.	06507	Cia Amigos de Navegacion S.A.: Sumiyoshi.
02293	China Marine Investment Co., Ltd.: Liberty Importer.	05375	N. V. Rederij H. Boon: Westropa.	06510	Compagnie Nationale Algerienne de Navigation C.N.A.N.: Tariq. Tiaret. Setif. Berga. Hassi R'Mel.
02422	Oceanic Special Shipping Co., Inc.: Stella Maris II.	05401	Tracor/Mas, Inc.: F. V. Hunt.	06552	Wolves Compania Naviera S.A. Panama: Yanxilas.
02457	John Swire & Sons, Ltd.: Sinkiang.	05611	Marine Drilling Co.: J Storm I. J Storm II. Cee Bee 15. Cee Bee 16. Cee Bee 17. Cee Bee 18. Cee Bee 19. Cee Bee 20. Cee Bee 21. Cee Bee 22. Vermillion Bay Rig 6.	06563	Ragnar Johansen & Co. A/S: Alderjo.
02477	American Dredging Co.: No. 9. No. 10. No. 22. No. 27. No. 28. No. 224.	05612	Liberation Steamship Co., Inc.: Philippine Admiral.	06663	Pax Steamship Co., S.A. Panama R. P. Panama: Pontoporla.
02832	Compania Transatlantica Espa- nola, S.A.: Galeona.	M-05623	The Boston Metals Co.: Vessels held for purposes of con- struction, scrapping or sale, but not including vessels over 10,000 gross tons.	06665	Amelia Shipping Corp., Monrovia Managers-Christian F. Ahren- kiel, Hamburg: Amelle Thyssen.
02892	Meijoy Transportation Co., Inc.: GWG 202.	05815	Compania Argentina De Navega- cion De Ultramar, S.A.: Puerto Buitrago.	06666	Frisla Shipping Corp., Monrovia Managers-Christian F. Ahren- kiel, Hamburg: Rhenania.
03018	Federal Barge Lines, Inc.: Tom Talbert.	05854	Levin Metals Corp.: Tinlan.	06673	Konrad Shipping Co. Ltd. Panama: Lahnstein.
03214	Salenrederierna Aktiebolag: Snow Flake. ²			06681	Inter-Cities Navigation Corp.: Ocean Cities.
03315	Afran Transport Co.: Burgan.			06688	K/S Toratankers—Arne Teigen, Egersund, Norway: M/T Toratank. M/T Torasund.
03420	Dainichi Kaiun Kabushiki Kaisha: Nichilku Maru. ³			06695	Diamond Freighters Corp.: M. V. Panagos D. Pateras.
03501	Osaka Shosen Mitsui Senpaku K.K.: Tama Maru. Elbe Maru. Adria Maru.			06696	Diamante Sociedad De Transportes S.A.: M. V. Archontissa Katingo.
03519	Toko Shosen K.K.: Rhein Maru. ⁴			06697	Parnaso Cia Naviera S.A.: M. V. Leandros.
03532	Zuisei Kaiun K.K.: Kinko Maru.			06709	Ahjin Haewoon Jushik Hoesa: M. S. Ahjin.
03600	Bahamas Line, S.A.: Omar Express. Jose Express.			06710	Island Cement Co., Ltd.: Island Cement.
03665	Cyrus Tanker Corp., Liberia: Jumbo Pioneer.			06711	Psichikon Compania Naviera S.A.: Aegis Harvest.
03754	Carbonavi Societa Per Azioni Di Navigazione: Giuseppina Loll-Ghetti.				
04080	Port Arthur Towing Co. et al.: Capt. W. F. Fredeman.				
04127	Samband Isl. Samvinnufelaga: Hvassafell. Skaffafell.				

¹ Certificate effective: March 25, 1972.² Certificate effective: April 1, 1972.³ Certificate effective: April 17, 1972.⁴ Certificate effective: April 30, 1972.⁵ Certificate effective: March 31, 1972.⁶ Certificate effective: August 15, 1972.⁷ Certificate effective: August 15, 1972.⁸ Certificate effective: May 15, 1972.⁹ Certificate effective: May 20, 1972.

Certificate No.	Owner/operator and vessels.
06714	Golden Evangelistria Steamship, Inc.: Golden Crown.
06715	Golden Kimisis Steamship, Inc.: Golden Sword.
06717	Princefield Shipping, Ltd.: Princefield.
06720	Crown Shipping Corp.: Cornillos.
06721	Kooll Industrial Co., Ltd.: Odaeyang No. 105.
06723	Garth Shipping Co., Ltd.: Cluden.
06724	Fanfero Shipping Co., Ltd.: Pampero.
06725	Geest Industries, Ltd.: Geestbay. Geestport. Geestcape. Geesthaven.
06729	Overseas Containers, Ltd.: Tokyo Bay. Liverpool Bay.
06731	Partenreederei MS "Travetal" Korrespondentreeder J.A. Relnecke K.G.: Travetal.
06732	Saint Anna Maritime Co. Ltd.: St. Anna.
06739	Laomedon Shipping Co., Ltd.: Kikis.
06740	Neptunea Panoceanica S.A.: Lindenstein.
06741	Martropico Armadora S.A.: Elita.
06742	Naviera De Cargas Pesadas, S.A.: Navipesa Dos.
06750	Silver Fir Shipping Co., Ltd. of Cyprus: Silver Fir.
06751	Silver Gull Shipping Co., Ltd. of Cyprus: Silver Sun.
06752	Silver Mermaid Shipping Co., Ltd. of Cyprus: Silver Dolphin.
06753	Independent Chartering Co., Inc.: Holma.
06754	Triumph Carriers, Inc.: Daishowa Venture.
06759	Continental Armadora S.A.: Commander Colocotronis.
06760	Athelstane Tankers Co., Ltd.: Anco Stane.
06763	First Spring Cloud Shipping, Inc.: Hornstern.
06765	Samelet M/S Pan: Pan.
06768	Gakko Hojin Tokai Daigaku: Bosei Maru. Tokai University II.
06779	Miyazaki Sangyo Kaun K.K.: Miyatsuru Maru. ²⁰
06780	Partrederiet for Roman Reefer: Roman Reefer.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-4494 Filed 3-24-72; 8:46 am]

INACTIVE TARIFFS

Notice of Intent To Cancel

The domestic offshore files of the Federal Maritime Commission contain several tariffs which have for a period of time been classified as inactive either due to the absence of any tariff changes for a period of 1 year or longer; or because the Commission's staff has been

²⁰ Certificate Effective: March 23, 1972.

unable to correspond with the tariff filers; or because the Commission's staff has been advised that the tariff filers no longer offer a common carrier service. The following carriers, including their last known address, fall into the "inactive tariff" category.

Ralph Acosta Express, 738 East 180th Street, Bronx, NY 10460.
Benson Transportation Co., Post Office Box 96, Metlakatla, AK 99926.
Atlas Van Service, Inc., 2506 West Sixth Street, Los Angeles, CA 90023.
Perfect Pak Co., 12169 Ventura Boulevard, Studio City, CA 91604.
Mr. R. S. Stowell, doing business as Western Parcel Service, Post Office Box 1070, San Diego, CA 92112.
Wings Van & Storage Co., 4000 Cherry Street, Long Beach, CA 90807.

Inactive tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. Further, Rule 18(g) of Tariff Circular No. 3, as amended (46 CFR 531.18(g)), requires the cancellation of inactive tariffs; and, accordingly, the Commission proposes to cancel these tariffs in the absence of a showing of good cause as to why they should not be canceled.

Now, Therefore, it is ordered, That the above carriers advise the Director, Bureau of Compliance at 1405 I Street NW., Washington, DC 20573 in writing within 30 days after the publication of this order in the FEDERAL REGISTER of any reasons why the Commission should not cancel inactive tariffs.

It is further ordered, That a copy of this order be sent by registered mail to the last known address of the carriers listed herein;

It is further ordered, That the tariffs of all carriers named herein not responding to this order will in such event be canceled;

It is further ordered, That this notice be published in the FEDERAL REGISTER and a copy thereof filed with any tariff canceled pursuant to this notice.

By the Commission pursuant to authority delegated by Section 7.15 of Commission Order No. 1 (Revised) dated September 29, 1970.

AARON W. REESE,
Managing Director.

[FR Doc.72-4495 Filed 3-24-72; 8:46 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-137]

EL PASO NATURAL GAS CO.

Notice of Motion for Modification of Order Permitting Tracking of Changes in Purchased Gas Costs

MARCH 21, 1972.

Take notice that El Paso Natural Gas Co. (El Paso), on March 6, 1972, filed in the above-captioned proceeding a motion for modification of the Commission's order, issued July 30, 1971, insofar as it gives El Paso authority to file rate increases and decreases to reflect in-

creases or decreases in the cost of purchased gas for its Northwest Division System, computed in accordance with the provisions of that order and subject to the conditions contained therein.

El Paso moves that the Commission amend its order of July 30, 1971, to permit El Paso to track increases in purchased gas costs to which it says it has become exposed and which it is not authorized to track under the present provisions of that order. El Paso states that subsequent to issuance of the July 30, 1971, order events have occurred which result in substantial increases in the cost of gas purchased by its supplier, Westcoast Transmission Co., Ltd. (Westcoast), from the latter's Canadian suppliers and in turn to El Paso under its Kingsgate Contract with Westcoast under which Westcoast is compensated for all deliveries to El Paso on a cost of service basis. El Paso says that Westcoast's increases in costs result from: (1) The fact that one of Westcoast's suppliers has incurred an income tax liability under Canadian law for the first time since its incorporation which it is contractually entitled to pass on to Westcoast and (2) another supplier of Westcoast has increased its price of gas as a result of the ruling of an arbitration board following failure of Westcoast and the supplier to successfully renegotiate the rate under their contract. El Paso states that under its proposed modification of the Commission's July 30, 1971, order it will be compensated for only those increases in costs of gas purchased pursuant to the Kingsgate Contract which it actually sustains and that decreases in such increased contract rates will be reflected in El Paso's rates.

Copies of the motion were served on all parties in Docket No. RP71-137, El Paso's Northwest Division System customers and interested State regulatory commissions.

Answers or comments relating to the petition may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before April 4, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4616 Filed 3-24-72; 8:50 am]

[Docket No. CS71-20, etc.]

HANSON OIL CORP. ET AL.

Findings and Order; Correction

MARCH 8, 1972.

Hanson Oil Corp., Docket No. CS71-20 et al; Corbin J. Robinson, Docket No. CS71-775.

In the findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, amending certificate, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, dismissing applications, making successor co-respondent, redesignating proceedings, and granting petition to intervene, issued November 15, 1971 and published in the FEDERAL REGISTER November 24, 1971 (36 F.R. 22331):

Paragraph 10, change "CI71-883" to "CI71-833" and paragraph (K), change "CI71-883" to "CI71-833".

Appendix "A" Docket No. CS71-775 Corbin J. Robinson: Under column headed "Terminated Certificate No." opposite Corbin J. Robinson FPC Gas Rate Schedule No. 1 change "CI71-883" to "CI71-833".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4614 Filed 3-24-72;8:50 am]

[Docket No. CP72-221]

LONE STAR GAS CO.

Notice of Application

MARCH 21, 1972.

Take notice that on March 10, 1972, Lone Star Gas Co. (applicant), 301 Harwood Street, Dallas, TX 75201, filed in Docket No. CP72-221 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of certain natural gas facilities in Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to abandon 20.02 miles of its 10-inch Navy pipeline extending from its Decatur Gate main line valve in Wise County, Tex., to its Newark Castle main line valve, all of which has been used in the past to deliver gas to its residential, commercial, and industrial customers in the Fort Worth, Tex., area and to customers in towns located adjacent to the pipeline route. Applicant proposes to transfer this line to its intrastate Texas gathering system in order to gather gas, which has not been processed from several intrastate wells adjacent to the route of this pipeline. Applicant further states that the abandonment of these facilities to the intrastate market will not result in the cessation or diminution of natural gas service from its pipeline system to any of its customers.

Applicant states that it will have to institute some minor alterations to its Navy line to complete its transfer of the intrastate market including the construction of approximately 2.4 miles of 6-inch intrastate pipeline and the replacement of a nonreturn valve at the Decatur Gate. Applicant estimates the cost of the proposed changes at \$1,200.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file

a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4611 Filed 3-24-72;8:50 am]

[Docket No. CP72-222]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MARCH 21, 1972.

Take notice that on March 10, 1972, Natural Gas Pipeline Company of America (applicant) 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP72-222 an application pursuant to section 7(b) and 7(c) of the Natural Gas Act for permission for and approval of the abandonment of part of its Chocolate Bayou Lateral in Brazoria County, Tex., by sale to Amoco Production Co. (Amoco) and for a certificate of public convenience and necessity authorizing the reconnection of certain natural gas facilities on said lateral, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant currently operates a dual 16-inch and 12-inch Chocolate Bayou Lateral, which receives gas from the Chocolate Bayou, South Angleton, Chenango, Alta Loma, and Alvin City Fields in Brazoria County, Tex. Applicant states that its 12-inch lateral is adequate to receive and transport all gas available from the aforesaid fields and proposes to sell to Amoco approximately 38 miles of the 16-inch lateral pipeline at the depreciated book value of said facilities as carried on applicant's records as of the first day of the month during which said facilities are transferred to Amoco.¹ Applicant further states that it has the right to repurchase the 16-inch line from

¹ The depreciated book value of said facilities was \$611,877 as of Dec. 31, 1971, with depreciation from that date to be computed at 3.5 percent per annum on the original cost of \$1,441,000.

Amoco or to cause Amoco to make alternative arrangements for the delivery of gas if additional quantities of gas become available from the aforesaid fields. Applicant also requests authorization to sever three side lateral connections, which are presently connected to the 16-inch line, and reconnect them to the 12-inch parallel pipeline. Applicant states that Amoco will reimburse it for the cost of the reconnection and for severing each end of the 16-inch pipeline up to the amount of \$6,000. Applicant estimates the cost of the said reconnection and severing at \$5,970.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 11, 1972, 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,
Secretary.

[FR Doc.72-4612 Filed 3-24-72;8:50 am]

[Dockets Nos. CI72-557—CI72-560]

NORTH CENTRAL OIL CORP.

Notice of Application

MARCH 21, 1972.

On March 6, 1972, North Central Oil Corp. filed in Dockets Nos. CI72-557, CI72-558, CI72-559, and CI72-560 applications pursuant to section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Progress

Petroleum, Inc. (Progress), and for permission and approval to abandon such service to Progress, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that its predecessor, M. O. Rife, Jr., et al. (Rife), and Strawn Drilling Co. were selling gas from the North Halsell Field and the West Halsell Field, Clay County, Tex., to Progress, which resells said gas, after processing, to Lone Star Gas Co. (Lone Star). Applicant indicates that it acquired Rife's interest in these fields on July 1, 1970, and continued selling gas from them to Progress. Applicant alleges that Progress was continually unable to take the volumes of gas applicant had available for sale and had repeatedly failed to pay for the gas it did take; accordingly, applicant states that it terminated deliveries on December 28, 1970. Applicant began selling the North Halsell Field gas to Lone Star in 1971 pursuant to its certificate issued in Docket No. CI71-655.

Applicant states further that until recently it was unaware of the interstate nature of the sales of gas to Progress and is filing the subject applications in order to comply with the Natural Gas Act and the Commission's regulations thereunder.

On March 6, 1972, applicant filed a motion to consolidate the subject dockets and the show cause proceedings in Dockets Nos. CI72-511 and CI71-555. This notice should not be construed as effecting said consolidation.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 11, 1972, 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). 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 these applications 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 certificates and permission and approval for the proposed abandonments 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,
Secretary.

[FR Doc.72-4613 Filed 3-24-72;8:50 am]

[CI71-555, CI72-511]

PROGRESS PETROLEUM, INC., ET AL.

Order Granting Petition for an Order To Show Cause, Instituting Proceeding, Requiring Continuance of Deliveries of Natural Gas, Setting Date for Formal Hearing, Prescribing Procedures and Consolidating Proceedings; Correction

MARCH 21, 1972.

Progress Petroleum, Inc., complainant, CI71-555 v. M. O. Rife, Jr., M. O. Rife III, North Central Oil Corp., Strawn Drilling Co., respondents, North Central Oil Corp., CI72-511.

In the order granting petition for an order to show cause, instituting proceeding, requiring continuance of deliveries of natural gas, setting date for formal hearing, prescribing procedures, and consolidating proceedings, issued February 23, 1972, and published in the FEDERAL REGISTER March 1, 1972 (37 F.R. 4310): Ordering paragraph (B) change "Docket No. CI71-555" to "Docket No. CI71-655".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4615 Filed 3-24-72;8:50 am]

[Project 405—Pennsylvania and Maryland]

SUSQUEHANNA POWER CO. AND PHILADELPHIA ELECTRIC POWER CO.

Notice of Availability of Environmental Statement for Inspection

MARCH 20, 1972.

Notice is hereby given that on February 7, 1972, as required by § 2.81(b) of Commission regulations under Order 415-B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for amendment of license filed by the Susquehanna Power Co. and the Philadelphia Electric Power Co. to provide additional recreational facilities at Conowingo Project No. 405, pursuant to the Federal Power Act.

This statement is available for public inspection in the Commission's Office of Publication Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project is located in the counties of Harford and Cecil, Md., and the counties of York, Lancaster, Chester, and Montgomery, Pa., on the Susquehanna River. The proposed facilities will include the following: (1) An electrically heated and air-conditioned exhibition area located in the present plant lobby area and containing informational exhibits and models relating to hydroelectric power. (2) A 150-seat auditorium located on the existing turbine hall roof and containing a vestibule, office, storage room, projection room, movable stage, projection screen, and audiovisual equipment. (3) An enclosed connecting stairway between the exhibition area and the auditorium. (4) An exterior observation area consisting of a raised walkway on the roof of the turbine hall overlooking the Conowingo Dam, tailrace and Fishermen's park. (5) A new cantilevered walkway approximately 122 feet long between the existing parking lot and walkway to the exhibit area. (6) New exhibits showing the construction and operation of the project and a public address system in the existing turbine hall gallery.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415-B. Written statements by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 60 days from February 7, 1972. The Commission will consider all responses to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4618 Filed 3-24-72;8:50 am]

[Dockets Nos. RP71-29, RP71-120]

UNITED GAS PIPE LINE CO.

Order Granting Application of Texas Gulf Sulphur Co. for Rehearing and Setting Expedited Hearing

MARCH 21, 1972.

On January 5, 1972, Texas Gulf Sulphur Co. (TGSC) petitioned the Commission for an order granting extraordinary relief through a Commission order directing United Gas Pipe Line Co. (United) pending final order in these curtailment proceedings to deliver an average of 7,000 Mcf per day of natural gas and no less than 1,500 Mcf per day on any one day to TGSC's sulphur mine in La Fourche Parish, La. Based on the sworn affidavits supporting TGSC's petition, the Commission found that probable irreparable damage to TGSC's plant facilities warranted extraordinary relief requiring delivery of no less than the 1,500 Mcf per day of natural gas by United to TGSC. Among other things,

we limited the period during which such deliveries must be made to March 31, 1972.

On February 25, 1972, TGSC filed an application for rehearing of our January 28, 1972, order, claiming that the extraordinary relief which should be granted requires the Commission to order United, pending final decision herein, to deliver to TGSC an average of 7,000 Mcf per day and no less than 1500 Mcf per day on any one day.

As above indicated, the Commission issued its January 28, 1972, order based upon the affidavits submitted by TGSC in support of its petition and without a full evidentiary hearing. In view of the allegations in the application for rehearing and the claimed irreparable damage which may result as a result of the Commission's action, we deem it appropriate that a hearing be promptly scheduled herein. In such hearing, United, TGSC, and all parties to the proceeding will have an opportunity to cross-examine and present such evidence as may be relevant to the consideration of the issues raised by TGSC's petition.

In view of the action we are taking, pending a final determination of the issues raised by TGSC's petition either in an order specifically directed thereto or upon the final resolution of the issues in these consolidated proceedings, we are modifying our January 28, 1972, order issued herein to provide that the deliveries to TGSC shall continue at not less than 1,500 Mcf of gas per day. We reiterate that nothing herein contained shall be deemed to preclude TGSC from requesting extraordinary relief at any time hereinafter, *pendente lite*, upon a showing of sound justification for such relief.

The Commission finds: It is in the public interest to grant TGSC's application for rehearing of the Commission's January 28, 1972, order to the extent hereinafter set forth.

The Commission orders:

(A) The application for rehearing filed by TGSC of the Commission's order of January 28, 1972, is granted in part and denied in part.

(B) Paragraph (B) of the Commission's January 28, 1972, order is modified so that the first sentence thereof shall read as follows: "United Gas Pipe Line Co. shall deliver not less than 1,500 Mcf of gas to Texas Gulf Sulphur at its Bully Camp Sulphur Mine pending further order by the Commission."

(C) A public hearing shall be held with respect to the allegations and issues raised by the petition filed in these proceedings on January 5, 1972, by TGSC and in the application for rehearing filed by TGSC dated February 24, 1972, to be presided over by Presiding Examiner Martin E. Rendelman on March 27, 1972, at 10 a.m., e.s.t., in the Court of Claims Building located at 717 Madison Place NW, Washington, DC, in Court Room 7, Room No. 508. At that hearing, TGSC is directed to introduce into the record the affidavits of Raymond J. Staffa and Douglas C. Anders heretofore presented in support of TGSC's petition and such other evidence as TGSC chooses to pre-

sent. The said Raymond J. Staffa and Douglas C. Anders will be made available by TGSC for cross-examination. Cross-examination of such witnesses shall proceed without interruption and the hearing shall proceed without recess except for good cause shown. United and all other parties and intervenors shall be afforded the opportunity to present such evidence as may be relevant to the issues raised by TGSC's petition and application for rehearing.

(D) The Presiding Examiner shall preside at and control the said hearing in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-4617 Filed 3-24-72; 8:50 am]

FEDERAL RESERVE SYSTEM

BANK SECURITIES, INC.

Acquisition of Bank

Bank Securities, Inc., Alamogordo, N. Mex., has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National Bank of Roswell, Roswell, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 12, 1972.

Board of Governors of the Federal Reserve System, March 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4600 Filed 3-24-72; 8:49 am]

HARTFORD NATIONAL CORP.

Proposed Activity of Real Property Leasing

Hartford National Corp., Hartford, Conn., has applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4 (c) (8) of the Board's Regulation Y, for permission to engage through its subsidiaries, HNC Realty Co. of Westport, Conn., and HNC Mortgage and Realty Investors of Springfield, Mass., in certain real property leasing transactions. Notice of the application was published on January 27, 1972, in the following newspapers: Springfield Union-Daily News-Republican, Springfield, Mass.; Bridgeport Post, Bridgeport, Conn.; and Hartford Courant, Hartford, Conn.

Certain of the real property leasing activities proposed to be engaged in by applicant are related to activities proposed by the Board to be included in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b) (37 F.R. 4098).

Interested persons may express their views on whether the activities applicant proposes to engage in are closely related to banking.

Interested persons may also express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these questions should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 14, 1972.

Board of Governors of the Federal Reserve System, March 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4602 Filed 3-24-72; 8:49 am]

HY-VEE FOOD STORES, INC., AND HY-VEE EMPLOYEES' TRUST

Nonbanking Activities

Hy-Vee Food Stores, Inc. and Hy-Vee Employees' Trust, both of Chariton, Iowa, have applied, pursuant to section 4(d) of the Bank Holding Company Act (12 U.S.C. 1843(d)), for an exemption from the provisions of the Act limiting the nonbanking activities of a bank holding company. Applicants control National Bank & Trust Co. of Chariton, Chariton, Iowa.

Under section 4(d), the exemption may be granted "(1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to

further the holding company's other interests."

Interested persons may express their views on this matter. The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any request for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 14, 1972.

Board of Governors of the Federal Reserve System, March 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4601 Filed 3-24-72;8:49 am]

UNITED MISSOURI BANCSHARES

Order Denying Request for Reconsideration

United Missouri Bancshares, Kansas City, Mo., has requested reconsideration of the order of the Board of Governors dated January 6, 1972, whereby the Board denied the application of United Missouri Bancshares, for prior approval for the acquisition of 80 percent or more of the voting shares of Bank of Jacomo, Blue Springs, Mo., pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)).

Pursuant to § 262.3(f)(6) of the Board's rules, applicant requests reconsideration of its original proposal. The Board finds that the request for reconsideration does not present substantially new facts or issues which would appear appropriate in the public interest for the Board to consider. Accordingly, the Board concludes that the request for reconsideration is hereby denied.

By order of the Board of Governors,
March 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-4603 Filed 3-24-72;8:49 am]

SMALL BUSINESS ADMINISTRATION

[License 05/15-5025]

POOLED RESOURCES INVESTING IN MINORITY ENTERPRISES, INC.

Notice of Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Pooled Resources Investing in Minority Enter-

¹ Voting for this action: Governors Robertson, Mitchell, Maisel, and Brimmer. Voting against this action: Chairman Burns and Governors Daane and Sheehan.

prises, Inc. (PRIME), 2990 West Grand Boulevard, Suite M-15, Detroit, MI 48202, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act) has filed an application with the Small Business Administration (SBA), pursuant to section 312 of the Act and covered by § 107.1004 of the SBA rules and regulations governing small business investment companies (13 CFR 107.1004 (1971)), for approval of conflict of interest transactions falling within the scope of the above sections of the Act and regulations.

Subject to such approval, PRIME proposes to invest in Clipper International Corp. (CIC). Approximately 50 percent of the funds needed by CIC will be obtained from PRIME, and will be used for working capital and operating expenses.

The proposed investment is brought within the purview of § 107.1004 of the regulations since Mr. Samuel Thomas, Secretary and 10 percent stockholder of CIC, has acted as the corporate attorney for PRIME since October 1971, although a different law firm is representing PRIME's interest in this particular transaction.

The application represents the following:

1. The transaction is fair and reasonable to all parties concerned.
2. The investment does not represent financing of a company which controls the licensee, nor is under common control with the licensee.

Notice is hereby given that any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transaction. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416. After expiration of the 15 days, SBA may dispose of this application on the basis of the information contained in the application, the comments (if any) which are received, and other relevant data.

Dated: March 20, 1972.

JAMES THOMAS PHELAN,
Acting Associate Administrator
for Investment.

[FR Doc.72-4569 Filed 3-24-72;8:48 am]

[License 02/02-0292]

WINFIELD CAPITAL CORP.

Notice of Application for License as Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1971)) under the name of Winfield Capital Corp., White Plains, N.Y., for a license to operate in the State of New York as a small business investment company under the provision of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.).

The proposed officers and directors are:

Stanley M. Pechman, 18 Myrtle Dale Road, Scarsdale, NY 10583, President and General Manager, and Director.

Edward J. Landau, Winfield Avenue, Harrison NY 10528, Secretary and Director.

Stanley Weinstein, 13 Continental Road, Scarsdale, NY 10583, Treasurer and Director.

Herbert Pechman, 5600 Collins Avenue, Miami Beach, FL 33140, Director.

The company will begin operations with an initial capital of \$505,000. Messrs. Stanley M. Pechman and his father Herbert Pechman will each own approximately 30 percent of the company's outstanding stock. The remaining stock will be sold to a maximum of 15 investors. No concentration in any particular industry is planned. The applicant intends to emphasize secured convertible loans to concerns with growth potential located primarily in the New York suburban area, but with eventual extension of its activities to other States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in White Plains, N.Y.

Dated: March 20, 1972.

JAMES THOMAS PHELAN,
Acting Associate Administrator
for Investment.

[FR Doc.72-4570 Filed 3-24-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

MARCH 21, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135993, K & T Air Freight, now assigned April 24, 1972, at Lansing, Mich., will be held in Room 410, Michigan Public Service Commission, 7 Story Office Building, 525 West Ottawa Street.

MC 136139, Viken Bus Charter Service, Inc., now being assigned for hearing June 5, 1972, at Indianapolis, Ind., in a hearing room to be later designated.

FD 26784, The Philadelphia, Baltimore & Washington Railroad Co. and George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of the Penn Central Transportation Co., Debtor, abandonment between Crawfordsville and Waveland, in Montgomery County, Ind., now being assigned for hearing June 1, 1972, at Indianapolis, Ind., in a hearing room to be later designated.

MC 126873 Sub 3, James A. Bonham, doing business as Bonham's Special Delivery, now assigned April 26, 1972, at Washington, D.C., is postponed indefinitely.

MC 61592 Sub 237, Jenkins Truck Lines, Inc., now being assigned for hearing June 13, 1972, at St. Louis, Mo., in a hearing room to be later designated.

MC 107295 Sub 557, Pre-Fab Transit Co., now being assigned for hearing June 12, 1972, at St. Louis, Mo., in a hearing room to be later designated.

MC 11231 Sub 175, Jones Truck Lines, Inc., now being assigned hearing June 15, 1972, at St. Louis, Mo., in a hearing room to be later designated.

MC 119777 Sub 222, Ligon Specialized Hauler, Inc., now being assigned hearing June 14, 1972, at St. Louis, Mo., in a hearing room to be later designated.

MC 112822 Sub 213, Bray Lines, now being assigned hearing June 12, 1972, at San Francisco, Calif., in a hearing room to be designated later.

MC 125433 Sub 29, F-B Truck Line, now being assigned hearing June 19, 1972, at Los Angeles, Calif., in a hearing room to be designated later.

MC 107456 Sub 19, Harry L. Young & Sons, now being assigned continued hearing June 5, 1972, at Salt Lake City, Utah, in a hearing room to be designated later.

FD 26965, Baltimore & Ohio Railroad Co. abandonment between Rinard and Shawneetown, in Clay, Wayne, White, and Gallatin Counties, Ill., now being assigned hearing June 19, 1972, at Carmi, Ill., in a hearing room to be later designated.

MC 73165 Subs 290 and 291, Eagle Motor Lines, Inc., now being assigned for hearing May 15, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC 116101 Sub 9, Quick Air Freight, Inc., now being assigned for hearing May 16, 1972, at Columbus, Ohio, in a hearing room to be later designated.

FD 26945, Colorado & Southern Railway Co.—Construction and operation near Minnequa, Pueblo County, Colo., now being assigned hearing May 8, 1972, at Pueblo, Colo., in a hearing room to be designated later.

MC 123407 Sub 79, Sawyer Transport, Inc., now being assigned continued hearing May 17, 1972, at Columbus, Ohio, in a hearing room to be later designated.

FD 26883, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., Debtor, abandonment between Newton Falls, and Alliance, in Portage, Trumbull, Stark, and Mahoning Counties, Ohio, now being assigned hearing May 22, 1972, at Alliance, Ohio, in a hearing room to be later designated.

FD 26937, Penndel Co. and George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., Debtor, abandonment between Wilmington Junction and New Wilmington, Lawrence

County, Pa., now being assigned hearing May 24, 1972, at New Castle, Pa., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-4547 Filed 3-24-72; 8:47 am]

[Notice 41]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 17, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 59 TA), filed March 7, 1972. Applicant: K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Ore. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Port of Everett, Wash., to points in Oregon, for 180 days. Supporting shipper: Wilson & Geo. Meyer & Co., 318 Queen Anne Avenue North, Seattle, WA 98109. Send protests to: A. E. Odums, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Ore. 97204.

No. MC 110420 (Sub-No. 650 TA), filed March 2, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Off: I-94 County Highway C, Bristol, Kenosha County, WI 53104. Applicant's representative: Fred H. Figgie (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cereal animal feed ingredients*, dry, in bulk, in air unloading vehicles, from Battle Creek, Mich., to Delavan, Wis., for 180 days. Supporting shipper: The Peterson Co., Post Office Box 60, Battle Creek, MI 49016 (Ronald J. Sayen). Send pro-

tests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 110567 (Sub-No. 4 TA), filed March 7, 1972. Applicant: SOONER TRANSPORT CORPORATION, Post Office Box 335, Wynne Wood, OK 73098. Applicant's representative: H. L. Fabritz, Post Office Box 855, Des Moines, IA. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry lime, ground and pulverized limestone*, from Marble City and Sallisaw, Okla., to points in the counties of Benton, Columbia, Conway, Crawford, Franklin, Garland, Hot Springs, Howard, Jefferson, Johnson, Little River, Miller, Ouachita, Polk, Pope, Pulaski, Scott, Sebastian, Sevier, Union, and Washington, Ark.; Allen, Anderson, Barton, Bourbon, Butler, Chase, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Douglas, Elk, Ford, Franklin, Greenwood, Harvey, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyons, McPherson, Marion, Miami, Montgomery, Morris, Neosho, Osage, Reno, Rice, Sedgwick, Shawnee, Sumner, Wilson, Woodson, and Wyandotte, Kans.; McDonald, Andrew, Buchanan, Clay, Jackson, Jasper, Platte, and Newton, Mo.; Bossier, Caddo, and Webster, La.; Bowie and Grayson, Tex., for 180 days. Supporting shipper: St. Clair Lime Co., Post Office Box 894, Oklahoma City, OK 73101. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 119383 (Sub-No. 5 TA), filed March 7, 1972. Applicant: PORTLAND MOTOR TRANSPORT, 2416 North Marine Drive, Livestock Exchange Building, Room 117, North Portland, Ore. 97043. Applicant's representative: Flay L. Silliman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum fuel oil*, in tank-type vehicles, from Manchester, Wash., to points within Willamette National Forest in Marion, Linn, and Lane Counties, Ore., for 180 days. Supporting shippers: GSA, Auburn, Wash., U.S. Forest Service, Eugene, Ore. Send protests to: A. E. Odums, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Ore. 97204.

No. MC 133363 (Sub-No. 2 TA), filed March 8, 1972. Applicant: WILLIAM T. HARRIS AND THEATRIS HARRIS, doing business as HARRIS BROS. CO., 1317 South 49th Street, Philadelphia, PA 19143. Applicant's representative: Morris J. Levin, 839 17th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stereo equipment, radios, sewing machines, sewing machine cabinets, and parts and materials therefor*, between Atlanta, Ga., on the one hand,

and, on the other, New York, N.Y., Savannah, Ga., Kansas City, Mo., Dallas, Tex., Charleston, S.C., Cleveland, Ohio, and Chicago, Ill., for 180 days. Supporting shipper: Morse Electro Products Corp., 4343 Northeast Expressway, Post Office Box 29804, Atlanta, GA 30329. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133689 (Sub-No. 21 TA), filed March 8, 1972. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., Post Office Box 2667, New Brighton, MN 55112. Applicant's representative: James F. Sexton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or preserved, from Iowa City, Iowa, to points in Minnesota; restricted to traffic originating at Heinz, U.S.A. at the named origin and destined to points in Minnesota, for 180 days. Supporting shipper: Heinz, U.S.A., Pittsburgh, Pa., 15230. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 133966 (Sub-No. 15 TA), filed March 6, 1972. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 61, Mountaintop, PA 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular housing units* on flat-bed trailers equipped with pintel or fifth wheel hookup, from points in Columbia County, Pa., to Glens Falls, N.Y., to be stopped in transit at Voorheesville, N.Y., for storage-in-transit, for 150 days. Supporting shipper: Hercoform, Inc., 910 Market Street, Wilmington, DE 19899. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134041 (Sub-No. 3 TA), filed March 8, 1972. Applicant: WAYNE MOTOR EXPRESS, INC., 406 Fairgrounds Avenue, Wayne, NE 68787. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefab buildings, parts and accessories therefor*, from Wayne, Nebr., to Bethany, Mo., for 180 days. NOTE: Applicant states that it does intend to tack the authority with MC-134041 (Sub-No. 2). Supporting shipper: Carhart Lumber Co., Wayne, Nebr. 68787. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134105 (Sub-No. 3 TA), filed March 8, 1972. Applicant: CELERYVALE TRANSPORT, INC., Rural Route 1, Post Office Box 96, Fort Lupton, CO 80621. Applicant's representative: James D. Graves (same address as above). Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant, warehouse, and storage facilities utilized by National Beef Packing Co. at or near Liberal, Kans., to points in Arkansas, Alabama, Florida, Georgia, Louisiana, and Mississippi, for 180 days. Supporting shipper: National Beef Packing Co., 1501 East Eighth Street, Liberal, KS. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 135117 (Sub-No. 5 TA), filed March 6, 1972. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha Street, Sioux City, IA 51103. Applicant's representative: Wallace W. Huff, 314 Security Building, Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, fresh from the plantsite of Armour & Co., Omaha, Nebr., to the plantsite of Phillips Pre-Tanning, Inc., Sioux City, Iowa, for 180 days. Supporting shippers: Phillips & Co., Inc., Pre-Tanning Division, Post Office Box 473, Sioux City, IA 51101; Armour Co., Omaha, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 136270 (Sub-No. 2 TA), filed March 9, 1972. Applicant: DONALD E. HIRTLE TRANSPORT, LIMITED, Post Office Box 88, Blockhouse, Luddenberg County, NS, Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to ports of entry on the United States/Canada boundary line at or near Houlton, Vanceboro, Calais, Portland, and Bar Harbor, Maine, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 136466 TA, filed March 9, 1972. Applicant: KEY WEST MOVING & STORAGE, INC., First and Maloney Avenue, Key West, Fla. 33040. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Monroe and Dade County, Fla., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and

in connection with packing, crating, and containerization, or unpacking, uncrating, or decontainerization of such shipments, for 180 days. Supporting shipper: American Ensign Van Service, Inc., Post Office Box 2270, Wilmington, CA 90744. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 136467 TA, filed March 8, 1972. Applicant: HIRTS, INC., 201 Northwest First Avenue, Florida City, FL 33030. Applicant's representative: Harold R. Marlane, Post Office Box 1427, Homestead, FL 33030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and fruits and/or fresh vegetables and fruits* in straight or mixed shipments, from Watsonville, Calif., to the warehouse of American Food Purveyors of Atlanta, Ga., for 180 days. Supporting shipper: American Food Purveyors, 11 Haynes Street NW., Atlanta, GA 30313. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 136468 TA, filed March 8, 1972. Applicant: VIRGINIA AIR FREIGHT, INC., Post Office Box 1043, Lynchburg Municipal Airport, Lynchburg, VA. Applicant's representative: H. Neil Garson, Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportation of: *General commodities* (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), between points in Alleghany, Amherst, Appomattox, Bedford, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Halifax, Henry, Mecklenburg, Montgomery, Patrick, Pittsylvania, Prince Edward, Pulaski, Rockbridge, Roanoke Counties, Va., and the cities of Lynchburg and Roanoke, Va., on the one hand, and, Dulles International Airport located at or near Chantilly, Va.; National Airport located at or near Arlington, Va.; Friendship Airport located at or near Glen Burnie, Md.; Byrd Airport located at or near Sandston, Va.; Lynchburg Municipal Airport located at or near Lynchburg, Va., and Woodrum Airport located at or near Roanoke, Va., on the other, restricted to the transportation of shipments having an immediately prior or subsequent movement by air for 120 days. Supporting shippers: There are approximately 41 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue Southwest, Roanoke, VA 24011.

No. MC 136471 TA, filed March 7, 1972. Applicant: CLAIRBORN F. WILKERSON, JR., AND BURCH C. COMPTON, doing business as WIL-COM TRUCK LINES, Route 1, Box 118, Hillsborough, NC 27278. Applicant's representative: Burch C. Compton (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay products, plastic pipe, pipe fittings, and accessories*, between points in Orange County, N.C., on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, Virginia, Maryland, Florida, Louisiana, West Virginia, and Ohio; and (2) *materials and supplies and equipment*, used in the manufacture of plastic pipe, pipe fittings, and accessories, from points in North Carolina, South Carolina, Georgia, Alabama, Tennessee, Virginia, Maryland, Florida, Louisiana, West Virginia, and Ohio to points in Orange County, N.C., for 180 days. Supporting shipper: Hancor, Inc., Mebane, N.C. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4545 Filed 3-24-72; 8:47 am]

[Notice 42]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 20, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52657 (Sub-No. 639 TA) (Amendment), filed February 22, 1972, published in the FEDERAL REGISTER issue of March 9, 1972, amended and republished as amended this issue. Applicant:

ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: Sam Zangri (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies*, in initial movement, in truckaway service, from Vine-land, N.J., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia; and (B) *motor vehicle bodies, hoists, power gates, lift gates, packers, compactors, refuse and cargo containers, winches, and portable truck cranes*, for 180 days. Supporting shipper: Peabody Gallon Corp., A. W. Garverick, Traffic Manager, Gallon, Ohio. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604. NOTE: The purpose of this republication is to add lift gates to the commodity description in B above and to delete paragraphs C and D.

No. MC 109064 (Sub-No. 26 TA), filed March 9, 1972. Applicant: TEX-O-KA-N TRANSPORTATION COMPANY, INC., 3301 Southeast Loop 820, Post Office Box 8367, Fort Worth, TX 76112. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of Mosher Steel Co., San Antonio, Tex., to the intersection of Interstate Highway 20 and U.S. Highway 80 approximately 20 miles east of Bossier City, La., for 180 days. Supporting shipper: Mosher Steel Co., Post Office Box 1579, Houston, TX 77001. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 114890 (Sub-No. 60 TA), filed March 8, 1972. Applicant: C. E. REYNOLDS TRANSPORT, INC., Post Office Box A, Joplin, MO 64108, Terminal: A. A. Highway, Caterville, Mo. 64835. Applicant's representative: Frank W. Shagets (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc sulphate*, in bulk, in tank vehicles, from Coffeyville, Kans., to points in Missouri south of U.S. Highway 40 (except St. Louis, Mo., and points in the St. Louis, Mo., and East St. Louis, Ill., commercial zone), for 180 days. Supporting shipper: Sherwin Williams Chemicals, Post Office Box 855, Coffeyville, KS 67337. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Op-

erations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 129282 (Sub-No. 13 TA), filed March 7, 1972. Applicant: BERRY TRANSPORTATION, INC., Post Office Box 1824, F.M. 184, Longview, TX 75601. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and materials and supplies* ordinarily dealt in by malt beverage distributors and *empty containers and pallets* on return, from Memphis, Tenn., to Shreveport, Alexandria, Natchitoches, Vidalia, Leesville, Thibodaux, and Chalmette, La., for 150 days. NOTE: Carrier does not intend to tack authority. Supporting shippers: Shreveport Beverage Agency, Inc., Shreveport, La. 71108; Mid-States Beer Distributing Co., Shreveport, La. 71108; O. P. Campagna Distributor, Post Office Box 1189, Chalmette, LA 70043; National Beverage Co., Inc., Post Office Box 996, Thibodaux, LA 70301. Vernon Beverage Co., Inc., Post Office Box 82, Leesville, LA 71446. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 129386 (Sub-No. 11 TA), filed March 9, 1972. Applicant: REFRIGERATED TRUCKS, INC., 1007 Mullaney Lane, Billings, MT 59102. Applicant's representative: Clayton Brown (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, fresh fruits, fresh berries, and fresh vegetables*, when moving in the same vehicle with bananas, from points in California, to Billings, Mont., for 180 days. Supporting shipper: Associated Food Stores, Billings Division, Post Office Box 1980, Billings, MT. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 129510 (Sub-No. 4 TA), filed March 8, 1972. Applicant: CHESTER W. ENGLUND, doing business as C. W. ENGLUND CO., 740 Old Stage Road, Salinas, CA 93901. Applicant's representative: Chester W. Englund (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos cement wallboard and asbestos lumber*, from Nasua, N.H., to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (2) *asbestos cement wallboard*, from Billerica, Mass., to the plantsite of Industrial Building Material, Inc., at Los Angeles, Calif.; (3) *steel sheet*, in coils, from Alliance, Ohio, to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (4) *caulking compounds*, from Cleveland, Ohio, to the plantsite of Industrial Building Materials, Inc., at Los Angeles, Calif.; (5) *stone slabs*—cast or natural, from Dayton, Ohio, to the plantsite of Industrial Building Materials, Inc.,

at Los Angeles, Calif.; (6) *glass sheet or plate*, from Detroit, Mich., to the plantsite of Industrial Building Materials, Inc., Los Angeles, Calif.; (7) *cement asbestos shingles or sheets*, from Waukegan, Ill., to the plantsite of Industrial Building Materials, Inc., Los Angeles, Calif.; (8) *plastic sheets or plate*, from Joliet, Ill., to the plantsite of Industrial Building Materials, Inc., Los Angeles, Calif.; (9) *glass sheets*, from Oneonta, N.Y., to the plantsite of Industrial Building Materials, Inc., Los Angeles, Calif.; and (10) *compound*, fireproofing or retardant, plain in drums, from St. Louis, Mo., to the plantsite of Industrial Building Materials, Inc., Los Angeles, Calif. Restriction: The operations authorized herein shall be limited to a transportation service to be performed under a continuing contract or contracts, with Industrial Building Materials, Inc., 6517 Bandini Boulevard, Los Angeles, CA, for 180 days. Supporting shipper: Industrial Building Materials, Inc., 6417 Bandini Boulevard, Los Angeles, CA 90040. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 134355 (Sub-No. 1 TA), filed March 6, 1972. Applicant: THETFORD TRANSPORT LIMITEE, 815 Johnson Street, Thetford Mines, PQ, Canada. Applicant's representative: Adrien R. Paquette, Suite 900, 200 Saint James, Montreal 126, PQ, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos short and waste fiber*, from ports of entry on the international boundary line between the United States and Canada located at Champlain and Rouses Point, N.Y., and Derby Line and Highgate Springs, Vt., to Berlin, Camden, Delanco, Garwood, Linden, and Sesaucus, N.J., Long Island, and Palmyra, N.Y., Cleveland, Ohio, Manheim, Port Kennedy, and Southampton, Pa.; and (2) *mining materials and supplies*, from Maspeth, N.Y., and York, Pa., to ports of entry on the international boundary lines between the United States and Canada located at Champlain, and Rouses Points, N.Y., and Derby Line and Highgate Springs, Vt., restricted to transportation performed for the below-named supporting shippers, for 180 days. Supporting shippers: American Smelting Refining Co., 120 Broadway, New York, NY 10005; Carey Canadian Mines, Ltd., East Broughton, Quebec, Canada; Lake Asbestos of Quebec, Ltd., Black Lake, Quebec, Canada. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 135624 (Sub-No. 1 TA), filed March 6, 1972. Applicant: JAMES MURRAY McCULLOCH, doing business as CANUCK CARRIERS, 1516 Meridian Road East, 770 Ninth Avenue SE, Calgary, AB, Canada. Applicant's representative: Andrew G. Loucks, Suite 775, Bank of Canada Building, Calgary 1, AB, Canada. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and component parts thereof*, from Hesston, Kans., Logan, Utah, Hastings, Nebr., Sioux Falls, S. Dak., and Lester Prairie, Minn., to the international boundary line between the United States and Canada located at or near Sweetgrass, Mont., and Portal, N. Dak., for 180 days. Supporting shippers: Hesston Corp., 770 Ninth Avenue NE., Calgary, AB, Canada; James Murray McCulloch, 770 Ninth Avenue NE., Calgary, AB, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 136443 (Sub-No. 1 TA), filed March 9, 1972. Applicant: ROBERT M. SWANSON, 820 Wayne Street, Belvidere, IL 61008. Applicant's representative: Abraham A. Diamond, Suite 1625, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-dairy coffee creamer*, in bulk, in straight tank trucks of 2,500 gallons capacity or less, from Rockford, Ill., to Janesville, Wis., and (2) *ice cream mix*, in bulk, in straight tank trucks of 2,500 gallons capacity or less, from Belvidere, Ill., to Portage and Montfort, Wis., for 180 days. Supporting shipper: John B. Pettigrew, Fleet Manager, Dean Foods Co., 3600 North River Road, Franklin Park, IL. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 136480 TA, filed March 10, 1972. Applicant: RUSSELL PARSONS, Rural Delivery No. 4, Dallas, PA 18612. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wax candles, foodstuffs, and wine*, from Bridgeport, East Rutherford, Elizabeth, Farmdale and Vineland, N.J., Long Island City, Maspeth, Newburgh, N.Y., and Penn Yan, N.Y., and La Grange, Ill., to Los Angeles and South San Francisco, Calif., Portland, Oreg., and Seattle, Wash., for 150 days. Supporting shipper: J. Sosnick & Son, 258 Littlefield Avenue, South San Francisco, CA 94080. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 136481 TA, filed March 10, 1972. Applicant: WHEELER'S MANCHESTER TRANSFER, INC., 100 Warwick Street, New Haven, CT 06513. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, CT. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum*, in bulk, in dump vehicles, from Bridgeport, Conn., to New Haven, Conn., restricted to shipments having a prior

movement by vessel, with no return movement except for rejected shipments, for 180 days. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Co., 325 Delaware Avenue, Buffalo, N.Y. 14202. Send protests to: District Supervisor Robert E. Lee, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101.

No. MC 136482 TA, filed March 10, 1972. Applicant: GENE DAVIS, doing business as TARHEEL OIL COMPANY OF STATESVILLE, Route 3, Box 15, Statesville, NC 28677. Applicant's representative: Bill R. Davis, 1208 Gas Light Towers, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, from Morehead City, N.C., to points in Virginia, and Bristol and Knoxville, Tenn., for 180 days. Supporting shipper: Trumbull Asphalt Co. of Delaware, Post Office Box 37, Morehead City, NC 28557. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building) Charlotte, NC 28202.

No. MC 136483 TA, filed March 9, 1972. Applicant: FOLEY WAREHOUSING, INCORPORATED, 24th and Morton Avenue, Norfolk, VA 23517. Applicant's representative: Robert W. Foley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Freight*, all kinds, in straight or mixed shipments, loaded in containers or trailers, and empty containers or trailers, between points in Norfolk, Portsmouth, Chesapeake, Virginia Beach, Newport News, and Hampton, Va., and the commercial zones of the aforementioned cities, for 180 days. Supporting shippers: Norton Lilly & Co., Inc., Post Office Box 569, Norfolk, VA 23501; Seatrains Lines Container Division, 7737 Hampton Boulevard, Norfolk, VA 23505; Dichmann, Wright & Pugh, Inc., 508 Law Building, Norfolk, Va. 23510; Hampton Roads Steamship Agency, Inc., 1220 1 Commercial Place, Norfolk, VA 23510; Hinkins Steamship Agency, Inc., 1 Commercial Place, Norfolk, VA 23510. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 136484 TA, filed March 7, 1972. Applicant: MARCOUX TRANSIT, INC., 61 St. Jacques, Coaticook (Stanstead), PQ., Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated plastic drain tubing*, from the port of entry on the international boundary lines, between the United States and Canada located at Norton, Vt., to points in Maine, Massachusetts, New Hampshire, and Vermont, restricted to a transportation service to be performed under a contract or continuing

contract with Sherbrooke Pipe & Drainage Co., Ltd., Sherbrooke, Quebec, Canada, for 180 days. Supporting shipper: Sherbrooke Pipe & Drainage Co., Ltd., 4135 Barette, Sherbrooke, PQ, Canada. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4546 Filed 3-24-72;8:47 am]

ASSIGNMENT OF HEARINGS

MARCH 22, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S No. 8698, Wine Pacific Coast to the East, now assigned April 4, 1972, at Washington, D.C., the rates are canceled.

MC 135620, Hjalmer W. Lappalainen, doing business as Viking Coach Lines, now assigned May 1, 1972, at Duluth, Minn., canceled and the application is dismissed. No. 35435, and Subs Nos. 1 thru 10, freight all kinds, official territory now assigned April 24, 1972, at Washington, D.C., is postponed to June 26, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-P-11218, Home Transportation—Purchase (portion)—Machinery Transports, Inc., now being assigned hearing May 1, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC-C-7624, Great Lake's Express—Investigation and revocation of certificates, now being assigned hearing May 4, 1972, at Chicago, Ill., in a hearing room to be designated later.

MC-F-11160, MC 3005 Sub 10, Chicago-Kansas City Freight Line, now being assigned hearing May 8, 1972, at Chicago, Ill. in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4623 Filed 3-24-72;8:51 am]

[Notice 34]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 22, 1972.

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-73325. By order of March 21, 1972, the Motor Carrier Board approved the transfer to Carter Trucking Co., Inc., Locust Grove, Ga., of the operating rights in Certificates No. MC-118922 (Sub-No. 2) and MC-118922 (Sub-No. 4), issued July 12, 1966 and October 19, 1967, respectively, to W. L. Carter, doing business as Carter Trucking Co., Locust Grove, Ga., authorizing the transportation of various commodities from and to a specified point in Georgia and 31 specified States. William Addams, Suite 527, 1776 Peachtree Street NW.,

Atlanta, GA 30309, attorney for applicants.

No. MC-FC-73504. By order of March 20, 1972, the Motor Carrier Board approved the transfer to James Carter, Jr., Jersey City, N.J. of the operating rights in Certificate No. MC-21474 issued March 29, 1949, to Theodore Burak, doing business as Strawberry Mansion Storage Co., Philadelphia, Pa., authorizing the transportation of household goods between Philadelphia, Pa., on the one hand, and, on the other points in Delaware, District of Columbia, Maryland, New Jersey, and New York. Maurice M. Green, Esq., 1530 Chestnut Street, Philadelphia, PA 19102, attorney for applicants.

No. MC-FC-73528. By order of March 20, 1972, the Motor Carrier Board approved the transfer to Kirvan Truck Lines, Inc., Post Office Box 829, International Falls, MN 56649, of the operating rights in Certificates Nos. MC-111299, MC-111299 (Sub-No. 8), and MC-111299 (Sub-No. 10), issued October 6, 1953, February 24, 1969 and August 4, 1970, respectively, to Cy Kirvan, doing business as Kirvan Truck Line, International Falls, Minn. 56649, authorizing the transportation of malt beverages and other specified commodities from and to specified points in Minnesota and Wisconsin.

No. MC-FC-73549. By order of March 20, 1972, the Motor Carrier Board approved the transfer to Colorado-Wyoming Transfer Co., Inc., Denver, Colo., of the operating rights in Certificate No. MC-38478 (Sub-No. 4), issued July 17, 1967 to Frank Rumsey and Bernard Rumsey, a partnership, doing business as Rumsey Transfer Co., Wheatland, Wyo., authorizing the transportation of lumber from points in Albany and Platte Counties, Wyo., to points in Nebraska and Colorado. Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4624 Filed 3-24-72;8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—MARCH

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during March.

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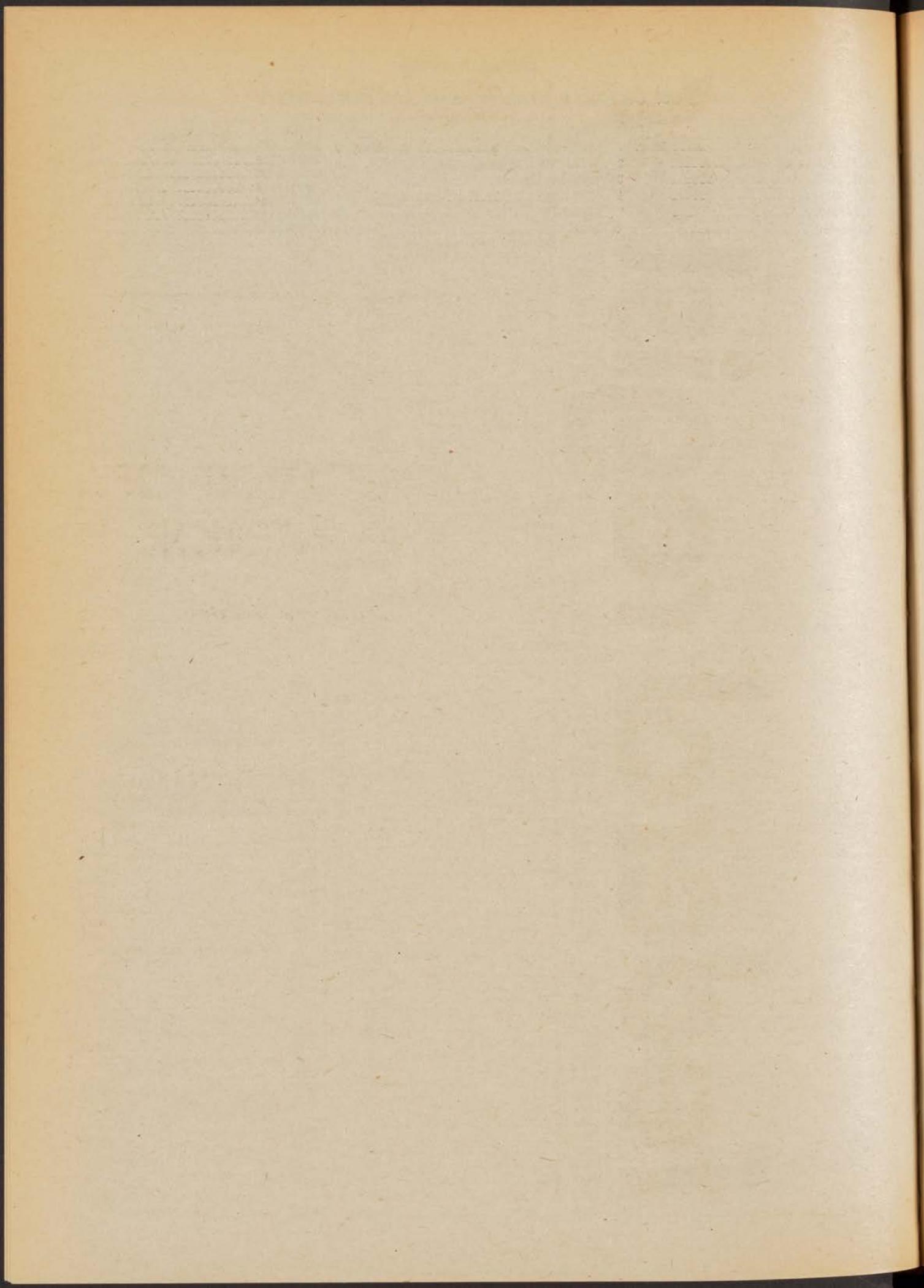
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SATURDAY, MARCH 25, 1972

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PART II



DEPARTMENT OF THE INTERIOR

Bureau of Mines



Respiratory Protective Devices;
Tests for Permissibility; Fees

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER B—RESPIRATORY PROTECTIVE APPARATUS; TESTS FOR PERMISSIBILITY; FEES

PART 11—RESPIRATORY PROTECTIVE DEVICES; TESTS FOR PERMISSIBILITY; FEES

PART 12—SUPPLIED-AIR RESPIRATORS

PART 13—GAS MASKS

PART 14—FILTER-TYPE DUST, FUME, AND MIST RESPIRATORS

PART 14a—NONEMERGENCY GAS RESPIRATORS (CHEMICAL CARTRIDGE RESPIRATORS, INCLUDING PAINT SPRAY RESPIRATORS)

Pursuant to the authority vested in the Secretary of the Interior under 36 Stat. 369, as amended 37 Stat. 681 (30 U.S.C. 3, 5, and 7), and the authority vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare under sections 202(h), 204, and 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 842(h), 844, and 957), there was published in the FEDERAL REGISTER for March 10, 1971 (36 F.R. 4652) a notice of proposed rule making wherein it was proposed to revoke Parts 11, 12, 13, 14, and 14a of Subchapter B, Chapter I, Title 30, Code of Federal Regulations (Bureau of Mines Schedules 13E, 14F, 19B, 21B, and 23B), and to substitute therefor a new Part 11, prescribing the approval procedures, establishing the fees, and consolidating and extending the requirements for obtaining joint approval of respirators by the Bureau of Mines, Department of the Interior and the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

Interested persons were afforded a period of 45 days from the date of publication of the notice within which to submit written comments, suggestions, or objections to the proposed amendments. Approximately 15 associations, companies, labor organizations, individuals, and State and Federal agencies submitted comments, suggestions, or objections. In addition interested parties informally conferred with officials of the Department of the Interior and the Department of Health, Education, and Welfare in March, April, October, and November 1971 in order to discuss the proposed amendments.

Some of the regulations have been revised as suggested; in other instances revisions have been made in view of the comments received.

The proposed regulations specified that protection factors for certain types of respirators would be determined by the Bureau during the course of testing. A suggestion was received that protection factors be determined for all types of respirators. After thorough consideration of this issue, the Bureau and the

Institute have decided that although the concept of protection factors is valid, present technology in this area is insufficient to produce reliable data upon which to base such factors. Therefore, references to protection factors have been deleted from the regulations, with a view toward working to improve relevant technology and data in order to incorporate requirements for protection factors into Part 11 at a later date.

Other significant technical revisions are: (1) Performance requirements have replaced certain design specifications; and (2) tests have been included for powered air-purifying respirators.

Certain procedural revisions have also been made. The arrangement and numbering system of the proposed amendments has been totally redesignated so as to place all procedural requirements at the beginning of Part 11 (Subparts A through F), followed by all technical requirements (Subparts G through M). Expanded and more stringent quality control requirements have been established (Subpart E). Examples of causes which may result in revocation of the certificate of approval have been specified. The time limit for phasing out respirators approved under revoked Parts 11, 12, 13, 14, and 14a of this Title 30 has been clarified (see § 11.2).

A suggestion was received that models submitted for testing and approval be made only on regular production tooling with no operations included which would not be incorporated in regular production processing in order to insure that commercially produced respirators would be identical in all respects to those tested and approved under these regulations. This suggestion was carefully considered. However, it was determined by the Bureau and the Institute that such a requirement might well operate to obstruct advances in respirator technology, since substantial investment would be necessary to build production models with no adequate assurance of ultimate approval. Consequently it was decided to continue the testing of soundly designed and constructed prototype models; however, upon completion of such testing the Bureau and the Institute may require the applicant to resubmit a production model for additional testing prior to issuance of a certificate of approval (see §§ 11.11 (e) and 11.30).

Subchapter B of Chapter I, Title 30, Code of Federal Regulations, amended by revoking Parts 11, 12, 13, 14, and 14a, and substituting therefor a new Part 11—Respiratory Protective Devices; Tests for Permissibility; Fees, as set forth below is herewith promulgated and shall become effective 60 days following publication in the FEDERAL REGISTER.

W. T. PECORA,
Acting Secretary of the Interior.
FEBRUARY 17, 1972.

ELLIOT L. RICHARDSON,
*Secretary of Health,
Education, and Welfare.*
MARCH 10, 1972.

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AUTHORITY: The provisions of this Part 11 issued under sections 202(h), 204, and 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 842(h), 844, and 957) and 36 Stat. 369, as amended 37 Stat. 681 (30 U.S.C. 3, 5, and 7).

Subpart A—General Provisions

§ 11.1 Purpose.

The purpose of the regulations contained in this Part 11 is: (a) To establish procedures and prescribe requirements which must be met in filing applications for joint approval by the Bureau of Mines

and the National Institute for Occupational Safety and Health of respirators or changes or modifications of approved respirators; (b) to establish a schedule of fees to be charged each applicant for the inspections, examinations, and testing conducted by the Bureau under the provisions of this part; (c) to provide for the issuance of certificates of approval or modifications of certificates of approval for respirators which have met the applicable construction, performance, and respiratory protection requirements set forth in this part; and (d) to specify minimum requirements and to prescribe methods to be employed by the Bureau and by the applicant in conducting inspections, examinations, and tests to determine the effectiveness of respirators used during entry into or escape from hazardous atmospheres.

§ 11.2 Approved respirators.

(a) Until March 30, 1974, respirators or combinations of respirators shall be considered to be approved for use during entry into hazardous mine atmospheres, escape from hazardous mine atmospheres, or both, where such respirators or combinations of respirators are: (1) The same in all respects as those respirators which have been approved after meeting the minimum requirements for performance and respiratory protection set forth in this Part 11; or (2) fabricated, assembled, or built under any approval, or any modification thereof, issued by the U.S. Bureau of Mines, Department of the Interior, in accordance with the schedules set forth below; and (3) maintained in an approved condition:

(i) Self-contained Breathing Apparatus, Bureau of Mines Schedules 13, March 5, 1919; 13A, January 21, 1930; 13B, August 12, 1935; 13C, July 9, 1946; 13D, September 22, 1956; and 13E, July 19, 1968.

(ii) Gas Masks, Bureau of Mines Schedule 14F, April 23, 1955.

(iii) Supplied-air Respirators, Bureau of Mines Schedule 19B, April 19, 1955.

(iv) Filter-type Dust, Fume, and Mist Respirators, Bureau of Mines Schedule 21B, January 19, 1965.

(v) Nonemergency Gas Respirators, Bureau of Mines Schedule 23B, August 4, 1959.

(b) After March 30, 1974, respirators or combinations of respirators shall be considered to be approved for use during entry into hazardous mine atmospheres, escape from hazardous mine atmospheres, or both, only where such respirators or combinations of such respirators are: (1) The same in all respects as those respirators which have been approved after meeting the minimum requirements for performance and respiratory protection prescribed in this Part 11; and (2) maintained in an approved condition.

§ 11.2-1 Selection, fit, use, and maintenance of approved respirators.

In order to insure the maximum amount of respiratory protection, approved respirators shall be selected,

fitted, used, and maintained in accordance with the provisions of the American National Standard Practices for Respiratory Protection, Z88.2, obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

§ 11.3 Definitions.

As used in this part—

(a) "Air Contamination Level" means the standards of contaminant levels prescribed by the Secretary of Labor in accordance with the provisions of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 84 Stat. 1590).

(b) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or controls the assembly of a respirator and who seeks to obtain a certificate of approval for such respirator.

(c) "Approval" means a certificate or formal document issued by the Bureau and the Institute stating that an individual respirator or combination of respirators has met the minimum requirements of this Part 11, and that the applicant is authorized to use and attach an approval label to any respirator, respirator container, or instruction card for any respirator manufactured or assembled in conformance with the plans and specifications upon which the approval was based, as evidence of such approval.

(d) "Approved" means conforming to the minimum requirements of this Part 11.

(e) "Auxiliary equipment" means a self-contained breathing apparatus, the use of which is limited in underground mine rescue and recovery operations to situations where the wearer has ready access to fresh air and at least one crew equipped with approved self-contained breathing apparatus of 2 hours or longer rating, is in reserve at a fresh-air base.

(f) "Bureau" means the U.S. Bureau of Mines, Department of the Interior.

(g) "Compressed breathing gas" means oxygen or air stored in a compressed state and supplied to the wearer in gaseous form.

(h) "Concentration limits for radionuclides" means the concentration limits set forth in Appendix B, Table 1, Column I of Title 10 CFR Part 20 by the Atomic Energy Commission.

(i) "dBA" means sound pressure levels in decibels, as measured with the A-weighted network of a standard sound level meter using slow response.

(j) "DOP" means a homogenous liquid aerosol, having a particle diameter of 0.3 micrometer, which is generated by vaporization and condensation of dioctyl phthalate.

(k) "Dust" means a solid mechanically produced particle with a size ranging from submicroscopic to macroscopic.

(l) Respirators "for entry into and escape from" means respiratory devices providing protection during entry into and escape from hazardous atmospheres.

(m) Respirators "for escape only" means respiratory devices providing protection only during escape from hazardous atmospheres.

(n) A "facepiece" or "mouthpiece" is a respirator component designed to provide a gas-tight or dust-tight fit with the face and may include headbands, valves, and connections for canisters, cartridges, filters, or respirable gas source.

(o) "Final inspection" means that activity carried out on a product after all manufacturing and assembly operations are completed to insure completeness and adherence to performance or other specifications, including satisfactory appearance.

(p) "Fume" means a solid condensation particle, generally less than 1 micrometer in diameter.

(q) "Gas" means an aeriform fluid which is in a gaseous state at ordinary temperature and pressure.

(r) "Hazardous atmosphere" means: (1) Any atmosphere containing a toxic or disease producing gas, vapor, dust, fume, mist, or pesticide, either immediately or not immediately dangerous to life or health; or (2) any oxygen-deficient atmosphere.

(s) A "hood" or "helmet" is a respirator component which covers the wearer's head and neck, or head, neck, and shoulders, and is supplied with incoming respirable air for the wearer to breathe. It may include a headharness and connection for a breathing tube.

(t) "Immediately dangerous to life or health" means conditions that pose an immediate threat to life or health or conditions that pose an immediate threat of severe exposure to contaminants, such as radioactive materials, which are likely to have adverse cumulative or delayed effects on health.

(u) "Incoming inspection" means the activity of receiving, examining, and accepting only those materials and parts whose quality conforms to specification requirements.

(v) "In-process inspection" means the control of products at the source of production and at each step of the manufacturing process, so that departures from specifications can be corrected before defective components or materials are assembled into the finished product.

(w) "Institute" means the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

(x) "Liquefied breathing gas" means oxygen or air stored in liquid form and supplied to the wearer in a gaseous form.

(y) "Mist" means a liquid condensation particle with a size ranging from submicroscopic to macroscopic.

(z) "Not immediately dangerous to life or health" means any hazardous atmosphere which may produce physical discomfort immediately, chronic poisoning after repeated exposure, or acute adverse physiological symptoms after prolonged exposure.

(aa) "Oxygen deficient atmosphere" means an atmosphere which contains an oxygen partial pressure of less than 148 millimeters of mercury (19.5 percent by volume at sea level).

(bb) "Pesticide" means (1) any substance or mixture of substances (including solvents and impurities) intended to prevent, destroy, repel, or mitigate any

insect, rodent, nematode, fungus, weed, or other form of plant or animal life or virus, and (2) any substance or mixture of substances (including solvents and impurities) intended for use as a plant regulator, defoliant, or desiccant, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1947, as amended (7 U.S.C. 135-135k), excluding fumigants which are applied as gases or vapors or in a solid or liquid form as pellets or poured liquids for subsequent release as gases or vapors.

(cc) "Powered air-purifying respirator" means a device equipped with a facepiece, hood, or helmet, breathing tube, canister, cartridge, filter, canister with filter, or cartridge with filter, and a blower.

(dd) "Radionuclide" means an atom identified by the constitution of its nucleus (specified by the number of protons Z, number of neutrons N, and energy, or, alternatively, by the atomic number Z, mass number A=(N+Z), and atomic mass) which exists for a measurable time; decays or disintegrates spontaneously, emits radiation, and results in the formation of new nuclides.

(ee) "Respirable dust" means a dust particle aerodynamically capable of reaching the terminal airways of the lung.

(ff) "Respirator" means any device designed to provide the wearer with respiratory protection against inhalation of a hazardous atmosphere.

(gg) "Smoke" means the products of incomplete combustion of organic substances in the form of solid and liquid particles and gaseous products in air, usually of sufficient concentration to perceptibility obscure vision.

(hh) "Vapor" means the gaseous state of a substance that is solid or liquid at ordinary temperature and pressure.

§ 11.4 Incorporation by reference.

In accordance with 5 U.S.C. 552(a)(1), the technical publications to which reference is made in this Part 11, and which have been prepared by organizations other than the Bureau of Mines, are hereby incorporated by reference and made a part hereof. The incorporated technical publications are available for examination at Approval and Testing, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. In addition, copies of the American National Standard Practices for Respiratory Protection, Z88.2, are available for examination in every Coal Mine Health and Safety District and Subdistrict Office.

Subpart B—Application for Approval

§ 11.10 Application procedures.

(a) Inspection, examination, and testing leading to the approval of the types of respirators classified in Subpart F of this part shall be undertaken by the Bureau only pursuant to written applications which meet the minimum requirements set forth in this Subpart B.

(b) Applications shall be submitted to Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA

15213, and shall be accompanied by a check, bank draft, or money order in the amount specified in Subpart C of this part payable to the order of the U.S. Bureau of Mines.

(c) Except as provided in § 11.64, the examination, inspection, and testing of all respirators shall be conducted by Approval and Testing, Bureau of Mines, Pittsburgh, Pa. 15213.

(d) Applicants, manufacturers, or their representatives may visit or communicate with Approval and Testing in order to discuss the requirements for approval of any respirator or the proposed designs thereof. No charge shall be made for such consultation and no written report shall be issued to applicants, manufacturers, or their representatives by the Bureau as a result of such consultation.

§ 11.11 Contents of application.

(a) Each application for approval shall contain a complete written description of the respirator for which approval is requested together with drawings and specifications (and lists thereof) showing full details of construction of the respirator and of the materials used. Drawings and specifications (and lists thereof) shall be submitted in triplicate.

(b) Drawings shall be titled, numbered, and dated; any revision dates shall be shown on the drawings, and the purpose of each revision being sought shall be shown on the drawing or described on an attachment to the drawing to which it applies.

(c) Each application for approval shall contain a proposed plan for quality control which meets the minimum requirements set forth in Subpart E of this part.

(d) Each application shall contain a statement that the respirator has been pretested by the applicant as prescribed in § 11.64, and shall include the results of such tests.

(e) Each application for approval shall contain a statement that the respirator and component parts submitted for approval are either (1) prototypes, or (2) made on regular production tooling, with no operation included which will not be incorporated in regular production processing.

§ 11.12 Delivery of respirators by applicant; requirements.

(a) Each applicant shall, when an application is filed pursuant to § 11.10, be advised by the Bureau of the total number of respirators and component parts required for testing.

(b) The applicant shall deliver, at his own expense, the number of completely assembled respirators and component parts required for testing, to Approval and Testing, Bureau of Mines, Pittsburgh, Pa. 15213.

(c) Respirators and component parts submitted for approval must be made from materials specified in the application.

(d) One completely assembled respirator approved under the provisions of this part may be retained by the Bureau as a laboratory exhibit, the remaining respirators may be returned to the applicant at his own expense, upon writ-

ten request within 30 days after notice of approval. If no such request is made, the respirators will be disposed of by the Bureau in such manner as it deems appropriate.

(e) Where a respirator fails to meet the requirements for approval set forth in this part, all respirators and components delivered in accordance with this section may be returned to the applicant at his own expense, upon written request within 30 days after notice of disapproval. If no such request is made, the respirators will be disposed of by the Bureau in such manner as it deems appropriate.

Subpart C—Fees

§ 11.20 Examination, inspection and testing of complete respirator assemblies; fees.

Except as provided in § 11.22, the following fees shall be charged by the Bureau for the examination, inspection and testing of complete respirator assemblies:

(a) Self-contained breathing apparatus—	
(1) Entry and escape, 1 hour or more	\$3,500
(2) Entry and escape, less than 1 hour	2,750
(3) Escape only	2,000
(b) Gas masks, including pesticide gas masks—	
(1) Single hazard	1,100
(2) Type N	4,100
(c) Supplied-air respirators	750
(d) Dust, fume and mist respirators—	
(1) Single particulate hazard having an Air Contamination Level more than 0.05 mg./m. ³ or 2 million particles per cubic foot	500
(2) Combination particulate hazards having an Air Contamination Level more than 0.05 mg./m. ³ or 2 million particles per cubic foot	750
(3) Particulate hazards having an Air Contamination Level less than 0.05 mg./m. ³ or 2 million particles per cubic foot, radon daughters	1,250
(4) All dusts, fumes and mists	2,000
(e) Chemical cartridge respirators	1,150
(f) Paint spray respirators	1,600
(g) Pesticide respirators	1,600

§ 11.21 Examination, inspection and testing of respirator components or subassemblies; fees.

Except as provided in § 11.22, the following fees shall be charged by the Bureau for the examination, inspection and testing of the individual respirator components or subassemblies:

(a) Facepieces	\$450
(b) Canisters	900
(c) Cartridges	600
(d) Filters	650
(e) Hoses	250
(f) Blowers	250
(g) Harnesses	100

§ 11.22 Unlisted fees; additional fees; payment by applicant prior to approval.

(a) Applications for the examination, inspection and testing of complete

respirator assemblies which are not listed in § 11.20, or for the examination, inspection, and testing of respirator components or subassemblies which are not listed in § 11.21, shall be accompanied by the following deposits:

(1) Complete respirator assembly	\$1,500
(2) Each individual component or subassembly	500

(b) The Bureau reserves the right to conduct any examination, inspection, or test it deems necessary to determine the quality and effectiveness of any listed or unlisted respirator assembly or respirator component or subassembly, and to assess the cost of such examinations, inspections, or tests against the applicant prior to the issuance of any approval for the respiratory equipment examined, inspected, or tested.

(c) The fees charged for the examination, inspection, and testing of unlisted respirator assemblies, unlisted individual respirator components or subassemblies, and for the additional examination, inspection, and testing of listed respirator assemblies and components or subassemblies shall be at the rate of \$100 per day for each man-day required to be expended by the Bureau.

(d) Upon completion of all examinations, inspections, and tests of unlisted respirator assemblies or components, or following the completion of any additional examination, inspections, or tests of listed assemblies, or components or subassemblies, including retesting subsequent to disapproval, the Bureau shall advise the applicant in writing of the total cost assessed and the additional amount, if any, which must be paid to the Bureau as a condition of approval.

(e) In the event the amount assessed by the Bureau for unlisted assemblies, or components or subassemblies is less than the amount of the deposit submitted in accordance with paragraph (a) of this section, the Bureau shall refund the overpayment upon the issuance of any approval or notice of disapproval.

Subpart D—Approval and Disapproval

§ 11.30 Certificates of approval; scope of approval.

(a) The Bureau and the Institute shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely assembled respirators which have been examined, inspected, and tested, and which meet the minimum requirements set forth in Subparts H through M of this part, as applicable.

(b) The Bureau and the Institute will not issue certificates of approval for any respirator component or for any respirator subassembly.

(c) The Bureau and the Institute shall not issue an informal notification of approval. However, if the application for approval, submitted in accordance with § 11.11, states that the submitted respirator and component parts are only prototypes, the Bureau will examine, inspect, and test such respirator and component parts in accordance with the

provisions of this Part 11. If, upon completion of such examinations, inspections and tests, it is found that the prototype meets the minimum requirements set forth in this part, the Bureau and the Institute may inform the applicant, in writing, of the results of the examinations, inspections, and tests, and may require him to resubmit respirators and component parts made on regular production tooling, with no operations included which will not be incorporated in regular production processing, for further examination, inspection, and testing, prior to issuance of the certificate of approval.

(d) Applicants required to resubmit respirators and component parts made on regular production tooling, with no operation included which will not be incorporated in regular production processing, shall be charged fees in accordance with Subpart C of this part.

§ 11.31 Certificates of approval; contents.

(a) The certificate of approval shall contain a classification and a description of the respirator or combination of respirators for which it is issued, as provided in this part.

(b) The certificate of approval shall specifically set forth any restrictions or limitations on the respirator's use in hazardous atmospheres.

(c) Each certificate of approval shall be accompanied by the drawings and specifications (and lists thereof) submitted by the applicant in accordance with § 11.11. These drawings and specifications shall be incorporated by reference in the certificate of approval, and shall be maintained by the applicant. The drawings and specifications listed in each certificate of approval shall set forth in detail the design and construction requirements which shall be met by the applicant during commercial production of the respirator.

(d) Each certificate of approval shall be accompanied by a reproduction of the approval label design to be employed by the applicant with each approved respirator, as provided in § 11.33.

(e) No test data or specific laboratory findings will accompany any certificate of approval, however, the Bureau will release pertinent test data and specific findings upon written request by the applicant, or as required by statute or regulation.

(f) Each certificate of approval shall also contain the approved quality control plan as specified in § 11.42.

§ 11.32 Notice of disapproval.

(a) If, upon the completion of the examinations, inspections, and tests required to be conducted in accordance with the provisions of this part, it is found that the respirator does not meet the minimum requirements set forth in this part, the Bureau and the Institute shall issue a written notice of disapproval to the applicant.

(b) Each notice of disapproval shall be accompanied by all pertinent data or findings with respect to the defects of the

respirator for which approval was sought with a view to the possible correction of any such defects.

(c) The Bureau and the Institute shall not disclose, except to the applicant or as required by statute or regulation, any data, findings, or other information with respect to any respirator for which a notice of disapproval is issued.

§ 11.33 Approval labels and markings; approval of contents; use.

(a) Full-scale reproductions of approval labels and markings, and a sketch or description of the method of application and position on the harness, container, canister, cartridge, filter, or other component, together with instructions for the use and maintenance of the respirator shall be submitted to the Bureau and the Institute for approval.

(b) Approval labels shall bear the seals of the U.S. Bureau of Mines and the Department of Health, Education, and Welfare, the applicant's name and address, an approval number assigned by the Bureau, and, where appropriate, restrictions or limitations placed upon the use of the respirator by the Bureau and the Institute.

(c) The Bureau shall, where necessary, notify the applicant when additional labels, markings, or instructions will be required.

(d) Approval labels and markings shall only be used by the applicant to whom they were issued.

(e) Legible reproductions or abbreviated forms of the label approved by the Bureau and the Institute for use on each respirator shall be attached to or printed at the following locations:

Respirator type	Label type	Location
Self-contained breathing apparatus.	Entire.....	Harness assembly and canister (where applicable).
Gas mask.....	Entire.....	Mask container and canister.
Supplied-air respirator.	Entire.....	Respirator container or instruction card.
Dust, fume, and mist respirator.	Entire.....	Respirator container and filter container.
	Abbreviated.	Filters.
Chemical-cartridge respirator, including paint spray respirator.	Entire.....	Respirator container, cartridge container, and filter containers (where applicable).
	Abbreviated.	Cartridges and filters and filter containers.
Pesticide respirator.	Entire.....	Respirator container, and cartridge and filter containers.
	Abbreviated.	Cartridges and filters.

(f) The use of any Bureau and Institute approval label obligates the applicant to whom it is issued to maintain or cause to be maintained the approved quality control sampling schedule and the acceptable quality level for each characteristic tested, and to assure that it is manufactured according to the drawings and specifications upon which the certificate of approval is based.

(g) Each respirator, respirator component, and respirator container shall, as

required by the Bureau and the Institute to assure quality control and proper use of the respirator, be labeled distinctly to show the name of the applicant, and the name and letters or numbers by which the respirator or respirator component is designated for trade purposes, and the lot number, serial number, or approximate date of manufacture.

§ 11.34 Revocation of certificates of approval.

The Bureau and the Institute reserve the right to jointly revoke, for cause, any certificate of approval issued pursuant to the provisions of this part. Such causes include, but are not limited to, misuse of approval labels and markings, misleading advertising, violations of section 109(e) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 819 (e)), and failure to maintain or cause to be maintained the quality control requirements of the certificate of approval.

§ 11.35 Changes or modification of approved respirators; issuance of modification of certificate of approval.

(a) Each applicant may, if he desires to change any feature of an approved respirator, request a modification of the original certificate of approval issued by the Bureau and the Institute for such respirator by filing an application for such modification in accordance with the provisions of this section.

(b) Applications shall be submitted as for an original certificate of approval, with a request for a modification of the existing certificate to cover any proposed change.

(c) The application shall be accompanied by appropriate drawings and specifications, and by a proposed quality control plan which meets the requirements of Subpart E of this part.

(d) The application for modification, together with the accompanying material, shall be examined by the Bureau to determine whether testing will be required.

(e) The Bureau shall inform the applicant of the fee required for any additional testing and the applicant will be charged for the actual cost of any examination, inspection, or test required, and such fees shall be submitted in accordance with the provisions of Subpart C of this part.

(f) If the proposed change or modification meets the requirements of this part, a formal certificate of modification will be issued, accompanied, where necessary, by a list of new and revised drawings and specifications covering the change(s) and reproductions of revised approval labels.

§ 11.36 Delivery of changed or modified approved respirator.

An approved respirator for which a formal certificate of modification has been issued shall be delivered, with proper markings and containers, by the applicant to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, PA 15213, as soon as it is commercially produced.

Subpart E—Quality Control

§ 11.40 Quality control plans, filing requirements.

As a part of each application for approval or modification of approval submitted pursuant to this part, each applicant shall file with the Bureau and the Institute a proposed quality control plan which shall be designed to assure the quality of respiratory protection provided by the respirator for which approval is sought.

§ 11.41 Quality control plans; contents.

(a) Each quality control plan shall contain provisions for the management of quality, including: (1) Requirements for the production of quality data and the use of quality control records; (2) control of engineering drawings, documentations, and changes; (3) control and calibration of measuring and test equipment; (4) control of purchased material to include incoming inspection; (5) lot identification, control of processes, manufacturing, fabrication, and assembly work conducted in the applicant's plant; (6) audit of final inspection of the completed product; and, (7) the organizational structure necessary to carry out these provisions.

(b) Each provision for incoming and final inspection in the quality control plan shall include a procedure for the selection of a sample of respirators and the components thereof for testing, in accordance with procedures set forth in Military Standard MIL-STD-105D, "Sampling Procedures and Tables for Inspection by Attributes," or Military Standard MIL-STD-414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective," or an approved equivalent sampling procedure, or an approved combination of sampling procedures. Incoming bulk raw material inspection or verification of specification, and in-process inspection shall be sufficient to ensure control of product quality through the manufacturing cycle.

(c) The sampling procedure shall include a list of the characteristics to be tested by the applicant or his agent.

(d) The characteristics listed in accordance with paragraph (c) of this section shall be classified according to the potential effect of such defect and grouped into the following classes:

(1) *Critical*. A defect that judgment and experience indicate is likely to result in a condition immediately hazardous to life or health for individuals using or depending upon the respirator;

(2) *Major A*. A defect, other than critical, that is likely to result in failure to the degree that the respirator does not provide any respiratory protection, or a defect that reduces protection and is not detectable by the user;

(3) *Major B*. A defect, other than Major A or critical, that is likely to result in reduced respiratory protection, and is detectable by the user; and

(4) *Minor*. A defect that is not likely to materially reduce the usability of the respirator for its intended purpose, or

a defect that is a departure from established standards and has little bearing on the effective use or operation of the respirator.

(e) The quality control inspection test method to be used by the applicant or his agent for each characteristic required to be tested shall be described in detail.

(f) Each item manufactured shall be 100 percent inspected for defects in all critical characteristics and all defective items shall be rejected.

(g) The Acceptable Quality Level (AQL) for each major or minor defect so classified by the applicant shall be:

- (1) *Major A*. 1.0 percent;
- (2) *Major B*. 2.5 percent; and
- (3) *Minor*. 4.0 percent.

(h) Except as provided in paragraph (i) of this section, inspection level II as described in MIL-STD-105D, or inspection level IV as described in MIL-STD-414, shall be used for major and minor characteristics and 100 percent inspection for critical characteristics.

(i) Subject to the approval of the Bureau and the Institute, where the quality control plan provisions for raw material, processes, manufacturing, and fabrication inspection are adequate to insure control of finished article quality, destructive testing of finished articles may be conducted at a lower level of inspection than that specified in paragraph (h) of this section.

§ 11.42 Proposed quality control plans; approval by the Bureau and the Institute.

(a) Each proposed quality control plan submitted in accordance with this subpart shall be reviewed by the Bureau and the Institute to determine its effectiveness in insuring the quality of respiratory protection provided by the respirator for which an approval is sought.

(b) If the Bureau and the Institute determine that the proposed quality control plan submitted by the applicant will not insure adequate quality control, the Bureau and the Institute shall require the applicant to modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate of approval.

(c) Approved quality control plans shall constitute a part of and be incorporated into any certificate of approval issued by the Bureau and the Institute, and compliance with such plans by the applicant shall be a condition of approval.

§ 11.43 Quality control records; review by the Bureau and the Institute; revocation of approval.

(a) The applicant shall keep quality control inspection records sufficient to carry out the procedures required in MIL-STD-105D or MIL-STD-414, or an approved equivalent sampling procedure.

(b) The Bureau and the Institute reserve the right to have their representatives inspect the applicant's quality control test methods, equipment, and records, and to interview any employee or agent of the applicant in regard to quali-

ty control test methods, equipment, and records.

(c) The Bureau and the Institute reserve the right to jointly revoke, for cause, any certificate of approval where it is found that the applicant's quality control test methods, equipment, or records do not insure effective quality control over the respirator for which the approval was issued.

Subpart F—Classification of Approved Respirators; Scope of Approval; Atmospheric Hazards; Service Time

§ 11.50 Types of respirators to be approved; scope of approval.

Approvals shall be issued for the types of respirators which have been classified pursuant to this Subpart F, have been inspected, examined and tested by the Bureau in accordance with the provisions of Subparts G through M of this part, and have been found to provide respiratory protection for fixed periods of time against the hazards specified in such approval.

§ 11.51 Entry and escape, or escape only; classification.

Respirators described in Subparts H through M of this part shall be classified for use as follows:

(a) *Entry and escape*. Respirators designed and approved for use during entry into a hazardous atmosphere, and for escape from a hazardous atmosphere; or,

(b) *Escape only*. Respirators designed and approved for use only during escape from a hazardous atmosphere.

§ 11.52 Respiratory hazards; classification.

Respirators described in Subparts H through M of this part shall be classified as approved for use against any or all of the following respiratory hazards:

- (a) Oxygen deficiency;
- (b) Gases and vapors;
- (c) Particles, including dusts, fumes and mists; and
- (d) Pesticides.

§ 11.53 Service time; classification.

(a) Respirators described in Subparts H through M of this part shall be classified, where applicable, as approved for use during the following prescribed service times:

- (1) Four hours;
- (2) Three hours;
- (3) Two hours;
- (4) One hour;
- (5) Forty-five minutes;
- (6) Thirty minutes;
- (7) Fifteen minutes;
- (8) Ten minutes;
- (9) Five minutes;
- (10) Three minutes.

(b) Other service times may be prescribed by the Bureau and the Institute.

Subpart G—General Construction and Performance Requirements

§ 11.60 Construction and performance requirements; general.

(a) The Bureau and the Institute shall issue approvals for the types of respirators described in Subparts H through M

of this part which have met the minimum requirements set forth for such respirators in this Part 11.

(b) In addition to the types of respirators specified in Subparts H through M, the Bureau and the Institute shall issue approvals for other respiratory protective devices not specifically described in this Part 11 subject to such additional requirements as may be imposed in accordance with § 11.63(c).

§ 11.61 General construction requirements.

(a) Respirators will not be accepted by the Bureau for examination, inspection and testing unless they are designed on sound engineering and scientific principles, constructed of suitable materials and evidence good workmanship.

(b) Respirator components which come into contact with the wearer's skin shall be made of nonirritating materials.

(c) Components replaced during or after use shall be constructed of materials which will not be damaged by normal handling.

(d) Mouthpieces, hoods, helmets, and facepieces, except those employed in single-use respirators, shall be constructed of materials which will withstand repeated disinfection as recommended by the applicant in his instructions for use of the device.

(e) The components of each respirator approved by the Bureau and the Institute for use where permissibility is required shall meet the requirements for permissibility and intrinsic safety set forth in Part 18, Subchapter D of this chapter (Bureau of Mines Schedule 2G).

§ 11.62 Component parts; minimum requirements.

(a) The component parts of each respirator shall be:

(1) Designed, constructed, and fitted to insure against creation of any hazard to the wearer;

(2) Assembled to permit easy access for inspection and repair of functional parts; and

(3) Assembled to permit easy access to parts which require periodic cleaning and disinfecting.

(b) Replacement parts shall be designed and constructed to permit easy installation and to maintain the effectiveness of the respirator.

§ 11.63 Test requirements; general.

(a) Each respirator and respirator component shall when tested by the applicant and by the Bureau, meet the applicable requirements set forth in Subparts H through M of this part.

(b) Where a combination respirator is assembled from two or more types of respirators, as described in this part, each of the individual respirator types which have been combined shall, as applicable, meet the minimum requirements for such respirators set forth in Subparts H through M of this part, and such combination respirators, except as specified in § 11.70(b)(2), will be classified by the type of respirator in the combination which provides the least protection to the user.

(c) In addition to the minimum requirements set forth in Subparts H through M of this part, the Bureau and the Institute reserve the right to require, as a further condition of approval, any additional requirements deemed necessary to establish the quality, effectiveness, and safety of any respirator used as protection against hazardous atmospheres.

(d) Where it is determined after receipt of an application that additional requirements will be required for approval, the Bureau will notify the applicant in writing of these additional requirements, and necessary examinations, inspections, or tests, stating generally the reasons for such requirements, examinations, inspections, or tests.

§ 11.64 Pretesting by applicant; approval of test methods by the Bureau.

(a) Prior to making or filing any application for approval or modification of approval, the applicant shall conduct, or cause to be conducted, examinations, inspections, and tests of respirator performance which are equal to or exceed the severity of those prescribed in this part.

(b) With the application, the applicant shall provide a statement to the Bureau showing the types and results of the examinations, inspections, and tests required under paragraph (a) of this section and state that the respirator meets the minimum requirements of Subparts H through M of this part, as applicable. Complete examination, inspection, and test data shall be retained on file by the applicant and be submitted, upon request, to the Bureau.

(c) The Bureau may, upon written request by the applicant, provide drawings and descriptions of its test equipment and otherwise assist the applicant in establishing a test laboratory or securing the services of a testing agency.

(d) The Bureau will not issue an approval to the applicant until it has validated the applicant's test results.

§ 11.65 Conduct of examinations, inspections, and tests by the Bureau and the Institute; assistance by applicant; observers; recorded data; public demonstrations.

(a) All examinations, inspections, and tests conducted pursuant to Subparts H through M of this part will be under the sole direction and control of the Bureau and the Institute.

(b) The Bureau and the Institute may, as a condition of approval, require the assistance of the applicant or agents of the applicant during the assembly, disassembly, or preparation of any respirator or respirator component prior to testing or in the operation of such equipment during testing.

(c) Only Bureau and Institute personnel, persons assisting the Bureau pursuant to paragraph (b) of this section, and such other persons as are requested by the Bureau, the Institute, or the applicant to be observers, shall be present during any examination, inspection, or test conducted prior to the issuance of an ap-

proval by the Bureau and the Institute for the equipment under consideration.

(d) The Bureau and the Institute shall hold as confidential any analyses, drawings, specifications, or materials submitted by the applicant and shall not disclose any principles or patentable features of such equipment, except as required by statute or regulation.

(e) As a condition of each approval issued for any respirator, the Bureau and the Institute reserve the right, following the issuance of such approval, to conduct such public tests and demonstrations of the approved respiratory equipment as is deemed appropriate.

§ 11.66 Withdrawal of applications; refund of fees.

(a) Any applicant may, upon a written request submitted to the Bureau or the Institute, withdraw any application for approval of any respirator.

(b) Upon receipt of a written request for the withdrawal of an application, the Bureau shall determine the total man-days expended and the amount due for services already performed during the course of any examinations, inspections, or tests conducted pursuant to such application. The total amount due shall be determined in accordance with the provisions of § 11.22 and assessed against the fees submitted by the applicant. If the total amount assessed is less than the fees submitted, the Bureau shall refund the balance together with a statement of the charges made for services rendered.

Subpart H—Self-Contained Breathing Apparatus

§ 11.70 Self-contained breathing apparatus; description.

(a) Self-contained breathing apparatus, including all completely assembled, portable, self-contained devices designed for use as respiratory protection during entry into and escape from or escape only from hazardous atmospheres, are described as follows:

(1) *Closed-circuit apparatus.* An apparatus of the type in which the exhalation is rebreathed by the wearer after the carbon dioxide has been effectively removed and a suitable oxygen concentration restored from sources composed of:

- (i) Compressed oxygen; or
- (ii) Chemical oxygen; or
- (iii) Liquid-oxygen.

(2) *Open-circuit apparatus.* An apparatus of the following types from which exhalation is vented to the atmosphere and not rebreathed:

(i) *Demand-type apparatus.* An apparatus in which the pressure inside the facepiece in relation to the immediate environment is positive during exhalation and negative during inhalation.

(ii) *Pressure-demand-type apparatus.* An apparatus in which the pressure inside the facepiece in relation to the immediate environment is positive during both inhalation and exhalation.

(b) The following respirators may be classified as designed and approved for

use during emergency entry into a hazardous atmosphere: A combination respirator which includes a self-contained breathing apparatus and a Type "C" or Type "CE" supplied air respirator, where (1) the self-contained breathing apparatus is classified for 3-, 5-, or 10-minute service time and the air line supply is used during entry, or (2) the self-contained breathing apparatus is classified for 15 minutes or longer service time and not more than 20 percent of the rated capacity of the air supply is used during entry.

(c) Self-contained breathing apparatus classified for less than 1 hour service time will not be approved for use during underground mine rescue and recovery operations except as auxiliary equipment.

(d) Self-contained breathing apparatus classified for less than 30 minutes' service time will not be approved for use as auxiliary equipment during underground mine rescue and recovery operations.

§ 11.71 Self-contained breathing apparatus; required components.

(a) Each self-contained breathing apparatus described in § 11.70 shall, where its design requires, contain the following component parts:

- (1) Facepiece or mouthpiece, and noseclip;
- (2) Respirable breathing gas container;
- (3) Supply of respirable breathing gas;
- (4) Gas pressure or liquid level gages;
- (5) Timer;
- (6) Remaining service life indicator or warning device;
- (7) Hand-operated valves;
- (8) Breathing bag;
- (9) Safety relief valve or safety relief system; and
- (10) Harness.

(b) The components of each self-contained breathing apparatus shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.72 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with breathing apparatus shall be designed and constructed to prevent:

- (1) Restriction of free head movement;
- (2) Disturbance of the fit of facepieces and mouthpieces;
- (3) Interference with the wearer's activities; and,
- (4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.73 Harnesses; installation and construction; minimum requirements.

(a) Each apparatus shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the apparatus in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of apparatus parts, and,

where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.74 Apparatus containers; minimum requirements.

(a) Apparatus may be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains, and all appropriate approval labels.

(b) Containers supplied by the applicant for carrying or storing self-contained breathing apparatus will be inspected, examined, and tested as components of the respirator for which approval is sought.

(c) Containers for self-contained breathing apparatus shall be designed and constructed to permit easy removal of the apparatus.

§ 11.75 Half-mask facepieces, full facepieces, mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes, either (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for the optional use of corrective spectacles or lenses which shall not reduce the respiratory protective qualities of the apparatus.

(c) Apparatus with mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece or apparatus and provide an airtight seal.

(d) Facepieces shall be designed to prevent eyepiece, spectacle, and lens fogging.

§ 11.76 Facepieces; eyepieces; minimum requirements.

(a) Facepieces shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces shall be designed and constructed to meet the impact and penetration requirements specified in Federal Specification, Mask, Air Line, and Respirator, Air Filtering, Industrial, GGG-M-125d, October 11, 1965. This Federal Specification is available from the Government Printing Office or the General Services Administration.

§ 11.77 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against damage and distortion.

(b) Exhalation valves shall be:

- (1) Protected against external influence, and
- (2) Designed and constructed to prevent inward leakage of contaminated air.

§ 11.78 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to pro-

vide adequate tension during suspension and an even distribution of pressure over the entire area in contact with the face.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable harnesses designed and constructed to hold the mouthpiece in place.

§ 11.79 Breathing gas; minimum requirements.

(a) Breathing gas used to supply apparatus shall be respirable and contain no less than 19.5 (dry atmosphere) volume percent of oxygen.

(b) Oxygen, including liquid oxygen, shall meet the minimum requirements for medical or breathing oxygen set forth in the U.S. Pharmacopeia.

(c) Compressed, gaseous breathing air shall meet the applicable minimum grade requirements for Type I gaseous air set forth in the Compressed Gas Association Commodity Specification for Air, G-7.1 (Grade D or higher quality).

(d) Compressed, liquefied breathing air shall meet the applicable minimum grade requirements for Type II liquid air set forth in the Compressed Gas Association Commodity Specification for Air, G-7.1 (Grade B or higher quality).

§ 11.79-1 Interchangeability of oxygen and air prohibited.

Approvals shall not be issued by the Bureau and the Institute for any apparatus, combination of respirator assemblies, or any apparatus or respirator component which is designed or constructed to permit the interchangeable use of oxygen and air.

§ 11.80 Compressed breathing gas and liquefied breathing gas containers; minimum requirements.

(a) Compressed breathing gas and liquefied breathing gas containers shall meet the minimum requirements of the Department of Transportation for Interstate shipment of such containers when fully charged.

(b) Such containers shall be permanently and legibly marked to identify their contents, e.g., compressed breathing air, compressed breathing oxygen, liquefied breathing air, or liquefied breathing oxygen.

(c) Containers normally removed from apparatus for refilling shall be equipped with a dial indicating gage which shows the pressure in the container.

(d) Compressed breathing gas contained valves or a separate charging system or adapter provided with each apparatus shall be equipped with outlet threads specified for the service by the American National Standard for Compressed Gas Cylinder Valve Outlet and Inlet Connections, B57.1 (1965), obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

§ 11.81 Gas pressure gages; minimum requirements.

(a) Gas pressure gages employed on compressed breathing gas containers shall be calibrated in pounds per square inch.

(b) Liquid-level gages shall be calibrated in fractions of total container capacity, or in units of liquid volume.

(c) Gas pressure gages other than those specified in paragraphs (a) and (b) of this section shall be calibrated in:

(1) Pounds per square inch, or
(2) In fractions of total container capacity, or

(3) Both in pounds per square inch and fractions of total container capacity.

(d) (1) Dial-indicating gages shall be reliable to within ± 5 percent of full scale when tested both up and down the scale at each of 5 equal intervals.

(2) The full scale graduation of dial-indicating gages shall not exceed 150 percent of the maximum rated cylinder pressures specified for the container in applicable Department of Transportation specifications or permits.

(e) (1) Stem-type gages shall be readable by sight and by touch and shall have a stem travel distance of not less than one-fourth inch between each graduation.

(2) A minimum of five graduations shall be engraved on the stem of each gage and these graduations shall include readings for empty, one-quarter, one-half, three-quarters, and full.

(3) Stem gage readings shall not vary from true readings by more than one-sixteenth inch per inch of stem travel.

(f) The loss of gas through a broken gage or severed gage connection shall not exceed 70 liters per minute when the cylinder pressure is 6,900 kN/m² (1,000 pounds per square inch gage) or when the liquid level is at one-half.

(g) Where gages are connected to the apparatus through a gage line, the gage and line shall be capable of being isolated from the apparatus except where the failure of the gage or line would not impair the performance or service life of the apparatus.

(h) Oxygen pressure gages shall have the words, "Oxygen" and "Use No Oil," marked prominently on the gage.

(i) (1) Apparatus using compressed breathing gas, except apparatus classified for escape only, shall be equipped with gages visible to the wearer which indicate the remaining gas content in the container.

(2) Apparatus using liquefied breathing gas, except apparatus classified for escape only, shall be equipped with gages visible to the wearer which indicate the remaining liquid content in the container; however, where the liquid content cannot be rapidly vented, and the service time of the device begins immediately after filling, a timer shall be provided in place of a visible gage.

§ 11.82 Timers; elapsed time indicators; remaining service life indicator; minimum requirements.

(a) Elapsed time indicators shall be provided for apparatus with a chemical oxygen source, except:

(1) Apparatus used for escape only; or,

(2) Liquefied breathing gas apparatus equipped with gages visible to the wearer

which indicate the remaining liquid content in the container.

(b) The timer or other indicator shall be accurately calibrated in minutes of remaining service life.

(c) Timers shall be readable by sight and by touch during use by the wearer.

(d) Timers shall be equipped with automatically preset alarms which will warn the wearer for a period of 7 seconds or more after the preset time has elapsed.

(e) Remaining service-life indicators or warning devices shall be provided in addition to a pressure gage on compressed gas self-contained breathing apparatus, except apparatus used for escape only, and shall operate automatically without preadjustment by the wearer.

(f) Each remaining service-life indicator or warning device shall give an alarm when the remaining service life of the apparatus is reduced within a range of 20 to 25 percent of its rated service time.

§ 11.83 Hand-operated valves; minimum requirements.

(a) Hand-operated valves shall be designed and constructed to prevent removal of the stem from the valve body during normal usage to insure against a sudden release of the full pressure of the container when the valve is opened.

(b) Valves shall be designed or positioned to prevent accidental opening and closing, and damage from external forces.

(c) Valves operated during use of the apparatus shall be installed in locations where they can be readily adjusted by the wearer.

(d) Main-line valves, designed and constructed to conserve gas in the event of a regulator or demand valve failure, shall be provided in addition to gas container valves, except when such failure will not affect performance.

(e) Hand-operated bypass systems designed and constructed to permit the wearer to breathe and to conserve his gas supply in the event of a regulator or demand valve failure, shall be provided where necessary.

(f) Valves installed on apparatus shall be clearly distinguishable from one another by sight and touch.

(g) The bypass system valve control shall be colored red.

(h) A main-line or bypass valve or system will not be required on apparatus for escape only.

(i) Safety relief valves or systems, designed and constructed to release excess pressure in the breathing circuit, shall be provided on closed-circuit apparatus, and shall meet the following requirements:

(1) The relief valve or system shall operate automatically when the pressure in the breathing circuit on the inhalation side of the breathing bag reaches 13 mm. (one-half inch) water-column height of pressure above the minimum pressure required to fill the breathing bag, within the breathing resistance requirements for the apparatus.

(2) The relief valve or system shall be designed to prevent external atmospheres from entering the breathing circuit.

(3) The relief valve or system shall be designed to permit manual overriding for test purposes and in the event of a failure in the valve or system.

§ 11.84 Breathing bags; minimum requirements.

(a) Breathing bags shall have sufficient volume to prevent gas waste during exhalation and to provide an adequate reserve for inhalation.

(b) Breathing bags shall be constructed of materials which are flexible and resistant to gasoline vapors.

(c) Breathing bags shall be installed in a location which will protect them from damage or collapse by external forces, except on apparatus classified for escape only.

§ 11.85 Self-contained breathing apparatus; performance requirements; general.

Self-contained breathing apparatus and the individual components of each such device shall as applicable meet the requirements specified in §§ 11.85-1 through 11.85-19.

§ 11.85-1 Component parts exposed to oxygen pressures; minimum requirements.

Each applicant shall certify that the materials employed in the construction of component parts exposed to oxygen pressures above atmospheric pressure are safe and compatible for their intended use.

§ 11.85-2 Compressed gas filters; minimum requirements.

All self-contained breathing apparatus using compressed gas shall have a filter downstream of the gas source to effectively remove particles from the gas stream.

§ 11.85-3 Breathing bag test.

(a) Breathing bags will be tested in an air atmosphere saturated with gasoline vapor at room temperature (24°-30° C./75°-85° F.) for a continuous period of twice the rated time of the apparatus (except for apparatus for escape only where the test period shall be the rated time of the apparatus).

(b) The bag will be operated during this test by a breathing machine with 24 respirations per minute and a minute-volume of 40 liters.

(c) A breathing machine cam with a work rate of 622 kg.-m./min. will be used.¹

(d) The air within the bag(s) shall not contain more than 100 parts per million of gasoline vapor at the end of the test.

¹Silverman, L., G. Lee, T. Plotkin, L. Amory, and A. R. Yancey, Fundamental Factors in Design of Protective Equipment, O.S.R.D. Report No. 5732, issued Apr. 1, 1945. The dimensions of the breathing machine cam are available from the Bureau upon request.

§ 11.85-4 Weight requirement.

(a) The completely assembled and fully charged apparatus shall not weigh more than 16 kg. (35 pounds); however, where the weight decreases by more than 25 percent of its initial charge weight during its rated service life, the maximum allowable weight of a completely assembled and fully charged apparatus shall be 18 kg. (40 pounds).

(b) Where an apparatus employs equipment which contributes materially to the wearer's comfort, e.g., a cooling system, the completely assembled and fully charged apparatus shall not weigh more than 18 kg. (40 pounds) regardless of the decrease in weight during use.

§ 11.85-5 Breathing resistance test; inhalation.

(a) Resistance to inhalation airflow will be measured in the facepiece or mouthpiece while the apparatus is operated by a breathing machine as described in § 11.85-3.

(b) The inhalation resistance of open-circuit apparatus shall not exceed 32 mm. (1.25 inch) water-column height (at a flow rate of 120 liters per minute).

(c) The inhalation resistance of closed-circuit apparatus shall not exceed the difference between exhalation resistance (§ 11.85-6(e)) and 10 cm. (4 inches) water-column height.

§ 11.85-6 Breathing resistance test; exhalation.

(a) Resistance to exhalation airflow will be measured in the facepiece or mouthpiece of open-circuit apparatus with air flowing at a continuous rate of 85 liters per minute.

(b) The exhalation resistance of demand apparatus shall not exceed 25 mm. (1 inch) water-column height.

(c) The exhalation resistance of pressure-demand apparatus shall not exceed the static pressure in the facepiece by more than 51 mm. (2 inches) water-column height.

(d) The static pressure (at zero flow) in the facepiece shall not exceed 38 mm. (1.5 inches) water-column height.

(e) Resistance to exhalation airflow will be measured in the facepiece or mouthpiece of closed-circuit apparatus with a breathing machine as described in § 11.85-3, and the exhalation resistance shall not exceed 51 mm. (2 inches) water-column height.

§ 11.85-7 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. (1 inch) water-column height while in a normal operating position.

(b) Leakage between the valve and the valve seat shall not exceed 30 milliliters per minute.

§ 11.85-8 Gas flow test; open-circuit apparatus.

(a) A static-flow test will be performed on all open-circuit apparatus.

(b) The flow from the apparatus shall be greater than 200 liters per minute when the pressure in the facepiece of

demand-apparatus is lowered by 51 mm. (2 inches) water-column height when full container pressure is applied.

(c) Where pressure demand apparatus are tested, the flow will be measured at zero gage pressure in the facepiece.

(d) Where apparatus with compressed-breathing-gas containers are tested, the flow test shall also be made with 3,450 kN/m.² (500 p.s.i.g.) container pressure applied.

§ 11.85-9 Gas flow test; closed-circuit apparatus.

(a) Where oxygen is supplied by a constant-flow device only, the rate of flow shall be at least 3 liters per minute for the entire rated service time of the apparatus.

(b) Where constant flow is used in conjunction with demand flow, the constant flow shall be greater than 1.5 liters per minute for the entire rated service time.

(c) All demand-flow devices shall provide at least 30 liters of oxygen per minute when in the fully open position.

§ 11.85-10 Service time test; open-circuit apparatus.

(a) Service time will be measured with a breathing machine as described in § 11.85-3.

(b) The open-circuit apparatus will be classified according to the length of time it supplies air or oxygen to the breathing machine.

(c) The service time obtained on this test will be used to classify the open-circuit apparatus in accordance with § 11.53.

§ 11.85-11 Service time test; closed-circuit apparatus.

(a) The closed-circuit apparatus will be classified according to the length of time it supplies adequate breathing gas to the wearer during man test No. 4 described in Table 4.

(b) The service time obtained on man test No. 4 will be used to classify the closed-circuit apparatus in accordance with § 11.53.

§ 11.85-12 Test for carbon dioxide in inspired gas; open- and closed-circuit apparatus; maximum allowable limits.

(a) Open-circuit apparatus:

(1) The concentration of carbon dioxide in inspired gas in open-circuit apparatus will be measured at the mouth while the apparatus mounted on a dummy head is operated by a breathing machine.²

(2) The breathing rate will be 14.5 respirations per minute with a minute-volume of 10.5 liters.

(3) A sedentary breathing machine can will be used.

(4) The apparatus will be tested at a temperature of 27° ± 2° C. (80° ± 5° F.).

² Kloos, E. J., and J. Lamonica, A Machine-Test Method for Measuring Carbon Dioxide in the Inspired Air of Self-Contained Breathing Apparatus. Bureau of Mines Report of Investigations 6865, 1966, 11 pp.

(5) A concentration of 5 percent carbon dioxide in air will be exhaled into the facepiece.

(b) Closed-circuit apparatus:

(1) The concentration of carbon dioxide in inspired gas in closed-circuit apparatus will be measured at the mouth while the parts of the apparatus contributing to dead-air space are mounted on a dummy head and operated by the breathing machine as in paragraphs (a) (1) through (5) of this section.

(c) During the testing required by paragraphs (a) and (b) of this section, the concentration of carbon dioxide in inspired gas at the mouth will be continuously recorded, and the maximum average concentration during the inhalation portion of the breathing cycle shall not exceed the following limits:

Where the service time is:	Maximum allowable average concentration of carbon dioxide in inspired air, percent by volume
Not more than 30 minutes.....	2.5
1 hour.....	2.0
2 hours.....	1.5
3 hours.....	1.0
4 hours.....	1.0

(d) In addition to the tests requirements for closed-circuit apparatus set forth in paragraph (b) of this section, gas samples will be taken during the course of the man tests described in Tables 1, 2, 3, and 4. These gas samples will be taken from the closed-circuit apparatus at a point downstream of the carbon dioxide sorbent, and they shall not contain more than 0.5 percent carbon dioxide at any time.

§ 11.85-13 Tests during low temperature operation.

(a) The applicant shall specify the minimum temperature for safe operation and two persons will perform the tests described in paragraphs (c) and (d) of this section, wearing the apparatus according to applicant's directions. At the specified temperature, the apparatus shall meet all the requirements described in paragraph (e) of this section.

(b) The apparatus will be precooled at the specified minimum temperature for 4 hours.

(c) The apparatus will be worn in the low temperature chamber for 30 minutes, or for the service time of the apparatus, whichever is less.

(d) During the test period, alternate 1-minute periods of exercise and rest will be required with the exercise periods consisting of stepping onto and off a box 21.5 cm. (8½ inches) high at a rate of 30 cycles per minute.

(e) (1) The apparatus shall function satisfactorily at the specified minimum temperature on duplicate tests.

(2) The wearer shall have sufficient unobscured vision to perform the work.

(3) The wearer shall not experience undue discomfort because of airflow restriction or other physical or chemical changes in the operation of the apparatus.

(f) Auxiliary low-temperature parts which are commercially available to the user may be used on the apparatus to meet the requirements described in paragraph (e) of this section.

§ 11.85-14 Man tests; testing conditions; general requirements.

(a) The man tests described in Tables 1, 2, 3, and 4 represent the workload performed in the mining, mineral, or allied industries by a person wearing the apparatus tested.

(b) The apparatus tested will be worn by Bureau personnel trained in the use of self-contained breathing apparatus, and the wearer will, before participating in these tests, pass a physical examination conducted by a qualified physician.

(c) All man tests will be conducted by the Bureau.

(d) The apparatus will be examined before each man test to ensure that it is in proper working order.

(e) Breathing resistance will be measured within the facepiece or mouthpiece and the wearer's pulse and respiration rate will be recorded during each 2 minute sample period prescribed in tests 1, 2, 3, and 4.

(f) Man tests 1, 2, 3, 4, 5, and 6 will be conducted in duplicate.

(g) If man tests are not completed through no fault of the apparatus, the test will be repeated.

§ 11.85-15 Man tests 1, 2, 3, and 4; requirements.

(a) Man tests 1, 2, 3, and 4, set forth in Tables 1, 2, 3, and 4 respectively, prescribe the duration and sequence of specific activities. These tests will be conducted to:

(1) Familiarize the wearer with the apparatus during use;

(2) Provide for a gradual increase in activity;

(3) Evaluate the apparatus under different types of work and physical orientation; and

(4) Provide information on the operating and breathing characteristics of the apparatus during actual use.

§ 11.85-16 Man test 5; requirements.

(a) Test 5 will be conducted to determine the maximum length of time the apparatus will supply the respiratory needs of the wearer while he is sitting at rest.

(b) The wearer will manipulate the devices controlling the supply of breathing gas to the advantage of the apparatus.

(c) Samples of inspiration from within the apparatus facepiece or mouthpiece shall be taken once every 15 minutes, and shall meet the minimum requirement for oxygen specified in § 11.79(a) of this part, and the maximum allowable average concentration of carbon dioxide specified in § 11.85-12(c).

(d) One sample of inspiration will be taken in the case of 3-, 5-, and 10-minute apparatus.

§ 11.85-17 Man test 6; requirements.

(a) Man test 6 will be conducted with respect to liquefied breathing gas apparatus only.

(b) This test will be conducted to evaluate operation of the apparatus in other than vertical positions.

(c) The wearer will lie face downward for one-fourth the service life of the apparatus with a full charge of liquefied breathing gas, and then a one-quarter full charge of liquefied breathing gas.

(d) The test will be repeated with the wearer lying on each side and on his back.

(e) The oxygen content of the gas supplied to the wearer by the apparatus will be continuously measured.

§ 11.85-18 Man tests; performance requirements.

(a) The apparatus shall satisfy the respiratory requirements of the wearer for the classified service time.

(b) Fogging of the eyepiece shall not obscure the wearer's vision, and the wearer shall not experience undue discomfort because of fit or other characteristics of the apparatus.

(c) When the ambient temperature during testing is $24 \pm 6^\circ \text{C}$. ($75 \pm 10^\circ \text{F}$.), the maximum temperature of inspired air recorded during man tests shall not exceed the following, after correction for deviation from 24°C . (75°F .):

Where service life of apparatus is—	Where percent relative humidity of inspired air is—	Maximum permissible temperature of inspired air shall not exceed—	
		$^\circ \text{F}$.	$^\circ \text{C}$.
$\frac{1}{4}$ hour or less.....	0-100	135	57
	0-50	125	52
$\frac{1}{2}$ hour to $\frac{3}{4}$ hour....	50-100	110	43
	0-50	115	46
1 to 2 hours.....	50-100	105	41
	0-50	110	43
3 hours.....	50-100	100	38
	0-50	105	41
4 hours.....	50-100	95	35

¹ Where percent relative humidity is 50-100 and apparatus is designed for escape only, these maximum permissible temperatures will be increased by 5°C . (10°F .).

§ 11.85-19 Gas tightness test; minimum requirements.

(a) Each apparatus will be tested for tightness by persons wearing it in an atmosphere of 1,000 p.p.m. isoamyl acetate.

(b) Six persons will each wear the apparatus in the test concentrations specified in paragraph (a) of this section for 2 minutes and none shall detect the odor or taste of the test vapor.

TABLE 1.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 1, IN MINUTES
(30 CFR Part 11, Subpart H, § 11.85, et seq.)

Activity	Service time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3, and 4 hours
Sampling and readings.....					2	2	2	2 Perform 1 hour test 2, 3, or 4 times respectively.
Walks at 4.8 km. (3 miles) per hour.....		3	5	3	4	8	12	18
Sampling and readings.....				2	2	2	2	2
Walks at 4.8 km. (3 miles) per hour.....				3	5	8	12	18
Sampling and readings.....				2	2	2	2	2
Walks at 4.8 km. (3 miles) per hour.....					6	13	16	16
Sampling and readings.....					2	2	2	2

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TABLE 2.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 2, IN MINUTES
(30 CFR Part 11, Subpart H, § 11.85, et seq.)

Activity	Service Time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3 and 4 hours ¹
Sampling and readings				2	2	2	2	2
Walks at 4.8 km. (3 miles) per hour			1	1	3	4	6	10
Carries 23 kg. (50 pound) weight over overcast			1 time in 2 minutes	1 time in 2 minutes	2 times in 4 minutes	3 times in 6 minutes	4 times in 8 minutes	5 times in 10 minutes
Walks at 4.8 km. (3 miles) per hour				1	3	3	3	5
Climbs vertical treadmill ² (or equivalent)	1	1	1	1	1	1	1	1
Walks at 4.8 km. (3 miles) per hour		1	1			2	3	5
Climbs vertical treadmill (or equivalent)		1				1	1	1
Sampling and readings					2	2	2	2
Walks at 4.8 km. (3 miles) per hour				1	2	3	5	11
Climbs vertical treadmill (or equivalent)				1	1	1	1	1
Carries 23 kg. (50 pound) weight over overcast				1 time in 2 minutes	3 times in 6 minutes	4 times in 8 minutes	5 times in 10 minutes	5 times in 10 minutes
Sampling and readings			2			2	2	2
Walks at 4.8 km. (3 miles) per hour				1	3	3	3	
Climbs vertical treadmill (or equivalent)			1		1	1	1	
Walks at 4.8 km. (3 miles) per hour			2			2	3	
Climbs vertical treadmill (or equivalent)						1	1	
Carries 20 kg. (45 pound) weight and walks at 4.8 km. (3 miles) per hour	1					1	2	
Walks at 4.8 km. (3 miles) per hour	1	2				1	4	
Sampling and readings				2	2	2	2	

¹ Total test time for Test 2 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.
² Treadmill shall be inclined 15° from vertical and operated at a speed of 1 foot per second.

TABLE 3.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 3, IN MINUTES
(30 CFR Part 11, Subpart H, § 11.85, et seq.)

Activity	Service time—							
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2, 3 and 4 hours ¹
Sampling and readings				2	2	2	2	
Walks at 4.8 km. (3 miles) per hour			1	1	2	2	3	
Runs at 9.7 km. (6 miles) per hour	1	1	1	1	1	1	1	
Pulls 20 kg. (45 pound) weight to 5 feet		15 times in 1 minute		30 times in 2 minutes	30 times in 2 minutes	30 times in 2 minutes	60 times in 6 minutes	Perform test No. 3 for 1 hr. apparatus; then perform test No. 1 for 1 hour apparatus.
Lies on side	3/4	1	1	2	3	4	5	
Lies on back	1/2	1	1	2	2	3	3	
Crawls on hands and knees	1	1	1	2	2	2	2	
Sampling and readings			2		2	2	2	
Runs at 9.7 km. (6 miles) per hour				1	1	1	1	
Walks at 4.8 km. (3 miles) per hour					2	8	10	
Pulls 20 kg. (45 pound) weight to 5 feet			30 times in 2 minutes		60 times in 6 minutes	60 times in 6 minutes	60 times in 6 minutes	
Sampling and readings				2		2	2	
Walks at 4.8 km. (3 miles) per hour			1		3	4	10	
Lies on side						2	4	
Lies on back						2	4	
Sampling and readings					2	2	2	

¹ Total test time for Test 3 for 2-hour, 3-hour, and 4-hour apparatus is 2 hours.

TABLE 4.—DURATION AND SEQUENCE OF SPECIFIC ACTIVITIES FOR TEST 4, IN MINUTES
(30 CFR Part II, Subpart H, § 11.85, et seq.)

Activity	Service time—										
	3 minutes	5 minutes	10 minutes	15 minutes	30 minutes	45 minutes	1 hour	2 hours	3 hours	4 hours	
Sampling and readings.....				2	2	2	2		Perform test No. 1 for 30-minute apparatus; then perform test No. 4 for 1-hour apparatus; then perform test No. 1 for 30-minute apparatus.	Perform test No. 1 for 1-hour apparatus; then perform test No. 4 for 1-hour apparatus; then perform test No. 1 for 1-hour apparatus.	Perform test No. 1 for 1-hour apparatus; then perform test No. 4 for 1-hour apparatus; then perform test No. 1 for 1-hour apparatus twice (i.e., two one-hour tests).
Walks at 4.8 km. (3 miles) per hour.....				1	2	2	2				
Climbs vertical treadmill ¹ (or equivalent).....	1	1	1	1	1	1	1				
Walks at 4.8 km. (3 miles) per hour.....		1	1	1	2	2	2				
Pulls 20 kg. (45 pound) weight to 5 feet.....		30 times in 2 minutes.	30 times in 2 minutes.	30 times in 2 minutes.	60 times in 5 minutes.	60 times in 5 minutes.	60 times in 5 minutes.				
Walks at 4.8 km. (3 miles) per hour.....			1	1	1	2	3				
Carries 23 kg. (50 pound) weight over overcast.....				1 time in 1 minute.	1 time in 1 minute.	2 times in 3 minutes.	4 times in 8 minutes.				
Sampling and readings.....			2		2	2	2				
Walks at 4.8 km. (3 miles) per hour.....				1	3	3	4				
Rims at 9.7 km. (6 miles) per hour.....		1					1				
Carries 23 kg. (50 pound) weight over overcast.....			1 time in 1 minute.	1 time in 1 minute.	2 times in 3 minutes.	4 times in 6 minutes.	6 times in 9 minutes.				
Pulls 20 kg. (45 pound) weight to 5 feet.....		15 times in 1 minute.		15 times in 1 minute.	60 times in 5 minutes.	30 times in 2 minutes.	36 times in 3 minutes.				
Sampling and readings.....				2	2	2	2				
Walks at 4.8 km. (3 miles) per hour.....			1				6				
Pulls 20 kg. (45 pound) weight to 5 feet.....						60 times in 5 minutes.	60 times in 5 minutes.				
Carries 20 kg. (45 pound) weight and walks at 4.8 km. (3 miles) per hour.....						3	3				
Sampling and readings.....						2	2				

¹ Treadmill shall be inclined 15° from vertical and operated at a speed of 30 cm. (1 foot) per second.

Subpart I—Gas Masks

§ 11.90 Gas masks; description.

(a) Gas masks including all completely assembled air purifying masks which are designed for use as respiratory protection during entry into and escape or escape only from hazardous atmospheres containing adequate oxygen to support life are described as follows:

(1) *Front-mounted or back-mounted gas mask.* A gas mask which consists of a full facepiece, a breathing tube, a canister at the front or back, a canister harness, and associated connections.

(2) *Type "N" front-mounted or back-mounted gas mask.* A gas mask specifically designed to protect against acid gases, ammonia, carbon monoxide, organic vapors, and particulate contaminants which consists of a full facepiece, breathing tube, a canister at the front or back, a canister harness, and associated connections.

(3) *Chin-style gas mask.* A gas mask which consists of a full facepiece, a canister which is usually attached to the facepiece, and associated connections.

(4) *Escape gas mask.* A gas mask designed for use during escape only from hazardous atmospheres which consists of a half-mask facepiece or mouthpiece, a canister, and associated connections.

(b) Gas masks shall be further described according to the specific gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of front-mounted or back-mounted gas mask:	Maximum use concentration, percent by volume
Acid gas ^{2, 4}	2
Ammonia ³	3
Carbon monoxide ⁵	2
Organic vapors ^{2, 4}	2

Type of chin-style gas mask:	Maximum use concentration, percent by volume
Acid gas ^{2, 4}	0.5
Ammonia.....	.5
Organic vapors ^{2, 4}5

Type of escape gas mask:	Maximum use concentration, parts per million
Acid gas ^{2, 4, 6}	1,000
Ammonia ⁶	5,000
Carbon monoxide.....	10,000
Organic vapors ^{2, 4, 6}	5,000

² Approval may be for acid gases or organic vapors as a class or for specific acid gases, ammonia, or organic vapors. Approval may also be granted for combinations of acid gases, organic vapors, and other gases and vapors.

⁴ Not for use against acid gases or organic vapors with poor warning properties or which generate high heats of reaction with sorbent materials in the canister.

⁵ Suggested maximum use concentrations are lower than these for some acid gases and organic vapors.

⁶ Eye protection may be required in certain concentrations of acid gases, ammonia, and organic vapors.

(c) Gas masks for respiratory protection against gases and vapors other than those specified in paragraph (b) of this section may be approved. The applicant shall submit a request for approval, in writing, to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, PA 15213, listing the gas or vapor and suggested maximum use concentration for the specific type of gas mask. The Bureau and the Institute will consider the application and accept or reject the application on the basis of effect on the wearer's health and safety and any field experience in use of gas masks for such exposures. If the application is accepted the Bureau will test such gas mask in accordance with the requirements of this subpart.

§ 11.91 Gas masks; required components.

(a) Each gas mask described in § 11.90 shall, where its design requires, contain the following component parts:

- (1) Facepiece or mouthpiece and noseclip;
- (2) Canister or cartridge;
- (3) Canister harness;
- (4) External check valve; and
- (5) Breathing tube.

(b) The components of each gas mask shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.92 Canisters and cartridges in parallel; resistance requirements.

Where two or more canisters or cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.93 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges or labels shall conform with the requirements of the American National Standard for Identification of Gas Mask Canisters, K13.1, obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

§ 11.94 Filters used with canisters and cartridges; location; replacement.

(a) Particulate matter filters used in conjunction with a canister or cartridge shall be located on the inlet side of the canister or cartridge.

(b) Filters shall be incorporated in or firmly attached to the canister or cartridge and each filter assembly shall, where applicable, be designed to permit its easy removal from and replacement in the canister or cartridge.

§ 11.95 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with gas masks shall be designed and constructed to prevent:

- (1) Restriction of free head movement;
- (2) Disturbance of the fit of facepieces or mouthpieces;
- (3) Interference with the wearer's activities; and,
- (4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.96 Harnesses; installation and construction; minimum requirements.

(a) Each gas mask shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the gas mask in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of gas mask parts, and where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.97 Gas mask containers; minimum requirements.

(a) Gas masks shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of mask it contains and all appropriate approval labels.

(b) Containers for gas masks shall be designed and constructed to permit easy removal of the mask.

§ 11.98 Half-mask facepieces, full facepieces and mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes either: (1) By providing more than one facepiece size, or (2)

by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles or lenses, which shall not reduce the respiratory protective qualities of the gas mask.

(c) Half-mask facepieces shall not interfere with the fit of common industrial safety spectacles, as determined by the Bureau's facepiece tests in § 11.102-3.

(d) Gas masks with mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece or gas mask and provide an airtight seal.

(e) Facepieces shall be designed to prevent eyepiece fogging.

§ 11.99 Facepieces; eyepieces; minimum requirements.

(a) Full facepieces shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces shall be designed and constructed to meet the impact and penetration requirements specified in Federal Specification, Mask, Air Line; and Respirator, Air Filtering, Industrial, GGG-M-125d, October 11, 1965.

§ 11.100 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against damage and distortion.

(b) Inhalation valves shall be designed and constructed to prevent excessive exhaled air from adversely affecting cartridges, canisters, and filters.

(c) Exhalation valves shall be protected against external influence, and designed and constructed to prevent inward leakage of contaminated air.

§ 11.101 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses, designed and constructed to provide adequate tension during use and an even distribution of pressure over the entire area in contact with the face.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable harnesses designed and constructed to hold the mouthpiece in place.

§ 11.102 Gas masks; performance requirements; general.

Gas masks and the individual components of each such device shall, as appropriate, meet the requirements for performance and protection specified in the tests described in §§ 11.102-1 through 11.102-5.

§ 11.102-1 Breathing resistance test; minimum requirements.

(a) Resistance to airflow will be measured in the facepiece or mouthpiece of a gas mask mounted on a breathing machine both before and after each test conducted in accordance with §§ 11.102-3, 11.102-4, and 11.102-5, with air flowing at a continuous rate of 85 liters per minute.

(b) The maximum allowable resistance requirements for gas masks are as follows:

Type of gas mask	MAXIMUM RESISTANCE (mm. water-column height)	
	Inhalation Initial	Exhalation Final ¹
Front-mounted or back-mounted (without particulate filter).....	60	75
Front-mounted or back-mounted (with approved particulate filter).....	70	85
Chin-style (without particulate filter).....	40	55
Chin-style (with approved particulate filter).....	65	80
Escape (without particulate filter)...	60	75
Escape (with approved particulate filter).....	70	85

¹ Measured at end of the service life specified in Tables 5, 6, and 7.

§ 11.102-2 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.102-3 Facepiece tests; minimum requirements.

(a) The complete gas mask will be fitted to the faces of persons having varying facial shapes and sizes.

(b) Where the applicant specifies a facepiece size or sizes for the gas mask, together with the approximate measurements of faces they are designed to fit, the Bureau will insure that test subjects suit such facial measurements.

(c) Any gas mask parts which must be removed to perform the facepiece or mouthpiece fit test shall be replaceable without special tools and without disturbing the facepiece or mouthpiece fit.

(d) The facepiece or mouthpiece fit test, using positive or negative pressure recommended by the applicant and described in his instructions will be used before each test specified in paragraph (e) of this section, and in § 11.102-4.

(e) (1) Each wearer will enter a chamber containing 100 p.p.m. isoamyl acetate vapor for a half-mask facepiece and 1,000 p.p.m. isoamyl acetate vapor for a full facepiece or mouthpiece.

(2) The facepiece or mouthpiece may be adjusted, if necessary, in the test chamber before starting the tests.

(3) Each wearer will remain in the chamber for 8 minutes while performing the following activities:

- (i) Two minutes, nodding and turning head;
- (ii) Two minutes, calisthenic arm movements;
- (iii) Two minutes, running in place, and
- (iv) Two minutes, pumping with a tire pump into a 28 liter (1 cubic foot) container.

(4) Each wearer shall not detect the odor of isoamyl acetate during the test.

§ 11.102-4 Dust, fume, mist, and smoke tests; canisters containing filters; minimum requirements.

(a) Gas mask canisters containing filters for protection against dusts, fumes, mists, and smokes in combination with gases, vapors, or gases and vapors, will be tested as prescribed in § 11.140.

(b) Gas mask canisters designed for protection against smokes will be tested in an atmospheric concentration of 100 micrograms of dioctyl phthalate per liter of air at continuous flow rates of (1) 32 liters per minute, and (2) 85 liters per minute for a period of 5 to 10 seconds, and the DOP leakage through the canister shall not exceed 0.03 percent of the test concentration.

§ 11.102-5 Canister bench tests; minimum requirements.

(a) (1) Bench tests, except for carbon monoxide tests, will be made on an apparatus that allows the test atmosphere at 50±5 percent relative humidity and room temperature (25°±2.5° C.) to enter the canister continuously at concentrations and rates of flow specified in Tables 5, 6, and 7.

(2) Three canisters will be removed from containers and tested as received from the applicant.

(3) Two canisters, other than those described in paragraph (a) (2) of this section, will be equilibrated at room temperature by passing 25 percent relative humidity air through them at 64 liters per minute for 6 hours.

(4) Two canisters, other than those described in paragraphs (a) (2) and (3) of this section, will be equilibrated at room temperature by passing 85 percent relative humidity air through them at 64 liters per minute for 6 hours.

(5) The equilibrated canisters will be resealed, kept in an upright position at room temperature, and tested within 18 hours.

(b) Front-mounted and back-mounted gas mask canisters will be tested and shall meet the minimum requirements set forth in Table 5.

(c) (1) Front-mounted and back-mounted canisters designated as Type N canisters shall have a window or other indicator to warn the gas mask wearer when the canister will no longer satisfactorily remove carbon monoxide from the inhaled air.

(2) Other types of front- and back-mounted canisters may also be equipped with a window or other indicator to warn of imminent leakage of other gases or vapors.

(3) The window indicator canisters will be tested as regular canisters, but shall show a satisfactory indicator change or other warning before the allowable canister penetration has occurred.

(d) Chin-style gas mask canisters shall meet the minimum requirements set forth in Table 6.

(e) Escape gas mask canisters shall meet the minimum requirements set forth in Table 7.

TABLE 5.—CANISTER BENCH TESTS AND REQUIREMENTS FOR FRONT AND BACK-MOUNTED GAS MASK CANISTERS (30 CFR Part 11, Subpart I, § 11.102-5)

Canister type	Test condition	Test atmosphere			Number of tests	Maximum allowable penetration, p.p.m.	Minimum service life, minutes ¹
		Gas or vapor	Concentration, p.p.m.	Flow rate, l.p.m.			
Acid gas	As received	SO ₂	20,000	64	3	5	12
		Cl ₂	20,000	64	3	5	12
		NO ₂	20,000	64	3	5	12
	Equilibrated	SO ₂	20,000	32	4	5	12
		Cl ₂	20,000	32	4	5	12
		NO ₂	20,000	32	4	5	12
Organic vapors	As received	CCL ₄	20,000	64	3	5	12
	Equilibrated	CCL ₄	20,000	32	4	5	12
	As received	NH ₃	30,000	64	3	50	12
Ammonia	As received	NH ₃	30,000	32	4	50	60
	Equilibrated	NH ₃	20,000	32	3	(2)	60
	As received	CO	5,000	32	3	(3)	60
Carbon monoxide	As received	CO	3,000	32	3	(4)	60
		CO	20,000	64	3	5	6
		CO	20,000	64	3	5	6
	Equilibrated	SO ₂	20,000	32	4	5	6
		Cl ₂	20,000	32	4	5	6
		NO ₂	20,000	32	4	5	6
Type N	As received	CCL ₄	20,000	64	3	50	6
		NH ₃	30,000	64	3	50	6
		CO	5,000	32	3	(5)	60
	Equilibrated	CO	3,000	32	3	(6)	60
		SO ₂	20,000	32	4	5	6
		Cl ₂	20,000	32	4	5	6

¹ Minimum life will be determined at the indicated penetration.
² Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere will be 25±2.5° C.
³ Maximum allowable CO penetration will be 385 cc. during the minimum life. The penetration shall not exceed 500 p.p.m. during this time.
⁴ Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere entering the test fixture will be 0+2.5° C.—0° C.

TABLE 6.—CANISTER BENCH TESTS AND REQUIREMENTS FOR CHIN-STYLE GAS MASK CANISTERS (30 CFR Part 11, Subpart I, § 11.102-5)

Canister type	Test condition	Test atmosphere			Number of tests	Maximum allowable penetration, p.p.m.	Minimum service life, minutes ¹
		Gas or vapor	Concentration, p.p.m.	Flow rate, l.p.m.			
Acid gas	As received	SO ₂	5,000	64	3	5	12
		Cl ₂	5,000	64	3	5	12
		NO ₂	5,000	64	3	5	12
	Equilibrated	SO ₂	5,000	32	4	5	12
		Cl ₂	5,000	32	4	5	12
		NO ₂	5,000	32	4	5	12
Organic vapors	As received	CCL ₄	5,000	64	3	5	12
	Equilibrated	CCL ₄	5,000	32	4	5	12
	As received	NH ₃	5,000	64	3	50	12
Ammonia	As received	NH ₃	5,000	32	4	50	12
	Equilibrated	NH ₃	5,000	32	4	50	12

¹ Minimum life will be determined at the indicated penetration.

TABLE 7.—CANISTER BENCH TESTS AND REQUIREMENTS FOR ESCAPE GAS MASK CANISTERS (30 CFR Part 11, Subpart I, § 11.102-5)

Canister type	Test condition	Test atmosphere			Number of tests	Maximum allowable penetration, p.p.m.	Minimum service life, minutes ¹
		Gas or vapor	Concentration, p.p.m.	Flow rate, l.p.m.			
Acid gas	As received	SO ₂	5,000	64	3	5	12
		Cl ₂	5,000	64	3	5	12
		NO ₂	5,000	64	3	5	12
	Equilibrated	SO ₂	5,000	32	4	5	12
		Cl ₂	5,000	32	4	5	12
		NO ₂	5,000	32	4	5	12
Organic vapors	As received	CCL ₄	5,000	64	3	5	12
	Equilibrated	CCL ₄	5,000	32	4	5	12
	As received	NH ₃	5,000	64	3	50	12
Ammonia	As received	NH ₃	5,000	32	4	50	12
	Equilibrated	NH ₃	5,000	32	4	50	12
	As received	CO	10,000	32	2	(7)	60
Carbon monoxide	As received	CO	5,000	32	3	(8)	60
	Equilibrated	CO	3,000	32	3	(9)	60

¹ Minimum life will be determined at the indicated penetration.
² Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere will be 25±2.5° C.
³ Maximum allowable CO penetration will be 385 cc. during the minimum life. The penetration shall not exceed 500 p.p.m. during this time.
⁴ If effluent temperature exceeds 100° C. during this test, the escape gas mask shall be equipped with an effective heat exchanger.
⁵ Relative humidity of test atmosphere will be 95±3 percent; temperature of test atmosphere entering the test fixture will be 0+2.5° C.—0° C.

Subpart J—Supplied-Air Respirators**§ 11.110 Supplied-air respirators; description.**

(a) Supplied-air respirators, including all completely assembled respirators designed for use as respiratory protection during entry into and escape from hazardous atmospheres are described as follows:

(1) *Type "A" supplied-air respirators.* A hose mask respirator, for entry into and escape from hazardous atmospheres, which consists of a motor-driven or hand-operated blower that permits the free entrance of air when the blower is not operating, a strong large-diameter hose having a low resistance to airflow, a harness to which the hose and the lifeline are attached and a tight-fitting facepiece.

(2) *Type "AE" supplied-air respirators.* A Type "A" supplied-air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion from rebounding abrasive material, and with shielding material such as plastic, glass, woven wire, sheet metal, or other suitable material to protect the window(s) of facepieces, hoods, and helmets which do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

(3) *Type "B" supplied-air respirators.* A hose mask respirator, for entry into and escape from atmospheres not immediately dangerous to life or health, which consists of a strong large-diameter hose with low resistance to airflow through which the user draws inspired air by means of his lungs alone, a harness to which the hose is attached, and a tight-fitting facepiece.

(4) *Type "BE" supplied-air respirators.* A Type "B" supplied-air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion from rebounding abrasive material, and with shielding material such as plastic, glass, woven wire, sheet metal, or other suitable material to protect the window(s) of facepieces, hoods, and helmets which do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

(5) *Type "C" supplied-air respirators.* An airline respirator, for entry into and escape from atmospheres not immediately dangerous to life or health, which consists of a source of respirable breathing air, a hose, a detachable coupling, a control valve, orifice, a demand valve or pressure demand valve, an arrangement for attaching the hose to the wearer, and a facepiece, hood, or helmet.

(6) *Type "CE" supplied-air respirators.* A Type "C" supplied-air respirator equipped with additional devices designed to protect the wearer's head and neck against impact and abrasion from rebounding abrasive material, and with shielding material such as plastic, glass, woven wire, sheet metal, or other suitable material to protect the window(s) of facepieces, hoods, and helmets which

do not unduly interfere with the wearer's vision and permit easy access to the external surface of such window(s) for cleaning.

§ 11.111 Supplied-air respirators; required components.

(a) Each supplied-air respirator described in § 11.110 shall, where its design requires, contain the following component parts:

- (1) Facepiece, hood, or helmet;
- (2) Air supply valve, orifice, or demand or pressure-demand regulator;
- (3) Hand operated or motor driven air blower;
- (4) Air supply hose;
- (5) Detachable couplings;
- (6) Flexible breathing tube; and
- (7) Respirator harness.

(b) The component parts of each supplied-air respirator shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.112 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with supplied-air respirators shall be designed and constructed to prevent:

- (1) Restriction of free head movement;
- (2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;
- (3) Interference with the wearer's activities; and
- (4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.113 Harnesses; installation and construction; minimum requirements.

(a) Each supplied-air respirator shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.114 Respirator containers; minimum requirements.

Supplied-air respirators shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains, and all appropriate approval labels.

§ 11.115 Half-mask facepieces, full facepieces, hoods, and helmets; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes either (1) by providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles or lenses, which shall not reduce the respiratory protective qualities of the respirator.

(c) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, provide for the optional use of corrective spectacles or lenses, and insure against any restriction of movement by the wearer.

(d) Facepieces, hoods, and helmets shall be designed to prevent eyepiece fogging.

§ 11.116 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

(a) Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces except those on Types B, BE, C, and CE supplied-air respirators shall be designed and constructed to meet the impact and penetration requirements specified in Federal Specification, Mask, Air Line, and Respirator, Air Filtering, Industrial GGG-M-125d, October 11, 1965.

(c) (1) The eyepieces of AE, BE, and CE type supplied-air respirators shall be shielded by plastic, glass, woven wire, sheet metal, or other suitable material which does not interfere with the vision of the wearer.

(2) Shields shall be mounted and attached to the facepiece to provide easy access to the external surface of the eyepiece for cleaning.

§ 11.117 Inhalation and exhalation valves; check valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against distortion.

(b) Exhalation valves shall be:

- (1) Protected against damage and external influence; and
- (2) Designed and constructed to prevent inward leakage of contaminated air.

(c) Check valves designed and constructed to allow airflow toward the facepiece only shall be provided in the connections to the facepiece or in the hose fitting near the facepiece of all Type A, AE, B, and BE supplied-air respirators.

§ 11.118 Head harnesses; minimum requirements.

Facepieces shall be equipped with adjustable and replaceable head harnesses which are designed and constructed to provide adequate tension during use, and an even distribution of pressure over the entire area in contact with the face.

§ 11.119 Head and neck protection; supplied-air respirators; minimum requirements.

Type AE, BE, and CE supplied-air respirators shall be designed and constructed to provide protection against impact and abrasion from rebounding abrasive materials to the wearer's head and neck.

§ 11.120 Air velocity and noise levels; hoods and helmets; minimum requirements.

Noise levels generated by the respirator will be measured inside the hood or helmet at maximum airflow obtainable

within pressure and hose length requirements and shall not exceed 80 dBA.

§ 11.121 Breathing gas; minimum requirements.

(a) Breathing gas used to supply supplied-air respirators shall be respirable breathing air and contain no less than 19.5 volume-percent of oxygen.

(b) Compressed, gaseous breathing air shall meet the applicable minimum grade requirements for Type I gaseous air set forth in the Compressed Gas Association Commodity Specification for Air, G-7.1 (Grade D or higher quality).

(c) Compressed, liquefied breathing air shall meet the applicable minimum grade requirements for Type II liquid air set forth in the Compressed Gas Association Commodity Specification for Air, G-7.1 (Grade B or higher quality).

§ 11.122 Air supply source; hand-operated or motor driven air blowers; Type A supplied-air respirators; minimum requirements.

(a) Blowers shall be designed and constructed to deliver an adequate amount of air to the wearer with either direction of rotation, unless constructed to permit rotation in one direction only, and to permit the free entrance of air to the hose when the blower is not operated.

(b) No multiple systems, whereby more than one user is supplied by one blower, will be approved, unless each hose line is connected directly to a manifold at the blower.

§ 11.123 Terminal fittings or chambers; Type B supplied-air respirators; minimum requirements.

(a) Blowers or connections to air supplies providing positive pressures shall not be approved for use on Type B supplied-air respirators.

(b) Terminal fittings or chambers employed in Type B supplied-air respirators, shall be:

- (1) Installed in the inlet of the hose;
- (2) Designed and constructed to provide for the drawing of air through corrosion resistant material arranged so as to be capable of removing material larger than 0.149 mm. in diameter (149 micrometers, 100-mesh, U.S. Standard sieve).

(3) Installed to provide a means for fastening or anchoring the fitting or chamber in a fixed position in a zone of respirable air.

§ 11.124 Supplied-air respirators; performance requirements; general.

Supplied-air respirators and the individual components of each such device shall, as appropriate, meet the requirements for performance and protection specified in the tests described in §§ 11.124-1 through 11.124-24.

§ 11.124-1 Hand-operated blower test; minimum requirements.

(a) Hand-operated blowers shall be tested by attaching them to a mechanical drive and operating them 6 to 8 hours daily for a period of 100 hours at a speed necessary to deliver 50 liters of air per

minute through each completely assembled respirator. Each respirator shall be equipped with the maximum length of hose with which the device is to be approved and the hose shall be connected to each blower or manifold outlet designed for hose connections.

(b) The crank speed of the hand-operated blower shall not exceed 50 revolutions per minute in order to deliver the required 50 liters of air per minute to each facepiece.

(c) The power required to deliver 50 liters of air per minute to each wearer through the maximum length of hose shall not exceed one-fiftieth horsepower, and the torque shall not exceed a force of 2.3 kg. (5 pounds) on a 20 cm. (8-inch) crank, as defined in § 11.124-3.

(d) The blower shall operate throughout the period without failure or indication of excessive wear of bearings or other working parts.

§ 11.124-2 Motor-operated blower test; minimum requirements.

(a) Motor-operated blowers shall be tested by operating them at their specified running speed 6 to 8 hours daily for a period of 100 hours when assembled with the kind and maximum length of hose for which the device is to be approved and when connected to each blower or manifold outlet designed for hose connections.

(b) The connection between the motor and the blower shall be so constructed that the motor may be disengaged from the blower when the blower is operated by hand.

(c) The blower shall operate throughout the period without failure or indication of excessive wear of bearings or other working parts.

(d) Where a blower, which is ordinarily motor driven, is operated by hand, the power required to deliver 50 liters of air per minute to each wearer through the maximum length of hose shall not exceed one-fiftieth horsepower, and the torque shall not exceed a force of 2.3 kg. (5 pounds) on a 20 cm. (8-inch) crank, as defined in § 11.124-3.

(e) Where the respirator is assembled with the facepiece and 15 m. (50 feet) of the hose for which it is to be approved, and when connected to one outlet with all other outlets closed and operated at a speed not exceeding 50 revolutions of the crank per minute, the amount of air delivered into the respiratory-inlet covering shall not exceed 150 liters per minute.

§ 11.124-3 Method of measuring the power and torque required to operate blowers.

As shown in Figure 1, the blower crank is replaced by a wooden drum, *a* (13 cm. (5 inches) in diameter is convenient). This drum is wound with about 12 m. (40 feet) of No. 2 picture cord, *b*. A weight, *c*, of sufficient mass to rotate the blower at the desired speed is suspended from this wire cord. A mark is made on the cord about 3 to 4.5 m. (10 to 15 feet) from the weight, *c*. Another mark is placed at a measured distance (6-9 m./20-30 feet is convenient) from the first.

These are used to facilitate timing. To determine the torque or horsepower required to operate the blower, the drum is started in rotation manually at or slightly above the speed at which the power measurement is to be made. The blower is then permitted to assume constant speed, and then as the first mark on the wire leaves the drum, a stopwatch is started. The watch is stopped when the second mark leaves the drum. From these data the foot-pounds per minute and the torque may be calculated.

§ 11.124-4 Type B supplied-air respirator; minimum requirements.

No Type B supplied-air respirator shall be approved for use with a blower or with connection to an air supply device at positive pressures.

§ 11.124-5 Type C supplied-air respirator, continuous flow class; minimum requirements.

(a) Respirators tested under this section shall be approved only when they supply respirable air at the pressures and quantities required.

(b) The pressure at the inlet of the hose connection shall not exceed 863 kN/m.² (125 pounds per square inch gage).

(c) Where the pressure at any point in the supply system exceeds 863 kN/m.² (125 pounds per square inch gage), the respirator shall be equipped with a pressure-release mechanism that will prevent the pressure at the hose connection from exceeding 863 kN/m.² (125 pounds per square inch gage) under any conditions.

§ 11.124-6 Type C supplied-air respirator, demand and pressure demand class; minimum requirements.

(a) Respirators tested under this section shall be approved only when used to supply respirable air at the pressures and quantities required.

(b) The manufacturer shall specify the range of air pressure at the point of attachment of the air-supply hose to the air-supply system, and the range of hose length for the respirator. For example, he might specify that the respirator be used with compressed air at pressures ranging from 280-550 kN/m.² (40 to 80 pounds per square inch) with from 6 to 76 m. (15 to 250 feet) of air-supply hose.

(c) The specified air pressure at the point of attachment of the hose to the air-supply system shall not exceed 863 kN/m.² (125 pounds per square inch gage).

(d) (1) Where the pressure in the air-supply system exceeds 863 kN/m.² (125 pounds per square inch gage), the respirator shall be equipped with a pressure-release mechanism that will prevent the pressure at the point of attachment of the hose to the air-supply system from exceeding 863 kN/m.² (125 pounds per square inch gage).

(2) The pressure-release mechanism shall be set to operate at a pressure not more than 20 percent above the manufacturer's highest specified pressure. For example, if the highest specified pressure is 863 kN/m.² (125 pounds per square inch), the pressure-release mechanism

would be set to operate at a maximum of 1,035 kN/m² (150 pounds per square inch).

§ 11.124-7 Air-supply line tests; minimum requirements.

Air supply lines employed on Type A, Type B, and Type C supplied-air respirators shall meet the minimum test requirements set forth in Table 8.

§ 11.124-8 Harness test; minimum requirements.

(a) (1) Shoulder straps employed on Type A supplied-air respirators shall be tested for strength of material, joints, and seams and must separately withstand a pull of 113 kg. (250 pounds) for 30 minutes without failure.

(2) Belts, rings, and attachments for life lines must withstand a pull of 136 kg. (300 pounds) for 30 minutes without failure.

(3) The hose shall be firmly attached to the harness so as to withstand a pull of 113 kg. (250 pounds) for 30 minutes without separating, and the hose attachments shall be arranged so that the pull or drag of the hose behind an advancing wearer does not disarrange the harness or exert pull upon the facepiece.

(4) The arrangement and suitability of all harness accessories and fittings will be considered.

(b) (1) The harness employed on Type B supplied-air respirators shall not be uncomfortable, disturbing, or interfere with the movements of the wearer.

(2) The harness shall be easily adjustable to various sizes.

(3) The hose shall be attached to the harness in a manner that will withstand a pull of 45 kg. (100 pounds) for 30 minutes without separating or showing signs of failure.

(4) The design of the harness and attachment of the line shall permit dragging the maximum length of hose considered for approval over a concrete floor without disarranging the harness or exerting a pull on the facepiece.

(5) The arrangement and suitability of all harness accessories and fittings will be considered.

(c) The harness employed on Type C respirators shall be similar to that required on the Type B respirator, or, it may consist of a simple arrangement for attaching the hose to a part of the wearer's clothing in a practical manner that prevents a pull equivalent to dragging the maximum length of the hose over a concrete floor from exerting pull upon the respiratory-inlet covering.

(d) Where supplied-air respirators have a rigid or partly rigid head covering, a suitable harness shall be required to assist in holding this covering in place.

§ 11.124-9 Breathing tube test; minimum requirements.

(a) (1) Type A and Type B supplied-air respirators shall employ one or two flexible breathing tubes of the non-kinking type which extend from the facepiece to a connecting hose coupling attached to the belt or harness.

(2) The breathing tubes employed shall permit free head movement, insure

against closing off by kinking or by chin or arm pressure, and they shall not create a pull that will loosen the facepiece or disturb the wearer.

(b) Breathing tubes employed on Type C supplied-air respirators of the continuous flow class shall meet the minimum requirements set forth in paragraph (a) of this section, however, an extension of the connecting hose may be employed in lieu of the breathing tubes required.

(c) (1) A flexible, nonkinking type breathing tube shall: (i) Be employed on Type C supplied-air respirators of the demand and pressure-demand class; and (ii) extend from the facepiece to the demand or pressure-demand valve, except where the valve is attached directly to the facepiece.

(2) The breathing tube shall permit free head movement, insure against closing off by kinking or by chin or arm pressure, and shall not create a pull that will loosen the facepiece or disturb the wearer.

§ 11.124-10 Airflow resistance test, Type A and Type AE supplied-air respirators; minimum requirements.

(a) Airflow resistance will be determined when the respirator is completely assembled with the respiratory-inlet covering, the air-supply device, and the maximum length of air-supply hose coiled for one-half its length in loops 1.5 to 2.1 m. (5 to 7 feet) in diameter.

(b) The inhalation resistance, drawn at the rate of 85 liters (3 cubic feet) per minute when the blower is not operating or under any practical condition of blower operation shall not exceed the following amounts:

Maximum length of hose for which respirator is approved		Maximum resistance, water column height	
Feet	Meters	Inches	Millimeters
75	23	1.5	38
150	46	2.5	64
250	76	3.5	89
300	91	4.0	102

(c) The exhalation resistance shall not exceed 25 mm. (1 inch) of water-column height at a flow rate of 85 liters (3 cubic feet) per minute when the blower is not operating or under any practical condition of blower operation.

§ 11.124-11 Airflow resistance test; Type B and Type BE supplied-air respirators; minimum requirements.

(a) Airflow resistance shall be determined when the respirator is completely assembled with the respiratory-inlet covering and the hose in the maximum length to be considered for approval, coiled in loops 1.5 to 2.1 m. (5 to 7 feet) in diameter.

(b) Airflow resistance shall not exceed 38 mm. (1.5 inches) of water-column height to air drawn at the flow rate of 85 liters (3 cubic feet) per minute.

(c) The exhalation resistance shall not exceed 25 mm. (1 inch) of water-column height at this flow rate.

§ 11.124-12 Airflow resistance test; Type C supplied-air respirator, continuous flow class and Type CE supplied-air respirator; minimum requirements.

The resistance to air flowing from the respirator shall not exceed 25 mm. (1 inch) of water-column height when the air flow into the respiratory-inlet covering is 115 liters (4 cubic feet) per minute.

§ 11.124-13 Airflow resistance test; Type C supplied-air respirator, demand class; minimum requirements.

(a) Inhalation resistance shall not exceed 50 millimeters (2 inches) of water at an air flow of 115 liters (4 cubic feet) per minute.

(b) The exhalation resistance to a flow of air at a rate of 85 liters (3 cubic feet) per minute shall not exceed 25 millimeters (1 inch) of water.

§ 11.124-14 Airflow resistance test; Type C supplied-air respirator, pressure-demand class; minimum requirements.

(a) The static pressure in the facepiece shall not exceed 38 mm. (1.5 inches) of water-column height.

(b) The pressure in the facepiece shall not fall below atmospheric at inhalation airflows less than 115 liters (4 cubic feet) per minute.

(c) The exhalation resistance to a flow of air at a rate of 85 liters (3 cubic feet) per minute shall not exceed the static pressure in the facepiece by more than 51 mm. (2 inches) of water-column height.

§ 11.124-15 Exhalation valve leakage test.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.124-16 Man tests for gases and vapors; supplied-air respirators; general performance requirements.

(a) Wearers will enter a chamber containing a gas or vapor as prescribed in §§ 11.124-17, 11.124-18, 11.124.19, and 11.124-20.

(b) Each wearer will spend 10 minutes in work to provide observations on freedom of the device from leakage. The freedom and comfort allowed the wearer will also be considered.

(c) Time during the test period will be divided as follows:

(1) *Five minutes.* Walking, turning head, dipping chin; and

(2) *Five minutes.* Pumping air with a tire pump into a 28-liter (1 cubic foot) container, or equivalent work.

(d) No odor of the test gas or vapor shall be detected by the wearer in the air breathed during any such test, and the wearer shall not be subjected to any undue discomfort or encumbrance because of the fit, air delivery, or other features of the respirator during the testing period.

§ 11.124-17 Man test for gases and vapors; Type A and Type AE respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1 ± 0.025 percent isoamyl acetate vapor, and the blower, the intake of the hose, and not more than 25 percent of the hose length will be located in isoamyl acetate-free air.

(b) The man in the isoamyl acetate atmosphere will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operating).

(c) The 10-minute work test will be repeated with the blower in operation at any practical speed up to 50 revolutions of the crank per minute.

§ 11.124-18 Man test for gases and vapors; Type B and Type BE respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1 ± 0.025 percent isoamyl acetate vapor, and the intake of the hose, and not more than 25 percent of the hose length will be located in isoamyl acetate-free air.

(b) The man in the isoamyl acetate atmosphere will draw his inspired air through the hose and connections by means of his lungs alone.

§ 11.124-19 Man test for gases and vapors; Type C respirators, continuous-flow class and Type CE supplied-air respirators; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1 ± 0.025 percent isoamyl acetate vapor, the intake of the hose will be connected to a suitable source of respirable air, and not more than 25 percent of the hose length will be located in isoamyl acetate-free air.

(b) The minimum flow of air required to maintain a positive pressure in the respiratory-inlet covering throughout the entire breathing cycle will be supplied to the wearer, provided however, that airflow shall not be less than 115 liters per minute for tight-fitting and not less than 170 liters per minute for loose-fitting respiratory inlet-coverings.

(c) The test will be repeated with the maximum rate of flow attainable within specified operating pressures.

§ 11.124-20 Man test for gases and vapors; Type C supplied-air respirators, demand and pressure-demand classes; test requirements.

(a) The completely assembled respirator will be worn in a chamber containing 0.1 ± 0.025 percent isoamyl acetate vapor, the intake of the hose will be connected to a suitable source of respirable air, and not more than 25 percent of the hose length will be located in isoamyl acetate free air.

(b) The test will be conducted at the minimum pressure with the maximum hose length and will be repeated at the

maximum pressure with the minimum hose length.

§ 11.124-21 Tests for protection during abrasive blasting; Type AE, Type BE, and Type CE supplied-air respirators; general performance requirements.

(a) Tests will be made under conditions of typical abrasive blasting operation.

(b) The tests prescribed in §§ 11.124-22, 11.124-23, and 11.124-24 will be conducted under the following conditions:

(1) A suction-feed abrasive blasting outfit will be used by the wearer;

(2) The diameter of the air jet shall be 5 mm. ($\frac{3}{16}$ inch);

(3) Air pressure will be 276-483 kN/m² (40-70 pounds per square inch);

(4) The abrasive used will contain a composition of 99+ percent free silica (SiO₂);

(5) The size properties of the abrasive used will be a mixture of 90 percent by weight of essentially No. 1 sandblast sand and 10 percent air-floated fines; and

(6) The No. 1 sand used will meet a size specification of not more than 10 percent on a 20-mesh sieve and not more than 10 percent through a 35-mesh sieve; 99+ percent of the fines will be able to pass through a 270-mesh sieve. All size determinations will be made by standard-mesh sieves.

(c) Tests will be conducted for 30 minutes continuously.

(d) (1) The person wearing the respirator will sandblast the inside surface of a common iron kettle of approximate hemispherical shape (about 76 cm. (30 inches) in diameter, and 113.6 liters (30 gallons) capacity).

(2) The kettle will be placed with the plane of the opening inclined 45° from a vertical position and with the lowest point of the rim at about the height of the person's hips.

(3) The wearer will stand at one position in front of the kettle and lean over until the upper part of the body is inclined to parallel the face of the kettle.

(4) The wearer will blast the entire inner surface of the kettle with the blast at all times directed approximately at right angles to the surface with the nozzle of the gun approximately 15 cm. (6 inches) from the surface, and with his head approximately 46 cm. (18 inches) from the nozzle.

(5) The wearer will move his head forward, backward, and sideways during each blasting operation.

(e) (1) Air will be withdrawn continuously during the test at the rate of 32 liters (1.13 cubic feet) per minute from the respiratory-inlet covering at a point as near as convenient to the wearer's nostrils.

(2) Simultaneously air will be drawn at the same rate from the source of intake air to the respirator.

(f) Respirators tested in accordance with §§ 11.124-22, 11.124-23, and 11.124-24 shall meet the following minimum requirements:

(1) The amount of particulate matter in the air withdrawn from the respiratory-inlet covering shall not exceed the amount of particulate matter supplied to the respirator by more than 0.5 mg. for the 30-minute test period;

(2) The wearer of the respirator in this test shall not experience undue encumbrance and discomfort because of the fit, air delivery, or other features of the respirator; and,

(3) The head and shoulder covering shall adequately protect the wearer from discomfort or injury due to impact or abrasion from the rebounding material during the test.

§ 11.124-22 Test for protection during abrasive blasting; Type AE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.124-17(a), and the tests prescribed in § 11.124-21 will be performed.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone (blower not operating).

(c) The test will be repeated with the blower in operation at any practical speed up to 50 revolutions per minute of the crank.

§ 11.124-23 Test for protection during abrasive blasting; Type BE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.124-18(a), and the tests prescribed in § 11.124-21 will be performed.

(b) The wearer will draw his inspired air through the hose, connections, and all parts of the air device by means of his lungs alone.

§ 11.124-24 Test for protection during abrasive blasting; Type CE supplied-air respirator; test requirements.

(a) The respirator will be arranged as prescribed in § 11.124-19(a), and the tests prescribed in § 11.124-21 will be performed.

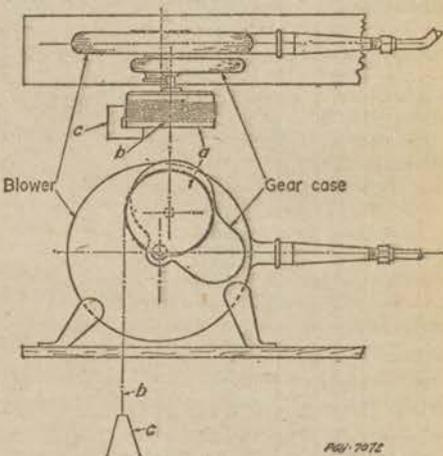


Figure 1.—Apparatus for measuring power required to operate blower. (30 CFR Part 11, Subpart J, § 11.124-3)

TABLE 8.—AIR-SUPPLY-LINE REQUIREMENTS AND TESTS—Continued
(30 CFR Part 11, Subpart J, § 11.124-7)

Specific requirements	Requirements for the air-supply lines of the indicated types of supplied-air respirators		
	Type A	Type B	Type C
Noncollapsibility.	The hose shall not collapse or exhibit permanent deformation when a force of 90 kg. (200 pounds) is applied for 5 minutes between 2 inches wide on opposite sides of the hose.	Same as Type A.	None.
Noninkability.	None.	None.	A 7.6 m. (25 foot) section of the hose will be placed on a horizontal-plane surface and shaped into a one-loop coil with one end of the hose connected to an airflow meter and the other end of the hose supplied with air at the minimum specified supply pressure. The connection shall be in the plane of the loop. The other end of the hose will be pulled tangentially to the loop and in the plane of the loop until the hose straightens. To meet the requirements of this test the loop shall maintain a uniform near-circular shape and ultimately unfold as a spiral, without any localized deformation that decreases the flow of air to less than 90 percent of the flow when the hose is tested while remaining in a straight line.
Strength of hose and couplings.	Hose and couplings shall not separate or fall when tested with a pull of 113 kg. (250 pounds) for 5 minutes.	Same as Type A.	Hose and couplings shall not exhibit any separation or failure when tested with a pull of 45 kg. (100 pounds) for 5 minutes and when tested by subjecting them to an internal air pressure of 2 times the maximum respirator-supply pressure that is specified by the applicant or at 173 kN/m. ² (25 pounds per square inch) gage, whichever is higher.
Tightness.	No air leakage shall occur when the hose and couplings are joined and the joint(s) are immersed in water and subjected to an internal air pressure of 35 kN/m. ² (5 pounds per square inch) gage. The permeation of the hose by gasoline will be tested by immersing 7.6 m. (25 feet) of hose and one coupling in gasoline, with air flowing through the hose at the rate of 8 liters per minute for 6 hours. The air from the hose shall not contain more than 0.01 percent by volume of gasoline vapor at the end of the test.	None.	Leakage of air exceeding 50 cc. per minute at each coupling shall not be permitted when the hose and couplings are joined and are immersed in water, with air flowing through the respirator under a pressure of 173 kN/m. ² (25 pounds per square inch) gage applied to the inlet end of the air-supply hose, or at twice the maximum respirator-supply pressure that is specified by the applicant, whichever is higher. Same as for Type A.
Permeation of hose by gasoline.	The permeation of the hose by gasoline will be tested by immersing 7.6 m. (25 feet) of hose and one coupling in gasoline, with air flowing through the hose at the rate of 8 liters per minute for 6 hours. The air from the hose shall not contain more than 0.01 percent by volume of gasoline vapor at the end of the test.	None.	A hand-operated detachable coupling by which the wearer can readily attach or detach the connecting hose shall be provided at a convenient location. This coupling shall be durable, remain connected under all conditions of normal respirator use, and meet the prescribed tests for strength and tightness of hose and couplings.

TABLE 8.—AIR-SUPPLY-LINE REQUIREMENTS AND TESTS
(30 CFR Part 11, Subpart J, § 11.124-7)

Specific requirements	Requirements for the air-supply lines of the indicated type of supplied-air respirators		
	Type A	Type B	Type C
Length of hose.	Maximum of 91 m. (300 feet), in multiples of 7.6 m. (25 feet). It will be permissible for the applicant to supply hose of the approved type of shorter length than 7.6 m. (25 feet) provided it meets the requirements of the part.	Maximum of 23 m. (75 feet) in multiples of 7.6 m. (25 feet).	Maximum of 91 m. (300 feet) in multiples of 7.6 m. (25 feet). It will be permissible for the applicant to supply hose of the approved type of shorter length than 7.6 m. (25 feet) provided it meets the requirements of the part.
Air flow.	None.	None.	The air-supply hose with air regulating valve or orifice shall permit a flow of not less than 115 liters (4 cubic feet) per minute to tight-fitting and 170 liters (6 cubic feet) per minute to loose-fitting respiratory-inlet coverings through the maximum length of hose for which approval is granted and at the minimum specified air-supply pressure. The maximum flow shall not exceed 425 liters (15 cubic feet) per minute at the maximum specified air-supply pressure with the minimum length of hose for which approval is granted. The air-supply hose, detachable coupling, and demand valve of the demand class or pressure-demand valve of the pressure-demand class for Type C supplied-air respirators, demand and pressure-demand classes, shall be capable of delivering respirable air at a rate of not less than 115 liters (4 cubic feet) per minute to the respiratory-inlet covering at an inhalation resistance not exceeding 50 millimeters (2 inches) of water-column height measured in the respiratory-inlet covering with any combination of air-supply pressure and length of hose within the applicant's specified range of pressure and hose length. The air-flow rate and resistance to inhalation shall be measured while the demand or pressure-demand valve is actuated 20 times per minute by a source of intermittent suction. The maximum rate of flow to the respiratory-inlet covering shall not exceed 425 liters (15 cubic feet) per minute under the specified operating conditions.
Air-regulating valve.	None.	None.	If an air-regulating valve is provided, it shall be so designed that it will remain at a specific adjustment, which will not be affected by the ordinary movement of the wearer. The valve must be so constructed that the air supply with the maximum length of hose and at the minimum specified air-supply pressure will not be less than 115 liters (4 cubic feet) of air per minute to tight-fitting and 170 liters (6 cubic feet) of air per minute of loose-fitting respiratory inlet coverings for any adjustment of the valve. If a demand or pressure-demand valve replaces the air-regulating valve, it shall be connected to the approval is sought by means of the minimum length of air-supply hose for which approval is sought. The outlet of the demand or pressure-demand valve shall be connected to a source of intermittent suction of sufficient capacity to insure 20 actuations per minute for a total of 104,000 inhalations. To expedite this test the rate of actuation may be increased if mutually agreeable to the applicant and the Bureau. During this test the valve shall function without failure and without excessive wear of the moving parts. The demand or pressure-demand valve shall not be damaged in any way when subjected at the outlet to a pressure or suction of 25 cm. (10 inches) of water gage for 2 minutes.

Subpart K—Dust, Fume, and Mist Respirators

§ 11.130 Dust, fume, and mist respirators; description.

Dust, fume, and mist respirators, including all completely assembled respirators designed for use as respiratory protection during entry into and escape from hazardous particulate atmospheres which contain adequate oxygen to support life, are described as follows:

(a) Respirators, either with replaceable or reusable filters, designed as respiratory protection against dusts (1) having an air contamination level not less than 0.05 milligram per cubic meter of air, including but not limited to coal, arsenic, cadmium, chromium, lead, and manganese; or (2) dusts having an air contamination level not less than 2 million particles per cubic foot of air, including but not limited to aluminum, flour, iron ore, and free silica, resulting principally from the disintegration of a solid, e.g., dust clouds produced in mining, quarrying, and tunneling, and in dusts produced during industrial operations, such as grinding, crushing, and the general processing of minerals and other materials.

(b) Respirators, with replaceable filters, designed as respiratory protection against fumes of various metals having an air contamination level not less than 0.05 milligram per cubic meter, including but not limited to aluminum, antimony, arsenic, cadmium, chromium, copper, iron, lead, magnesium, manganese, mercury (except mercury vapor), and zinc, which result from the sublimation or condensation of their respective vapors, or from the chemical reaction between their respective vapors and gases.

(c) Respirators, with replaceable filters, designed as respiratory protection against mists of materials having an air contamination level not less than 0.05 milligram per cubic meter or 2 million particles per cubic foot, e.g., mists produced by spray coating with vitreous enamels, chromic acid mist produced during chromium plating, and other mists of materials whose liquid vehicle does not produce harmful gases or vapors.

(d) Respirators, with replaceable filters, designed as respiratory protection against dusts, fumes, and mists having an air contamination level less than 0.05 milligram per cubic meter, including but not limited to lithium hydride and beryllium, and against radionuclides.

(e) Respirators, with replaceable filters, designed as respiratory protection against radon daughters, and radon daughters attached to dusts, fumes, and mists.

(f) Respirators, with replaceable filters, designed as respiratory protection against asbestos-containing dusts and mists.

(g) Respirators, with replaceable filters, designed as protection against various combinations of particulate matter.

(h) Single-use dust respirators designed as respiratory protection against pneumoconiosis- and fibrosis-producing

dusts, or dusts and mists, including but not limited to aluminum, asbestos, coal, flour, iron ore, and free silica.

(i) The types of dust, fume, and mist respirators in paragraphs (a) through (g) of this section may also be classified according to their design as follows:

- (1) Air-purifying respirators; and
- (2) Powered air-purifying respirators.

§ 11.131 Dust, fume and mist respirators; required components.

(a) Each dust, fume, and mist respirator described in § 11.130 shall, where its design requires, contain the following component parts:

- (1) Facepiece, mouthpiece with noseclip, hood, or helmet;
- (2) Filter unit;
- (3) Harness;
- (4) Attached blower; and
- (5) Breathing tube.

(b) The components of each dust, fume, and mist respirator shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.132 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

- (1) Restriction of free head movement;
- (2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;
- (3) Interference with the wearer's activities; and
- (4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.133 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.134 Respirator containers; minimum requirements.

(a) Except as provided in paragraph (b) of this section each respirator shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type of respirator is contains, and all appropriate approval labels.

(b) Containers for single-use respirators may provide for storage of more than one respirator, however, such containers shall be designed and constructed to prevent contamination of respirators which are not removed, and to prevent damage to respirators during transit.

§ 11.135 Half-mask facepieces, full facepieces, hoods, helmets, and mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and con-

structed to fit persons with various facial shapes and sizes either: (1) By providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles or lenses, which shall not reduce the respiratory protective qualities of the respirator.

(c) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, provide for the optional use of corrective spectacles or lenses, and insure against any restriction of movement by the wearer.

(d) Mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece or respirator and provide an airtight seal.

(e) Facepieces, hoods, and helmets shall be designed to prevent eyepiece fogging.

(f) Half-mask facepieces shall not interfere with the fit of common industrial safety corrective spectacles, as determined by the Bureau's facepiece tests in §§ 11.140-1 and 11.140-2.

§ 11.136 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepieces.

§ 11.137 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be protected against distortion.

(b) Inhalation valves shall be designed and constructed and provided where necessary to prevent excessive exhaled air from adversely affecting filters, except where filters are specifically designed to resist moisture as prescribed in § 11.140-5.

(c) Exhalation valves shall be: (1) Provided where necessary; (2) protected against damage and external influence; and (3) designed and constructed to prevent inward leakage of contaminated air.

§ 11.138 Head harnesses; minimum requirements.

(a) All facepieces shall be equipped with head harnesses designed and constructed to provide adequate tension during use and an even distribution of pressure over the entire area in contact with the face.

(b) Facepiece head harnesses, except those employed on single-use respirators, shall be adjustable and replaceable.

(c) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable harnesses, designed and constructed to hold the mouthpiece in place.

§ 11.139 Air velocity and noise levels; hoods and helmets; minimum requirements.

Noise levels generated by the respirator will be measured inside the hood or helmet at maximum airflow obtainable and shall not exceed 80 dBA.

§ 11.140 Dust, fume, and mist respirators; performance requirements; general.

Dust, fume, and mist respirators and the individual components of each such device shall, as appropriate, meet the requirements for performance and protection specified in the tests described in §§ 11.140-1 through 11.140-12 and prescribed in Tables 9 and 10.

§ 11.140-1 Isoamyl acetate tightness test; dust, fume, and mist respirators designed for respiratory protection against fumes of various metals having an air contamination level not less than 0.05 milligram per cubic meter; minimum requirements.

(a) The respirator will be modified in such a manner that all of the air that normally would be inhaled through the inhalation port(s) is drawn through an efficient activated charcoal-filled canister, or cartridge(s), without interference with the face-contacting portion of the facepiece.

(b) The modified respirator will be worn by persons for at least 2 minutes each in a test chamber containing 100 parts (by volume) of isoamyl-acetate vapor per million parts of air.

(c) The odor of isoamyl-acetate shall not be detected by the wearers of the modified respirator while in the test atmosphere.

§ 11.140-2 Isoamyl acetate tightness test; respirators designed for respiratory protection against dusts, fumes, and mists having an air contamination level less than 0.05 milligram per cubic meter, or against radionuclides; minimum requirements.

(a) The applicant shall provide a charcoal-filled canister or cartridge of a size and resistance similar to the filter unit with connectors which can be attached to the facepiece in the same manner as the filter unit.

(b) (1) The canister or cartridge will be used in place of the filter unit, and persons will each wear a modified half-mask facepiece for 5 minutes in a test chamber containing 100 parts (by volume) of isoamyl-acetate vapor per million parts of air.

(2) The following work schedule will be performed by each wearer in the test chamber:

(i) Two minutes walking, nodding, and shaking head in normal movements; and

(ii) Three minutes exercising and running in place.

(3) The facepiece shall be capable of adjustment, according to the applicant's instructions, to each wearer's face, and the odor of isoamyl-acetate shall not be detectable by any wearer during the test.

(c) Where the respirator is equipped with a full facepiece, hood, helmet, or mouthpiece, the canister or cartridge will be used in place of the filter unit, and persons will each wear the modified respiratory-inlet covering for 5 minutes in a test chamber containing 1,000 parts (by volume) of isoamyl-acetate vapor per million parts of air, performing the work

schedule specified in paragraph (b) (2) of this section.

§ 11.140-3 Air-purifying filter tests; performance requirements; general.

Dust, fume, and mist respirators will be tested in accordance with the schedule set forth in Table 10 to determine their effectiveness as protection against the particulate hazards specified therein.

§ 11.140-4 Silica dust test; single-use or reusable filters; minimum requirements.

(a) Three respirators with single-use filters will be tested for periods of 90 minutes each at a continuous airflow rate of 32 liters per minute for air-purifying respirators, and for periods of 4 hours each at a flowrate not less than 115 liters per minute to tight-fitting facepieces, and not less than 170 liters per minute to loose-fitting hoods and helmets for powered air-purifying respirators.

(b) The relative humidity in the test chamber will be 20-80 percent, and the room temperature approximately 25° C.

(c) The test suspension in the chamber will not be less than 50 nor more than 60 milligrams of flint (99+ percent free silica) per cubic meter of air.

(d) The flint in suspension will be ground to pass 99+ percent through a 270-mesh sieve.

(e) The particle-size distribution of the test suspension will have a geometric mean of 0.4 to 0.6 micrometer, and the standard geometric deviation will not exceed 2.

(f) The total amount of unretained test suspension in samples taken during testing shall not exceed 1.5 milligrams for an air-purifying respirator, 14.4 milligrams for a powered air-purifying respirator with tight-fitting facepiece, and 21.3 milligrams for a powered air-purifying respirator with loose-fitting hood or helmet.

(g) Three respirators with reusable filters will be tested and shall meet the requirements specified in paragraphs (a) through (f) of this section; each filter shall be tested three times: Once as received; once after cleaning; and once after recleaning. The applicant's instructions shall be followed for each cleaning.

§ 11.140-5 Silica-dust test; single-use dust respirators; minimum requirements.

(a) Three respirators will be tested.

(b) As described in § 11.140-4, airflow will be cycled through the respirator by a breathing machine at the rate of 24 respirations per minute with a minute volume of 40 liters; a breathing machine can with a work rate of 622 kg.-m.²/minute shall be used.

(c) Air exhaled through the respirator will be 35° ± 2° C. (95° ± 3° F.) with 94 ± 3 percent relative humidity.

(d) Air inhaled through the respirator will be sampled and analyzed for respirator leakage.

(e) The total amount of unretained test suspension, after drying, in samples

taken during testing, shall not exceed 1.8 milligrams for any single test.

§ 11.140-6 Lead fume test; minimum requirements.

(a) Three respirators will be tested for a period of 312 minutes each at a continuous airflow rate of 32 liters per minute for air-purifying respirators, and for periods of 4 hours each at a flow rate not less than 115 liters per minute to tight-fitting facepieces, and not less than 170 liters per minute to loose-fitting hoods and helmets for powered air-purifying respirators.

(b) The relative humidity in the test chamber will be 20-80 percent, and the room temperature approximately 25° C.

(c) The test suspension in the test chamber will not be less than 15 nor more than 20 milligrams of freshly generated lead-oxide fume, calculated as lead (Pb), per cubic meter of air.

(d) The fume will be generated by impinging an oxygen-gas flame on molten lead.

(e) Samples of the test suspension will be taken during each test period for analysis.

(f) The total amount of unretained test suspension in the samples taken during testing, which is analyzed and calculated as lead (Pb), shall not exceed 1.5 milligrams of lead for an air-purifying respirator, 4.2 milligrams of lead for a powered air-purifying respirator with tight-fitting facepiece, and 6.2 milligrams of lead for a powered air-purifying respirator with loose-fitting hood or helmet.

§ 11.140-7 Silica mist test; minimum requirements.

(a) Three respirators will be tested for a period of 312 minutes each at a continuous airflow rate of 32 liters per minute for air-purifying respirators, and for periods of 4 hours each at a flow rate not less than 115 liters per minute to tight-fitting facepieces, and not less than 170 liters per minute to loose-fitting hoods and helmets for powered air-purifying respirators.

(b) The room temperature in the test chamber will be approximately 25° C.

(c) The test suspension in the test chamber will not be less than 20 nor more than 25 milligrams of silica mist, weighed as silica dust, per cubic meter of air.

(d) Mist will be produced by spraying an aqueous suspension of flint (99+ percent free silica), and the flint shall be ground to pass 99+ percent through a 270-mesh sieve.

(e) Samples of the test suspension will be taken during each test period for analysis.

(f) The total amount of silica mist unretained in the samples taken during testing, weighed as silica dust, shall not exceed 2.5 milligrams for an air-purifying respirator, 6.9 milligrams for a powered air-purifying respirator with tight-fitting facepiece, and 10.2 milligrams for a powered air-purifying respirator with loose-fitting hood or helmet.

§ 11.140-8 Tests for respirators designed for respiratory protection against more than one type of dispersoid; minimum requirements.

Respirators designed as respiratory protection against more than one particulate hazard (dust, fume, or mist) shall comply with all the requirements of this part, with respect to each of the specific hazards involved.

§ 11.140-9 Airflow resistance tests; all dust, fume, and mist respirators; minimum requirements.

(a) Resistance to airflow will be measured in the facepiece, mouthpiece, hood, or helmet of a dust, fume, or mist respirator mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute, both before and after each test conducted in accordance with §§ 11.140-4 through 11.140-7.

(b) The maximum allowable resistance requirements for dust, fume, and mist respirators are as follows:

MAXIMUM RESISTANCE
(mm. water-column height)

Type of respirator	Initial Inhalation	Final Inhalation	Exhalation
Single-use	12	15	15
Dust, fume, and mist, with single-use filter	30	50	20
Dust, fume, and mist, with reusable filter	20	40	20
Radon daughter	18	25	15
Asbestos dust and mist	18	25	15

¹ Measured after silica dust test described in § 11.140-4.

§ 11.140-10 Exhalation valve leakage test; minimum requirements.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

TABLE 10—AIR-PURIFYING AND POWERED AIR-PURIFYING RESPIRATOR FILTER TESTS REQUIRED FOR APPROVAL
(30 CFR Part 11, Subpart K, § 11.140-4, et seq.)

Respirator types	Silica dust tests			Lead fume test	Silica mist test	DOP test
	11.140-4	11.140-5	11.140-12			
Dusts: Air Contamination Level not less than 0.05 mg/M ³ or 2 mppcf.	X					
Fumes: Air Contamination Level not less than 0.05 mg/M ³ .			X			
Mists: Air Contamination Level not less than 0.05 mg/M ³ or 2 mppcf.					X	
Dusts, Fumes, and Mists: Air Contamination Level less than 0.05 mg/M ³ or 2 mppcf, and radionuclides.		X				X
Radon daughters	X ¹			X ²		
Asbestos-containing dusts and mists	X ³				X ¹	
Single-use dust and mist respirators		X ³			X ³	

¹ For resistance only.

² For penetration only.

³ Test required only where applicable.

§ 11.140-11 DOP filter test; respirators designed as respiratory protection against dusts, fumes, and mists having an air contamination level less than 0.05 milligram per cubic meter and against radionuclides; minimum requirements.

(a) All single air-purifying respirator filter units will be tested in an atmosphere concentration of 100 micrograms of DOP per liter of air at continuous flow rates of 32 and 85 liters per minute for a period of 5 to 10 seconds.

(b) Where filters are to be used in pairs, the flow rates will be 16 and 42.5 liters per minute, respectively, through each filter.

(c) The filter will be mounted on a connector in the same manner as used on the respirator, and the total leakage for the connector and filter shall not exceed 0.03 percent of the ambient DOP concentration at either flow rate.

§ 11.140-12 Silica dust loading test; respirators designed as protection against dusts, fumes, and mists having an air contamination level less than 0.05 milligram per cubic meter and against radionuclides; minimum requirements.

Three respirators will be tested in accordance with the provisions of § 11.140-4 and shall meet the minimum requirements of §§ 11.140-4 and 11.140.9.

TABLE 9.—FACEPIECE TEST REQUIREMENTS
(30 CFR Part 11, Subpart K, § 11.140-1, et seq.)

Respirator types	Pressure tightness test ¹	Isoamyl acetate test	
		11.140-1	11.140-2
Dusts: Air Contamination Level not less than 0.05 mg/M ³ or 2 mppcf.	X		
Fumes: Air Contamination Level not less than 0.05 mg/M ³ .	X	X	
Mists: Air Contamination Level not less than 0.05 mg/M ³ or 2 mppcf.	X		
Dusts, Fumes, and Mists: Air Contamination Level less than 0.05 mg/M ³ or 2 mppcf, and radionuclides.	X		X
Radon daughters	X	X	
Asbestos-containing dusts and mists	X		

¹ Test is required only where applicable.

Subpart L—Chemical Cartridge Respirators

§ 11.150 Chemical cartridge respirators; description.

Chemical cartridge respirators including all completely assembled respirators which are designed for use as respiratory protection during entry into or escape from atmospheres not immediately dangerous to life and health, are described according to the specific gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of chemical cartridge respirator:	Maximum use concentration, parts per million
Ammonia	300
Chlorine	10
Hydrogen chloride	50
Methyl amine	100
Organic vapor ⁷	^a 1,000
Sulfur dioxide	50

⁷ Not for use against organic vapors with poor warning properties or those which generate high heats of reaction with sorbent material in the cartridge.

^a Maximum use concentrations are lower for organic vapors which produce atmospheres immediately hazardous to life or health at concentrations equal to or lower than this concentration.

NOTE: Chemical cartridge respirators for respiratory protection against gases or vapors, which are not specifically listed with their maximum use concentration except pesticides, may be approved if the applicant submits a request for such approval, in writing, to the Bureau. The Bureau and the Institute shall consider each such application and accept or reject the application after a review of the effects on the wearer's health and safety and in the light of any field experience in use of chemical cartridge respirators as protection against such hazards.

§ 11.151 Chemical cartridge respirators; required components.

(a) Each chemical cartridge respirator described in § 11.150 shall, where its design requires, contain the following component parts:

- (1) Facepiece, mouthpiece, and noseclip, hood, or helmet;
- (2) Cartridge;
- (3) Cartridge with filter;
- (4) Harness;
- (5) Breathing tube; and
- (6) Attached blower.

(b) The components of each chemical cartridge respirator shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.152 Cartridges in parallel; resistance requirements.

Where two or more cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.153 Cartridges; color and markings; requirements.

The color and markings of all cartridges or labels shall conform with the requirements of the American National Standard for Identification of Gas Mask

Canisters, K13.1, obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

§ 11.154 Filters used with chemical cartridges; location; replacement

(a) Particulate matter filters used in conjunction with a chemical cartridge shall be located on the inlet side of the cartridge.

(b) Filters shall be incorporated in or firmly attached to the cartridge and each filter assembly shall, where applicable, be designed to permit its easy removal from and replacement on the cartridge.

§ 11.155 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

(1) Restriction of free head movement;

(2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;

(3) Interference with the wearer's activities; and

(4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.156 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.157 Respirator containers; minimum requirements.

Respirators shall be equipped with a substantial, durable container bearing markings which show the applicant's name, the type and commercial designation of the respirator it contains and all appropriate approval labels.

§ 11.158 Half-mask facepieces, full facepieces, mouthpieces, hoods, and helmets; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes either: (1) By providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, provide for the optional use of corrective spectacles or lenses, and insure against any restriction of movement by the wearer.

(c) Mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece or respirator and provide an airtight fit.

(d) Full facepieces shall provide for optional use of corrective spectacles or lenses which shall not reduce the respiratory protective qualities of the respirator.

(e) Facepieces, hoods, and helmets shall be designed to prevent eyepiece fogging.

§ 11.158-1 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepieces.

§ 11.159 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be provided where necessary and protected against distortion.

(b) Inhalation valves shall be designed and constructed to prevent excessive exhaled air from entering cartridges or adversely affecting canisters.

(c) Exhalation valves shall be: (1) Protected against damage and external influence, and (2) designed and constructed to prevent inward leakage of contaminated air.

§ 11.160 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to provide adequate tension during use and an even distribution of pressure over the entire area in contact with the face.

(b) Mouthpieces shall be equipped where applicable, with an adjustable and replaceable harness designed and constructed to hold the mouthpiece in place.

§ 11.161 Air velocity and noise levels; hoods and helmets; minimum requirements.

Noise levels generated by the respirator will be measured inside the hood or helmet at maximum airflow obtainable and shall not exceed 80 dBA.

§ 11.162 Chemical cartridge respirators; performance requirements; general.

Chemical cartridge respirators and the individual components of each such device shall, as appropriate, meet the minimum requirements for performance and protection specified in the tests described in §§ 11.162-1 through 11.162-8.

§ 11.162-1 Breathing resistance test; minimum requirements.

(a) Resistance to airflow will be measured in the facepiece, mouthpiece, hood, or helmet of a chemical cartridge respirator mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute, both before and after each test conducted in accordance with §§ 11.162-5 through 11.162-8.

(b) The maximum allowable resistance requirements for chemical cartridge respirators are as follows:

Type of chemical cartridge respirator	MAXIMUM RESISTANCE (mm. water-column height)		Exhalation
	Inhalation Initial	Final ¹	
For gases, vapors, or gases and vapors.....	40	45	20
For gases, vapors, or gases and vapors, and dusts, fumes, and mists.....	50	70	20
For gases, vapors, or gases and vapors, and mists of paints, lacquers, and enamels.....	50	70	20

¹ Measured at end of service life specified in Table 11.

§ 11.162-2 Exhalation valve leakage test; minimum requirements.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.

(b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.162-3 Facepiece test; minimum requirements.

(a) The complete chemical cartridge respirator will be fitted to the faces of persons having varying facial shapes and sizes.

(b) Where the applicant specifies a facepiece size or sizes for the respirator together with the approximate measurement of faces they are designed to fit, the Bureau will provide test subjects to suit such facial measurements.

(c) Any chemical cartridge respirator part which must be removed to perform the facepiece or mouthpiece fit test shall be replaceable without special tools and without disturbing facepiece or mouthpiece fit.

(d) The facepiece or mouthpiece fit test using the positive or negative pressure recommended by the applicant and described in his instructions will be used before each test.

(e) (1) Each wearer will enter a chamber containing 100 p.p.m. isoamyl acetate vapor for half-mask facepieces, and 1,000 p.p.m. for full facepieces, mouthpieces, hoods, and helmets.

(2) The facepiece or mouthpiece may be adjusted, if necessary, in the test chamber before starting the test.

(3) Each wearer will remain in the chamber for 8 minutes while performing the following activities:

(i) Two minutes, nodding and turning head;

(ii) Two minutes, calisthenic arm movements;

(iii) Two minutes, running in place; and

(iv) Two minutes, pumping with a tire pump into a 28-liter (1 cubic-foot) container.

(4) Each wearer shall not detect the odor of isoamyl-acetate vapor during the test.

§ 11.162-4 Lacquer and enamel mist tests; respirators with filters; minimum requirements; general.

(a) Three respirators with cartridges containing or having attached to them, filters for protection against mists of paints, lacquers, and enamels shall be tested in accordance with the provisions of § 11.162-8.

(b) In addition to the test requirements set forth in paragraph (a) of this section, three such respirators will be tested against each aerosol in accordance with the provisions of §§ 11.162-5 and 11.162-6.

§ 11.162-5 Lacquer mist test; minimum requirements.

(a) Temperature in the test chamber will be approximately 25° C.

(b) Continuous airflow through the respirator will be 32 liters per minute for air-purifying respirators, and not less than 115 liters per minute to tight fitting facepieces and 170 liters per minute to loose-fitting hoods and helmets of powered air-purifying respirators.

(c) Airflow through the chamber will be 20-25 air changes per minute.

(d) The atomizer employed will be a No. 64-5 nozzle with setup 3, or equivalent, operating at 69 kN/m². (10 pounds per square inch gage).

(e) The test aerosol will be prepared by atomizing a mixture of one volume of clear cellulose nitrate lacquer and one volume of lacquer thinner.

(f) The lacquer used will conform essentially to Federal Specification TT-L-31, October 7, 1953.

(g) The concentration of cellulose nitrate in the test aerosol will be 95-125 milligrams per cubic meter.

(h) The test aerosol will be drawn to each respirator for a total of 156 minutes for air-purifying respirators and 240 minutes for powered air-purifying respirators.

(i) The total amount of unretained mist in the samples taken during testing, weighed as cellulose nitrate, shall not exceed 5 milligrams for an air-purifying respirator, 28 milligrams for a powered air-purifying respirator with tight-fitting facepiece, and 41 milligrams for a powered air-purifying respirator with loose-fitting hood or helmet.

§ 11.162-6 Enamel mist test; minimum requirements.

(a) Temperature in the test chamber will be approximately 25° C.

(b) Continuous airflow through the respirator will be 32 liters per minute for air-purifying respirators, and not less than 115 liters per minute to tight-fitting facepieces and 170 liters per minute to loose-fitting hoods and helmets of powered air-purifying respirators.

(c) Airflow through the chamber will be 20-25 air changes per minute.

(d) The atomizer employed will be a No. 64 nozzle with setup 1A, or equivalent, operating at 69 kN/m². (10 pounds per square inch gage).

(e) The test aerosol will be prepared by atomizing a mixture of 1 volume of white enamel and 1 volume of turpentine.

(f) The enamel used will conform essentially to Federal Specification TT-E-489b, May 12, 1953 (an enamel having a phthalic alkyd resin vehicle and a titanium dioxide pigment).

(g) The concentration of pigment in the test aerosol, weighed as ash, will be 95-125 milligrams per cubic meter.

(h) The test aerosol will be drawn to each respirator for a total of 156 minutes for air-purifying respirators and 240 minutes for power air-purifying respirators.

(i) The total amount of unretained mist in the samples taken during testing, weighed as ash, shall not exceed 1.5 milligrams for any air-purifying respirator, 8.3 milligrams for a powered air-purifying respirator with tight-fitting facepiece, and 12.3 milligrams for a powered air-purifying respirator with loose-fitting hood or helmet.

§ 11.162-7 Dust, fume, and mist tests; respirators with filters; minimum requirements; general.

(a) Three respirators with cartridges containing, or having attached to them, filters for protection against dusts, fumes, and mists, except the mists of paints, lacquers, and enamels, will be tested in accordance with the provisions of § 11.162-8.

(b) In addition to the test requirements set forth in paragraph (a) of this section, three such respirators will be tested, as appropriate, in accordance with the provisions of §§ 11.140-1 through 11.140-14, however, the maximum allowable resistance of complete dust, fume, and mist, and gas, vapor, or gas and vapor chemical cartridge res-

pirators shall not exceed the maximum allowable limits set forth in § 11.162-1.

§ 11.162-8 Bench tests; gas and vapor tests; minimum requirements; general.

(a) Bench tests will be made on an apparatus that allows the test atmosphere at 50 ± 5 percent relative humidity and room temperature, approximately 25° C., to enter the cartridges continuously at predetermined concentrations and rates of flow, and that has means for determining the test life of the cartridges.

(b) Where two cartridges are used in parallel on a chemical cartridge respirator, the bench test will be performed with the cartridges arranged in parallel, and the test requirements will apply to the combination rather than to the individual cartridges.

(c) Three cartridges or pairs of cartridges will be removed from containers and tested as received from the applicant.

(d) Two cartridges or pairs of cartridges will be equilibrated at room temperature by passing 25 percent relative humidity air through them at the following flow rates (expressed in liters per minute (l.p.m.)) for 6 hours:

Type of cartridge:	Airflow rate, l.p.m.
Air purifying.....	25
Powered air purifying with tight-fitting facepiece.....	115
Powered air purifying with loose-fitting hood or helmet.....	170

(e) Two cartridges or pairs of cartridges will be equilibrated by passing 85 percent relative humidity air through them at the flow rates stated in paragraph (d) of this section.

(f) All cartridges will be resealed, kept in an upright position, at room temperatures, and tested within 18 hours.

(g) Cartridges will be tested and shall meet the minimum requirements set forth in Table 11.

TABLE 11.—CARTRIDGE BENCH TESTS AND REQUIREMENTS
(30 CFR Part 11, Subpart L, § 11.162-8)

Cartridge	Test condition	Test atmosphere		Flowrate (l.p.m.)	Number of tests	Penetration ¹ (p.p.m.)	Minimum life ² (min.)
		Gas or vapor	Concentration (p.p.m.)				
Ammonia.....	As received.....	NH ₃	1000	64	3	50	50
Ammonia.....	Equilibrated.....	NH ₃	1000	32	4	50	50
Chlorine.....	As received.....	Cl ₂	500	64	3	5	35
Chlorine.....	Equilibrated.....	Cl ₂	500	32	4	5	35
Hydrogen chloride.....	As received.....	HCl	500	64	3	5	50
Hydrogen chloride.....	Equilibrated.....	HCl	500	32	4	5	50
Methylamine.....	As received.....	CH ₃ NH ₂	1000	64	3	10	25
Methylamine.....	Equilibrated.....	CH ₃ NH ₂	1000	32	4	10	25
Organic vapors.....	As received.....	CCl ₄	1000	64	3	5	50
Organic vapors.....	Equilibrated.....	CCl ₄	1000	32	4	5	50
Sulfur dioxide.....	As received.....	SO ₂	500	64	3	5	30
Sulfur dioxide.....	Equilibrated.....	SO ₂	500	32	4	5	30

¹ Minimum life will be determined at the indicated penetration.
² Where a respirator is designed for respiratory protection against more than one type of gas or vapor, as for use in ammonia and in chlorine, the minimum life shall be one-half that shown for each type of gas or vapor. Where a respirator is designed for respiratory protection against more than one gas of a type, as for use in chlorine and sulfur dioxide, the stated minimal life shall apply.

Subpart M—Pesticide Respirators**§ 11.170 Pesticide respirators; description.**

Pesticide respirators, including all completely assembled respirators which are designed for use as respiratory protection during entry into and escape from atmospheres which contain pesticide hazards, are described according to their construction as follows:

- (a) Front-mounted or back-mounted gas masks;
- (b) Chin-style gas mask;
- (c) Chemical cartridge;
- (d) Air-purifying respirator with attached blower; and,
- (e) Other devices, including combination respirators.

§ 11.171 Pesticide respirators; required components.

(a) Each pesticide respirator described in § 11.170 shall, where its design requires, contain the following component parts:

- (1) Facepiece, mouthpiece, and noseclip, helmet, or hood;
- (2) Canister with filter;
- (3) Cartridge with filter;
- (4) Harness;
- (5) Attached blower; and,
- (6) Breathing tube.

(b) The components of each pesticide respirator shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.172 Canisters and cartridges in parallel; resistance requirements.

Where two or more canisters or cartridges are used in parallel, their resistance to airflow shall be essentially equal.

§ 11.173 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges or labels shall conform with the requirements of the American National Standard for Identification of Gas Mask Canisters, K13.1.

§ 11.174 Filters used with canisters and cartridges; location; replacement.

(a) Particulate matter filters used in conjunction with a canister or cartridge shall be located on the inlet side of the canister or cartridge.

(b) Filters shall be incorporated into or firmly attached to the canister or cartridge and each filter assembly shall, where applicable, be designed to permit its easy removal from and replacement on the canister or cartridge.

§ 11.175 Breathing tubes; minimum requirements.

(a) Flexible breathing tubes used in conjunction with respirators shall be designed and constructed to prevent:

- (1) Restriction of free head movement;
- (2) Disturbance of the fit of facepieces, mouthpieces, hoods, or helmets;
- (3) Interference with the wearer's activities; and,
- (4) Shutoff of airflow due to kinking, or from chin or arm pressure.

§ 11.176 Harnesses; installation and construction; minimum requirements.

(a) Each respirator shall, where necessary, be equipped with a suitable harness designed and constructed to hold the components of the respirator in position against the wearer's body.

(b) Harnesses shall be designed and constructed to permit easy removal and replacement of respirator parts, and, where applicable, provide for holding a full facepiece in the ready position when not in use.

§ 11.177 Respirator containers; minimum requirements.

(a) Respirators shall be equipped with a substantial, durable, container bearing markings which show the applicant's name, type, and commercial designation of the respirator it contains, and all appropriate approval labels.

(b) Containers for gas masks shall be designed and constructed to permit easy removal of the mask.

§ 11.178 Half-mask facepieces, full facepieces, hoods and helmets, and mouthpieces; fit; minimum requirements.

(a) Half-mask facepieces and full facepieces shall be designed and constructed to fit persons with various facial shapes and sizes either: (1) By providing more than one facepiece size, or (2) by providing one facepiece size which will fit varying facial shapes and sizes.

(b) Full facepieces shall provide for optional use of corrective spectacles or lenses, which shall not reduce the respiratory protective quality of the respirator.

(c) Hoods and helmets shall be designed and constructed to fit persons with various head sizes, permit optional use of corrective spectacles without reducing the respiratory protective qualities of the respirator, and insure against any restriction of movement by the wearer.

(d) Pesticide respirators with mouthpieces shall be equipped with noseclips which are securely attached to the mouthpiece or respirator and provide an airtight seal.

(e) Facepieces, hoods, and helmets shall be designed to prevent eyepiece fogging.

(f) Half-mask facepieces shall not interfere with the fit of common industrial safety corrective spectacles as determined by the facepiece tests in § 11.183-3.

§ 11.179 Facepieces, hoods, and helmets; eyepieces; minimum requirements.

(a) Facepieces, hoods, and helmets shall be designed and constructed to provide adequate vision which is not distorted by the eyepiece.

(b) All eyepieces of gas masks shall be designed and constructed to meet the impact and penetration requirements specified in Federal Specification, Mask, Air line: and Respirator, Air Filtering,

Industrial, GGG-M-125d, October 11, 1965.

§ 11.180 Inhalation and exhalation valves; minimum requirements.

(a) Inhalation and exhalation valves shall be protected against distortion.

(b) Inhalation valves shall be designed and constructed and provided where necessary to prevent excessive exhaled air from adversely affecting cartridges, canisters, and filters.

(c) Exhalation valves shall be:

- (1) Provided where necessary;
- (2) Protected against damage and external influence; and,
- (3) Designed and constructed to prevent inward leakage of contaminated air.

§ 11.181 Head harnesses; minimum requirements.

(a) Facepieces shall be equipped with adjustable and replaceable head harnesses designed and constructed to provide adequate tension during use and an even distribution of pressure over the entire area in contact with the face.

(b) Mouthpieces shall be equipped, where applicable, with adjustable and replaceable harnesses designed and constructed to hold the mouthpiece in place.

§ 11.182 Air velocity and noise levels; hoods and helmets; minimum requirements.

Noise levels generated by the respirator will be measured inside the hood or helmet at maximum obtainable airflow and shall not exceed 80 dBA.

§ 11.183 Pesticide respirators; performance requirements; general.

Pesticide respirators and the individual components of each such device shall, as appropriate, meet the requirements for performance and protection specified in the tests described in §§ 11.183-1 through 11.183-7.

§ 11.183-1 Breathing resistance test; minimum requirements.

(a) Airflow resistance will be measured in the facepiece, mouthpiece, hood, or helmet of a pesticide respirator mounted on a test fixture with air flowing at a continuous rate of 85 liters per minute, both before and after each test conducted in accordance with §§ 11.183-4 and 11.183-7.

(b) The maximum allowable resistance requirements for pesticide respirators are as follows:

Type of Pesticide respirator	MAXIMUM RESISTANCE (mm. water-column height)		
	Inhalation		Exhalation
	Initial	Final ¹	
Front- or back-mounted gas mask.....	70	85	20
Chin-style gas mask.....	65	80	20
Powered air-purifying.....	50	70	20
Chemical cartridge.....	50	70	20

¹ Measured at end of the service life specified in Table 12.

² Resistance of filter(s), cartridge(s), and breathing tube(s) only with blower not operating.

§ 11.183-2 Exhalation valve leakage test; minimum requirements.

(a) Dry exhalation valves and valve seats will be subjected to a suction of 25 mm. water-column height while in a normal operating position.
 (b) Leakage between the valve and valve seat shall not exceed 30 milliliters per minute.

§ 11.183-3 Facepiece test; minimum requirements.

(a) The complete pesticide respirator will be fitted to the faces of persons having varying facial shapes and sizes.
 (b) Where the applicant specifies a facepiece size or sizes for his respirator together with the approximate measurements of faces they are designed to fit, the Bureau will provide test subjects to suit such facial measurements.
 (c) Any pesticide respirator part which must be removed to perform the facepiece fit test shall be replaceable without special tools and without disturbing facepiece fit.
 (d) The facepiece or mouthpiece fit test using positive or negative pressure recommended by the applicant and described in his instructions will be used during each test.
 (e) (1) Each wearer will enter a chamber containing 1,000 p.p.m. isoamyl-acetate vapor for a respirator equipped with a full facepiece, mouthpiece, hood, or helmet and 100 p.p.m. isoamyl-acetate vapor for a respirator equipped with a half-mask facepiece.

(2) The facepiece, mouthpiece, hood, or helmet may be adjusted, if necessary, in the test chamber before starting the test.
 (3) Each wearer will remain in the chamber while performing the following activities:
 (i) Two minutes, nodding and turning head;
 (ii) Two minutes, calisthenic arm movements;
 (iii) Two minutes, running in place; and
 (iv) Two minutes, pumping with a tire pump into a 28-liter (1 cubic foot) container.
 (4) Each wearer shall not detect the odor of isoamyl-acetate during the test.

§ 11.183-4 Silica dust test; minimum requirements.

Three completely assembled pesticide respirators will be tested with a mechanical-testing apparatus as follows:
 (a) Temperature in the test chamber will be approximately 25° C.
 (b) Continuous airflow through the respirator will be 32 liters per minute for front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical cartridge pesticide respirators, and not less than 115 (4 cubic feet) liters per minute to tight-fitting facepieces and 170 liters (6 cubic feet) per minute to loose-fitting hoods and helmets of powered air-purifying respirators.

(c) The test aerosol will contain 50-60 milligrams of 99+ percent free silica per cubic meter of air.

(d) The particle size distribution of the test suspension will have a geometric mean diameter of 0.4 to 0.6 micrometer, with a standard geometric deviation less than 2.

(e) Front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical cartridge pesticide respirators will be tested for 90 minutes and powered air-purifying respirators will be tested for 4 hours.

§ 11.183-5 Lead fume test; minimum requirements.

Three completely assembled pesticide respirators will be tested with a mechanical-testing apparatus as follows:

(a) Continuous airflow through the respirator will be 32 liters per minute for front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical cartridge pesticide respirators and not less than 115 liters (4 cubic feet) per minute, for powered air-purifying respirators with tight-fitting facepieces, and not less than 170 liters (6 cubic feet) per minute for powered air-purifying respirators with loose-fitting hoods and helmets.
 (b) The test aerosol will contain 15-20 milligrams of freshly generated lead-oxide fume, calculated as lead, per cubic meter of air.
 (c) The fume will be generated by impinging an oxygen-gas flame on molten lead.

(d) Front-mounted, back-mounted, and chin-style gas mask pesticide respirators and chemical cartridge pesticide respirators will be tested for 90 minutes and powered air-purifying pesticide respirators will be tested for 4 hours.

(e) The total amount of unretained test suspension, which is analyzed and calculated as lead, shall not exceed: (1) 0.43 milligram for any 90-minute test; (2) 4.8 milligrams for any 4-hour test made at 115 liters (4 cubic feet) per minute; or (3) 6.2 milligrams for any 4-hour test made at 170 liters (6 cubic feet) per minute.

§ 11.183-6 Diocetyl-phthalate test; minimum requirements.

(a) All canisters submitted for use with front-mounted and back-mounted

gas mask pesticide respirators will be tested in an atmospheric concentration of 100 micrograms of diocetyl-phthalate per liter of air at continuous flow rates of 32 and 85 liters per minute for a test period of 5 to 10 seconds.

(b) The DOP leakage through the canister shall not exceed 0.03 percent of the ambient DOP concentration.

§ 11.183-7 Bench tests; minimum requirements.

(a) (1) Bench tests will be made on an apparatus that allows the test atmosphere at 50±5 percent relative humidity and at room temperature (25°±2.5° C.) to enter the canister or cartridge at predetermined concentrations and rates of flow, and that has a means for determining the test life of the canister or cartridge against carbon tetrachloride.

(2) Canisters and cartridges will be tested as they are used on each pesticide respirator, either singly or in pairs.

(3) Three canisters or cartridges or pairs of cartridges will be removed from containers and tested as received from the applicant.

(4) Two canisters, cartridges, or pairs of cartridges will be equilibrated at room temperature by passing 25 percent relative humidity air through them at the following flow rates (expressed as liters per minute (l.p.m.)) for 6 hours:

Type of canister or cartridge	Airflow rate, l.p.m.
Air-purifying canister	64
Air-purifying cartridge	25
Powered air-purifying with tight-fitting facepiece	115
Powered air-purifying with loose-fitting hood or helmet	170

(5) Two canisters, cartridges, or pairs of cartridges will be equilibrated at room temperature by passing 85 percent relative humidity air through them at the flow rates stated in subparagraph (4) of this paragraph for 6 hours.

(6) The equilibrated canisters or cartridges will be resealed, kept in an upright position at room temperature, and tested within 18 hours.

(b) Canisters and cartridges tested in accordance with the provisions of this section shall meet the requirements specified in Table 12.

TABLE 12.—CARBON TETRACHLORIDE BENCH TESTS AND REQUIREMENTS FOR CANISTERS AND CARTRIDGES (30 CFR Part 11, Subpart M, § 11.183-7)

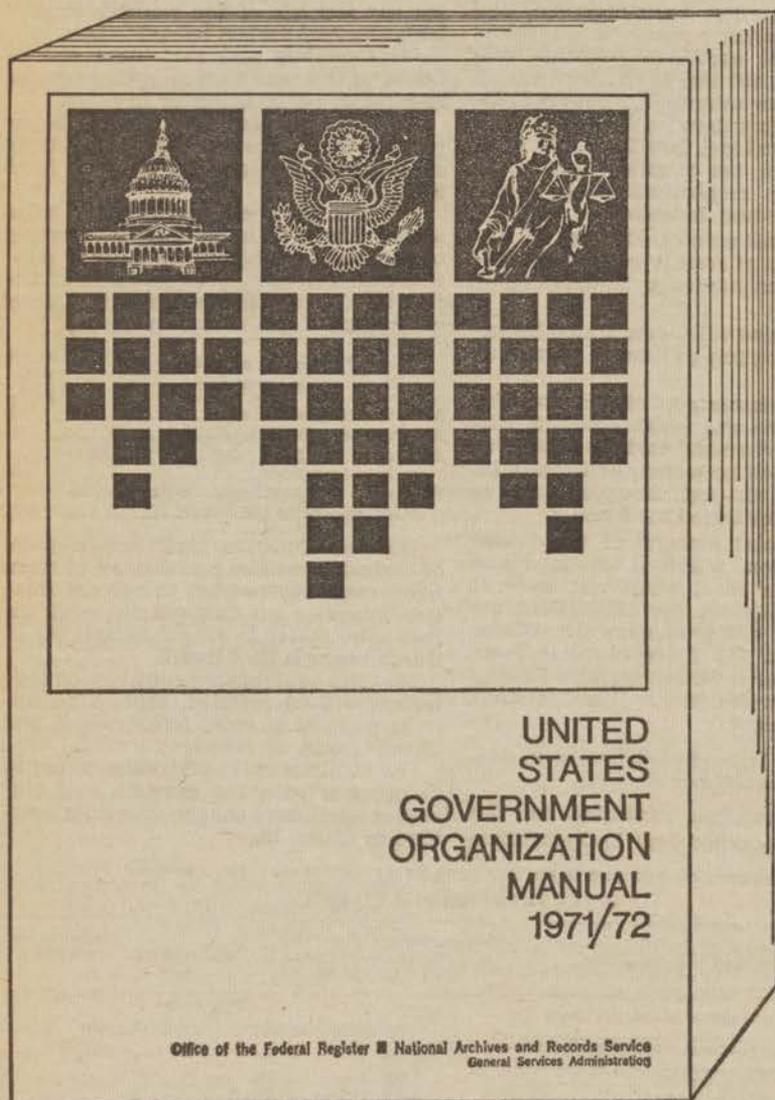
Type of pesticide respirator	Test concentrations, p.p.m. CCl ₄	Flow rate l.p.m.	Number of tests	Minimum life, minutes ¹
Chest-mounted or back-mounted gas mask (as received)	20,000	64	3	12
Chest-mounted or back-mounted gas mask (equilibrated)	20,000	32	4	12
Chin-style gas mask (as received)	5,000	64	3	9
Chin-style gas mask (equilibrated)	5,000	32	4	9
Chemical-cartridge respirator (as received)	1,000	64	3	50
Chemical-cartridge respirator (equilibrated)	1,000	32	4	50
Powered air-purifying respirator (tight-fitting facepiece, as received)	1,000	115	3	50
Powered air-purifying respirator (tight-fitting facepiece, equilibrated)	1,000	115	4	2
Powered air-purifying respirator (loose-fitting hood or helmet, as received)	1,000	170	3	50
Powered air-purifying respirator (loose-fitting hood or helmet, equilibrated)	1,000	170	4	25

¹ Minimum life will be determined at 5 p.p.m. leakage.
² The flow rate shall be the effective flow rate of the device, but shall be not less than 115 l.p.m.
³ The flow rate shall be the effective flow rate of the device, but shall be not less than 170 l.p.m.

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