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Tuesday
January 29, 1985

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 85–3 of January 11, 1985

Determination Pursuant to Sections 2(b)(2) and 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended (the Act), I hereby designate Africans who are outside their country of origin as qualifying for assistance under the Act, and determine that such assistance will contribute to the foreign policy interests of the United States.

In order to meet unexpected urgent refugee and migration needs in Africa, I further determine, pursuant to Section 2(c)(1) of the Act, that it is important to the national interests that up to $25 million shall be made available from the United States Emergency Refugee and Migration Assistance Fund for assistance to persons in Africa, including, as appropriate, contributions to the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and other international organizations and voluntary agencies providing assistance to persons in Africa.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority.

This Determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, January 11, 1985.

[FR Doc. 85–2324
Filed 1–25–85; 2:12 pm]
Billing code 3195–01–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 613, Amdt. 1; Navel Orange Reg. 612, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 613, Amendment 1, increases the quantity of such oranges that may be shipped during the period January 25–31, 1985, and Regulation 612, Amendment 1, increases the quantity of such oranges that may be shipped during the period January 18–24, 1985. Such action is needed to provide for the orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: Amended Regulation 612 (§ 907.912) is effective for the period January 18–24, 1985. Amended Regulation 613 (§ 907.913) becomes effective on January 25, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These amendments are issued under the Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act by establishing and maintaining, in the interests of producers and consumers, an orderly flow of oranges to market and avoiding unreasonable fluctuations in supplies and prices for the weeks ending January 24, 1985, and January 31, 1985. This action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

These actions are consistent with the marketing policy for 1984–85. The marketing policy was recommended by the committee following discussion at a public meeting on September 25, 1984. The committee met again publicly on January 22, 1985, at Exeter, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these amendments are based and the effective date necessary to effectuate the declared policy of the act. It is necessary to effectuate the declared policy of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

1. Section 907.912 Navel Orange Regulation 612 is hereby revised to read:

§ 907.912 Navel Orange Regulation 612.

(a) District 1: 1,400,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.913 Navel Orange Regulation 613 is hereby revised to read:

§ 907.913 Navel Orange Regulation 613.

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

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

Dated: January 24, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–2226 Filed 1–28–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Procedures To Implement a Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the procedural and operational details of a voluntary raisin diversion program. Authority for this program was added to the California raisin marketing order on January 8, 1985. The purpose of the program is to correct a serious oversupply situation which is causing growers serious financial problems. Under the diversion program, a raisin producer could voluntarily defer production of raisins and save the cost of harvesting the diverted grapes, but still have a quantity of raisins, represented by a diversion certificate, to sell to handlers in the fall. The program procedures were recommended by the Raisin Administrative Committee which works with the USDA in administering the order.

EFFECTIVE DATE: January 23, 1985.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 477–5053.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's

Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. On January 8, 1985, the marketing order was amended to provide authority for a Raisin Diversion Program (RDP). In order to assist growers in their current financial difficulties, authority for the RDP became effective the same day. Immediately thereafter the Raisin Administrative Committee (Committee) approved an RDP for the 1985 crop. According to the raisin industry, corrective action to reduce burdensome supplies must start with that crop, and the Committee soon will begin reviewing producers' applications to participate in the RDP. Thus, the operational details of an RDP prescribed in this action must be available immediately in order for the RDP to be implemented.

This final rule amends Subpart—Administrative Rules and Regulations (7 CFR 989.102-989.176; 49 FR 18727, 30296, 33992) by adding a new § 989.156 entitled "Raisin diversion program." This subpart is operative pursuant to the marketing agreement and Order No. 989, both as amended, (50 FR 1830), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Notice of this action was published in the December 19, 1984, issue of the **Federal Register** (49 FR 49304), and interested persons were afforded an opportunity to submit written comments. No comments were received.

The January 8, 1985, action, providing for a voluntary RDP, authorizes the Committee to establish a diversion program when reserve raisins from one year's production of raisin grapes are in excess of projected market needs. Those provisions also provide for the establishment of specific procedural and operational details of the program through informal rulemaking. This allows maximum flexibility in conforming those details to the evolving operational experience under the order. The procedural and operational details, hereinafter set forth, are self explanatory and in conjunction with the order provisions authorizing the diversion program.

The diversion program permits a quantity of raisins equal to the tonnage diverted from production to be made available in the following crop year from reserve raisins previously determined by the Committee to be in excess of market needs. By voluntarily agreeing to participate in a diversion program, a raisin producer would defer production of raisins and save the cost of harvesting the diverted grapes, but still have a quantity of raisins available, represented by a diversion certificate, to sell to handlers in the fall as though a crop had been produced. Also, the value of surplus reserve pool tonnage would be increased to at least equal harvest costs.

List of Subjects in 7 CFR Part 989

Marketing agreements, Grapes, Raisins and California.

PART 989—[AMENDED]

The final rule adds a new § 989.156 to Subpart—Administrative Rules and Regulations (7 CFR 989.102-989.176 49 FR 18727, 30296, 33992) to read as follows:

§ 989.156 Raisin diversion program.

(a) *Quantity to be diverted.* On or before November 30 of each crop year, the Committee shall announce the quantity of raisins eligible for a raisin diversion program. The quantity eligible for diversion may be announced for any of the following varietal types of raisins: Natural (sundried) Seedless, Muscat (including other raisins with seeds), Sultana, Zante Currant, and Monukka raisins. At the same time, the Committee shall determine and announce to producers, handlers, and the cooperative bargaining association(s) the allowable harvest cost to be applicable to such diversion tonnage. The factors to be reviewed by the Committee in determining allowable harvest costs shall include but not be limited to: Costs for picking, turning, rolling, boxing, paper trays, vineyard terracing, hauling to the handler, and crop insurance.

(b) *Application for diversion certificates.* Any producer desiring to participate in a raisin diversion program shall file with the Committee, by certified mail, prior to December 20 of the crop year, an application on Form RAC-1000, "Application for Raisin Diversion Certificate". Such application shall include at least the following information:

(1) The name, address, and telephone number of the producer;

(2) The location and size of the production unit to be diverted;

(3) The raisin production by varietal type on such production unit during the prior crop year or the last crop year eligible for such diversion;

(4) The handler to whom such raisins were delivered;

(5) A statement identifying whether the applicant will remove the vines in the production unit under the program;

(6) A statement that all persons with an equity interest in the grapes in the production unit to be diverted consent to the filing of the application; and

(7) A statement that the producer agrees to comply with the regulations established for a raisin diversion program.

The producer applicant shall sign the application certifying that the information contained therein is true and correct.

(c) *Handling of applications.* After the Committee receives the producer applications, it shall review them to determine whether all the required information has been provided and appears reliable. Any incomplete application shall be returned to the producer applicant for correction together with a statement of the error or omission in the application. The applicant shall have a reasonable opportunity to correct such application. However, such correction must be received by the Committee on or before January 12.

(d) *Priority of applications and allocation of tonnage.* Those producer applicants indicating that the vines of the producing units will be removed shall receive priority over other applicants when reserve tonnage under the program is to be allocated. If the production volume in such applications exceeds the amount of diversion tonnage available under the program, a lottery will be held to allocate such diversion tonnage among the applicants. In conducting any lottery under this section, the Committee may group producer applications on a handler by handler basis and separate lotteries will be held for each such group. The diversion tonnage of raisins available for each such group in each lottery may not exceed the percentage of total handler acquisitions acquired by the group's handler during the previous crop year. To the extent diversion tonnage exists after such group lotteries, such remaining diversion tonnage may be allocated by one lottery of all remaining producer applications. If reserve tonnage exists under the program after the allocation of diversion tonnage has been made to all eligible producer

applicants who remove vines, all other applications shall be considered. If the production volume in such applications exceeds the amount of reserve raisin tonnage remaining under the program, a lottery will be held to allocate the remaining diversion tonnage in the manner described above.

(e) *Approval of applications.* The Committee shall notify the applicant for diversion, in writing, as to whether or not the application has been approved. If the application is not approved, the notification shall state the reason(s) for disapproving the application.

(f) *Disclosure of information.* The applicant, whose application has been approved, agrees that by participating in the raisin diversion program, the information in the application may be disclosed to the Committee, its representatives, or agents. The Committee, its representatives, or agents may not use this information for any personal use and shall comply with all applicable provisions pertaining to the unauthorized disclosure of such information.

(g) *Compliance.* The applicant, whose application has been approved, authorizes Committee representatives and agents to have access to the production unit in the diversion program during reasonable business hours during the crop year to confirm compliance with the program. Notice will be provided to the applicant of such visits. Committees of not more than five persons shall be established in each district designated by the Committee. Such raisin diversion program committees shall serve as agents of the Committee to aid in assuring producer compliance with the program. These committees may be furnished the approved applications of producers in their district. These committees shall advise the Committee of the progress of the diversion within their district. If these committees have reason to believe that any approved applicant is not complying with the raisin diversion program, they shall notify the Committee prior to any further action. The members of these committees shall serve without compensation, but be allowed their necessary expenses as determined by the Committee.

(h) *Methods of diversion.* An approved applicant shall be required to take the necessary measures to preclude grapes from being produced and harvested on the production unit involved in the program. These measures may include spur pruning the vines, chemically removing the crop before maturity, hand removing and destroying the bunches of grapes before maturity, removing the vines, or any other method which prevents the grapes from maturing and being harvested. An approved applicant must remove all grapes within the production unit designated in its application. Grafting vines to another varietal type does not constitute removal under the program.

(i) *Issuance of certificates.* On or before October 5 of the following crop year, the Committee shall issue diversion certificates to those approved applicants who have removed grapes in accordance with this section. Such certificates shall represent an amount of reserve tonnage raisins equal to the amount of raisins diverted in the production unit(s) specified in the producer application. If, prior to issuance of a certificate, the Committee is notified by an approved applicant that the applicant's interest in the production unit involved in the program has been transferred to another person, the Committee may substitute the transferee for the applicant provided the transferee agrees to comply with the provisions of this section.

(j) *Submission of diversion certificates from producer to handlers.* Diversion certificates may be submitted by producers only to handlers. The handler shall pay the producer for the free tonnage applicable to the diversion certificate minus the established harvest cost for the entire tonnage shown on the certificate.

(k) *Redemption of certificates.* Any handler holding diversion certificates may redeem such certificates for reserve pool raisins from the Committee. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest cost for the entire tonnage shown on the certificate. The Committee shall then issue a reserve release entitling the handler to a specified amount of reserve pool raisins for free tonnage use equal to the multiple of the free percentage and entire tonnage shown on the certificate. The Committee shall transfer the appropriate amount of reserve tonnage raisins to satisfy any reserve pool obligation and shall release to the handler the appropriate reserve tonnage for free tonnage use. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored by the Committee if presented to it for redemption on or before February 15 of the crop year for which they were issued.

(l) *Lost, damaged, or destroyed certificates.* The Committee should be notified of any lost, damaged, or destroyed certificates as quickly as possible by a handler or producer so that appropriate measures such as issuing new certificates may be taken.

(m) *Appeals.* If a determination is made by the Committee that a producer has not complied with these regulations and is therefore not entitled to a diversion certificate, such producer may request a hearing before an appeals subcommittee established by the Committee. If the producer disagrees with the subcommittee's decision, the producer may request the Committee to review the subcommittee's decision.

(n) *Voiding certificates.* If, subsequent to a diversion certificate being issued to a producer but before it has been submitted to a handler, the Committee determines that the producer did not comply with these regulations, it shall void the certificate.

(o) *Production unit.* For the purposes of the raisin diversion program, a production unit is a clearly defined geographic area with permanent boundaries (either natural or man-made). In addition, a producer must be able to document to the Committee the previous year's production data for that specific area by means of sales receipts or other delivery or transfer documents which indicate the creditable fruit weight delivered to handlers from that specific area. A new production unit will not be eligible for the raisin diversion program until at least one year's production has been grown and is documented. An existing production unit, transferred to a new or expanding producer, is eligible for the raisin diversion program as soon as the previous year's production can be properly documented.

(p) *Time limitations.* During the 1984–84 crop year, the Committee may extend any or all of the time deadlines in this section by up to 45 days, as it deems appropriate.

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

Dated: January 23, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85–2182 Filed 1–28–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. II, Subchapter B

[Docket No. 82; Amdt. No. T-2]

Transfer of Civil Aeronautics Board Functions to DOT; Procedural Regulations

Corrections

In FR Doc. 85-1057 beginning on page 2374 in the issue of January 16, 1985, make the following correction:

On page 2407, in the third column, the heading and text of § 302.705 should be removed.

BILLING CODE 1505-01-M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-19-AD, Amdt. 39-4991]

Airworthiness Directives; Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210, P210, and T210 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210, P210, and T210 Series airplanes, which requires modification of the fuel selector valve installation. Loss of fuel selector control and engine fuel starvation has resulted from a roll pin falling out of the fuel selector valve and yoke assembly. This action will positively retain the roll pin and preclude this occurrence.

EFFECTIVE DATE: March 6, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-Engine Customer Care Service Information Letter, SE84-5 applicable to this AD may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, Post Office Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-CE-19-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendelton, Aerospace Engineer, ACE-140W, FAA, Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the fuel selector roll pin installation in certain Cessna 200 Series airplanes was published in the Federal Register on August 27, 1984 (49 FR 33895 and 33896). This proposal resulted from incidents of the roll pin falling out of the fuel selector valve shaft and yoke resulting in engine fuel starvation on Cessna 200 Series airplanes. It has been demonstrated during ground tests that fuel selector roll pin dislodging is, in fact, possible. The fuel selector must be moved through the "fuel off" position when selecting another fuel tank. Should loss of the roll pin occur when passing through the OFF position or with the valve positioned on an empty tank, fuel starvation will result. Also, wear or deterioration of the fuel valve operating linkage has occurred which is not being detected during normal inspection and/or maintenance of the fuel selector valve installation per the manufacturers recommendations. To reduce the potential for roll pin loss Cessna Aircraft Company has issued Service Instructions SE84-5 to advise owners and operators of a modification available to improve fuel selector valve roll pin retention. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would make compliance with the aforementioned Service Information Letter mandatory on certain Cessna 205, 206, P206, U206, TP206, TU206, 207, T207, 210, P210, and T210 series airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. One commenter responded. The commenter urged the early issuance of the AD in its proposed form. Accordingly, the proposal is adopted without change.

There are approximately 15,000 airplanes affected by the proposed AD at a cost of $15 per airplane. The total cost of compliance with the proposed AD is estimated to be $225,000 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes. Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Cessna: Applies to Models 205, 205A (S/Ns 205-0001 thru 205-0577); 206, U206, U206A, U206B, U206C, U206D, U206E, U206F, U206G, TU206A, TU206B, TU206C, TU206D, TU206E, TU206F, and TU206G (S/Ns 206-0001 thru U20606827); P206, P206A, P206B, P206C, P206D, P206E, TP206A, TP206B, TP206C, TP206D, and TP206E (S/Ns P206-0001 thru P20600647); 207, 207A, T207, and T207A (S/Ns 20700001 thru 20700773); 210G, 210H, 210J, 210K, T210K, 210L, T210L, 210M, T210M, 210N and T210N (S/Ns 21058819 thru 21064535); T210G, T210H, T210J, (S/N T210-0198 thru T210-0454) and P210N (S/Ns P21000001 thru P21000760) airplanes certificated in any category.

Compliance: Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To eliminate the possibility of loss of the fuel selector roll pin installation, accomplish the following:

(a) Visually inspect the fuel selector for free play. If free play exceeds 15 degrees, replace any components that exhibit loose or worn conditions, as necessary, to reduce the free play to this limit.

(b) Safety the fuel selector shaft to yoke roll pin installation by installing safety wire through the roll pin in accordance with Cessna Single Engine Customer Care Service Information Letter SE84-5.

(c) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished provided fuel tank selection during flight is not performed.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on March 6, 1985.

Issued in Kansas City, Missouri, on January 18, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-2111 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-CE-27-AD; Amdt. 39-4984]

Airworthiness Directives; Piper PA-20, PA-22, PA-23, PA-24, PA-25, PA-36, PA-44 Series and all Models PA-30, PA-31P and PA-39 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper PA-20, PA-22, PA-23, PA-24, PA-25, PA-36, PA-44 series and all Piper Models PA-30, PA-31P and PA-39 airplanes. This AD requires installation of a brake operation warning placard. A ground operation accident occurred because the pilot improperly operated the brake system. This action will assure that the pilot is informed on proper brake operation.

EFFECTIVE DATE: March 1, 1985.

Compliance: Required within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin No. 771, dated May 19, 1984, applicable to this AD, may be obtained from Piper Aircraft Corporation, 3000 Medulla Road, Lakeland, Florida 33803. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Will Trammell, ACE-130A, Aerospace Engineer, Systems and Equipment Branch, FAA, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring installation of a brake operation warning placard on certain Piper PA-20, PA-22, PA-23, PA-24, PA-25, PA-36, PA-44 Series and all Models PA-30, PA-31P and PA-39 airplanes was published in the **Federal Register** on September 21, 1984 (49 FR 37110, 37111). The proposal resulted from an accident involving a Piper Model PA-23 airplane. The pilot set the airplane parking brake and routinely started the engines. After starting the engines, he discovered that his airplane was rolling toward an unattended airplane. The pilot reported that he stood on his toe (wheel) brakes while attempting to reset the parking brake, but no effective braking was realized. His airplane collided with the other airplane. Investigation of the wheel brake system of the Piper Model PA-23 airplane disclosed that, because of the inherent characteristics of the system, no braking will occur if the brakes are applied while the parking brake handle is pulled and held. This arrangement was found to be common to numerous Piper model airplanes. The manufacturer issued Service Bulletin No. 771, dated May 19, 1984, which provides instructions for the installation of a placard on the pilot's instrument panel warning against using improper procedures in applying the parking brake.

Since the condition described herein is likely to exist or develop in other Piper PA-20, PA-22, PA-23, PA-24, PA-25, PA-36, PA-44 series and Models PA-30, PA-31P and PA-39 airplanes of the same design, an AD was proposed which would require installation of the aforementioned warning placard on these airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. Three comments were received.

The first comment, from NTSB, concurs with the proposed AD, and believes it will be effective in preventing incorrect use of the brake system.

The second comment, from AOPA, states that flight instructors and pilots have placed little confidence in the use of parking brakes with engines running, and prefers caution notes in the Approved Flight Manual (AFM) and the Airplane Information Manual in lieu of a placard. FAA believes that a placard in the cockpit adjacent to the affected control is far more likely to be seen and acted upon than a note in a manual.

The third comment, from ALPA, takes the view that the proper method of brake operation prescribed by the proposed placard is contrary to a pilot's normal reaction. However, comparison of the large number of airplanes and the many years of operation involved with the paucity of this kind of braking problem leads to the conclusion that the prescribed method either is normal or is one to which it it easy to become accustomed. Accordingly, FAA considers the proposed placard to be acceptable, and an effective means to preclude similar problems. Minor errors and omissions were noted in the applicability statement of the proposed AD subsequent to the publication of the NPRM. These are corrected in the adopted rule. Therefore, except for the above noted corrections, the proposal is adopted without change.

The FAA has determined there are approximately 29,000 airplanes affected by the AD. The cost of installing the placard requested by the proposed AD is estimated to be $3 per airplane. The total cost is estimated to be $87,000 to the private sector. The cost of compliance with this AD on each airplane is so small that it will not have a significant financial impact on any small entities owning these airplanes. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to PA-20 series (S/Ns 20-1 and up); PA-22 series (S/Ns 22-1 and up); Models PA-23/PA-23-160 (S/Ns 23-1 and up); PA-23-235/250 (S/Ns 27-1 and up); PA-24, PA-24-250/260 (S/Ns 24-1 and up); PA-24-400 (S/Ns 26-1 and up); PA-25, PA-25-235/260 (S/Ns 25-1 and up); PA-30 (S/Ns 30-1 and up); PA-39 (S/Ns 39-1 and up); PA-31P (S/Ns 31P-1 and up); PA-36-285/300 (S/Ns 36-7360001 and up); PA-36-375 (S/Ns 36-7602001 and up); PA-44-180 (S/Ns 44-7995001 and up); and PA-44-180T (S/Ns 44-8107001 and up) airplanes certificated in any category.

Compliance: Required within 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To insure proper brake operation accomplish the following:

(a) Install a Piper Part Number 81090-02 placard in a central location on the pilot's instrument panel in full view of the pilot.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Atlanta Aircraft Certification

Office, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

Piper Aircraft Corporation Service Bulletin No. 771, dated May 19, 1984, covers the subject matter of this AD.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on March 1, 1985.

Issued in Kansas City, Missouri, on January 15, 1985.

Murray E. Smith,

Director Central Region.

[FR Doc. 85-2112 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-95-AD; Amdt. 39-4990]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped with Certain B.F. Goodrich Slides

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires replacement of O-rings used in evacuation slide and slide/raft pressure regulators on Boeing Model 747 airplanes equipped with B.F. Goodrich slides and slide/rafts. This AD is prompted by several inflation malfunctions experienced by operators which have resulted in delayed inflation or non-inflation of the units following deployment. This situation could jeopardize successful emergency evacuation of an airplane.

DATE: Effective March 4, 1985.

Compliance required within one year of the effective date of the AD.

ADDRESSES: The service documents cited in this AD may be obtained upon request from the B.F. Goodrich Engineered Products Group, Aerospace Defense Division, Akron, Ohio 44318, or the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring replacement of O-rings used in Model 747 evacuation slide and slide/raft pressure regulators with O-rings of different material not subject to decomposition was published in the **Federal Register** on September 20, 1984 (49 FR 36863). The original O-rings can chemically decompose, thereby inhibiting actuation of the slide inflation mechanism, which could jeopardize successful emergency evacuation of an airplane.

The comment period closed on November 9, 1984. Interested persons have been afforded an opportunity to comment on the proposed AD. Due consideration has been given to all comments received.

Six commenters responded to the Notice of Proposed Rulemaking. No commenter objected to the necessity of the proposed modification.

Five commenters favored extending the compliance time from one year to an interval corresponding to scheduled maintenance. The compliance times proposed by the commenters ranged from 18 months to 3 years. One commenter stated that by replacing O-rings every three years, the risk of malfunction is reduced. The FAA does not agree. Service history has shown that decomposition of the original O-rings is not totally time-dependent.

Three commenters felt that the problem was not serious enough to warrant a one-year compliance time. The FAA does not agree. It is the FAA's view that to extend the compliance time would increase the chance that escape systems will be required during an emergency evacuation, prior to replacement of O-rings. One commenter requested extension of the compliance time on the basis of parts availability. The compliance time was established consistent with parts availability.

One commenter proposed shortening the compliance time to six months on the basis that O-rings should be replaced at the earliest possible date, and that operators had been aware of the problem prior to issuance of the NPRM. The FAA agrees that it is desirable to replace the suspect O-rings as soon as possible; however, the FAA has determined that a compliance time of less than one year would create an undue burden on operators that could not be justified.

After careful review of the available data, including all of the comments received, the FAA has determined that air safety and the public interest required the adoption of the rule as proposed.

It is estimated that 150 airplanes of U.S. registry will be affected by this AD. Approximately 40 manhours, at an estimated cost of $40 per manhour, are required to modify each airplane. The cost of parts will not exceed $700 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $345,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 airplanes equipped with B.F. Goodrich evacuation slides and slide/rafts, Part Numbers (P/N) as specified in B.F. Goodrich service bulletins noted below. Compliance required as indicated.

To assure proper inflation of slides and slide/rafts, accomplish the following within one year after the effective date of this amendment, unless previously accomplished:

A. For airplanes equipped with the B.F. Goodrich slides or slide/rafts noted in B.F. Goodrich Service Bulletin 25-090, Revision 1, dated May 10, 1984, replace pressure regulator O-rings in accordance with the service bulletin or later FAA approved revisions.

B. For Boeing Model 747-300 airplanes equipped with B.F. Goodrich slides P/N 7A1323, accomplish regulator replacement in accordance with B.F. Goodrich Service Bulletin 25-084, dated November 7, 1983, or later FAA approved revisions.

C. For airplanes equipped with slide/rafts installed in accordance with Supplemental Type Certificates (STC) SA574GL, SA575GL, SA744GL, or SA745GL, accomplish pressure regulator O-ring replacement in accordance with B.F. Goodrich Service Bulletin 25-068.

Revision 1, dated May 9, 1984, or later FAA approved revisions.

D. An alternate means of compliance which provides an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Upon request of the operator, an FAA maintenance inspector may adjust the compliance times specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period.

F. Aircraft may be ferried to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

All persons affected by this directive who have not already received B.F. Goodrich Service Bulletins 25-084, 25-088, and 25-090 may obtain copies upon request to B.F. Goodrich Engineered Products Group, Aerospace Defense Division, Akron, Ohio 44318, or Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 4, 1985.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89).

Issued in Seattle, Washington, on January 17, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2110 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-136-AD; Amdt. 39-4992]

Airworthiness Directives; Short Brothers Ltd. Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Short Brothers Model SD3-60 airplanes by individual telegrams. In addition, the AD is amended based on additional data received after issuing the telegram. This action was prompted by reports of engine flameouts or uncommanded power reduction occurring in icing conditions. This AD requires a change to the airplane flight manual to reflect a higher threshold temperature for the use of ice protection procedures.

DATES: Effective February 7, 1985.

This AD was effective earlier to all recipients of telegraphic AD T84-24-52 issued December 7, 1984.

Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service information specified in this AD may be obtained upon request to Short Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. A copy of the service information is contained in the Rules Docket located at the FAA, Northwest Mountain Region, Office of the Regional Counsel, 17900 Pacific Highway South,C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On December 7, 1984, telegraphic AD T84-24-52 was issued and made effective immediately to all known U.S. owners and operators of Short Brothers SD3-60 series airplanes. The AD requires a change to the airplane flight manual which specifies a higher temperature threshold for the use of ice protection procedures. The AD was prompted by seven reports of engine flameouts or uncommanded power reductions on SD3-60 airplanes since March 1983. Causes of these incidents have not been specifically identified; however, an increase in the threshold temperature will provide an added safety margin and is required pending further investigation. The telegraphic AD specified a 12 °C threshold temperature. Further evaluation showed that a 10 °C threshold was more appropriate and will be specified in this final rule. Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued December 7, 1984, to all known U.S. owners and operators of Short Brothers SD3-60 series airplanes. These conditions still exist and an AD specifying a 10° threshold is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and if this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Short Brothers Ltd: Applies to all Short Brothers Ltd. SD3-60 airplanes certificated in all categories. To reduce the potential for engine flameouts accomplish the following unless already accomplished. Before further flight, incorporate the following information into the airplane flight manual:

A. Increase the threshold temperatures from 4 °C to 10 °C on Page 37, Section 4, Systems Operation, Ice and Rain Protection Systems (as fitted), and provide this information to flight crews.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Compliance with this directive may be affected by including a copy of this AD in the airplane flight manual and operating manual.

This amendment becomes effective February 7, 1985. It was effective earlier to those recipients of telegraphic AD T84-24-52, dated December 7, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington, on January 18, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2109 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AAL-14]

Designation of Huslia, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice lowers the base of controlled airspace in the vicinity of the Huslia, AK, airport to 700 feet above the surface so that aircraft conducting flight under instrument flight rules (IFR) will have exclusive use of that airspace when the visibility is less than 3 miles, thereby enhancing the safety of such operations.

EFFECTIVE DATE: 0901 G.m.t., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

History

On November 23, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Huslia, AK, (49 FR 46154). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will establish the base of controlled airspace at 700 feet above the surface in a rectangular area 37 statute miles long by 14 statute miles wide over the Huslia, AK, airport. While this airspace designation will preclude aircraft from conducting flight under Visual Flight Rules (VFR) in that airspace when the visibility is less than 3 miles, it will enhance the safety of aircraft conducting flight under Instrument Flight Rules (IFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Aviation Safety, Transition Areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Huslia, AK—[New]

That airspace extending upward from 700-feet above the surface within 9.5 miles northwest and 4.5 miles southeast of the 028° radial from the Huslia VOR (lat. 65°42'24.41" N., long. 156°22'04.67" W.) extending from the VOR to 18.5 miles northeast of the VOR; and within 4.5 miles southeast and 9.5 miles northwest of the 208° radial from the Huslia VOR extending from the VOR to 18.5 miles southwest of the VOR.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Anchorage, Alaska, on January 14, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-2119 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ANM-17]

Revised Transition Area and Control Zone, Port Angeles, WA

AGENCY: Federal Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundaries of the Port Angeles, Washington, Transition Area and Control Zone are described, in part, by reference to the Port Angeles VOR. The VOR no longer exists and new descriptions are required. This action provides the revised descriptions.

EFFECTIVE DATE: 0901 G.m.t., April 11, 1985.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, 17900 Pacific Highway South, C-68966, Seattle, WA 98168. The telephone number is (206) 431-2534.

SUPPLEMENTARY INFORMATION:

History

On October 25, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the description of the Port Angeles Transition Area and Control Zone (49 FR No. 208, 40042).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 & 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to part 71 of the Federal Aviation Regulations redescribes the Port Angeles Transition Area and Control Zone. Removal of the Port Angeles VOR from the National Airspace System (NAS) requires new points of reference for accuracy. This action redesignates the control zone and transition area, without reference to the VOR which has been decommissioned.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore,—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria act of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas/ Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 & 71.181 of Part

71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

71.171 Port Angeles, Washington—[Revised]

Within a 5-mile radius of William R. Fairchild International Airport (lat. 48°07'14" N, long. 123°29'54" W) including the airspace within 3-miles either side of the EDIZ Hook RBN (lat. 48°08'24" N, long. 123°24'08" W) 259°/079° bearing extending from the 5-mile radius zone to 8.1 miles east of the RBN.

71.181 Port Angeles, Washington—[Revised]

That airspace extending 700 feet above the airspace within a 5-mile radius of the William R. Fairchild International Airport, Port Angeles, Washington, (lat. 48°07'14" N, long. 123°29'54" W) within a 5-mile radius of CGAS Port Angeles, Washington, (lat. 48°08'30" N, long. 123°24'45" W); within 3 miles north and 5 miles south of the EDIZ Hook RBN (lat. 48°08'24" N, long. 123°24'08" W) 259°/079° bearing extending from the RBN to 12 miles east of the RBN; including the airspace within 2 miles either side of the William R. Fairchild International Airport localizer west course, extending from the localizer location (lat. 48°07'00" N, long. 123°29'02" W) to 8 miles west and that airspace extending upward from 1200 feet above the surface bounded on the east by the west edge of V-495 on the south within 4.5 miles of the William R. Fairchild International Airport localizer location (lat. 48°07'00" N, long. 123°29'02" W) to 28 miles west, and on the north by the United States/Canadian border.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Seattle, Washington, on January 16, 1985.

Charles R. Foster,

Director Northwest Mountain Region.

[FR Doc. 85-2121 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AAL-10]

Designation of Selawik, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice lowers the base of controlled airspace in the vicinity of the Selawik, AK, airport to 700 feet above the surface so that aircraft conducting flight under instrument flight rules (IFR) will have exclusive use of that airspace when the visibility is less than 3 miles, thereby enhancing the safety of such operations.

EFFECTIVE DATE: 0901 G.M.T., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

History

On November 23, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Selawik, AK, (49 FR 46154). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is identical to that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will establish the base of controlled airspace at 700 feet above the surface in an area 37 statute miles long by 14 statute miles wide over the Selawik, AK, airport. While this airspace designation will preclude aircraft from conducting flight under Visual Flight Rules (VFR) in that airspace when the visibility is less than 3 miles, it will enhance the safety of aircraft conducting flight under Instrument Flight Rules (IFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is as follows:

Selawik, AK—[New]

That airspace extending upward from 700 feet above the surface within 9.5 miles north and 4.5 miles south of the 079° radial from the Selawik VOR (lat. 66°36'02.11" N., long. 159°59'10.81" W.) extending from the VOR to 18.5 miles east of the VOR; and within 9.5 miles south and 4.5 miles north of the 266° radial from the Selawik VOR to 18.5 miles west of the VOR.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Anchorage, Alaska, on January 14, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-2120 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1207

Standards of Conduct

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is updating its regulations to ensure conformity to the Ethics in Government Act of 1978 regarding the public financial disclosure statement.

EFFECTIVE DATE: January 29, 1985.

ADDRESS: Office of the General Counsel, Code GG, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Helen S. Kupperman, 202/453-2465.

SUPPLEMENTARY INFORMATION: This amendment to the NASA Standards of Conduct has been approved by the Director, Office of Government Ethics, by letter dated August 8, 1984, and involves management decisions and procedures, no public comment period is required.

List of Subjects in 14 CFR Part 1207

Administrative practice and procedure, Conflict of interest.

PART 1207—STANDARDS OF CONDUCT

For reasons set forth in the Preamble, 14 CFR Part 1207, Subpart D is amended by adding a new § 1207.735-405 and Subpart F, Appendix A, is amended by revising *18 U.S.C. 207*, to read as follows:

Subpart D—Financial Interests and Investments

§ 1207.735-405 Executive personnel financial disclosure report.

(a) *Background.* The Ethics in Government Act of 1978 (Pub. L. 95-521) prescribes a public financial disclosure reporting requirement for certain officers and employees. The requirements and procedures are set forth in detail in the Act as well as in the implementing regulations of the Office of Government Ethics (5 CFR Part 734). This section will not reiterate these detailed requirements nor the instructions for filing that are contained on the Executive Personnel Financial Disclosure Report (SF 278).

(b) *Employees Required to File.* Following are NASA employees required to file the Executive Personnel Financial Disclosure Report.

(1) Presidential nominees to positions requiring the advice and consent of the Senate.

(2) Officers and employees (including Special Government Employees) who have served in their positions for 61 days or more during the preceding calendar year whose positions are classified or paid at GS-16 or above of the General Schedule, or whose basic rate of pay under other pay schedules is equal to or greater than the rate for GS-16. This category includes members of the Senior Executive Service.

(3) Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16.

(4) Administrative law judges.

(5) Employees in the excepted service in positions which are of a confidential or policymaking character unless their positions have been excluded by the Director of the Office of Government Ethics.

(6) The Designated Agency Ethics Official.

(c) *Time of Filing.*—(1) *Initial appointment.* Within 5 days after transmittal by the President to the Senate of the nomination to a position described in paragraph (b)(1) of this section or within 30 days after first assuming a position described in paragraphs (b) (2), (3), (4), (5), or (6) of this section, an Executive Personnel Financial Disclosure Report (SF 278) must be filed.

(2) *Incumbents.* An Executive Personnel Financial Disclosure Report must be filed no later than May 15 annually by incumbents of any of the positions listed in paragraph (b) of this section. In certain cases an extension of up to 45 days for filing may be permitted by the Designated Agency Ethics Official. The Director of the Office of Government Ethics may grant an additional 45-day extension, for good cause shown.

(3) *Terminations.* The individual shall file an Executive Personnel Financial Disclosure Report no later than 30 days after an incumbent of a position listed in paragraph (b) of this section terminates that position.

(d) *Place of Filing.* All reports required to be filed by this section by Headquarters Employees, Directors, Deputy Directors and Chief Counsels of field installations shall be submitted on or before the due date to the Director, Office of Development, Personnel Programs Division, Code NPD, NASA Headquarters. Other field installation personnel required to file reports by this section shall submit such reports on or before the due date to the Field Installation Director of Personnel.

(e) *Review and Retention of Reports.* All reports required to be filed with the Director, Office of Development, Personnel Programs Division, Code NPD, NASA Headquarters, will be reviewed by the Designated or Alternate Agency Ethics Counselor, Office of the General Counsel. Reports required to be filed by field installation personnel with the Field Installation Director of Personnel will be reviewed by the Field Installation Chief Counsel. All reports required to be filed by this section will be sent, after review, to the Director, Office of Development, Personnel Programs Division, Code NPD, NASA Headquarters, for retention. The reports will be available to the public.

(f) *Where To Seek Help.* To seek assistance in completing the Executive Personnel Financial Disclosure Report, contact the Field Installation Chief Counsel or the Assistant General Counsel for General Law at Headquarters.

(g) *Failure To Submit Report.* Falsification of or knowing or willful failure to file or report information required to be filed by section 202 of the Ethics in Government Act may subject the individual to a civil penalty and to disciplinary action. Also, knowing or willful falsification of information under that section may subject the individual to criminal prosecution under 28 U.S.C. 1001, leading to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.

Authority: Ethics in Government Act of 1978, Pub. L. 95-521.

Subpart F—Standards of Conduct for Special Government Employees

Appendix A—Conflict of Interests Statutes (see § 1207.735-603)

* * * * *

18 U.S.C. 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.

(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

(1) Any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

(2) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(3) In which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—

(1) Any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

(2) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and

(3) As to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

(c) Whoever, other than a special Government Employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

(1) The department or agency in which he served as an officer or employee, or any officer or employee thereof, and

(2) In connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy investigation, charge, accusation, arrest, or other particular matter, and

(3) Which is pending before such department or agency or in which such department or agency has a direct and substantial interest—shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

(d)(1) Subsection (c) of this section shall apply to a person employed—

(A) At a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

(B) On active duty as a commissioned officer of a uniformed service assigned to pay grade of O–9 or above as described in section 201 of title 37, United States Code; or

(C) In a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O–7 or O–8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

(2) The prohibition of subsection (c) shall not apply to appearances, communications or representation by a former officer or employee, who is—

(A) An elected official of a State or local government, or

(B) Whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the **Federal Register**, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

Authority: Ethics in Government Act of 1978, Pub. L. 95–521.

James M. Beggs,

Administrator.

[FR Doc. 85–2127 Filed 1–28–85; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172 and 173

[Docket No. 83G-0284]

Food Additives Permitted for Direct and Secondary Direct Addition to Food for Human Consumption; Quaternary Ammonium Chloride Combination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of quaternary ammonium chloride combination as an antimicrobial agent in the processing of sugar cane. This action responds to a petition filed by Fabcon International, Inc. This final rule lists the substance as a direct and secondary direct food additive and establishes conditions for its use.

DATES: Effective January 29, 1985; objections by February 28, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 6, 1974 (39 FR 28307), FDA announced that a petition (GRASP 4G0041) had been filed by Fabcon International, Inc., 33 Public Square, Cleveland, OH 44113, proposing to affirm that quaternary ammonium chloride combination is generally recognized as safe (GRAS) for use as an antimicrobial agent in the processing of sugar cane. The petition requested that the agency affirm the GRAS status of two different methods of using quaternary ammonium chloride combination to control microorganisms in the processing of sugar cane. The substance can be sprayed on the crusher and first two mills during routine sugar milling operation, and it can be added to raw sugar cane juice when further processing of the juice would be delayed.

FDA has evaluated the data in the petition and other relevant material. These data demonstrate that:

1. The requested uses will result in quaternary ammonium chloride residues of 7 parts per billion or less in refined sugar.

2. This level of exposure does not pose a hazard to the public health.

3. When used under the approved conditions of use, this food additive will have its intended technical effect.

4. Quaternary ammonium chloride combination was not commonly used in food production in the United States before January 1, 1958.

While this petition was pending before FDA, the petitioner agreed with the agency that the use of quaternary ammonium chloride combination in sugar cane milling should be regulated as a food additive subject to section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

FDA advises that it has evaluated the petition submitted for GRAS affirmation of quaternary ammonium chloride combination as a food additive petition in accordance with §§ 170.38(c) and 171.1 (21 CFR 170.38(c) and 171.1) and has found that the data in the petition establish that the proposed uses of this substance as an antimicrobial agent in the processing of sugar cane are safe. FDA therefore concludes that the food additive regulations should be amended to provide for the use of quaternary ammonium chloride combination as set forth below:

1. In new § 172.165 to permit the use of quaternary ammonium chloride combination as an antimicrobial agent in raw sugar cane juice during processing delays.

2. In § 173.320(b) to permit the use of quaternary ammonium chloride combination in controlling microorganisms in sugar cane processing.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR

Part 172

Food additives, Food preservatives, Spices and flavorings.

Part 173

Food additives, Food processing aids.

Therefore under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Parts 172 and 173 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. In Part 172 by adding new § 172.165 to read as follows:

§ 172.165 Quaternary ammonium chloride combination.

The food additive, quaternary ammonium chloride combination, may be safely used in food in accordance with the following conditions:

(a) The additive contains the following compounds: *n*-dodecyl dimethyl benzyl ammonium chloride (CAS Reg. No. 139-07-1); *n*-dodecyl dimethyl ethylbenzyl ammonium chloride (CAS Reg. No. 27479-28-3); *n*-hexadecyl dimethyl benzyl ammonium chloride (CAS Reg. No. 122-18-9); *n*-octadecyl dimethyl benzyl ammonium chloride (CAS Reg. No. 122-19-0); *n*-tetradecyl dimethyl benzyl ammonium chloride (CAS Reg. No. 139-08-2); *n*-tetradecyl dimethyl ethylbenzyl ammonium chloride (CAS Reg. No. 27479-29-4).

(b) The additive meets the following specifications: pH (5 percent active solution) 7.0-8.0; total amines, maximum 1 percent as combined free amines and amine hydrochlorides.

(c) The additive is used as an antimicrobial agent, as defined in § 170.3(o)(2) of this chapter, in raw sugar cane juice. It is added prior to clarification when further processing of the sugar cane juice must be delayed.

(d) The additive is applied to the sugar juice in the following quantities, based on the weight of the raw cane:

Component	Parts per million
n-Dodecyl dimethyl benzyl ammonium chloride	0.25-1.0
n-Dodecyl dimethyl ethylbenzyl ammonium chloride	3.4-13.5

Component	Parts per million
n-Hexadecyl dimethyl benzyl ammonium chloride	1.5–6.0
n-Octadecyl dimethyl benzyl ammonium chloride	0.25–1.0
n-Tetradecyl dimethyl benzyl ammonium chloride	3.0–12.0
n-Tetradecyl dimethyl ethylbenzyl ammonium chloride	1.6–6.5

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

2. Part 173 is amended in § 173.320 by revising the introductory text of paragraph (b) and by adding new paragraph (b)(5) to read as follows:

§ 173.320 Chemicals for controlling microorganisms in cane-sugar and beet-sugar mills.

* * * * *

(b) They are applied to the sugar mill grinding, crusher, and/or diffuser systems in one of the combinations listed in paragraph (b) (1), (2), (3), or (5) of this section or as a single agent listed in paragraph (b)(4) of this section. Quantities of the individual additives in parts per million are expressed in terms of the weight of the raw cane or raw beets.

* * * * *

(5) Combination for cane-sugar mills:

	Parts per million
n-Dodecyl dimethyl benzyl ammonium chloride	0.05 ± 0.005
n-Dodecyl dimethyl ethylbenzyl ammonium chloride	0.68 ± 0.068
n-Hexadecyl dimethyl benzyl ammonium chloride	0.30 ± 0.030
n-Octadecyl dimethyl benzyl ammonium chloride	0.05 ± 0.005
n-Tetradecyl dimethyl benzyl ammonium chloride	0.60 ± 0.060
n-Tetradecyl dimethyl ethylbenzyl ammonium chloride	0.32 ± 0.032

Limitations. Byproduct molasses, bagasse, and pulp containing residues of these quaternary ammonium salts are not authorized for use in animal feed.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 28, 1985 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective January 29, 1985.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 22, 1985.

Richard J. Ronk,

Acting Director, Center for, Food Safety and Applied Nutrition.

[FR Doc. 85–2137 Filed 1–28–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R–85–1175; FR–1501]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Issue Date of Debentures

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule changes the method by which debenture interest is computed when a one- to four-family property is conveyed to the Secretary in exchange for insurance benefits. This final rule adopts the proposed rule issued earlier, except for a minor textual change that is made to improve the rule's clarity.

EFFECTIVE DATE: March 11, 1985.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Department of Housing and Urban Development, Room 9180, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone number (202) 755–6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department issued a proposed rule on August 7, 1984 (49 FR 31444) which informed the public that HUD contemplated revising the then-existing regulation on the issue date of debentures.

The Department asserted in that rule that the change was necessary to correct the procedure, used in the settlement of reimbursable expenses incurred by a mortgagee in foreclosing on a one- to four-family property, of dating debentures as of the date of default, rather than as of the actual date on which the reimbursable expense was incurred. The Department recognized in the proposed rule that the change would result in a small reduction of insurance benefits to mortgagees (the rule applies both to contracts in effect and to future contracts). However, the Department continues to adhere to the position that a practice that gives mortgagees undeserved interest payments at the expense of the insurance fund must be discontinued.

The proposed rule invited public comment for a 60-day period ending October 9, 1984. One comment was received. The commenter agreed that HUD should not "pay interest on expenditures to lenders for the period before the expenditure actually was incurred," but questioned the Department's characterization of such payments, in the preamble of the proposed rule, as a "windfall".

The comment also referred to what it called "defects" in other regulations governing payment of foreclosure expenses. The Department disagrees that the regulations mentioned by the commenter are defective. As an example of a "defective" regulation, the commenter cites 24 CFR 203.402(f), which provides, in part, that "insurance benefits shall include foreclosure costs. * * * In an amount not in excess of two-thirds of such costs." The commenter argues that this provision "ensure[s] that mortgagees [will] suffer significant financial losses on every claim for insurance benefits." The definition of "date of default" in 24 CFR 203.331 led the commenter to cite this regulation, too, as defective, and as one which causes a financial loss to lenders.

HUD recognizes that lenders share a portion of the costs involved when property is foreclosed. Nonetheless, HUD believes that these regulations should not be changed if they act as a disincentive to hasty foreclosures and are protective of the insurance fund.

The comment also criticized the provision of existing regulations requiring that the interest portion of an

insurance claim paid in cash be at the debenture rate because (argued the commenter) that rate is usually lower than the prime rate at which lenders borrow money to preserve the foreclosed property. The Department is bound, under section 204(a) of the National Housing Act (12 U.S.C. 1710(a)), to pay the debenture interest rate on insurance claims paid in cash. However, the Department is mindful of the need to hold mortgagees' foreclosure costs to a minimum, and is taking steps to expedite the process for paying insurance claims.

The introductory phrase "in connection with conveyed properties" has been added to the text of the rule, to clarify that this rule applies only in those cases in which the property is conveyed to the Secretary.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule will result in mortgagees' receiving less debenture interest, though the reduction is negligible. More importantly, this action amends a regulation that erroneously resulted in mortgagees' being overpaid.

This rule was listed as Item 38 (H-51-81; FR-1501) under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41700) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by the regulation change: 14.105, 14.108, 14.117, 14.118, 14.119, 14.120, 14.121, 14.122, 14.123, 14.133, 14.140, 14.152, 14.159, 14.161, 14.165.

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Accordingly, the Department amends 24 CFR Part 203 as follows:

Section 203.410 is revised by adding a new paragraph (c) to read as follows:

§ 203.410 Issue date of debentures.

* * * * *

(c) Notwithstanding paragraph (a) of this section, in connection with conveyed properties, debentures issued as reimbursement for expenditures made by a mortgagee after the date of default shall be dated as of the date the expenditure is actually made by the mortgagee.

Authority: Secs. 204(d) and 211, National Housing Act (12 U.S.C. 1710d, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: January 10, 1985.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 85-2108 Filed 1-28-85; 8:45 am]

BILLING CODE 4210-27-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2623

Benefit Reductions in Terminated Single-Employer Pension Plans and Recoupment of Benefit Overpayments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation prescribes rules requiring administrators of certain defined benefit pension plans to reduce benefit payments after plan termination when those payments exceed the level of benefits guaranteed and payable by the Pension Benefit Guaranty Corporation under the Employee Retirement Income Security Act of 1974, as amended. This regulation also prescribes rules by which the PBGC will recover from plan participants or beneficiaries any benefit overpayments made after plan termination and will reimburse participants and beneficiaries for any underpayments.

The Act sets limitations on the benefits that are guaranteed and paid by the PBGC when a covered plan that has insufficient assets terminates. Often, benefits being paid by the plan at termination exceed those benefit levels. To the extent that higher benefits continue to be paid after termination, plan assets are depleted and a greater expenditure of the PBGC's insurance funds is required. Any benefit overpayments that occur are subject to recoupment by the PBGC from plan participants and beneficiaries.

The effect of this regulation is to require that plan administrators reduce certain benefit payments after plan termination and to provide methods by which the PBGC will recoup benefit overpayments and reimburse benefit underpayments.

EFFECTIVE DATE: February 28, 1985.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Pension Benefit Guaranty Corporation, Code 611, 2020 K Street, NW., Washington, DC 20006 (202-254-6476, not a toll-free number).

SUPPLEMENTARY INFORMATION: On October 31, 1983, the Pension Benefit Guaranty Corporation ("the PBGC") published in the **Federal Register** a proposed regulation on Benefit Reductions in Terminated Single-Employer Pension Plans and Recoupment of Benefit Overpayments (48 FR 50111). The regulation would apply to pension plans covered by the PBGC termination insurance programs established under Title IV of the Employee Retirement Income Security Act of 1974, as amended by Pub. L. 96-374, 94 Stat. 1208 (1980) ("the Act"). Under the proposed regulation, plan administrators in covered plans that terminate without sufficient assets to pay benefits payable by the PBGC would be required to reduce benefit payments to an estimated benefit level in order to minimize benefit payments in excess of those payable under Title IV. The proposed regulation set forth rules whereby the plan administrator could determine the estimated benefit of each participant. The regulation also contained rules for PBGC recoupment of benefit overpayments and reimbursement of beneift underpayments.

The proposed regulation provided for a sixty-day period for public comments.

Five comments were received. The PBGC has reviewed the comments and has adopted or not adopted their suggestions for the reasons set forth below. In addition, clarifying changes were made in the regulation where necessary, and additional examples have been added.

Benefit Reductions in General

Two comments addressed the question of whether a regulation should be issued imposing a duty to reduce benefits after plan termination and prescribing a method for estimating appropriate benefit reductions. One comment supported the general features of the proposed rule, stating that the prompt estimation of the level of benefits ultimately payable will reduce the problems associated with large overpayments. The second comment objected to the proposed rule and urged that it be withdrawn. The grounds for objection were that the rule was unduly complex and that the PBGC had not demonstrated that plan administrators would, in the absence of such a rule, fail to make appropriate benefit reductions.

The PBGC has evaluated the need for the proposed rule and has concluded that its issuance will reduce, rather than increase, burdens on the private sector. No comment disputed the importance of reducing benefits to the levels payable under Title IV at the earliest feasible moment after the termination of a plan that lacks sufficient assets to pay all accrued benefits. At the present time, the PBGC asks plan administrators to make the necessary reductions voluntarily. Although most administrators are willing to do so, the current approach unnecessarily delays benefit reductions. The PBGC must identify a plan as one in which reductions are appropriate, request that they be made, and advise the administrator as to the method of estimating benefits payable. The administrator must then perform the necessary calculations and see that payments to participants reflect the new benefit amounts. Since few plan administrators (or their professional advisors) have extensive practical experience with the termination of insufficient plans,[1] it is not easy to carry out these steps in a prompt and efficient manner. As a result, benefit reductions are frequently delayed for several months.

The adoption of the proposed rule will give plan administrators clear notice of their duty to make necessary benefit reductions and of the procedure for doing so. The availability of this information should facilitate advance planning, reduce delays, and minimize disputes among administrators, participants, and the PBGC.

For these reasons, the PBGC believes that the publication of procedures for estimating benefits payable under Title IV will reduce the burden on the administrators of terminating plans. Moreover, prompt benefit reductions will mitigate any hardship to participants that might occur when large benefit overpayments were later recouped. Therefore, the PBGC believes that early benefit reductions should be required and that this regulation is needed for that purpose and to guide plan administrators in computing the required reductions.

The comment that urged the withdrawal of the proposed regulation also complained that the method of estimating benefits set forth in the proposed rule was inordinately complex. The calculation of estimated benefits under this regulation follows the same sequence as that used to compute actual benefits payable under Title IV, and its complexity derives from the statutory scheme. The estimation method is, in fact, considerably simpler than the exact computation of a participant's guaranteed benefit and could not be further simplified without making it so inaccurate as to be useless.

The first step in the computation sequence is to reduce benefits to the amount accrued for retirement at the normal retirement age under the plan (§ 2623.5(b)), since benefits in excess of that amount are not guaranteed by the PBGC. The second step is to reduce the resulting benefit so that it does not exceed the statutory maximum guaranteeable benefit under section 4022(b)(3)(B) of the Act (§ 2623.5(c)).[2]

The PBGC guarantees benefit increases resulting from plan amendments, scheduled increases, or establishment of a new plan. These guarantees are phased in under section 4022(b)(1) of the Act. The longer an increase is in effect prior to plan termination, the greater the guaranteed portion. Accordingly, the third step in the benefit estimation procedure approximates the phase-in of guaranteed benefits by applying specified percentages to the plan benefit, as limited by steps one and two. The percentages and the manner in which they are applied differ for benefits payable with respect to participants who are not substantial owners and to participants who are substantial owners (§ 2623.6 (c) and (d), respectively).

For participants who are not substantial owners, the estimated benefit reduced for phase-in is approximated by multiplying the benefit to which a participant is otherwise entitled after steps one and two by specified percentages set forth in Table I of § 2623.6(c). The applicable multiplier depends upon two variables: (i) The number of full years since the plan was last amended to provide for a new benefit (or the number of full years since the plan was established, if it has never been amended to provide for a new benefit) and (ii) whether there was any benefit improvement during the one year period ending on the section 4041(a) date of termination. Only new benefits and benefit improvements that affect the benefit of the participant or beneficiary for whom the determination is made are taken into account. Column (a) of Table I shows the number of full years before the section 4041(a) date of termination since the last new benefit was added to the plan (or the number of full years since the plan was established, if no new benefits have been added). The multipliers in column (b) of Table I are to be used if, during the one-year period ending on the section 4041(a) date of termination, there was no benefit improvement under the plan. The multipliers in column (c) are to be used in all other cases.[3]

For substantial owners, the estimated benefit reduced for phase-in is determined by multiplying the owner's benefit, as limited by steps one and two, by either of two fractions determined according to his years of participation in the plan: (i) If fewer than five full years, the fraction is years/thirty; (ii) if five years or more, the fraction is two times the number of years/thirty. The benefit amount for the first fraction is determined under the rules in

[1] Only one terminating plan in fifty has insufficient assets to pay guaranteed benefits, and there have been only about 1,000 insufficient terminations since the enactment of Title IV of ERISA.

[2] For plans terminating in calendar 1984, the maximum guaranteeable benefit is $ 1,802.27 per month, payable as a single life annuity at age 65, and reduced, by factors contained in § 2621.4(c)-(e) of this chapter, for benefits payable in other forms or at earlier ages. If the benefit is non-level over the lifetime of the recipient (for example, if it contains a temporary supplement), the benefit must be converted to a level-life equivalent using § 2621.4(e) before it can be compared to the maximum guaranteeable benefit.

[3] In accordance with § 2623.5(f), a plan administrator may use a different method of estimation if he demonstrates to the PBGC that his proposed method will be more equitable to participants and beneficiaries. The PBGC may require the use of a different method in certain cases.

§ 2623.6(b). For the second fraction the amount is the lesser of the benefit determined under § 2623.6(b) or the benefit to which the substantial owner would have been entitled under the terms of the plan when he first began participation.

Finally, the PBGC pays benefits in excess of guaranteed levels if those benefits are funded by plan assets on the date of plan termination. Therefore, the last step of the benefit estimation procedure computes an estimated Title IV Benefit with respect to participants whose benefit levels and plan asset levels meet the criteria in the regulation indicative of sufficient assets to pay the non-guaranteed portion of benefits allocated to priority categories 3 and 4 under section 4044 of the Act. The regulation contains separate rules for determining the estimated Title IV Benefits with respect to participants who are not substantial owners and to participants who are substantial owners (§ 2623.7 (c) and (d), respectively).[4]

The estimated Title IV Benefit of a participant who is not a substantial owner is computed by multiplying the participant's benefit under the plan as of the later of the section 4041(a) date of termination of his benefit commencement date by a fraction as follows: The numerator is the normal retirement benefit that would be payable to the participant under the normal retirement provisions of the plan five years before the section 4041(a) date of termination, based on his age, service, and compensation on his benefit commencement date. The denominator is the benefit that would be payable to the participant under the normal retirement provisions of the plan in effect on his benefit commencement date, based on his age, service, and compensation as of his benefit commencement date.

The estimated Title IV Benefit of a participant who is a substantial owner is the higher of (i) the benefit estimated under the rules applying to other participants or (ii) his estimated guaranteed benefit multiplied by a funding ratio determined with reference to plan assets and the present value of vested benefits. The method of calculating this ratio depends upon whether the plan has priority category 3 benefits.

These four steps have been clarified in this final regulation and, with respect to each, the examples in the regulation should answer most questions that are likely to arise frequently.

One of these two comments also suggested that all estimated benefit determinations should be appealable to the PBGC Appeals Board established pursuant to 29 CFR Part 2606. This suggestion has not been adopted for several reasons. First, the appeals procedure applies only to determinations by the PBGC, not to determinations that plan administrators would be required to make under this regulation. Second, the appeals procedure applies only to determinations of benefit entitlement and the amount of a participant's guaranteed benefit. No useful purpose would be served by providing for an appeal from the determination of an estimated benefit. Third, to delay implementation of a benefit reduction under this regulation would defeat the purpose of the early reduction provisions.

Timing of Benefit Adjustments

One comment suggested that the timing of the benefit adjustment procedure in the proposed regulation be revised. Under § 2623.5 (b) and (c) of the proposed regulation, a plan administrator would be required, as of the section 4041(a) date of termination, to reduce benefits in accordance with the first two steps of the computation sequence discussed above. Therefore, as of the section 4041(a) date of termination, he must stop paying benefits in excess of a participant's accrued benefit payable at normal retirement age or in excess of the maximum guaranteeable benefit under section 4022(b)(3)(B) of the Act. By the thirtieth day after that date, the plan administrator would be required to adjust benefits to the estimated benefit level (§ 2623.5(d)).

The comment suggested that all estimates be required "at once and at the earliest possible date" to avoid the uncertainties that retirees face concerning their economic security. This suggestion has not been adopted in this final regulation. The PBGC is not unmindful of the problems facing retirees and the fact that any benefit reductions may cause hardship. As stated in the preamble to the proposed regulation, however, the timing of the benefit adjustment procedure reflects a balancing of conflicting considerations. The desire to reduce benefits quickly to the estimated benefit level must be weighed against the ability of plan administrators to make the necessary calculations.

The first two steps in the computation of estimated benefits are a simple process. It is not difficult to determine if benefit amounts exceed the accrued benefit payable at normal retirement age. It is also relatively easy to determine if benefits exceed the maximum guaranteeable benefit under section 4022(b)(3)(B) of the Act. Effecting these reductions at the section 4041(a) date is feasible and would sharply reduce the aggregate overpayments for a significant number of participants. The third and fourth steps in the benefit estimation process are, however, more complex. After thorough consideration, the PBGC has determined that the earliest date that adjustments computed under § 2623.6 and § 2623.7 can reasonably be required is thirty days after the section 4041(a) date of plan termination. Nothing in the regulation precludes earlier adjustments under those provisions if a plan administrator finds that feasible.

Limitations on Benefits Payable

Section 2623.5(e) of the proposed regulation provided that, beginning on the section 4041(a) date of termination, the plan administrator may not purchase an annuity or pay lump sum benefits without the prior written consent of the PBGC. The purpose of this provision is to avoid the substantial problems that could result if the plan administrator were to use plan assets to pay for the full amount of a participant's benefits in excess of guaranteed benefit levels. One comment suggested that the regulation be modified to permit the payment of a lump sum death benefit or the return of employee contributions on account of death or separation from service before plan termination. This suggestion has not been adopted. The regulation does not prohibit such payments but merely provides for review by the PBGC before payment. The PBGC has long had a policy requiring prior review of lump sum distributions from plan assets after termination, with no appreciable disruption of the distribution process. Therefore, the provisions of the proposed regulation were changed for clarification only.

Estimated Guaranteed Benefit

Section 2623.6(c) of the proposed regulation provided for benefit reductions in plans with new benefits or benefit increases due to an improved benefit formula, using the applicable percentage from the table set forth in that section. That table, designated as Table I in this final regulation, is used to estimate the phase-in limitation on

[4] In order to ensure that the estimated Title IV Benefit computation does not result in payment of less than the estimated guaranteed benefit, the regulation provides that the estimated benefit is the higher of the estimated guaranteed benefit or the estimated Title IV Benefit (§ 2623.5(d)).

benefit guarantees set forth in section 4022(b)(1) of the Act.

The final regulation has been revised to explain more clearly the method for using Table I and to clarify terms. The term "benefit improvements" has been substituted for the term "benefit increases due to an improved benefit formula" that appeared in the proposed regulation. The definition, however, remains unchanged—a "benefit improvement" is a change in the terms of the plan that results in: (i) An increase in the benefit to which a participant is entitled at his normal retirement age under the plan or (ii) an increase in the benefit to which a participant or beneficiary in pay status is entitled. The term "new benefit" has been retained but redefined. Under the final regulation, "new benefit" is defined as: (i) A change in the terms of the plan that results in eligibility for a benefit that was not previously available to a participant or to which he was not previously entitled (excluding a benefit that is actuarially equivalent to the normal retirement benefit to which the participant was previously entitled) or (ii) an increase of more than twenty percent in the benefit to which a participant is entitled following termination of his employment before his normal retirement age under the plan. As now defined, it is clear that "new benefits" include, for example, subsidized early retirement benefits and increases in actuarial subsidies, but that such new benefits will be taken into consideration, for the purposes of estimating benefits, only to the extent they increase benefits by more than twenty percent. The PBGC believes that these definitions will provide more specific guidance on the distinctions between the two types of benefit increases and will produce more accurate estimates of guaranteed benefits.

The only comment received on § 2623.6(c) suggested that the phase-in reductions should be applied only to those participants whose benefits were affected by an amendment. That was the intent of the PBGC, and the final regulation has been clarified in this respect.

Title IV Benefit Computation

Under § 2623.7 of the proposed regulation, the administrator of a plan that meets the conditions set forth in § 2623.7(b) of this final regulation may elect to determine each participant's "Title IV Benefit" and pay that benefit if it exceeds the estimated benefit under § 2623.6. The Title IV Benefit may result in smaller benefit reductions for some participants because its computation recognizes the fact that, to the extent that plan assets are available, certain non-guaranteed benefits allocated to priority categories 3 and 4 under section 4044 of the Act are properly payable to participants entitled to such benefits under the plan.

One comment suggested that the computation of a Title IV Benefit be mandatory in order to provide retirees with a more accurate estimate of their ultimate benefits. Upon reconsideration, the PBGC believes that this computation is necessary to assure that all participants are treated equally and should be required in plans that meet the conditions specified in the regulation. If this computation were optional and plan administrators elected not to compute Title IV Benefits in plans with priority category 3 or 4 benefits, the estimated guaranteed benefits of a substantial number of retirees could be understated. The final regulation, therefore, has been revised to require the computation of estimated Title IV Benefits in plans that meet the conditions set forth in § 2623.7(b).

One comment suggested that the provisions of proposed § 2623.7(b)(2), § 2623.7(b)(1) of this final regulation, should be changed to permit the use of an interest rate not greater than the higher of the PBGC rate on the valuation date or the rate on the plan termination date. The PBGC believes that the introduction of an additional interest rate alternative would distort the ratio to be used in the estimation process, possibly decreasing the amount of the reduction and increasing the amount that must later be recouped. Therefore, the PBGC has not adopted this suggestion in the final regulation.

Two comments noted that, under § 2623.7(c) of the proposed regulation, Title IV Benefits for retirees in priority category 3 would be systematically underestimated in pension plans that had post-retirement increases in benefits. The PBGC did not intend a systematic underestimation of benefits for participants with post-retirement benefit increases, either in the calculation of Title IV Benefits or in the calculation of benefits under § 2623.6, and the final regulation has been clarified in this respect.

Notices From the Plan Administrator

Section 2623.8(a) of the proposed regulation required that the plan administrator include a statement about possible benefit reductions in the notice to plan participants of the plan termination. This notice is required under § 2616.4 of the PBGC's Notice of Intent to Terminate regulation. One comment suggested that a time limit should be included in the notification requirement. Under § 2616.4, the notification by the plan administrator to participants is required "no later than the date the Notice of Intent to Terminate is filed." The PBGC believes that the cross-reference to § 2616.4 is sufficient for purposes of this final regulation but has clarified the pertinent provision.

Recoupment and Reimbursement

Subpart C of the proposed regulation sets forth the method that the PBGC would use to recoup benefit overpayments and provided further that only benefit overpayments after the section 4041(a) date of termination (or the section 4048 date of termination, if later) would be recouped. Thus, the PBGC would forgo recoupment of benefit overpayments made during the period between a retroactive termination date and the section 4041(a) date of termination. The proposed regulation provided for recoupment of benefit overpayments by an actuarial reduction in monthly benefit payments instead of by the present method of reducing future benefit payments by ten percent per month until the total overpayment is recouped.

Several comments objected to the proposed change in the recoupment method. One argued that the proposed method would unjustifiably reduce the statutory guaranteed benefit of a participant who lives beyond his life expectancy and recommended that the PBGC recoup overpayments by a benefit reduction of a specific dollar amount for a specific number of months until the overpayment is repaid. Another comment suggested that the PBGC recoup no more than the amount of the overpayment, collecting any amount not paid at the time of death from the participant's estate or that, in lieu of recoupment, the PBGC accept an assignment of the value of the overpayment as a first claim on the participant's estate. A third comment suggested that the PBGC has no right to recoup more than the amount of the overpayment, with interest, and should curtail recoupment when the overpayment has been repaid. A fourth comment suggested that recoupment in any form places the interests of the PBGC as an insurer ahead of the interests of retirees to whom the PBGC has a fiduciary obligation, contending that, "in wearing two hats, the PBGC is placed into an inherent conflict of interest."

The need for recoupment and the method of accomplishing it have been the subject of considerable study by the

PBGC for many years. The PBGC has determined that it has a duty to recoup benefit payments in excess of guaranteed benefit levels when such payments occur after a plan has terminated. The Act does not authorize terminated insufficient plans or the PBGC to pay benefits in excess of the levels specified in Title IV. It also imposes on the PBGC an obligation to maintain premiums at the lowest possible level. Failure to recoup overpayments would be inconsistent with this statutory scheme. *See, Bechtel v. Pension Benefit Guaranty Corporation,* Civ. No. 83-0121 (D.D.C., July 10, 1984); *Williams v. Pension Benefit Guaranty Corporation,* Civ. No. 83-3355 (D.N.J., Feb. 6, 1984).

In carrying out its duty to recoup overpayments, the PBGC has attempted to devise a method that will effectively accomplish its goal with minimum hardship to participants. The PBGC believes that actuarial reduction is the best method of balancing the competing interests in a reasonable manner and has not changed the final regulation in this respect. The PBGC is aware of the problems faced by retirees living on limited monthly incomes. The actuarial reduction method will reduce the burden of recoupment for most participants by spreading repayment over the entire term of future benefit payments. The resulting monthly reduction in benefits will normally be less than under the current method of making a flat ten percent reduction. Further, the regulation generally limits the monthly reduction to ten percent, which, in some instances, will result in recoupment of less than the actual overpayment.

Some comments urged that the actuarial reduction be discontinued as soon as the actual amount of the overpayment is repaid. This suggestion is inconsistent with the principle underlying the actuarial reduction method of recoupment. If adopted, it would lead either to systematic under-recoupment or to PBGC involvement in multitudinous collection actions against the estates of participants who died before full recoupment. Should a participant be concerned about the possibility of outliving his life expectancy and thereby repaying more than the actual overpayment, the regulation provides for an optional lump sum repayment.

Two comments suggested that the PBGC limit recoupment in cases of hardship. One suggested that a participant be liable for no more than one year of overpayments. The PBGC believes that an arbitrary limitation of recoupment liability, such as that suggested, would impose unacceptable risks on the insurance system and would allow a minority of beneficiaries to retain windfalls at the expense of the system as a whole. The regulation's provisions for early reduction to estimated benefit levels should, in any case, limit the number of instances of prolonged overpayment.

A second comment suggested that the PBGC consider the Social Security regulations, under which recoupment of overpayments is waived if an individual is without fault and recovery would be against equity and good conscience. The PBGC notes that the Social Security regulations concerning hardship waiver of recoupment rights were promulgated pursuant to explicit statutory provisions. No similar statutory rule limits the PBGC's duty of recoupment, and the positions of the Social Security Administration (which calculates and pays benefits under a social insurance program) and the PBGC (which guarantees benefits calculated and paid under private pension plans) are not comparable. Nevertheless, the regulation does mitigate any hardship that may occur by providing that any benefit reduction for recoupment purposes will normally be no more than the greater of ten percent per month or the amount of benefit per month in excess of the maximum guaranteeable monthly benefit.

One comment suggested that section 4045(c)(2) of the Act, relating to recovery by a plan trustee of large benefit payments made before the date of plan termination, prohibits recoupment of overpayments to disabled and certain other participants. The PBGC does not agree with this analysis. Section 4045 authorizes the trustee of a plan to recover lump sum or other preferential payments that the recipient would otherwise be legally entitled to keep and applies only to payments made before the date of termination. The proposed regulation, by contrast, applies only to payments of amounts to which the recipient was not entitled that were made after the date of termination. Section 4045 by its terms has no application in this case. Therefore, no change has been made in the final regulation in this respect.

Finally, one comment suggested that the regulation should specify the use of identical rates of interest to calculate the amount of underpayment that would be reimbursed and the amount of overpayment to be recouped. In response to this comment, the final regulation includes greater detail concerning interest rates on overpayments and underpayments. As a general rule, no interest is charged on overpayments from the date of the payment to the date on which recoumpent begins. If a participant receives both overpayments and underpayments, interest is charged or credited from the first day of the month after the date of payment to the date on which recoupment would begin (or the reimbursement would be made) in order to determine the net amount to be recouped or reimbursed. In no case, however, may the net amount of overpayment to be recouped exceed the sum of the actual overpayments (unadjusted for interest from the date of payment to the date on which recoupment begins).

The final regulation has also been revised to make clear that this regulation sets forth the general procedure whereby the PBGC will recoup benefit overpayments but is not intended to preclude the PBGC from seeking to recover, by other methods, benefit payments in excess of the amount to which a participant or beneficiary is entitled under the terms of the plan.

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this regulation is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, the PBGC certifies, pursuant to section 605 of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation applies only to terminating plans that have insufficient assets to pay for guaranteed benefits. Over 98 percent of the plans that terminate while covered by PBGC insurance are sufficient plans. Plans with fewer than 100 participants are generally considered to be "small plans." Of the 1.7 percent of terminating plans that are insufficient, approximately half are small plans. Thus, no more than one percent of the 6,500 plans expected to terminate each year are small plans that are insufficient. Accordingly, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), OMB control number 1212-0029.

List of Subjects in 29 CFR Part 2623

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, Subchapter C of Chapter XXVI, Title 29, Code of Federal Regulations, is amended to add a new Part 2623 at the end thereof, reading as follows:

PART 2623—BENEFIT REDUCTIONS IN TERMINATED SINGLE-EMPLOYER PENSION PLANS AND RECOUPMENT OF BENEFIT OVERPAYMENTS

Subpart A—General

Sec.
2623.1 Purpose and scope.
2623.2 Definitions.

Subpart B—Benefit Reductions by Plan Administrator

2623.5 Limitations on benefits payable by plan administrator.
2623.6 Estimated guaranteed benefit.
2623.7 Estimated Title IV Benefit.
2623.8 Notices from plan administrator.

Subpart C—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

2623.11 General rules.
2623.12 Method of recoupment.
2623.13 PBGC reimbursement of benefit underpayments.

Authority: Secs. 4002(b)(3), 4022, 4022B, 4044, Pub. L. 93-406, as amended by secs. 403(1), 403(c), 102, 402(a)(7), respectively, Pub. L. 96-364, 94 Stat. 1208, 1302, 1301, 1210, 1299 (29 U.S.C. 1302(b)(3), 1322, 1322b, 1344).

Subpart A—General

§ 2623.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules that will minimize the overpayment of benefits after plan termination by single-employer plans that ultimately will be trusteed by the Pension Benefit Guaranty Corporation, to provide for the recoupment of benefit overpayments after plan termination from participants and beneficiaries entitled to annuities, and to provide for the reimbursement of underpayments to plan participants and beneficiaries. Subpart B of this part sets forth the rules pursuant to which plan administrators of terminated, insufficient plans shall reduce plan benefits paid after the section 4041(a) date of termination. Subpart C sets forth the method of recoupment by the PBGC of benefit payments in excess of the amounts permitted under sections 4022, 4022B, and 4044 of the Employee Retirement Income Security Act of 1974, as amended, and also provides for PBGC reimbursement to plan participants and beneficiaries of benefit underpayments.

(b) *Scope.* This part applies to terminated single-employer pension plans covered under section 4021 of the Act and is effective February 28, 1985. Subpart A applies to insufficient plans and other terminated plans that are trusteed by the PBGC under section 4042 of the Act. Subpart B applies to those insufficient plans for which a Notice of Intent to Terminate is required to be filed on or after the effective date of this part. Subpart C applies to recoupments that begin and reimbursements that are made on or after the effective date of this part.

§ 2623.2 Definitions.

For purposes of this part:

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Insufficient plan" means—

(a) a plan that is identified by the plan administrator in a Notice of Intent to Terminate as not having sufficient assets to pay all guaranteed benefits; or

(b) a plan that is identified by PBGC as not having sufficient assets to pay all guaranteed benefits.

"Notice of Intent to Terminate" means the notice filed with PBGC in accordance with section 4041(a) of the Act and Part 2616 of this chapter.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Section 4041(a) date of termination" means the later of (a) the date of plan termination proposed in a Notice of Intent to Terminate or (b) the tenth day following the date on which the Notice of Intent to Terminate is filed.

"Section 4048 date of termination" means the date of plan termination established under section 4048 of the Act.

"Substantial owner" means a person described in section 4022(b)(5)(A) of the Act.

"Title IV Benefit" means that portion of the benefit of a participant or beneficiary under a terminated pension plan that is guaranteed under section 4022 of the Act plus any nonguaranteed portion in priority categories 3 and 4 to which assets are allocated pursuant to section 4044 of the Act.

Subpart B—Benefit Reductions by Plan Administrator

§ 2623.5 Limitations on benefits payable by plan administrator.

(a) *General.* A plan administrator, after submitting a Notice of Intent to Terminate a plan, shall limit the payment of benefits in accordance with this section if the conditions described in paragraph (a)(1), (a)(2), or (a)(3) exist. In applying the time limits set forth in this section when the conditions described in paragraph (a)(2) or (a)(3) exist, substitute the phrase "the thirtieth day following receipt of the PBGC notice" for the phrase "the section 4041(a) date of termination." The conditions that result in the applicability of this section are as follows:

(1) The plan administrator identifies a plan as insufficient by indicating in the Notice of Intent to Terminate that plan assets are not sufficient to pay all guaranteed benefits and that the employer that maintained the plan has not made an irrevocable commitment to make the plan sufficient.

(2) The plan administrator indicates in the Notice of Intent to Terminate that plan assets are adequate to pay all guaranteed benefits without an employer's commitment to make the plan sufficient, and the PBGC later determines and notifies the plan administrator that plan assets are not sufficient to pay guaranteed benefits.

(3) The plan administrator indicates in the Notice of Intent to Terminate that the employer has made an irrevocable commitment to make the plan sufficient, and the PBGC determines and notifies the plan administrator that it appears that the employer will not be able to satisfy its commitment and that the plan assets are not sufficient to pay all guaranteed benefits.

(b) *Accrued benefit at normal retirement.* Except to the extent permitted by paragraph (d) of this section, beginning on the section 4041(a) date of termination a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant that exceeds the participant's accrued benefit payable at normal retirement age under the plan. For the purpose of applying this limitation, post-retirement benefit increases, such as cost-of-living adjustments, are not considered to increase a participant's benefit beyond his accrued benefit payable at normal retirement age.

(c) *Maximum guaranteeable benefit.* Except to the extent permitted by paragraph (d) of this section, beginning on the section 4041(a) date of

termination a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant, as limited by paragraph (b) of this section, that exceeds the maximum guaranteeable benefit under section 4022(b)(3)(B) of the Act and § 2621.3(a)(2) of this chapter, adjusted for age and benefit form.

(d) *Estimated benefit.* Beginning on the thirtieth day after the section 4041(a) date of termination, or on the section 4041(a) date of termination if the Notice of Intent to Terminate proposes a date of termination that is more than thirty days after the Notice of Intent to Terminate was filed, a plan administrator shall pay the monthly benefit payable with respect to each participant as determined under § 2623.6 or § 2623.7, whichever produces the higher benefit.

(e) *Lump sums and annuity purchases.* Beginning on the section 4041(a) date of termination, a plan administrator may not, without the prior written consent of the PBGC, purchase any annuity or pay any benefit in lump sum form (including a death benefit or a refund of employee contributions).

(f) *PBGC authority to modify deadlines and procedures.* In order to avoid abuse of the plan termination insurance system inequitable treatment of participants and beneficiaries, or the imposition of unreasonable burdens on terminating plans, the PBGC may: (1) Establish different deadlines for the commencement of the benefit reductions and payment restrictions contained in this section or (2) authorize or direct the use of alternative procedures for determining benefit reductions.

(g) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. On November 10, 1984, a plan administrator files a Notice of Intent to Terminate proposing December 1, 1984 as the date of termination. The Notice states that plan assets are not sufficient to pay all guaranteed benefits and that the employer has not made an irrevocable commitment to make the plan sufficient. The plan pays benefits on the 1st day of each month.

A participant who is in pay status on December 1, 1964 has previously been receiving his accrued benefit of $2,000 per month under the plan. The benefit is in the form of a joint and survivor annuity (contingent basis) that will pay fifty percent of the participant's benefit amount ($1,000 per month) to his surviving spouse following the death of the participant. On December 1, 1984 the participant is age 66, and his wife is age 56.

Benefit reductions required commencing on the section 4041(a) date of termination. The plan administrator is required under § 2623.5 to make two benefit reductions commencing on the section 4041(a) date of termination. In this example, the reductions must be made commencing December 1, 1984, the date of termination proposed in the Notice of Intent to Terminate.

Section 2623.5(b) requires the plan administrator to cease paying benefits in excess of the accrued benefit payable at normal retirement age. Since the participant is receiving only his accrued benefit, no reduction is required under paragraph (b).

Section 2623.5(c) requires the plan administrator to cease paying benefits in excess of the maximum guaranteeable benefit, adjusted for age and benefit form in accordance with the provisions of Part 2621 of this chapter. The maximum guaranteeable benefit for plans terminating in 1984 is $1,602.27 per month, payable in the form of a single life annuity at age 65. Since the participant is older than age 65, no adjustment is required under § 2621.4(c) because of the annuitant's age factor. The benefit form is a joint and survivor annuity (contingent basis) as defined in § 2621.2. The required benefit reduction for this benefit form under § 2621.4(d) is ten percent. The corresponding adjustment factor is .90 (1.00–.10). The benefit reduction factor to adjust for the age difference between the participant and beneficiary is computed under § 2621.4(e). In computing the difference in ages, years over 65 years of age are not taken into account. Therefore, the age difference is nine years (65 years–56 years). The required precentage reduction where the beneficiary is nine years younger than the participant is nine percent. The corresponding adjustment factor is .91 (1.00–.09).

The maximum guaranteeable benefit adjusted for age and benefit form is $1,312.26 per month ($1,602.27 × .90 × .91).

The participant's benefit must therefore be reduced from $2,000 per month to $1,312.26. If the participant dies after the section 4041(a) date of termination, his spouse would receive $656.13 per month (.50 × $1,312.26).

Example 2

Facts. The facts are the same as in Example 1, except that the Notice of Intent to Terminate was filed on October 28, 1984, which is more than thirty days before December 1, 1984, the proposed date of plan termination. The plan administrator has determined that the participant's estimated guaranteed benefit under § 2623.6 is $1,312.26 per month. Further, the plan meets the conditions in § 2623.7(b) for paying estimated Title IV Benefits computed under § 2623.7, and the plan administrator has determined that the participant's estimated Title IV Benefit is $1,550 per month.

Benefit reductions required commencing on the section 4041(a) date of termination. Section 2623.5(d) requires a plan administrator who proposes a date of termination that is more than thirty days after the date on which the Notice of Intent to Terminate is filed to begin paying a participant's or beneficiary's estimated guaranteed benefit or Title IV Benefit, whichever is greater, on the section 4041(a) date of termination. In this example, the plan administrator would begin paying the participant $1,550 per month, the estimated Title IV Benefit, beginning on December 1, 1984, since that is higher than the estimated guaranteed benefit of $1,312.26 per month.

Example 3

Facts. The benefit of a participant who retired under a plan at age sixty is a reduced single life annuity of $400 per month, plus a temporary supplement of $400 per month payable until age 62. The participant's accrued benefit under the plan is $450 per month, payable from the plan's normal retirement age. On the section 4041(a) date of termination, November 30, 1984, the participant is 61 years old.

The maximum guaranteeable benefit adjusted for age under § 2621.4(c) of this chapter is $1,153.63 per month ($1,602.27 × .72). Since the benefit is payable as a single life annuity, no adjustment is required under § 2621.4(d) for benefit form. The plan administrator has determined that the estimated benefit under § 2623.5(d) for this participant is $800 per month until age 62 and $400 per month thereafter.

Benefit reductions required commencing on the section 4041(a) date of termination. The plan benefit of $800 per month payable until age 62 exceeds the participant's accrued benefit of $450 per month and will have to be reduced to that level under § 2623.5(b). The resulting benefit, $450 per month to age 62 and $400 per month thereafter, is less than the adjusted maximum guaranteeable benefit of $1,153.63 per month. Therefore, no further reduction in the benefit is required under § 2623.5(c).

Benefit adjustments required commencing thirty days after the section 4041(a) date of termination and permitted commencing on the section 4041(a) date of termination. Beginning thirty days after the section 4041(a) date of termination, the plan administrator would begin paying the estimated benefit under § 2623.5(d). Accordingly, he would increase the participant's benefit from $450 per month, the level payable under § 2623.5(b), to $600 per month and would reduce the benefit to $400 per month at age 62.

If the plan administrator knows prior to the section 4041(a) date of termination that the estimated benefit for that date is $600 per month, he could pay the participant $600 per month rather than $450 per month beginning on that date and would continue to pay the participant $600 per month until age 62, at which time the monthly benefit would be reduced to $400 per month.

Example 4

Facts. A retired participant is receiving a reduced early retirement benefit of $400 per month, plus a temporary supplement of $800 per month payable until age 62. The benefit is in the form of a single life annuity. On the section 4041(a) date of termination, November 30, 1984, the participant is 56 years old.

The participant's accrued benefit at normal retirement age under the plan is $800 per month. The maximum guaranteeable benefit adjusted for age is $785.11 per month. A form adjustment is not required.

Benefit reductions required commencing on the section 4041(a) date of termination. The

plan benefit of $1,200 per month payable from age 56 to age 62 exceeds the participant's accured benefit at normal retirement age of $800 per month. Therefore, under § 2623.5(b), the plan administrator must reduce the temporary supplement to $400 per month.

For the purpose of determining whether the reduced benefit, *i.e.*, a level-life annuity of $400 per month and a temporary annuity supplement of $400 per month to age 62, exceeds the maximum guaranteeable benefit adjusted for age, the temporary annuity supplement of $400 per month is converted to a level-life annuity equivalent in accordance with § 2621.4(f). The level-life annuity equivalent is $154.80 ($400 × .387). This, added to the life annuity of $400 per month, equals $554.80. Since the maximum guaranteeable benefit of $785.11 per month exceeds $554.80 per month, no further reduction is required as of the section 4041(a) date of termination.

Benefit adjustments required commencing thirty days after the section 4041(a) date of termination and permitted commencing on the section 4041(a) date of termination. Assume that the estimated benefit under § 2623.5(d) is $1,000 per month until age 62 and $400 per month thereafter. The plan administrator would increase the participant's benefit from $800 per month to $1,000 per month beginning thirty days after the section 4041(a) date of termination and would reduce the benefit to $400 per month at age 62, subject to the final benefit determination made under Title IV.

If the plan administrator knows prior to the section 4041(a) date of termination that the estimated benefit is $1,000 per month, the plan may pay the participant that amount, rather than $800, beginning on the section 4041(a) date of termination.

Example 5

Facts. A retired participant is receiving a reduced early retirement benefit of $1,500 per month, plus a temporary supplement of $800 per month payable until age 62. The benefit is in the form of a joint and survivor annuity (contingent basis) that will pay fifty percent of the participant's benefit amount to his surviving spouse upon the death of the participant. On the section 4041(a) date of termination, December 20, 1984, the participant and his spouse are each 56 years old.

The participant's accrued benefit at normal retirement age under the plan is $2,000 per month. The maximum guaranteeable benefit adjusted for age and the joint and survivor (contingent basis) annuity form is $706.60 per month. An adjustment for age difference is not required because the participant and his spouse are the same age.

Benefit reductions required commencing on the section 4041(a) date of termination. The plan benefit of $2,300 per month payable from age 56 to age 62 exceeds the participant's accrued benefit at normal retirement age, which is $2,000 per month. Therefore, the participant's benefit must be reduced so that it does not exceed $2,000 per month.

The level-life equivalent of the participant's reduced benefit, determined using the § 2621.4(f) adjustment factor, is $1,693.50 per month ($1,500 + ($500 × .387)). Since this benefit exceeds the participant's maximum guaranteeable benefit of $706.60 per month, the participant's benefit must be reduced so that it does not exceed the maximum guaranteeable benefit.

The ratio of: (i) The participant's maximum guaranteeable benefit to (ii) the level-life equivalent of the participant's reduced benefit (computed under the "accrued for normal retirement age" limitation) is used in converting the level-life maximum guaranteeable benefit to the step-down form. The level-life equivalent of the reduced benefit computed under the "accrued for normal retirement age" limitation is 41.72 percent ($706.60/$1,693.50). Thus, the participant's level-life benefit of $1,500 per month must be reduced to $625.80 ($1,500 × .4172) and the reduced temporary benefit of $500 per month must be further reduced to $208.60 ($500 × .4172). Commencing on the section 4041(a) date of termination, the plan would pay the participant $834.40 per month ($625.80 + $208.60) to age 62 and $625.80 per month thereafter, subject to any adjustment required commencing thirty days after the section 4041(a) date of termination.

Benefit adjustments required commencing thirty days after the section 4041(a) date of termination and permitted commencing on the section 4041(a) date of termination. Assume that the estimated benefit under § 2623.5(d) is $700 per month to age 62 and $500 per month thereafter. Commencing thirty days after the section 4041(a) date of termination, the plan administrator would reduce the participant's benefit from $834.40 per month to $700 per month and pay this amount until age 62, at which time the benefit would be reduced to $500 per month, subject to the final benefit determination made under Title IV.

If the plan administrator knows prior to the section 4041(a) date of termination that the estimated benefit is $700 per month, the plan is permitted to pay the participant that amount, rather than $834.40 per month, beginning on the section 4041(a) date of termination.

§ 2623.6 Estimated guaranteed benefit.

(a) *General.* The estimated guaranteed benefit payable with respect to each participant who is not a substantial owner is computed under paragraph (c) of this section. The estimated guaranteed benefit payable with respect to each participant who is a substantial owner is computed under paragraph (d) of this section. The estimated benefit payable under § 2623.5(d) with respect to each plan participant is the higher of the benefit determined under this section or that determined under § 2623.7.

(b) *Rules for determining benefits.* For the purposes of determining entitlement to a benefit and the amount of the estimated benefit under this section, the following rules apply:

(1) *Participants in pay status on the section 4041(a) date of termination.* For benefits payable with respect to a participant who was in pay status on or before the section 4041(a) date of termination, the plan administrator shall use the participant's age and benefit payable under the plan as of the section 4041(a) date of termination.

(2) *Participants who enter pay status after the section 4041(a) date of termination.* For benefits payable with respect to a participant who enters pay status after the section 4041(a) date of termination, the plan administrator shall use the participant's age as of the benefit commencement date and his service and compensation as of the section 4041(a) date of termination.

(3) *Participants with new benefits or benefit improvements.* For the purpose of determining the estimated guaranteed benefit under paragraph (c) of this section, only new benefits and benefit improvements that affect the benefit of the participant or beneficiary for whom the determination is made are taken into account.

(4) *Limitations on estimated guaranteed benefits.* For the purpose of determining the estimated guaranteed benefit under paragraph (c) or (d) of this section, the benefit determined under paragraph (b)(1) or (b)(2) of this section is subject to the limitations set forth in § 2623.5 (b) and (c).

(c) *Estimated guaranteed benefit payable with respect to a participant who is not a substantial owner.* For benefits payable with respect to a participant who is not a substantial owner, the estimated guaranteed benefit is determined under paragraph (c)(2), if no portion of the benefit is subject to the phase-in of plan termination insurance guarantees set forth in section 4022(b)(1) of the Act. In any other case, the estimated guaranteed benefit is determined under paragraph (c)(3).

(1) *Definitions.* For purposes of this paragraph (c):

(i) "Benefit subject to phase-in" means a benefit that is subject to the phase-in of plan termination insurance guarantees set forth in section 4022(b)(1) of the Act, determined without regard to section 4022(b)(7) of the Act.

(ii) "Benefit improvement" means a change in the terms of the plan that results in (*a*) an increase in the benefit to which a participant is entitled at his normal retirement age under the plan or (*b*) an increase in the benefit to which a participant or beneficiary in pay status is entitled.

(iii) "New benefit" means a change in the terms of the plan that results in (*a*) a participant's or a beneficiary's eligibility for a benefit that was not previously available or to which he was not entitled (excluding a benefit that is

actuarially equivalent to the normal retirement benefit to which the participant was previously entitled) or (*b*) an increase of more than twenty percent in the benefit to which a participant is entitled upon entering pay status before his normal retirement age under the plan. "New benefits" result from liberalized participation or vesting requirements, reductions in the age or service requirements for receiving unreduced benefits, additions of actuarially subsidized benefits, and increases in actuarial subsidies. The establishment of a plan creates a new benefit as of the effective date of the plan. A change in the amount of a benefit is not deemed to be a "new benefit" if it results solely from a benefit improvement. "New benefit" and "benefit improvement" are mutually exclusive terms.

(2) *Participants with no benefits subject to phase-in.* In the case of a participant or beneficiary with no benefit improvement or new benefit in the five years preceding the section 4041(a) date of termination, the estimated guaranteed benefit is the benefit to which he is entitled under the rules in paragraph (b) of this section.

(3) *Participants with benefits subject to phase-in.* In the case of a participant or beneficiary with a benefit improvement or new benefit in the five years preceding the section 4041(a) date of termination, the estimated guaranteed benefit is the benefit to which he is entitled under the rules in paragraph (b) of this section, multiplied by the multiplier determined according to subparagraphs (i), (ii), and (iii), but not less than the benefit to which he would have been entitled if the benefit improvement or new benefit had not been adopted.

(i) From column (a) of Table I, select the line that applies according to the number of full years before the section 4041(a) date of termination since the plan was last amended to provide for a new benefit (or the number of full years since the plan was established, if it has never been amended to provide for a new benefit).

(ii) If there was no benefit improvement under the plan during the one-year period ending on the section 4041(a) date of termination, use the multiplier set forth in column (b) of Table I on the line selected from column (a).

(iii) If there was any benefit improvement during the one-year period ending on the section 4041(a) date of termination, use the multiplier set forth in column (c) of Table I on the line selected from column (a).

TABLE I.—APPLICABLE MULTIPLIER IF—

Full years since last new benefit (a)	No benefit improvement during last year (b)	Benefit improvement during last year (c)
Five or more	.90	.80
Four	.80	.70
Three	.65	.55
Two	.50	.45
Fewer than two	.35	.30

NOTE.—The foregoing method of estimating guaranteed benefits is based upon the PBGC's experience with a wide range of plans and may not provide accurate estimates in certain circumstances. In accordance with §2623.5(f), a plan administrator may use a different method of estimation if he demonstrates to the PBGC that his proposed method will be more equitable to participants and beneficiaries. The PBGC may require the use of a different method in certain cases.

(d) *Estimated guaranteed benefit payable with respect to a substantial owner.* For benefits payable with respect to each participant who is a substantial owner and who commenced participation under the plan fewer than five full years before the section 4041(a) date of termination, the estimated guaranteed benefit is determined under paragraph (d)(1). With respect to any other substantial owner, the estimated guaranteed benefit is determined under paragraph (d)(2).

(1) *Fewer than five years of participation.* The estimated guaranteed benefit under this paragraph is the benefit to which the substantial owner is entitled, as determined under paragraph (b) of this section, multiplied by a fraction, not to exceed one, the numerator of which is the number of full years prior to the section 4041(a) date of termination that the substantial owner was an active participant under the plan and the denominator of which is thirty.

(2) *Five or more years of participation.* The estimated guaranteed benefit under this paragraph is the lesser of—

(i) the estimated guaranteed benefit calculated under paragraph (d)(1) of this section; or

(ii) the benefit to which the substantial owner would have been entitled as of the section 4041(a) date of termination (or benefit commencement date in the case of a substantial owner whose benefit commences after the section 4041(a) date of termination) under the terms of the plan in effect when he first began participation, as limited by § 2623.5 (b) and (c), multiplied by a fraction, not to exceed one, the numerator of which is two times the number of full years of his active participation under the plan prior to the section 4041(a) date of termination and the denominator of which is thirty.

(e) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. A participant who is not a substantial owner retired on December 31, 1982, at age sixty, and began receiving a benefit of $500 per month. On January 1, 1980, the plan had been amended to allow participants to retire with unreduced benefits at age sixty. Previously, a participant who retired before age 65 was subject to a reduction of 1/15th for each year by which his actual retirement age preceded age 65. On January 1, 1983, the plan's benefit formula was amended to increase benefits for participants who retired before January 1, 1983. As a result, the participant's benefit was increased to $600 per month. There have been no other pertinent amendments. The section 4041(a) date of termination is December 15, 1983.

Estimated guaranteed benefit. No reduction is required under § 2623.5 (b) or (c), because the participant's benefit does not exceed either his accrued benefit at normal retirement age or the maximum guaranteeable benefit. (Post-retirement benefit increases are not considered as increasing accrued benefits payable at normal retirement age.) The amendment of January 1, 1980 resulted in a "new benefit", because the reduction in the age at which the participant could receive unreduced benefits increased his benefit entitlement at his actual retirement age by 5/15, which is more than a twenty percent increase. The amendment of January 1, 1983, which increased the participant's benefit to $600 per month is a "benefit improvement" because it is an increase in the amount of benefit for persons in pay status. (No percentage test applies in determining whether such an increase is a benefit improvement.) The multiplier for computing the estimated guaranteed benefit is taken from the third row of Table I (because the last "new benefit" had been in effect for three full years as of the section 4041(a) date of termination) and column (c) (because there was a benefit improvement within the one-year period preceding the section 4041(a) date of termination). This multiplier is .55. Therefore, the participant's estimated guaranteed benefit is $330 per month (.55×$600 per month).

Example 2

Facts. A participant who is not a substantial owner terminated employment on December 31, 1981. On January 1, 1983, he reached age 65 and began receiving a benefit of $200 per month. He had completed ten years of service at his termination of employment and was fully vested in his accrued benefit. The plan's vesting schedule had been amended on July 1, 1981. Under the schedule in effect before the amendment, a participant with ten years of service was fifty percent vested. There have been no other pertinent amendments. The section 4041(a) date of termination is December 31, 1983.

Estimated guaranteed benefit. No reduction is required under § 2623.5 (b) or (c), because the participant's benefit does not exceed either his accrued benefit at normal retirement age or the maximum guaranteeable benefit. The plan's change of vesting schedule created a new benefit for the participant. Because the amendment was in effect for two full years before the section 4041(a) date of termination, the fourth row of

Table I is used to determine the applicable multiplier for estimating the participant's guaranteed benefit. Column (b) of the table is used, since the participant did not receive any benefit improvement during the twelve-month period ending on the section 4041(a) date of termination. Therefore, the multiplier is .50, and the participant's estimated guaranteed benefit is $100 per month (.50×$200 per month).

Example 3

Facts. A participant who is a substantial owner retired prior to the section 4041(a) date of termination after 5½ years of active participation in the plan. The benefit under the terms of the plan when he first began active participation was $120 per month. On the section 4041(a) date of termination, November 30, 1984, he was entitled to receive a benefit of $300 per month. No reduction of this benefit was required under § 2623.5 (b) or (c).

Estimated guaranteed benefit. Section 2623.6(d)(2) is used to compute the estimated guaranteed benefit of substantial owners with five or more years of active participation prior to the section 4041(a) date of termination. The estimated guaranteed benefit for the participant in this example is the lesser of—

(i) the estimated guaranteed benefit calculated as if he had been an active participant in the plan for fewer than five full years on the section 4041(a) date of termination, or $50 per month ($300 x 5/30); or

(ii) the benefit to which he would have been entitled as of the section 4041(a) date of termination under the terms of the plan when he first began participation, as limited by § 2623.5 (b) and (c), multiplied by two times the number of years of active participation and divided by thirty, or $40 per month ($120 x 2 x 5/30).

Thus the participant's estimated guaranteed benefit is $40 per month.

§ 2623.7 Estimated Title IV Benefit.

(a) *General.* If the conditions specified in paragraph (b) exist, the plan administrator shall determine each participant's estimated Title IV Benefit. The estimated Title IV Benefit payable with respect to each participant who is not a substantial owner is computed under paragraph (c) of this section. The estimated Title IV Benefit payable with respect to each participant who is a substantial owner is computed under paragraph (d) of this section. The estimated benefit payable under § 2623.5(d) with respect to each participant is the higher of the benefit determined under this section or that determined under § 2623.6.

(b) *Conditions for use of this section.* The conditions set forth in this paragraph must be satisfied in order to make use of the procedures set forth in this section. If the specified conditions exist, estimated Title IV Benefits must be determined in accordance with these procedures (or in accordance with alternative procedures authorized by the PBGC under § 2623.5(f)) for each participant and beneficiary whose benefit under the plan exceeds the limitations contained in § 2623.5 (b) or (c) or who is a substantial owner or the beneficiary of a substantial owner. If the specified conditions do not exist, Title IV Benefits may be estimated by the plan administrator in accordance with procedures authorized by the PBGC, but no such estimate is required. The conditions are as follows:

(1) An actuarial valuation of the plan has been performed for a plan year beginning not more than eighteen months before the section 4041(a) date of termination. If the interest rate used to value plan liabilities in this valuation exceeded the applicable valuation interest rates and factors under Appendix B of Part 2619 of this chapter in effect on the section 4041(a) date of termination, the value of benefits in pay status and the value of vested benefits not in pay status on the valuation date must be converted to the PBGC's valuation rates and factors.

(2) The plan has been in effect for at least five full years before the section 4041(a) date of termination, and the most recent actuarial valuation demonstrates that the value of plan assets, reduced by employee contributions remaining in the plan and interest credited thereon under the terms of the plan, exceeds the present value, adjusted as required under paragraph (b)(1), of all plan benefits in pay status on the valuation date.

(c) *Estimated Title IV Benefit payable with respect to a participant who is not a substantial owner.* For benefits payable with respect to a participant who is not a substantial owner, the estimated Title IV Benefit is the estimated priority category 3 benefit computed under this paragraph. Priority category 3 benefits are payable with respect to participants who were, or could have been, in pay status three full years prior to the section 4041(a) date of termination. The estimated priority category 3 benefit is computed by multiplying the benefit payable with respect to the participant under § 2623.6(b) (1) and (2) by a fraction, not to exceed one—

(1) the numerator of which is the benefit that would be payable with respect to the participant at normal retirement age under the provisions of the plan in effect on the date five full years before the section 4041(a) date of termination, based on the participant's age, service, and compensation as of the earlier of the participant's benefit commencement date or the section 4041(a) date of termination, and

(2) the denominator of which is the benefit that would be payable with respect to the participant at normal retirement age under the provisions of the plan in effect on the section 4041(a) date of termination, based on the participant's age, service, and compensation as of the earlier of the participant's benefit commencement date or the section 4041(a) date of termination.

(d) *Estimated Title IV Benefit payable with respect to a substantial owner.* For benefits payable with respect to a participant who is a substantial owner, the estimated Title IV Benefit is the higher of the benefit computed under paragraph (c) of this section or the benefit computed under this paragraph.

(1) The plan administrator shall first calculate the estimated guaranteed benefit payable with respect to the substantial owner as if he were not a substantial owner, using the method set forth in § 2623.6(c).

(2) The benefit computed under paragraph (d)(1) shall be multiplied by the priority category 4 funding ratio. The category 4 funding ratio is the ratio of x to y, not to exceed one, where—

(i) in a plan with priority category 3 benefits, x equals plan assets minus employee contributions remaining in the plan on the valuation date, with interest credited thereon under the terms of the plan, and the present value of benefits in pay status, and y equals the present value of all vested benefits not in pay status minus such employee contributions and interest; or

(ii) in a plan with no priority category 3 benefits, x equals plan assets minus employee contributions remaining in the plan on the valuation date, with interest credited thereon under the terms of the plan, and y equals the present value of all vested benefits minus such employee contributions and interest.

(e) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. A participant who is not a substantial owner, and who was eligible to retire 3½ years before the section 4041(a) date of termination, retired two years before that date with twenty years of service. His final five years' average salary was $45,000 and he was entitled to an early retirement benefit of $1,500 per month payable as a single life annuity. This benefit does not exceed the limitation set forth in § 2623.5 (b) or (c).

On the participant's benefit commencement date, the plan provided for a normal retirement benefit to two percent of the final five years' salary times the number of years of service. Five years before the section 4041(a) date of termination the percentage was 1½ percent. The amendments improving

benefits were put into effect 3½ years prior to the section 4041(a) date of termination. There were no other amendments during the five-year period. The participant's estimated benefit computed under § 2623.6(c) is $1,500 per month times .90 (the factor from column (b) of Table I in § 2623.6(c)(2)) or $1,350 per month.

It is assumed that the plan meets the conditions set forth in § 2623.7(b), and the plan administrator is therefore required to estimate Title IV Benefits.

Estimated Title IV Benefit. The estimated Title IV Benefit of a participant who is not a substantial owner is the estimated priority category 3 benefit computed under 2623.7(c). The benefit is computed by multiplying the participant's benefit under the plan as of the later of the section 4041(a) date of termination or the benefit commencement date by the ratio of: (i) His normal retirement benefits under the provisions of the plan in effect five years before the section 4041(a) date of termination and (ii) his normal retirement benefits under the plan provisions in effect on the section 4041(a) date of termination. The numerator of the ratio is the benefit that would be payable to the participant under the normal retirement provisions of the plan five years before the section 4041(a) date of termination, based on his age, service, and compensation on his benefit commencement date. The denominator is the benefit that would be payable to the participant under the normal retirement provisions of the plan in effect on the section 4041(a) date of termination based on his age, service, and compensation as of the earlier of his benefit commencement date or the section 4041(a) date of termination. Since the only different factor in the numerator and denominator is the salary percentage, the estimated Title IV Benefit is $1,125 ((.015/.020)× $1,500).

Estimated benefit. Under § 2623.5(d), the estimated benefit payable beginning thirty days following the section 4041(a) date of termination is the higher of the estimated guaranteed benefit computed under § 2623.6 or the estimated Title IV Benefit computed under § 2623.7. The participant's estimated benefit, therefore, is his estimated guaranteed benefit of $1,350 per month because this amount is higher than his estimated Title IV Benefit.

Example 2

Facts. A participant who is a substantial owner retires at the plan's normal retirement age, on the section 4041(a) date of termination, October 31, 1984, having completed five years of active participation in the plan. Under the provisions of the plan in effect five years prior to the section 4041(a) date of termination, he is entitled to a single life annuity of $500 per month. Under the most recent plan amendments, which were put into effect 1½ years prior to the section 4041(a) date of termination, he is entitled to a single life annuity of $1,000 per month.

It is assumed that all the conditions in §2623.7(b) have been met. Plan assets equal $2,000,000. The present value of all benefits in pay status is $1,500,000 based on applicable PBGC interest rates. There are no employee contributions, and the present value of all vested benefits that are not in pay status is $750,000 based on applicable PBGC interest rates. The participant's estimated guaranteed benefit computed under § 2623.6(d)(2) is $166.67 per month.

Estimated Title IV Benefit. Under § 2623.7(d) the estimated Title IV Benefit payable with respect to a participant who is a substantial owner is the higher of the estimated priority category 3 benefit computed under § 2623.7(c) or the estimated priority category 4 benefit computed under § 2623.7(d).

Under § 2623.7(c) the participant's estimated priority category 3 benefit is $500 per month ($1,000×$500/$1,000).

Under § 2623.7(d) the participant's estimated priority category 4 benefit is the estimated guaranteed benefit computed as if the participant were not a substantial owner (§ 2623.6(c)), multiplied by the priority category 4 funding ratio. Since the plan has priority category 3 benefits, the ratio is determined under § 2623.7(d)(2)(i). The numerator of the ratio is plan assets minus the present value of benefits in pay status. The denominator is the present value of all vested benefits that are not in pay status.

The participant's estimated guaranteed benefit under § 2623.6(c) is $1,000 per month times .90 (the factor from column (b) of Table I in § 2623.6(c)(2)) or $900 per month. The $900 is then multiplied by the category 4 funding ratio of ⅔ ($2,000,000—$1,500,000)/$750,000) to produce an estimated category 4 benefit of $600 per month.

The participant's estimated Title IV Benefit is the $600 per month estimated priority category 4 benefit computed under § 2623.7(d) because this is higher than the $500 per month estimated priority category 3 benefit computed under § 2623.7(c).

Estimated benefit. The participant's estimated benefit under § 2623.5(d) is $600 per month, the amount of the estimated Title IV Benefit, as this amount is higher than his estimated guaranteed benefit of $166.67 per month.

§ 2623.8 Notices from plan administrator.

(a) *Notices to participants.* The plan administrator shall include in the notice to participants of proposed plan termination required under § 2616.4 a statement that benefit reductions may be required by this part.

(b) *Certification to the PBGC.* Within thirty days after the plan administrator has begun paying the reduced benefits required by § 2623.5(d), he shall certify in writing to the PBGC the following information for each participant and beneficiary receiving benefits—

(1) The name, age, and social security number of the participant or beneficiary;

(2) The benefit amount and form payable under the plan;

(3) The estimated benefit being paid and a statement whether it is the estimated guaranteed benefit or the estimated Title IV Benefit;

(4) The date of commencement of payments at the estimated level; and

(5) If any benefit has not been reduced to the extent required under this Subpart B, a statement of the reason therefor.

(c) For each participant or beneficiary who goes into pay status after the date of the notice described in paragraph (b) of this section, and for each participant or beneficiary whose benefit is readjusted after payment of the estimated guaranteed benefit or the estimated Title IV Benefit has begun, the plan administrator shall provide the PBGC with the information listed in paragraph (b) within thirty days after the commencement of benefit payments or the readjustment of benefit amount.

(Approved by the Office of Management and Budget under control number 1212–0029.)

Subpart C—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

§ 2623.11 General rules.

(a) *Recoupment of benefit overpayments.* If at any time the PBGC determines that net benefits paid with respect to any participant in a terminated insufficient plan exceed the total amount to which he or his beneficiary is entitled up to that time under Title IV of the Act, and he or his beneficiary is entitled to receive future benefit payments, the PBGC shall recoup the overpayment in accordance with paragraph (c) of this section and § 2623.12. Notwithstanding the previous sentence, the PBGC may, in its discretion, recover overpayments by methods other than recoupment under this subpart. The PBGC will not normally exercise this right unless net benefits paid after the section 4048 date of termination exceed those to which a participant or beneficiary is entitled under the terms of the plan before any reductions under Subpart B.

(b) *Reimbursement of benefit underpayments.* If at any time the PBGC determines that net benefits paid with respect to a participant in a terminated insufficient plan are less than the amount to which he or his beneficiary is entitled up to that time under Title IV of the Act, the PBGC shall reimburse the participant or beneficiary for the net underpayment in accordance with paragraphs (c) and (d) of this section and § 2623.13.

(c) *Payments subject to recoupment or reimbursement.* The PBGC shall recoup net overpayments and reimburse net underpayments made on or after the latest of the section 4041(a) date of plan termination, the section 4048 date of termination, or, if no Notice of Intent to Terminate was filed, the date on which proceedings to terminate the plan are

instituted pursuant to section 4042 of the Act.

(d) *Interest.* The PBGC will compute interest on overpayments and underpayments using the interest rate established for valuing immediate annuities as set forth in Part 2619 of this chapter according to the following rules:

(1) *Overpayments before recoupment begins.* Except as provided in paragraph (d)(2), no interest is charged on overpayments from the date of the payment to the date on which recoupment begins.

(2) *Receipt of both overpayments and underpayments.* If both benefit overpayments and benefit underpayments are made with respect to a participant, the PBGC will determine the amount of the net overpayment or underpayment by charging or crediting interest on each payment from the first day of the month after the date of payment to the first day of the month in which recoupment begins. If the net overpayment thus computed is greater than the sum of the actual overpayments (unadjusted for interest to the date on which recoupment begins), computations under § 2623.12 will be based upon the sum of the actual overpayments.

§ 2623.12 Method of recoupment.

(a) *Future benefit reductions.* Unless a participant or beneficiary elects otherwise under paragraph (b) of this section, the PBGC shall recoup overpayments of benefits in accordance with this paragraph. The benefit reduction under this paragraph shall be an amount equal to the fraction dertermined under paragraphs (a)(1) and (a)(2) of this section, multiplied by each future benefit payment to which the participant or beneficiary is entitled.

(1) *Computation.* The PBGC shall determine the fractional multiplier by dividing the amount of the benefit overpayment by the present value of the benefit payable with respect to the participant under Title IV of the Act. The PBGC shall determine the present value of the benefit to which a participant or beneficiary is entitled under Title IV of the Act as of the section 4048 date of termination, using the PBGC interest rates and factors in effect on that date. The PBGC may, however, utilize a different date of determination if warranted by the facts and circumstances of a particular case.

(2) *Limitation on benefit reduction.* Except as provided in paragraph (a)(1) of this section, the PBGC shall reduce benefits with respect to a participant or beneficiary by no more than the greater of (i) ten percent per month or (ii) the amount of benefit per month in excess of the maximum guaranteeable benefit payable under section 4022(b)(3)(B) of the Act, determined without adjustment for age and benefit form.

(3) *PBGC notice to participant or beneficiary.* Before effecting a benefit reduction pursuant to this paragraph, the PBGC shall notify the participant or beneficiary in writing of the amount of the benefit overpayment and of the amount of the reduced benefit computed under this section. The notice will advise the participant or beneficiary of the repayment option set forth in paragraph (b) of this section and inform him that the PBGC will proceed to recover the benefit overpayment in accordance with this paragraph unless an election to repay in a lump sum is made in accordance with paragraph (b).

(b) *Lump sum repayment.* A participant or beneficiary who has received a net benefit overpayment may elect to repay the excess in a single payment on or before a date agreed to by the participant or beneficiary and the PBGC. If the full payment is not made by the agreed upon date or a date is not agreed upon, the PBGC may proceed to recover the overpayment in accordance with paragraph (a) of this section.

§ 2623.13 PBGC reimbursement of benefit underpayments.

When the PBGC determines that there has been a net benefit underpayment made with respect to a participant, it shall pay the participant or beneficiary the amount of the net underpayment, determined in accordance with § 2623.11(d), in a single payment.

By delegation of Raymond Donovan, Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Ford B. Ford,

Under Secretary of Labor.

Issued pursuant to a resolution of the Board of Directors approving and authorizing its Chairman to issue this regulation.

Thomas Veal,

Acting Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 85-2106 Filed 1-28-85 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SIMPSON (FFG 56) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: 10 January 1985.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SIMPSON (FFG 56) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of its forward masthead light; Annex I, section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, secion 3(b) regarding the horizontal relationship of its side lights to its forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS SIMPSON (FFG 56) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to this ship.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a

manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(ii), Annex I
USS SIMPSON	FFG 56	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certification is herewith issued by the Secretary of the Navy:

On the following ship the arc of visibility of the forward masthead light required by Rule 23(a)(i) may be obstructed through 1.6° arc of visibility at the points 021° and 339° relative to the ship's head:

USS SIMPSON	FFG 56	

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certification is herewith issued by the Secretary of the Navy:

Side lights on the following ship do not comply with Annex I, section 3(b):

Vessel	Number	Distance of side lights forward of masthead lights in meters
USS SIMPSON	FFG 56	2.75

Authority: Executive Order 11964; 33 U.S.C. 1605.

Approved: January 10, 1985.

John Lehman,

Secretary of the Navy.

[FR Doc. 85-2147 Filed 1-28-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

[CGD 84-090]

Exposure Suits; Requirements for Mobile Offshore Drilling Units; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document corrects an error in the document published on December 31, 1984, 49 FR 50722, relating to areas where exposure suits are required for personnel on board mobile offshore drilling units.

FOR FURTHER INFORMATION CONTACT: LCDR William M. Riley, Office of Merchant Marine Safety, (202) 426-1444.

SUPPLEMENTARY INFORMATION: The omission of asterisks at the end of the document, as originally published, removed inadvertently paragraphs (a) through (f) from 144.20-5.

In view of the foregoing, Title 33 of the Code of Federal Regulations is amended as set forth below.

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 144—[AMENDED]

1. On page 50723, in the first column, amendment 2 is corrected to read as follows:

"2. By revising the introductory text of section 144.20-5 to read as follows:

§ 144.20-5 Exposure suits.

This section applies to each MODU except those operating south of 32 degrees North latitude in the Atlantic Ocean or south of 35 degrees North latitude in all other waters.

* * * * *"

Dated: January 23, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-2084 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

Ice Navigation Season; Northern Chesapeake Bay and Tributaries; Effectiveness

AGENCY: Coast Guard, DOT.

ACTION: Notice of Ice Navigation Season.

SUMMARY: The Ice Navigation Season Regulated Area (RNA) on the northern portion of the Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal will be placed in effect on January 18, 1985. The regulations for this Regulated Navigation Area, found in 33 CFR 165.503, published in the **Federal Register** on May 19, 1983 (48 FR 22543), state that they are placed in effect and terminated at the direction of the Captain of the Port, Baltimore, MD by notice in the **Federal Register**. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: January 18, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W.G. Schneeweis, Port Operations Officer, USCG Marine Safety Office, Customhouse, Baltimore, MD 21202, (301) 962-5105.

Dated: January 18, 1985.

J.C. Carlton,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 85-2066 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-14-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1121

Regulations for Implementation of Privacy Act of 1974

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The following regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, were published for public comment on November 6, 1984, 49 FR 44310. No comments were received, and the regulations are therefore being published without change as a final rule. The purposes of these regulations are to establish procedures by which an individual can determine if the Board maintains a system of records which includes a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

EFFECTIVE DATE: February 28, 1985.

FOR FURTHER INFORMATION CONTACT: Merrily F. Raffa, General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Room 1010, (202) 245–1801, voice or TDD.

List of Subjects in 36 CFR Part 1121

Administrative practice and procedure, Archives and records, Privacy.

For the reasons stated in the summary, the following Part is added to Title 36 of the CFR.

PART 1121—PRIVACY ACT IMPLEMENTATION

Sec.

Authority: 5 U.S.C. 552a; Pub. L. 93–579.

§ 1121.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Architectural and Transportation Barriers Compliance Board, hereafter known as the Board or ATBCB, maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1121.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) The term "maintain" includes maintain, collect, use or disseminate.

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Board, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number.

(d) The term "system of records" means a group of any records under control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(f) The term "authorized representative" means a person who acts on an "individual's" behalf for purposes of these regulations, pursuant to written, signed instructions from the individual.

§ 1121.3 Procedures for requests pertaining to individuals' records in a records system.

An individual or authorized representative shall submit a written request to the Administrative Officer to determine if a system of records named by the individual contains a record pertaining to the individual. The individual or authorized representative shall submit a written request to the Executive Director of the ATBCB which states the individual's desire to review his or her record.

§ 1121.4 Times, places, and requirements for the identification of the individual making a request.

An individual or authorized representative making a request to the Administrative Officer of the ATBCB pursuant to § 1121.3 shall present the request at the ATBCB offices, 330 C Street, SW., Room 1010, Washington, D.C. 20202, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual or authorized representative submitting the request should present himself or herself at the ATBCB's offices with a form of identification which will permit the ATBCB to verify that the individual is the same individual as contained in the record requested. An authorized representative shall present a written document authorizing access. The document must be signed by the individual.

§ 1121.5 Access to requested information to the individual.

Upon verification of identity the Board shall disclose to the individual or authorized representative the information contained in the record which pertains to that individual. Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1121.6 Request for correction or amendment to the record.

The individual or authorized representative should submit a request to the Administrative Officer which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 1121.4.

§ 1121.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Administrative Officer will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual or authorized representative of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal and the procedures established by the Board for the individual to request a review of that refusal.

§ 1121.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Officer to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, ATBCB, 330 C Street, SW., Room 1010, Washington, D.C. 20202. The Executive Director will, not later than thirty (30) working days from the date on which the individual requests such review, complete such review and make final determination, unless, for good cause shown, the Executive Director extends such thirty-day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the Board shall permit the individual or authorized representative to file with the Executive Director a concise statement setting forth the reasons for his or her disagreement with the refusal of the Executive Director and shall notify the individual or authorized representative

that he or she may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1121.9 Notification of dispute.

In any disclosure pursuant to § 1121.10 containing information about which the individual has previously filed a statement of disagreement under § 1121.8, the Board shall clearly note any portion of the record which is disputed and provide copies of the statement and, if the Executive Director deems it appropriate, copies of a concise statement of the reasons of the Executive Director for not making the amendments requested.

§ 1121.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Board will not disclose a record to any individual or agency other than the individual to whom the record pertains, except to an authorized representative, unless the disclosure has been listed as a "routine use" in the Board's notices of its systems of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 1121.11 Accounting of disclosures.

(a) The Board shall, except for disclosure made under sections (b)(1) and (b)(2) of the Privacy Act of 1974 (5 U.S.C. 552a) keep an accurate accounting of—

(1) The date, nature and purpose of each disclosure of a record to any person or another agency made pursuant to § 1121.10; and

(2) The name and address of the person or agency to whom the disclosure is made.

(b) This accounting shall be retained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(c) The Board shall make this accounting available to the individual named in the record at his or her request, except for disclosures made under section (b)(7) of the Privacy Act of 1974 (5 U.S.C. 552a).

(d) The Board shall inform any person or other agency to whom disclosure has been made pursuant to § 1121.10 about any correction or notation of dispute made by the Board.

§ 1121.12 Fees.

If an individual or authorized representative requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

Signed this 4th day of January 1985.

Madeleine Will,

Acting Chairperson.

[FR Doc. 85-2268 Filed 1-28-85; 8:45 am]

BILLING CODE 6820-BP-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2762-6]

California Implementation Plan Revision; Air Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: Today's notice takes final action to approve revisions to the rules of several air pollution control districts (APCD's). These revisions were submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative or add new emission control requirements. EPA has reviewed these rules and determined that they are consistent with the requirements of the Clean Air Act and EPA policy.

EFFECTIVE DATE: This action is effective April 1, 1985.

ADDRESSES: Copies of EPA's technical evaluations are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW, Washington, D.C. 20460

Office of the Federal Register, 1100 "L" Street, NW, Room 8401, Washington, D.C. 20408

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 5939 Ellis Street, San Francisco, CA 94109

El Dorado County APCD, 360 Flair Lane, Placerville, CA 95667

Madera County APCD,153 West Yosemite Avenue, Madera, CA 93637

Merced County APCD, P.O. Box 471, Merced, CA 95340

North Coast Air Basin, 5630 South Broadway, Eureka, CA 95501

San Diego County APCD, 9150 Chesapeake Drive, San Diego, CA 92123

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

Yolo-Solano County APCD, P.O. Box 1006, 323 First Street, Suite 5, Woodland, CA 95695

FOR FURTHER INFORMATION CONTACT: Thomas Rarick, Chief, State Implementation Plan Section, A-2-3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641, FTS: 454-7641.

SUPPLEMENTARY INFORMATION:

Background

The following rules were submitted by the State of California for incorporation into the SIP on the dates indicated.

July 10, 1984

El Dorado County APCD
- Rule 217 Acid Fumes

Madera County APCD
- Rule 404 Sulfur Compound Emissions
- Rule 203 Permit Application

North Coast Unified AQMD
- Regulation 2—Open Burning

South Coast AQMD
- Rule 401 Visible Emissions
- Rule 1305 Special Permit Provisions

October 19, 1984

Bay Area AQMD
- Rule 2-1 Organic Liquid Storage
- Rule 8-36 Resin Manufacturing

Merced County APCD
- Rule 112 Penalties
- Rule 409.1 Architectural Coatings
- Rule 409.4 Surface Coating of Metal Parts and Products

North Coast Unified AQMD
- Rule 160 AAQS-Formaldehyde (deletion)
- Rule 460 Organic Gas Emissions (deletion)

San Diego County APCD
- Rule 61.0 Definitions
- Rule 61.2 Transfer of VOC into Mobile Transport Tanks
- Rule 61.8 Certification Requirements for Vapor Control Equipment
- Rule 67.3 Coating of Metal Parts and Products

Yolo-Solano APCD
- Rule 2.21 Organic Liquid Storage

These rules are administrative and do not weaken current emission control requirements. They add emission limitations for acid fumes and the manufacturing of resins, change the maximum allowable oven temperature for the coating of metal parts and products, lengthen the time allowable for emission reduction credit exclusions, provide new definitions, and alter categories of exempt sources. Other rule revisions are deletions or clarifications which are minor.

Evaluation

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with the Clean Air Act, EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the locations indicated in the **ADDRESSES** section of this notice.

EPA Action

This notice approves the rule revisions listed above and incorporates them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse comments, the approval will be withdrawn and a subsequent notice will be published. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Authority: Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control agency, Incorporation by reference, Ozone, Sulfur oxides, Particulate matter, Hydrocarbons.

Dated: January 17, 1985.

Lee M. Thomas,

Acting Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 paragraph (c) is amended by adding subparagraphs (155)(ii)(B), (iii)(B), (iv)(B) and (v)(A) and (156) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(155) * * *

(ii) * * *

(B) New or amended Rule 217.

(iii) * * *

(B) New or amended Rules 203 and 404.

(iv) * * *

(B) New or amended Rules 401 and 1305.

(v) North Coast Unified AQMD.

(A) New or amended Regulation 2.

* * * * *

(156) Revised regulations for the following APCD's were submitted on October 19, 1984 by the Governor's designee.

(i) Bay Area AQMD.

(A) New or amended Rules 2-1 and 8-36.

(ii) Merced County APCD.

(A) New or amended Rules 112, 409.1, and 409.4.

(iii) North Coast Unified AQMD.

(A) New or amended Rules 160 and 460.

(iv) San Diego County APCD.

(A) New or amended Rules 61.0, 61.2, 61.8, and 67.3.

(v) Yolo-Solano APCD.

(A) New or amended Rule 2.21.

* * * * *

[FR Doc. 85-1785 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-10-FRL-2764-8]

Approval and Promulgation of State Implementation Plan; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves the revision to the approved State Implementation Plan (SIP) for lead submitted to EPA by the Washington State Department of Ecology (WDOE) on September 27, 1984. It was developed pursuant to the requirements of section 110 of the Clean Air Act (hereinafter referred to as the Act) and will result in attainment and maintenance of the National Ambient Air Quality Standard for lead.

EFFECTIVE DATE: This action will be effective on April 1, 1985 unless notice is received or postmarked on or before February 28, 1985 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period on this action.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532 (10A-83-13), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Washington, Department of Ecology, 4224 6th Avenue, SE., Rowe Six, Building #4, Lacey, Washington 98504

Copy of the State's submittal may be examined at: The Office of Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 532, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-4016, FTS: 399-4016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 1984, (49 FR 27943) EPA approved the Washington SIP for lead. Since that time the secondary lead smelter in Seattle has been sold and the new owners have closed down all smelting and refining and battery breaking operations. The only lead related activities that will continue at the facility are oxide manufacturing and metal fabrication.

The cessation of operations was formalized in Resolution #562 by the Puget Sound Air Pollution Control Agency (PSAPCA) Board on August 9, 1984, in a joint public hearing with the WDOE. The Resolution adopted as a result of the public hearing was submitted with supporting material to WDOE. WDOE then submitted the SIP revision package to EPA September 27, 1984.

II. Technical Evaluation

Lead SIP

The technical evaluation document (TED) prepared by EPA and included in the Washington State Lead SIP Docket, contains EPA's evaluation of the

Washington Lead SIP in terms of each requirement in Subpart E. It can be reviewed at the addresss listed earlier. A summary of the lead SIP in terms of the Subpart E requirements is contained in EPA's proposal dated December 30, 1983 (48 FR 57537).

The TED has been revised to describe the new demonstration of attainment for Harbor Island, Seattle, taking into account the cessation of lead emitting operations at the secondary lead smelter. It shows that with the complete cessation of lead smelting, refining and battery breaking at this facility, the area is attaining the lead NAAQS and no additional control measures are necessary to maintain the standard.

III. Final EPA Action

Based on evaluation of WDOE's submittal, EPA approves the revision to the Washington lead SIP.

The public should be advised that this action will be effective on April 1, 1985. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on this revision will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on this revision and another will begin a new rulemaking by announcing a proposal of the action on this revision and establish a comment period.

Pursuant to the provisions of 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under Section 110 within the terms of the January 27, 1981 certification.

Under section 307(b)(1) of the Act, petition for judicial review of this Action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1985. This action may not be challenged later in proceeding to enforce its requirements. (See section 307(b)(2) of the Act.)

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. This regulation is not judged to be major, since it merely approves actions taken by the state and does not establish any new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice of final rulemaking is issued under that authority of sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: January 22, 1985.

Lee M. Thomas,

Acting Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register in July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart WW—Washington

In § 52.2470, paragraph (c)(32) is added as follows:

§ 52.2470 Identification of plan.

* * * * * *

(c) * * *

(32) On September 27, 1984 the State of Washington Department of Ecology submitted a revision to the approved lead SIP which revised the demonstration of attainment for the secondary lead smelter in Seattle.

[FR Doc. 85-2049 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-4-FRL 2765-8]

Florida; Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Florida's Application for Final Authorization.

SUMMARY: Florida has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Florida's application and has reached a final determination that Florida's Hazardous Waste Program satisfies all of the requirements necessary for Final Authorization. Thus, EPA is granting Final Authorization to the State to operate its program.

EFFECTIVE DATE: Final Authorization for Florida, for purposes of judicial review, shall be effective at 1:00 p.m. Eastern time on February 12, 1985.

FOR FURTHER INFORMATION CONTACT: Allan E. Antley, Chief, Waste Planning Section, Residuals Management Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-3016.

SUPPLEMENTARY INFORMATION: Section 3006 of RCRA allows the EPA to authorize state hazardous waste management programs to operate in the state in lieu of the Federal program. To qualify for Final Authorization, the state's program must (1) be "equivalent" to the Federal program, (2) be consistent with the Federal program and other state programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6226(b)).

On July 2, 1984, Florida submitted a complete application to obtain Final Authorization to administer a RCRA program. On November 16, 1984, EPA published a tentative decision announcing its intent to grant Florida Final Authorization. Further background on the tentative decision appears at 49 FR 45452, November 16, 1984.

Along with the tentative determination, EPA announced the availability of the State's application for public review and comment, and the date of a public hearing on the application. The public hearing was not held as scheduled on December 18, 1984, since neither EPA nor the Florida Department of Environmental Regulation received significant interest in holding the hearing.

To date, all RCRA hazardous waste management permits in Florida have been issued by the State under the authority granted to the State during interim authorization. Therefore, there will be no change in the status of permits or permitting authority on the effective date of this rule.

Florida is not authorized by the Federal government to operate the RCRA program on Indian Lands and this authority will remain with EPA.

Decision

It is my conclusion that Florida's application for Final Authorization meets all of the regulatory and statutory requirements established by RCRA.

Accordingly, Florida is granted final authorization to operate its hazardous waste management program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA). Florida now has responsibility for permitting treatment, storage and disposal facilities within its borders and for carrying out other aspects of the RCRA program.

subject to the HSWA. Florida also has primary enforcement responsibility, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a State with Final Authorization administered its hazardous waste program entirely in lieu of the EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated, or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements do not take effect in an authorized State until the State adopts the requirements as State law.

In contrast, under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), the new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt the HSWA-related provisions as State law, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Florida. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. If the HSWA-related requirements are more stringent than Florida's, EPA will administer and enforce the prohibitions and requirements of the HSWA in Florida until the State receives authorization to do so. Among other things, this may entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

Any State requirement that is more stringent than an HSWA provision also remains in effect; thus, the universe of the more stringent provisions in the authorized State program and the HSWA define the applicable requirements in Florida. (Florida is not being authorized now for any requirement implementing the HSWA.)

EPA will be publishing a Federal Register notice that explains in detail the HSWA and its effect on authorized States.

That notice should be referred to for further information. Region IV and Florida are currently reviewing the Memorandum of Agreement (MOA) to revise it to address the requirements of the HSWA. The current MOA provides that Florida shall administer the RCRA program in lieu of EPA and that EPA shall not issue permits in the State. Thus, it is inconsistent with the HSWA and will be revised to reflect EPA's and Florida's respective responsibilities under the new Federal/State regulatory scheme. (Because of the strict statutory time clock for processing final authorization applications, the State and EPA did not have ample time to revise the MOA before EPA's final approval of the State's application.)

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Florida's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b), EPA delegation 8-7.

Dated: January 4, 1985.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 85-2184 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amdt. G-71]

Transportation Claims Not Payable by Agencies

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the prohibition that agencies not pay supplemental transportation bills (claims) based upon pricing adjustments by excluding those claims based upon single-factor ocean rate adjustments for international household goods shipments. Current regulations list several categories of claims that agencies are precluded from paying. Such claims are submitted to General Services Administration (GSA) for audit and settlement. This change will improve the carrier's cash flow by reducing delays presently encountered because of the present necessity of sending the claims to GSA.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits, 202 (FTS) 786-3014.

SUPPLEMENTARY INFORMATION: GSA established the categories of claims outlined in section 101-41.604-2(b) of the Federal Property Management Regulations (FPMR) because it felt that agencies did not have either the tariffs to determine the applicable rates or the transportation expertise to determine the validity of these claims. At the request of an international household goods forwarder, GSA analyzed claims for additional charges based upon single-factor ocean rate adjustments, and concluded that such claims warranted an exception to Section 101-41.604-2(b)(4). This regulation is presented as a final rule, without a prior proposal, because its impact is limited to a small segment of the transportation industry.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has

determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–41

Accounting, Claims, Freight, Freight forwarders, Moving of household goods, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

1. The authority for 41 CFR 101–41 is:

Authority: 31 U.S.C. 3726, and 40 U.S.C. 486(c).

SUBPART 101–41.6—CLAIMS AGAINST THE UNITED STATES RELATING TO TRANSPORTATION SERVICES

2. Section 101–41.604–2 is amended by revising paragraph (b)(4) as follows:

§ 101–41.604–2 Transportation claims not payable by agencies.

* * * * *

(b) * * *

(4) Any pricing adjustment claims for services previously billed and paid, except single-factor ocean rate adjustments (SFORA) on international household goods shipments. Each SFORA claim shall be billed on a separate Public Voucher for Transportation Charges, SF 1113, and the annotation "SFORA claim" shown on the SF 1113.

* * * * *

Dated: January 3, 1985.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 85–2270 Filed 1–28–85; 8:45 am]

BILLING CODE 6820–AM–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 71

Foreign Quarantine

Correction

In FR Doc. 85–872, beginning on page 1516, in the issue of Friday, January 11, 1985, make the following corrections:

1. On page 1519, in the second column, in the table of contents, in "71.44", "Disinfection" should read "Disinsection".

2. On page 1521, in the first column, in § 71.33(c)(2), in the third line, "designation" should read "destination".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 229

[FRA General Docket No. H–80–7]

Locomotive Test Program

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Limited temporary waiver of compliance.

SUMMARY: This document expands a previously granted waiver of compliance with certain provisions of FRA's Locomotive Safety Standards. The initial waiver was granted for a representative group of locomotives to permit a field service test of extended time intervals for the detailed inspection and testing required under existing FRA rules. FRA has decided to continue the test program to obtain more data before proposing a regulatory change and, as an interim measure, to expand that waiver to permit all railroads to benefit from the currently available test data. The expansion of the waiver will allow all locomotives equipped with 26L airbrake equipment to operate for periods not to exceed three years before receiving the detailed inspections required by §§ 229.27 and 229.29.

EFFECTIVE DATE: This expanded waiver is effective February 1, 1985.

FOR FURTHER INFORMATION CONTACT: John A. McNally, Office of Safety, Federal Railroad Administration, 400 Seventh Street SW, Washington, D.C. 20590. Telephone: 202–426–9186.

SUPPLEMENTARY INFORMATION: The Federal Railroad Administration has been considering a proposal for expansion of a limited temporary waiver of compliance with certain provisions of the Locomotive Safety Standards (49 CFR Part 229). The proposed expansion would permit all railroads to benefit from the data gathered so far in the long term study of the safe service life of specific components of locomotive power brake equipment.

Background

When the Locomotive Safety Standards were revised in 1980, FRA noted in the preamble to the final rule that the time interval provisions of §§ 229.27 and 229.29 were not being amended. FRA indicated that the decision to retain the time intervals for the detailed inspection and testing of locomotives was based on the absence of adequate information to determine a more appropriate interval. FRA suggested that a field service test would be needed to obtain the necessary data. After holding a public conference on December 3, 1980, to obtain the views of all interested parties on the proper parameters for such a test, FRA decided to grant waivers of compliance to eight railroads so that approximately 3,800 locomotives could be monitored to obtain information on the safe service life of their air brake equipment. The details of this test program were described in the initial report and order in this proceeding that was published in the **Federal Register** on June 29, 1981 (46 FR 33401).

Test Data

In essence, the test program permits the railroads involved to continue to operate their locomotives without subjecting the air brake equipment to the periodic teardown inspection and testing required by sections 229.27(a)(2) and 229.29(a). If a test unit fails to pass a daily operational check of its brake system, the brake system must be disassembled and the failure mode for that unit established.

The statistical information generated by this daily testing approach clearly indicates that the test locomotives will operate safely and reliably for periods in excess of the two-year interval currently specified in FRA's regulation. Test locomotives that have been in service for nearly four years are failing at a low rate. In addition to monitoring the daily tests, FRA has conducted several random, special inspections to subject locomotives to intensive testing and complete disassembly. Without exception, these special inspections have shown the brake components to be in excellent condition.

Proposed Expansion

On the basis of this test data, the Association of American Railroads (AAR) has requested that FRA expand the scope of the waiver to permit all locomotives equipped with the same type of air brake equipment as that currently being evaluated to operate for periods of up to three years before receiving the inspection and testing required by §§ 229.27(a)(2) and 229.29(a). In addition, AAR has requested that FRA alter the 92-day interval for testing the locomotive air gauges in § 229.25, so that it would coincide with the extended interval for the test components. This change would

involve the test and inspection interval in section 229.25. FRA issued a public notice in the **Federal Register** concerning AAR's request on June 11, 1984 (49 FR 24098) seeking the views of all interested parties on this proposed expansion.

Conclusion

All of the commenters urged FRA to allow the railroads to benefit immediately from the data gathered so far and to continue the test program to obtain more information. Since the test data fully support an extension of the interval for 26L type equipment, FRA has decided to expand the terms of this waiver to permit all railroads to operate locomotives so equipped for periods not to exceed 1,104 days before performing the testing and inspection required by §§ 229.27(a)(2) and 229.29(a). FRA has decided not to grant any waiver of the test and inspection interval for air gauges subject to the 92-day requirement of § 229.25(a). FRA has no data to support such a change since no test information on air gauges has been conducted. In the absence of any technical basis for such a change and given their critical role in the safe operation of a train, FRA does not believe the AAR's proposal is warranted for either the test locomotives or all 26L-equipped locomotives.

FRA's decision to expand the fleet of locomotives operating under the terms of the waiver will (i) permit the initial group of test locomotives to continue to provide additional information on the wisdom of permitting even longer intervals and (ii) assure that adoption of the lengthened interval will not present problems when used on a fleet-wide basis. FRA's decision to permit all 26L equipped locomotives to benefit from this extension of the test and inspection interval, rather than confining the expansion to only locomotives used in freight service, reflects FRA's confidence in the test results obtained to date.

In order to permit all parties to take the necessary steps to implement this new interval for testing and inspection, this waiver will not be effective until February 1, 1985. Any testing or inspection date falling due prior to that date must be adhered to. After that date, all locomotives equipped with 26L style air brake equipment, except the original test locomotives, will not require the testing and inspection provided for in §§ 229.27(a)(2) and 229.29(a) until 1,104 days have elapsed since their last testing and inspection in compliance with those sections. Locomotives equipped with other styles of air brake equipment must continue to comply with the provisions of §§ 229.27(a)(2) and 229.29(a). In granting this waiver of compliance for 26L-equipped locomotives, FRA expressly reserves the right to treat noncompliance with this extended interval as a violation of the regulation. Furthermore, if any indivdual railroad demonstrates a pattern of noncompliance with this expanded interval, FRA expressly reserves the right to revoke this waiver insofar as it applies to that railroad.

Issued in Washington, D.C., on January 22, 1985.

John H. Riley,

Administrator.

[FR Doc. 85-1991 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83-12; Notice 3]

Lamps, Reflective Devices and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; correction.

SUMMARY: This notice corrects an error in the amendment published on November 26, 1984 (49 FR 46386) relating to lamps, reflective devices and associated equipment. The error appears in the amendment to Table II and IV. It is therefore necessary to correct the error. The maximum mounting height for headlamps was omitted.

FOR FURTHER INFORMATION CONTACT: Ken Rutland, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-2154.

SUPPLEMENTARY INFORMATION: In the final rule on harmonization amendments published on November 26, 1984 (49 FR 46386), in amending Tables II and IV to reflect the revised minimum mounting height for headlamps, the maximum height was inadvertently omitted and must now be reinstated. That height is 54 inches.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

On page 46391, in Tables II and IV of 49 CFR 571.108, Column 4 of each is amended as follows:

Height above road surface measured from center of item on vehicle at curb weight
Column 4
Not less than 22 inches (55.9 cm) nor more than 54 inches (137.2 cm)

The lawyer and program official principally responsible for this correction are Z. Taylor Vinson and Ken Rutland, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 17, 1985.

Barry Felrice,

Associate Administrator, for Rulemaking.

[FR Doc. 85-2139 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 50107-5007]

Groundfish of the Gulf of Alaska; Emergency Interim Rule

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the groundfish fisheries in the Gulf of Alaska. Optimum yields (OYs) of certain species will be fully utilized by U.S. fishermen, preventing fishing by vessels of foreign nations whose catch would include a bycatch of these fully utilized species. The Secretary is establishing amounts of sablefish, Pacific ocean perch, and other rockfish as prohibited species catches (PSCs), which after being taken by foreign fishing vessels will result in foreign fishing closures. This action is necessary to limit the incidental catch of species important to U.S. fishermen and to avoid wastage of large amounts of target groundfish species that would otherwise not be taken if incidental catches in foreign fisheries were to be prohibited. This action is intended to conserve groundfish species that are available in limited amounts while more fully utilizing more abundant species.

EFFECTIVE DATES: In § 611.92, paragraphs (b)(2), (c)(2)(i)(A) and (D), (c)(2)(ii)(B) and (C), (e)(3)(ii), and (f)(2)(i) are suspended from January 24, 1985 until April 24, 1985. New paragraphs (b)(5), (c)(2)(i)(F), (G), and (H), (c)(2)(ii))D), (E), and (F), and (i) are

added, effective from January 24, 1985 until April 24, 1985.

ADDRESS: The environmental assessment prepared for this action may be obtained from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fishery in the fishery conservation zone (3–200 miles offshore) of the Gulf of Alaska is managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978). It has been amended twelve times.

Regulations implementing the FMP establish OYs for each groundfish category and apportion them among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). Under § 611.92(c)(1), initial apportionments of the OYs specified for the groundfish species listed in § 672.20, Table 1, are published by the Secretary by January 1 of each new year. On November 8, 1984, preliminary specifications for OY and its apportionment for each species were published and a 30-day comment period was provided (49 FR 44655). The Secretary published interim initial specifications (50 FR 467, January 4, 1985) to allow foreign fishing to begin on January 1 this year.

The Secretary has determined that three species will be fully utilized by U.S. fishermen in 1985: sablefish, Pacific ocean perch (POP), and other rockfish, as defined in § 672.2, based on: (1) The results of a NMFS-conducted survey of the U.S. fishing industry's intent to harvest and process sablefish, POP, and other rockfish; (2) comments received by the Council at its December 5–8, 1984, meeting; and (3) the best available information on the condition of these stocks as determined by the Northwest and Alaska Fisheries Center.

Under the Magnuson Act, sections 201(d)(2) and 204(b)(6)(B)(ii), fully utilized species may not be allocated for direct harvest in foreign fisheries. Any taking of these species that would exceed their OYs would be inconsistent with the provisions of the FMP, which provide only for a harvest equal to the specified OY for any species category.

The FMP, as now written, does not allow foreign bycatch of any fully utilized species. Hence, no foreign fishery in the Gulf of Alaska could be allowed without an amendment to the FMP or an emergency regulation that would authorize treating these species as prohibited species under § 611.13. Such a regulation would require that such species be sorted promptly and returned to the sea with a minimum of injury, regardless of condition, after recording and allowing for sampling by an observer.

At its December 5–8, 1984, meeting the Council voted to amend the FMP and set the OYs for Pacific cod, flounders, Atka mackerel, thornyhead rockfish, squid, and "other species" equal to the sum of DAP and JVP for each species up to the specified maximum amounts; this would eliminate and TALFF for these species. The pollock TALFF would also be eliminated, because the estimated domestic annual harvest of pollock equals the OY previously specified in the FMP. These actions, if approved by the Secretary, would effectively eliminate foreign fishing in the Gulf of Alaska.

Negotiations between U.S. and foreign commercial fishing interest have taken place since the December 1984 Council meeting. These industry negotiations have produced new information on the relationship between Gulf of Alaska foreign fishing allocations and efforts to foster development of the U.S. fishing industry. The Council has consented to review the industry agreement in detail at its February meeting in Sitka, Alaska. Although its reaction in consultations with NMFS included a number of reservations, the Council was positive in favor of allocating 4,500 mt of Pacific cod to Japan and of reviewing its actions taken at the December 1984 meeting.

For these reasons, the Secretary published the notice (50 FR 467, January 4, 1985) that established, on an interim basis, the apportionments that were proposed in November, rather than those recommended by the Council in December 1984. This emergency action establishes PSC levels that will allow foreign nations to take advantage of allocations of target species made to them, as long as their incidental catch of species that are fully utilized by the U.S. industry remains below the prescribed levels of bycatch. This rule is needed immediately: (1) To avoid disruption of Japanese longline fisheries for Pacific cod that traditionally occur early in the year in order to take advantage of low incidental catches of sablefish, POP, and other rockfish and (2) to avoid frustrating industry-to-industry agreements prior to Council review and Secretarial action to adjust the OYs of the various species.

The Secretary has recommended to the Secretary of State that 4,500 mt of Pacific cod be allocated in the Gulf. He has also determined that the bycatch of sablefish, POP, and other rockfish that would be necessary to accommodate a longline fishery for Pacific cod be treated as prohibited species. Actual bycatch amounts taken by foreign longline vessels January through April 1984 are summarized in Table 1. No recent data are available for the Eastern Area, because no foreign longline operations were conducted in this area in 1984.

TABLE 1.—CATCHES (MT) OF PACIFIC COD, SABLEFISH, POP, AND OTHER ROCKFISH BY JAPANESE LONGLINE VESSELS FROM JANUARY THROUGH APRIL 1984 IN THE WESTERN AND CENTRAL REGULATORY AREAS. (DATA FROM THE NORTHWEST AND ALASKA FISHERIES CENTER)

	Pacific cod	Sablefish	POP	Other rockfish
Western:				
January	2,140	98	3	1
February	5,515	22	6	3
March	984	0	0	1
April	706	28	1	1
Subtotal	9,345	148	10	6
Central:				
January	81	7	4	0
February	1,245	4	0	0
March	613	0	0	0
April	98	0	0	0
Subtotal	2,237	11	4	0
Total	11,582	159	14	6

Based on the above data, the Secretary has established the following weighted PSC rates (mt bycatch/mt Pacific cod) for use in calculating PSCs that could be expected for every metric ton of Pacific cod taken in the Gulf of Alaska from January through April 1985 (Table 2) in order to limit the amounts of sablefish, POP, and other rockfish to the lowest level possible.

TABLE 2.—RATE (MT BYCATCH/MT) OF SABLEFISH, POP, AND OTHER ROCKFISH TO PACIFIC COD CATCHES IN A DIRECTED LONGLINE FISHERY (JANUARY-APRIL)

	Sablefish	POP	Rockfish
Rate	0.014	0.001	0.0005

These rates, applied to a total possible foreign harvest of 15,000 mt of Pacific cod, result in total PSCs of 210 mt of sablefish, 15 mt of POP, and 8 mt of other rockfish. No reapportionment will be made from the Pacific cod reserve under this emergency rule that would

increase the total Pacific cod TALFF beyond 15,000 mt and result in an increase of the PSCs. Each foreign nation's share of a PSC will be determined by multiplying its Pacific cod allocation by the appropriate PSC rate. All PSCs must be treated in accordance with the prohibited species requirements of § 611.13. The Secretary has determined that these PSCs, when added to the OYs of sablefish, POP, and other rockfish, will not result in overfishing of these species.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. This action will avoid the disruption in foreign fishing that would otherwise occur and will thus support the developing domestic groundfish fishery in accordance with the industry agreement.

The Assistant Administrator also finds that beginning and ending the foreign longline fishery as early as possible in 1985 is desirable because fewer sablefish, POP, and other rockfish are caught early in the year. The reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and a prior opportunity for public comment or to delay for 30 days the effective date of this rule.

The Director, Alaska Region, NMFS, prepared an environmental assessment (EA) for this action and concluded that no significant impact on the human environment will result from its implementation. A copy of the EA is available at the address above.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 under section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by Alaska's Office of Management and Budget under section 307 of the Coastal Zone Management Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: January 24, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, Part 611 is amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.92, paragraphs (b)(2), (c)(2)(i)(A) and (D), (c)(2)(ii)(B) and (C), (e)(3)(ii), and (f)(2)(i) are suspended from January 24, 1985 until April 24, 1985. New paragraphs (b)(5), (c)(2)(i)(F), (G), and (H), (c)(2)(ii)(D), (E), and (F), and (i) are added, effective from January 24, 1985 until April 24, 1985 to read as follows:

§ 611.92 Gulf of Alaska Groundfish Fishery.

* * * * *

(b) * * *

(5) "Target species" are the species that are commercially important and are generally targeted on by the foreign groundfish fishery. They include pollock, Pacific cod, flounders, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept. Pacific ocean perch, other rockfish, and sablefish are prohibited to foreign vessels, and must be treated in accordance with paragraph (i) of this section and § 611.13 of this part.

(c) * * *

(2) * * *

(i) * * *

(F) When foreign vessels of a nation using longline gear have taken their applicable share of a prohibited species provided for by paragraph (i) of this section for sablefish, Pacific ocean perch, or other rockfish, or their allocation of Pacific cod is reached, fishing by that nation is prohibited in that regulatory area.

(G) When foreign vessels of a nation have caught the amount of the allocation of that nation for any groundfish species or species group in any regulatory area, fishing for groundfish using other than longline gear in that regulatory area by vessels of that nation is prohibited, even if allocations of other species for that nation in the regulatory area have not been reached or the nation has not received a notice issued under § 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area.

(H) When the area allocation of any groundfish species or species group other than Pacific cod is reached, unless the fishery is closed under other provisions of this section, any subsequent catch of that species in that area by vessels fishing with longline gear will be considered catch of a prohibited species" and treated in accordance with the provisions of § 611.13. Catches of those species or species groups in the target and "other species" categories that become prohibited species must be recorded and reported as required by § 611.9.

(ii) * * *

(D) TALFF for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district, except that if the TALFF for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section.

(E) The allocation of a nation for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 in that regulatory area or district, fishing using trawl gear for groundfish by vessels of that nation; and retention of that species, species group, or species category by vessels of that nation using longline gear. However, if a national allocation for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels of that nation through December 31.

(F) The prohibited species share of a nation for sablefish, Pacific ocean perch, or rockfish in a regulatory area: the Secretary will issue a notice prohibiting through December 31 further fishing by longline vessels of that nation in that regulatory area.

* * * * *

(i) *Prohibited species catch limits (PSCs).* (1) When during any fishing year the longline vessels of a nation have taken incidentally that nation's current

share of the PSC for sablefish, Pacific ocean perch, or other rockfish in a regulatory area as determined from paragraph (i)(2) of this section, the entire regulatory area will be closed to longlining by vessels of that nation for the remainder of the fishing year or until that nation's allocation for Pacific cod is increased, resulting in a corresponding increase in its current share of PSC for sablefish, Pacific ocean perch, or other rockfish not to exceed the total amount specified in paragraph (i)(2) of this section.

(2) At any time during the fishing year the total PSC available in a regulatory area for sablefish, Pacific ocean perch, or other rockfish is equal to the following factors for each of the prohibited species multiplied by the Pacific cod TALFF available for that regulatory area: sablefish—0.014; Pacific ocean perch—0.001; other rockfish—0.0005; provided that the sum of each species' PSC among the regulatory areas may not exceed 210 mt for sablefish, 15 mt for Pacific ocean perch, and 8 mt for other rockfish.

(3) A nation's current share of a PSC for sablefish, Pacific ocean perch, or other rockfish at any time during the fishing year is determined by multiplying that nation's current allocation of Pacific cod intended for fishing by its longline vessels by the respective factors given in paragraph (i)(2) of this section.

[FR Doc. 85-2175 Filed 1-29-85; 12:38 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 19
Tuesday, January 29, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-23]

Airworthiness Directives; Hartzell Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revoke Airworthiness Directive (AD) 55-3-2 which requires a 25 hour repetitive inspection of certain Hartzell propellers with metal blades for the presence of damage within 15 inches of the blade tip. Since this type of inspection is part of normal propeller maintenance, the FAA has determined that there is no further need for this AD.

DATES: Comments must be received on or before April 1, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to Office of Regional Counsel, Attn: Rules Docket No. 84-ANE-23, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be inspected at Room 311 weekdays, except federal holidays between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alpiser, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7130.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 84-ANE-23." The post card will be date/time stamped and returned to the commenter.

On March 1, 1955, AD 55-3-2 was made effective to operators of certain Hartzell Propellers with metal blades installed on Continental E-185, E-225, and O-470, and Lycoming O-320 and O-340 series engines. The AD requires 25 hour repetitive inspection of the propeller blades for the presence of nicks, gouges and scratches within 15 inches of the tip and removal of all such damage. This action was required to preclude the occurrence of blade tip failure.

Considerable information has been published on the hazards of damage to metal propeller blade tips. Inspection and repair of propeller blade tip damage is considered part of normal maintenance. Therefore, the FAA has determined that there is no further need for AD 55-3-2.

In accordance with the agency's policy of eliminating unnecessary regulations when possible, this notice proposes to revoke AD 55-3-2.

Conclusion:

The FAA has determined for the reasons stated in the "**SUPPLEMENTARY INFORMATION**" section that this proposed document involves removing a requirement and imposes no additional burden on any person. Therefore, I certify that this action is not a "major rule" under Executive Order 12291; is not a significant rule "under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Propellers, Air transportation, Aircraft, Aviation safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by revoking AD 55-3-2 as follows:

Hartzell Propeller Products Division: Inspection and repair of propeller blade tip damage is considered part of normal maintenance therefore AD 55-3-2 is cancelled.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.85.)

Issued in Burlington, Massachusetts on January 18, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-2116 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-108-AD]

Airworthiness Directives; DeHavilland Model DHC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This amendment proposes to adopt a new airworthiness directive (AD) which would require modification and relocation, as necessary, of the No. 2 and No. 3 engine fuel drains on certain DeHavilland Model DHC-7 airplanes. This action is necessary to prevent the potential for fires caused by fuel draining onto hot brakes. The specified modification will cause the fuel to drain a safe distance away from the brakes.

DATE: Comments must be received on or before March 18, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained

upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada M3K 1Y5. This information may also be examined at the FAA, New York Aircraft Certification Office, New England Region, 181 S. Franklin Avenue, Room 202, Valley Stream, New York, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Mr. Raymond O'Neill, New York Aircraft Certification Office, FAA, New England Region, 181 S. Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-108-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Canadian Department of Transport (DOT) has classified Modification No. 7/2175 as mandatory. DeHavilland Service Bulletin 7-71-18, Revision A, dated January 20, 1984, describes the modification which requires relocation of the engine fuel flow drain on Numbers 2 and 3 engine nacelles to preclude the potential for fire caused by fuel draining onto hot brakes. Two occurrences of this have been reported; one resulted in a fire. The modficiations specified in this AD are intended to preclude recurrence of these incidents by relocating the fuel drain to an area where the draining fuel will not impinge upon the brake.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being proposed which would require the modifications, inspections, and replacement of parts in accordance with DeHavilland Service Bulletin No. 7-71-18, Revision A, dated January 20, 1984.

It is estimated that 46 U.S. registered airplanes would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Modification parts to accomplish the required actions are $1095 per aircraft. Based on these figures, the total cost impact of this AD to the U.S. operators is estimated to be $65,090.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, DeHavilland Model DHC-7 series airplanes are operated by small entities. A copy of a draft regulatory evaluation has been prepared for this action and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

DeHavilland: Applies to DeHavilland Model DHC-7 series airplanes, serial numbers (S/N) 3 through 86, 89, 91, 94, and 95, certificated in all categories. To preclude the occurrence of a ground fire caused by engine fuel impinging on landing gear brakes under certain wind conditions, accomplish the following unless already accomplished:

A. Within the next nine months after the effective date of this AD, accomplish a modification of the engine fuel drain system in accordance with Modification No. 7/2175 and DeHavilland Service Bulletin 7-71-18, Revision A, dated January 20, 1984.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1345(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on January 17, 1985.

Charles R. Foster,
Director, Northwest Mountain Region.

[FR Doc. 85-2116 Filed 1-28-85; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-118-AD]

Airworthiness Directive; Garrett Model GTCP331-200A and -200AC Auxiliary Power Units Installed on Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would provide for the modification of the fan assembly on Garrett Auxiliary Power Units (APU) installed on Boeing Model 757 and Boeing Model 767 series airplanes. This action is prompted by reports of 13 failures of the APU cooling fan, 2 of which were uncontained. This condition could result in a potential fire hazard.

DATE: Comments must be received on or before March 18, 1985.

ADDRESSES: The applicable service information may be obtained from Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010; telephone (602) 231-1000. This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT:
Mr. Bill Moring, Aerospace Engineer, Propulsion Section, ANM-174W, FAA Northwest Mountain Region, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; telephone (213) 536-6382.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRM." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-118-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been reports of at least thirteen failures of the auxiliary power unit (APU) cooling fan, two of which were not contained. In one case, an APU electrical wire bundle was damaged; in two others, leaking APU engine oil was noted. Failures of this type are a potential fire hazard.

Since this condition is likely to exist or develop on other products of the same type design, the proposed AD would require replacement or modification of the fan assembly, by the addition of the fan discharge housing on Garrett Models GTCP331-200A and-200AC Auxiliary Power Units (APU) installed on Boeing Model 757 and Boeing Model 767 series airplanes.

It is estimated that 230 airplanes of U.S. registry would be affected by this AD and it would require approximately ½ manhour per airplane to accomplish the required modification. Average labor charge is $40 per hour. The manufacturer is furnishing the modification parts at no charge. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $4,600.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 or 767 series airplanes equipped with GTCP331-200A and -200AC Auxiliary Power Units are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive.

Garrett Turbine Engine Company [GTEC]. [formerly AiResearch Manufacturing Company of Arizona]: Applies to GTEC Models GTCP331-200A and -200AC Auxiliary Power Units (APU) installed on Boeing Model 757 and Boeing Model 767 series airplanes with fan assembly, Part Number 3862160-3 and -4, installed. Compliance is required as indicated unless already accomplished.

To prevent the possibility of an uncontained APU cooling fan failure, accomplish the following:

A. Upon removal of the cooling fan, Garrett Part Numbers 2862160-3 or -4, from an affected GTCP331-200A or -200AC Auxiliary Power Unit (APU) for any reason, or within 1000 airplane operating hours after the effective date of this AD, or prior to September 15, 1985, whichever comes first, incorporate the new fan assembly with the improved fan containment housing as specified in Section 2.A., "Accomplishment Instructions," of GTEC Service Bulletin GTCP331-49-5546, dated August 9, 1984, or equivalent approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010. These documents may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific highway South, Seattle, Washington, or at 1500 Aviation Boulevard, Hawthorne, California.

(Sec. 313(a), 314(a), 601 through 610, and 1102, of the Federal Aviation Act of 1958, [49 U.S.C. 1354(a), 1421 through 1430, and 1502]; 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.85)

Issued in Seattle, Washington, on January 17, 1985

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2115 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ASW-45]

Airworthiness Directives; Hughes Helicopters, Inc., Model 269C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require a one-time inspection to identify and remove from service certain main rotor blades which contain leading edge abrasion strips which were installed or replaced without FAA design approval on Hughes Helicopters Inc., Model 269C helicopters. Loss of an abrasion strip during helicopter operation could result in injury to personnel or main rotor system imbalance and possible subsequent loss of control of the helicopter.

DATE: Comments must be received on or before February 25, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or delivered in duplicate to: Office of the Regional Counsel, Southwest Region, Room 158, Building 3B, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106. Comments delivered must be marked: Docket No. 84-ASW-45. Comments may be inspected in Room 158, Building 3B, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

A copy of each document supporting the proposed AD is contained in the Rules Docket at the Office of the Regional Counsel, Federal Aviation

Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT:
Jerry Sullivan, Aerospace Engineer, Airframe Section, Western Aircraft Certification Office, Northwest Mountain Region, FAA, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, telephone (213) 536–6166.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 84–ASW–45." The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that a repair station has installed or replaced leading edge abrasion strips on 13 Hughes Helicopters, Inc., Model 269C helicopter main rotor blades without FAA design approval. At least one of these abrasion strip installations has been analyzed and determined not to meet all criteria considered necessary for an acceptable abrasion strip-to-rotor blade adhesive bond on similar approved installations. Failure of the adhesive bond could result in a hazardous flight condition.

Since this condition is likely to exist on other helicopters of the same type design, the proposed AD would require removing from service main rotor blades with unauthorized abrasion strip installations from Model 269C helicopters.

The FAA has determined that this proposed regulation affects only four entities, and it is estimated that the one-time cost of compliance is less than $83,000. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Hughes Helicopters, Inc. (Hughes Helicopters): Applies to certain Model 269C helicopters certificated in all categories.

Compliance is required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

To detect and remove from service helicopter main rotor blades which do not meet FAA-approved type design, accomplish the following:

(a) For Model 269C with Part Number 269A1160 series main rotor blades installed, remove main rotor blades having the following serial numbers from service:

0103	2024
0869	2360
0874	2454
0875	3428
1537	3434
1629	3619
1829	

(b) Blades removed in accordance with paragraph (a) may be returned to service after being restored to original or other FAA-approved type design.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.85)

Issued in Fort Worth, Texas, on January 10, 1985.

C.R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 85–2113 Filed 1–28–85; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–105–AD]

Airworthiness Directives; British Aerospace (BAe) Viscount Model 700 Series and 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require inspection, replacement, and modification, as necessary, of certain components on British Aerospace, Aircraft Group, Viscount airplanes, to detect and prevent certain unsafe conditions. These conditions are the subject of mandatory corrective actions required by the United Kingdom Civil Aviation Authority (CAA) and relate to components of the main undercarriage, and wing trailing edge member spar and liner assemblies. This action is taken to preclude failure of these components.

DATE: Comments must be received no later than March 18, 1985.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Mr. Michael West, Foreign Aircraft Certification Branch; telephone (206) 431–2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be

considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–105–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Untied Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed on Viscount Model 700 and 800 series airplanes, operated under registry of the United Kingdom, to correct certain unsafe conditions which may exist.

The requirements presented in this proposed AD are based on the notifications from the CAA and are related to the following unsafe conditions:

A. Loss of braking or locking of the associated wheel during takeoff, landing, or taxiing. (Reference Preliminary Technical Leaflet (PTL) No. 90, BAe Pre-Mod Standard F.1323, BAe modification F.1794 for all Model 800 Series.)

B. Cracking of inner plane (wing) trailing edge member top boom (spar) assemblies on all Model 700 and Model 800 series airplanes. (Reference PTL 309 for all Model 700 Series and PTL 178 for all Model 800 Series Airplanes.)

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspections, replacements, and modifications, as necessary, on Viscount airplanes.

Currently no U.S. registered airplanes would be affected by Paragraph A of this AD; however, it is deemed necessary to ensure that this modification is incorporated on any applicable airplanes that may be imported.

It is estimated that 34 U.S. registered airplanes would be affected by Paragraph B of this AD, that it would take approximately 250 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to the U.S. operators is estimated to be $340,000.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures [44 FR 11034; February 26, 1979]; and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Viscount Model 700 and 800 series airplanes are operated by small entities. A copy of a draft regulatory evaluation has been prepared for this action and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace Viscount: Applies to Model 700 and/or 800 series airplanes, certificated in all categories, as indicated in each paragraph below. To prevent failure of certain components in the main undercarriage, and wing trailing edge member spar and liner assemblies, accomplish the following the compliance time specified in each paragraph below, unless previously accomplished:

A. For all Model 800 series, pre-Modification F. 1323 Standard, which are equipped with Dunlop AH.50961/2 Main Wheel Brake Units, inspect, modify, and replace in accordance with Preliminary Technical Leaflet (PTL) No. 90 and Modification F. 1794, both dated May 18, 1960, prior to the accumulation of 3,000 total landings. On those assemblies which have already achieved 2,750 landings, the requirements of PTL 90 and of PTL 90 and Modification F. 1794 must be accomplished within 250 landings or 2 months, whichever occurs later, after the effective date of this AD.

B. For all Model 700 and 800 series, inspect the top boom/liner assemblies for cracks between station 132.85 and station 138 on all Model 700 series in accordance with PTL 309, Issue 2 dated December 10, 1979, and all Model 800 series in accordance with PTL 178, Issue 2 dated December 10, 1979, prior to the accumulation of 27,500 total landings. On those assemblies which have already achieved 27,250 or more total landings, initial inspections must be accomplished with in 250 landings or 2 months, whichever occurs later, after the effective date of this AD. Repeat inspections at intervals not exceeding 2,000 landings or 12 months, whichever is sooner.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 [49 U.S. 1354(a), 1421 through 1430, and 1502]; 49 U.S.C. 106(g) [Revised, Pub. L. 97–499, January 12, 1983]; and 14 CFR 11.85)

Issued in Seattle, Washington, on January 17, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85–2114 Filed 1–28–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–106–AD]

Airworthiness Directives; Aerospatiale (Sud Nord) Nord 262A and 262A–12 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking, (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would supersede an existing AD applicable to Aerospatiale Model Nord 262A and 262A–12 series airplanes which requires periodic inspection and treatment of the rudder hinge support tubes. This action in necessary because the manufacturer has determined that one protective treatment currently specified to prevent corrosion is incomplete and is not acceptable. Corrosion in this area could lead to the failure of the rudder hinge support tubes and subsequent loss of rudder control. This AD would require compliance with a later revision to the manufacturer's service bulletin.

DATE: Comments must be received no later than March 18, 1985.

ADDRESS: The applicable service information may be obtained from Aerospatiale, Service Commercial N262, Boite Postale 159, 36003 Chareauroux, France, or may be examined at the

Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael P. West, Foreign Aircraft Certification Branch, telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-106-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Internal corrosion and corrosion penetration to the outer surface has been found in rudder hinge support tubes on Nord 262A and 262A-12 series aircraft during routine maintenance. AD 83-17-01, Amendment 39-4710 (48 FR 37364; August 18, 1983), was issued to require inspection and treatment of the rudder hinge support tubes.

The Direction General de l'Aviation Civile (DGAC), which is the Civil Airworthiness Authority of France, has declared Aerospatiale N262 Fregate Service Bulletin No. 55-10 Revision 2, dated January 31, 1984, as mandatory. This service bulletin prescribes improved inspection procedures, new protective treatment, and replacement of components, as necessary, on the rudder hinge support structure; it also increases the repeat inspection time to six years maximum.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would supersede AD 83-17-01 to increase time between repetitive inspections, improve inspection procedures, and delete "Scheme 2" for corrosion protection treatment of the rudder hinge support tubes.

It is estimated that 16 U.S. registered airplanes would be affected by this AD, that it would take approximately 13 manhours per airplane to accomplish the increased inspection and revised protective procedure, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $250 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $12,320.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Aerospatiale Nord 262A or 262A-12 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by superseding Amendment 39-4710 (48 FR 37364; August 18, 1983), AD 83-17-01, with the following new airworthiness directive:

Aerospatiale (Sud Nord): Applies to Nord 262A and 262A-12 series airplanes, certificated in all categories. Compliance required within 100 hours time in service or 3 months, whichever occurs first, after the effective date of this AD. To prevent failure of the rudder hinge support tubes and subsequent loss of rudder control, accomplish the following unless previously accomplished:

A. Inspect and protect against corrosion, or replace components if necessary, in accordance with paragraph II, Accomplishment Instructions, of Aerospatiale N262 Fregate Service Bulletin No. 55-10, Revision 2, dated January 31, 1984.

B. Repeat the inspection required by paragraph A., above, at intervals not to exceed six years.

C. Those airplanes having new rudder hinge support tubes treated in accordance with Service Bulletin No. 55-10, Revision 1, Corrosion Protection Scheme 1, do not have to be inspected until six years after the installation of the new hinge support tubes.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This supersedes Amendment 39-4710 (48 FR 37364; August 18, 1983), AD 83-17-01.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on January 17, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2117 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-1]

Proposed Transition Area Extension, Madison, South Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Madison, South Dakota, transition area to accommodate a new VOR Runway 32 instrument approach procedure to Madison Municipal Airport. The intended effect of this action is to ensure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before March 1, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional

Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-1, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new VOR Runway 32 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 1.5 mile expansion to the souteast of the existing transition area. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communicaitons must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment of § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Madison, South Dakota. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulations only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Transition areas/Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Madison, SD

That airspace extending upward from 700 feet above the surface within a five (5) miles radius of the Madison Municipal area (latitude 44°01'00" N, longitude 97°05'00" W); within three (3) miles each side of the 346° bearing from the Madison Municipal Airport, extending from the five (5) mile radius to 8½ miles north of the airport; within 2½ miles each side of the 329° Radial True from the FSD VORTAC, extending from the five (5) mile radius to 6½ miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Des Plaines, Illinois, on January 14, 1985

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85-2122 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-2]

Proposed Alteration of Transition Area, Holland, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the Holland, Michigan, transition area to accommodate a new RNAV Runway 8 instrument approach procedure to Tulip City Airport. The intended effect of this action is to ensure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before March 1, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-2, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours

at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automaton Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new RNAV Runway 8 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 1-mile expansion to the southwest of the existing transition area. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular NO. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Holland, Michigan. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Holland, MI

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (latitude 42°48'00" N., longitude 86°10'00" W.); within a 6-mile radius of Tulip City Airport (latitude 42°45'00" N., longitude 86°07'00" W.); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radius area to 8 miles south of the airport; and within 3 miles northwest and 5 miles southeast of the 237° bearing from Park Township Airport, extending from the 6-mile radius area to 9.5 miles southwest of the airport; and within 3 miles each side of the 040° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles northeast of the airport; and within 2 miles each side of the Pullman, Michigan VORTAC 359° radial, extending from the 6-mile radius area to 12 miles north of the VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Des Plaines, Illinois, on January 14, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85-2123 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 51

[CGD 81-104]

Discharge Review Board (DRB) Regulations

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation is proposing to revise the regulations governing the establishment and operation of the Coast Guard Discharge Review Board. The existing regulations at 33 CFR Part 51 were promulgated in 1947 and provided for a Board for Review of Discharges and Dismissals. Since that time, Congress enacted Pub. L. 85-857 (10 U.S.C. 1553) which provided new statutory basis and guidelines for discharge review boards. This proposal would update the existing regulations and establish the Coast Guard Discharge Review Board (DRB) to more accurately reflect current law and policy.

DATE: Comments must be received on or before March 15, 1985.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/21), (CGD 81-104), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, D.C. 20593, (202) 426-1477. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except

holidays, at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR William J. Wilkinson, Office of Personnel, Room 4413, Coast Guard Headquarters, Washington, DC 20593, (202) 426-6540.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this reulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 81-104), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Discussion

The Secretary of Transportation is responsible for the establishment of the Coast Guard Discharge Review Board (DRB) to review the administrative discharge of any former member (10 U.S.C. 1553). These proposed regulations supplant the existing regulations in Part 51 of Title 33 which had operated in conjunction with Department of Defense DRB Regulations. The result of this revision is to completely sever the Coast Guard DRB from the Department of Defense regulations to emphasize its operation under the Secretary of Transportation.

This rule is also promulgated in consideration of laws and regulations governing the Veterans Administration. Since October 8, 1977, actions by DRBs cannot remove any of a number of statutory bars to eligibility for benefits administered by the VA. (38 U.S.C. 3203(a)). However, DRB actions upgrading discharges to "honorable" or "general under honorable conditions" may otherwise give rise to eligibility that did not previously exist (38 CFR 3.12(a)(g)). This revision of the Coast Guard's DRB regulations is consistent with law and regulations governing eligibility for veteran's benefits.

Section-by-Section Analysis

Section 51.1 Basis Purpose. This part provides an overview and description of the Coast Discharge Review Board.

Section 51.2 Authority. This section states the statutory authority for the establishment of the Coast Guard DRB and outlines the authority of the Secretary and the delegations to the Commandant of the Coast Guard.

Section 51.3 Applicability and Scope. This section provides that any former member, administratively discharged from the Coast Guard, may initiate DRB review of the discharge. In accordance with the Military Justice Act of 1983, discharges resulting from the sentence of a court martial cannot be reviewed by the DRB except for purposes of clemency. (Pub. L. 98-209, 97 Stat 1407, 10 U.S.C. 1553(a).) A former member may petition to the DRB for clemency only after exhausting all appellate remedies.

Section 51.4 Definitions. This section defines the operative terms within the proposed rule to provide a clear meaning of the various components of the discharge review process.

Section 51.5 Discharge Review Objectives. This section outlines the basis for effecting a change in an applicant's discharge.

Section 51.6 Propriety Standard of Review. This section defines the standard of propriety as applied by the DRB.

Section 51.7 Equity Standard of Review. This section defines the standard of equity as applied by the DRB.

Section 51.8 Relevant Considerations. This section provides a list of factors normally considered by the DRB in determining the propriety and equity of an applicant's discharge.

Section 51.9 Discharge Review Procedures. This section gives a step by step procedural guideline for the discharge review process.

Section 51.10 Decisions. This section requires written findings and conclusions to be issued by a majority of the DRB.

Section 51.11 Records. This section requires that a record of each DRB proceeding be completed and preserved; and to be made available to the public through the Armed Forces Reading Room.

Economic Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The Coast Guard receives approximately eighty (80) applications for discharge review each year. Although an applicant may spend considerable time and effort, and incur attorney fees in presenting his petition to the DRB, these regulations require only a written application on a two page form. The costs of preparing the application that are a result of these requirements are so minimal that they cannot be quantified to any extent practicable. Since the impact of this proposal is expected to be minimal, the Coat Guard certifies that it will not have a significant economic impact on a substantial number of small entities. In addition, these proposed rules fall under the section 351B(c)(1)(b) exception to the Paperwork Reduction Act of 1980. (92 Stat. 2824; 44 U.S.C. 3501 et seq.)

Drafting Information

The principal persons involved in drafting this document are Lt Jeffrey Stark, Project Officer, and Lt Dave Shippert, Project Attorney, Office of the Chief Counsel.

List of Subjects in 33 CFR Part 51

Administration practice and procedure, Military personnel.

Proposed Regulations

In consideration of the foregoing, Part 51 of Title 33, Code of Federal Regulations, is amended by revising the entire part to read as follows:

PART 51—COAST GUARD DISCHARGE REVIEW BOARD

Sec.

Authority: 10 U.S.C. 1553.

§ 51.1 Basis and purpose.

This part establishes the procedures for review of administrative discharges from the Coast Guard by a Discharge Review Board (DRB) or by the Secretary of the Department, and for the compilation of the record of the DRB determination, made available for public inspection, copying and distribution through the Armed Forces Discharge Review/Correction Board Reading Room.

§ 51.2 Authority.

(a) The Secretary of Transportation has the authority to establish a Discharge Review Board to review the

discharge of a former member of the United States Coast Guard under the provisions of 10 U.S.C. 1553. This part prescribes the establishment and outlines the procedures of the Coast Guard Discharge Review Board. The Secretary retains the authority to review and take final action on the DRB's findings in the following cases:

(1) Those cases in which a minority of the board requests that their written opinion be forwarded to the Secretary for consideration;

(2) Those cases selected by the Commandant to inform the Secretary of aspects of the board's functions which may be of interest to the Secretary;

(3) Any case in which the Secretary demonstrates an interest;

(4) Any case which the President of the board belives is of significant interest to the Secretary.

(b) The Commandant of the Coast Guard is delegated the authority to:

(1) Appoint members to serve on the Discharge Review Board,

(2) Appoint alternates to serve on the DRB in the event that a regularly appointed member is unavailable,

(3) Designate a member as the president of the DRB, and

(4) Review and take final action on all DRB decisions which are not reviewed by the Secretary.

§ 51.3 Applicability and scope.

The provisions of this part apply to the United States Coast Guard including reserve-components and all former members who have been discharged within 15 years of the date of application for review. A former member may apply to the DRB for a change in the character of, and/or the reason for, the discharge. The Coast Guard DRB review is generally applicable only to administrative discharges, however, the DRB may review the discharge of a former member by sentence of a Court Martial for the purpose of clemency. A petition for clemency will not be considered by the DRB unless the applicant has exhausted all appellate remedies. Upon a petition for clemency, the DRB shall consider only the equity of the discharge awarded.

§ 51.4 Definitions.

(a) *Applicant.* A former member of the Coast Guard who has been discharged from the service but excluding those discharged by sentence of a court martial, except as provided in § 51.3. If the former member is deceased or incompetent, the term "applicant" includes the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former member.

(b) *Counsel.* An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the bar of a Federal court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(c) *Discharge.* Any formal separation of a member from the Coast Guard which is not termed "honorable", including dismissals and "dropping from the rolls". This term also includes the assignment of a separation program designator, separation authority, the stated reason for the discharge and the characterization of service.

(d) *Discharge Review.* The process by which the reason for separation, the procedures followed in accomplishing separation, and the characterization of service are evaluated. This includes determinations made under the provisions of Title 38 U.S.C. 3103(e)(2).

(e) *Discharge Review Board.* A board consisting of five members of the U.S. Coast Guard, appointed by the Commandant of the Coast Guard and vested with the authority to review the discharge of a former member. The board in empowered to change a discharge or issue a new discharge to reflect its findings, subject to review by the Commandant or the Secretary.

(f) *Hearing.* A proceeding which, upon request of the applicant, is utilized in the discharge review process enabling the applicant and/or the applicant's representative to appear before the DRB and present evidence.

(g) *President.* An officer of the United States Coast Guard appointed by the Commandant to preside over the Discharge Review Board. The president will convene the board any may also serve as a member. If the president does not serve as a member of the DRB, the president shall designate a presiding officer for the board.

§51.5 Discharge review objectives.

The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes if necessary. The DRB will utilize its discretion to reach a fair and just resolution of the applicant's claim. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change, or denial of change, in a discharge.

§51.6 Propriety standard of review.

A discharge is deemed to be proper except that:

(a) A discharge may be improper if an error of fact, law, procedures, or discretion was associated with the discharge at the time of issuance which prejudiced the rights of the applicant.

(b) A discharge may be improper if there has been a change in policy by the Coast Guard made expressly retroactive to the type of discharge under consideration.

§51.7 Equity standard of review.

(a) A discharge is presumed to be equitable and will not be changed under this section unless the applicant submits evidence sufficient to establish, to the satisfaction of the DRB that:

(1) The policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to dicharges of that type, provided that current policies or procedures represent a substantial enhancement of the rights afforded a party in such proceedings and there is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration, or

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Coast Guard, or

(3) The applicant's military record and other evidence presented to the DRB, viewed in conjunction with the factors listed in § 51.8 and the regulations under which the applicant was discharged, do not fairly justify the type of discharge received.

(b) If the applicant was discharged before June 15, 1983, a change fromn a characterized to an uncharacterized discharge will not be consisdered under the provisions of paragraph (a)(1) of this section unless specifically requested by the applicant. A determination that a discharge is inequitable according to the provisions of paragraph (a)(2) or (a)(3) of this section shall entitle the applicant to a discharge of a type to which the applicant was entitled at the time the original discharge was issued.

§51.8 Relevant consideration.

In determining the equity and propriety of a former member's discharge, the DRB shall consider all

relevant evidence presented by the applicant. The DRB review will include, but is not limited to, consideration of the following factors:

(a) *The quality of the applicant's service.* In determining the quality of the applicant's service, the DRB may consider the applicant's dates and periods of service; rate or rank achieved; marks and evaluations received; awards decorations and letters of commendations; acts of merit; combat service and wounds received; promotions and demotions; prior military service and type of discharge; records of unauthorized absence; records of non-judicial punishment; convictions by court martial; records of conviction by civil authorities while a member of the Coast Guard; and any other relevant information respecting the applicant which is brought to the board s attention.

(b) *The applicant's capability to serve.* In determining the aplicant's capability to serve, the DRB considers such factors as the applicant's age and education; qualification for reenlistment; capability to adjust to military service; family or personal problems.

(c) Any evidence of arbitrary, capricious or discriminatory actions by individuals in authority over the applicant.

(d) Any other information respecting the applicant considered by the DRB to be relevant and material to the review of applicant's discharge.

§51.9 Discharge review procedures.

(a) *Preliminary.* Prior to a review, applicants or their representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9799 Page Bouldvard, St. Louis, Mo. 72132. The request to the NPRC should be submitted prior to submitting the application for review, (DD Form 293), so that relevant information from the record can be included with the application for review.

(b) *Initiation of review.* Review may be initiated by an applicant or by the DRB. The applicant may apply for DRB review of discharge by submitting DD Form 293 (Application for Review of Discharge or Separation from the Armed Forces of the United States), along with any other statements, affidavits or documentation desired by the applicant. The application must be received by the DRB within fifteen (15) years of the date of the discharge. The application form can be obtained, along with explanatory matter, from Commandant, (G–PE/44) U S. Coast Guard Headquarters, 2100 2nd St., Washington, D.C. 20593, any regional VA office or by writing to the Armed Forces Discharge Review/ Correction Board Reading Room, Pentagon Concourse, Washington, D.C. 20310.

(c) *Notice.* (1) The DRB will provide notification advising the former member of:

(i) Receipt of the applicant's request;

(ii) The right to appear before the board in person or by counsel; and

(iii) The date of review.

If the former member is deceased, written notice of DRB review will be sent to the surviving spouse, next of kin or legal representative of the former member. If the review is initiated by the DRB, notification will be sent to the last known address of the former member.

(2) Prior to the initiation of the decision process, the DRB will notify the former member of the date by which requests to examine the documents to be considered by the board must be received. This notice will also state the date by which a request for a hearing must be made and the deadline for filing responses to the board.

(3) An applicant who requests a hearing will be notified of the time and place of the hearing. All expenses incurred by the applicant in DRB proceedings and hearings are the sole responsibility of the applicant and are not obligations of the U.S. Coast Guard or the Department of Transportation. If the applicant fails to appear, except as provided in § 51.9(f) the DRB will review the discharge and reach a decision based upon the evidence of record.

(d) *Withdrawal of application.* An applicant may withdraw an application without prejudice at any time before the scheduled review. An application so withdrawn will not operate to toll the 15 year limitation on the DRB review of the discharge.

(e) The DRB will consider the records and other data submitted by the applicant. The DRB may consider other probative evidence provided that all materials relied on by the DRB, except classified documents, are made available to the applicant and the applicant's representative prior to the hearing date (or review date if no hearing is requested). The DRB shall not consider a classifed document in the review of discharge unless a summary of, or extract from, the document (deleting all references to source of information and other matters, the disclosure of which would, in the opinion of the classifyfing authority, be detrimental to the security interests of the United States) is made available to the applicant.

(f) *Postponement of review or hearing.* At any time before the date of scheduled review or hearing, an applicant may be granted a continuance, provided the applicant or the applicant's counsel makes a written request for additional time to the DRB which shows good cause to justify the postponement.

(g) *Hearing procedures.* The following procedures apply to DRB hearings:

(1) DRB hearings are not public. Presence at hearings is limited to persons authorized by the Commandant or expressly requested by the applicant, subject to reasonable limitations based upon available space.

(2) The Federal Rules of Evidence are not applicable to DRB proceedings. The presiding officer rules on matters of procedure and ensures that reasonable bounds of relevancy and materiality are adhered to in the taking of evidence.

(3) An applicant is permitted to make a sworn or unsworn statement. Witness testimony will only be taken under oath or affirmation. An applicant or wtiness who makes a statement may be questioned by the DRB.

(4) An applicant may make oral or written argument personally or through his or her representative.

(h) *Reconsideration.* The decision of the DRB may not be reconsidered unless—

(1) The only previous consideration of the case was on the motion of the DRB;

(2) Changes in discharge policy occur; or

(3) New, substantial, relevant evidence not available to the applicant at the time of the original review is submitted to the DRB.

§ 51.10 Decisions.

(a) The DRB will make written findings and conclusions with respect to all disputed facts and issues. The decision of the DRB is governed by the vote of a majority of the board.

(b) A decision document is prepared for each review conducted by the DRB. This document contains—

(1) The date, character of, and reason for the discharge including the specific authority under which the discharge was issued;

(2) The specific change(s) requested by the applicant;

(3) A list of the issues raised by the applicant;

(4) The circumstances and character of the applicant's service, as extracted from the service record, health record and other evidence presented to the DRB;

(5) References to documentary evidence, testimony or other material

relied on by the DRB in support of its decision;

(6) A statement of the DRB's findings with respect to each issue raised by the applicant;

(7) A summary of the rationale and a statement of the DRB's conclusions as to whether or not any change, correction or modification should be made in the type or character of the discharge or the reason and authority for the discharge; and

(8) A statement of the particular changes, corrections, or modifications made by the DRB.

§ 51.11 Records.

(a) The record of the discharge review will include the following—

(1) The application for review;

(2) A summarized record of the testimony and a summary of evidence considered by the DRB other than information contained in the service records;

(3) Briefs or written arguments submitted by or on behalf of the applicant;

(4) The decision of the DRB;

(5) Advisory opinions relied upon for the final action; and

(6) The final action on the DRB decision by the Commandant or Secretary.

(b) The record of the discharge review is incorporated into the service record of the applicant.

(c) A copy of the decision of the DRB and the final action thereon is made available for public inspection and copying promptly after a notice of the final decision is sent to the applicant. However, to the extent required for the protection of privacy rights, identifying details of the applicant and other persons are deleted from the public record.

(1) DRB documents made available for public inspection and copying are located in the Armed Forces Discharge Review/Correction Board Reading Room. The documents are indexed so as to enable the public to determine why relief was granted or denied. The index includes the case number, the date, character of, reason for, and authority for the discharge and is maintained at Coast Guard Headquarters and the Armed Forces Reading Room. The Armed Forces Discharge Review/Correction Board Reading Room publishes indexes quarterly for all boards.

(2) Correspondence relating to matters under the congnizance of the Reading Room (including requests for purchase of indexes) should be addressed to: Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

Issued in Washington, D.C., on January 16, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 85-2087 filed 1-28-85; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls; Proposed Revision

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Proposed rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation, United States, and the St. Lawrence Seaway Authority, Canada, propose to revise sections 2(g), 3(2) and 3(3) of the Tariff of Tolls which they establish and administer jointly. The proposed revisions would expand the definition of feed grains to include field crop seeds, require vessel representatives to pay tolls within thirty (30) days of the vessel's entry into the St. Lawrence Seaway and provide for the payment of tolls for the section of the St. Lawrence Seaway between Montreal and Lake Ontario to be 73 percent in Canadian dollars and 27 percent in United States dollars.

DATES: The Corporation invites comments on the proposed revisions to the Tariff of Tolls from any interested person or organization. Any party wishing to present comments should file them with the Corporation on or before March 15, 1985. In view of the fact that the proposed revisions will not change the rules for the measurement of vessels or cargoes nor the rates of tolls, a public hearing will not be held.

ADDRESS: Interested parties may submit written comments to the Saint Lawrence Seaway Development Corporation, P.O. Box 44090, Washington, D.C. 20026-4090 (Attention: Chief Counsel). Persons who want the receipt of their comments acknowledged in writing may submit a stamped self-addressed post card for this purpose.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, (202) 426-3325.

SUPPLEMENTARY INFORMATION: During the 1984 navigation season, it became apparent that the definition of "feed grains" in section 2(g) (33 CFR 402.3(g)) of the St. Lawrence Seaway Tariff of Tolls was too restrictive in that as written only grains produced by cereal grass and other oilseeds were included. In view of the fact that there are field crop seeds other than those in the oilseed category such as alfalfa seeds, lupine seeds, clover seeds, millet seeds, canary seeds, mustard seeds, etc., which should be included in the feed grain's definition, the definition will be expanded to include other field crop seeds. Accordingly, the word "oilseeds" will be eliminated and the words "feed crop seeds" substituted therefor.

Section 3(2) (33 CFR 402.4(b)) of the Tariff of Tolls presently provides that tolls are payable within fourteen (14) days from the demand for payment by the Corporation or the St. Lawrence Seaway Authority of Canada. The basis for this demand is the bill of lading for the vessel's cargo which is provided by the representatives of the vessel. Past experience has demonstrated that the time in which the bill of lading is received, demand for payment is made, and payment is received has exceeded thirty (30) days. Since normal business practices would dictate that the payment of tolls should be made within thirty (30) days this section will be accordingly revised by eliminating all the words after the word "and" and substituting therefor the words "payment will be made within thirty (30) days of the vesel's entry into the Seaway."

The Corporation and the St. Lawrence Seaway Authority of Canada agreed that for the 1985 St. Lawrence Seaway navigation season the toll revenues generated from vessels transiting the Montreal to Lake Ontario section of the Seaway would be divided as follows: 73 percent to the Authority and 27 percent to the Corporation. Therefore, section 3(3) (33 CFR 402.4(c)) of the Tariff of Tolls will be revised by changing "71 percent" to "73 percent" and "29 percent" to "27 percent", which reflects the provisions of this agreement between the Corporation and the Authority.

The proposed regulation involves a foreign affairs function of the United States; therefore, Executive Order 12291 does not apply to this rulemaking. The St. Lawrence Seaway Development Corporation certifies that for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), since the impact of this proposal is expected to be minimal, it will not have a significant economic

impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. Furthermore, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

For the stated reasons, it is proposed to amend the Tariff of Tolls as follows:

1. Section 402.3(g) is revised to read as follows:

§ 402.3 Interpretation.

* * * * *

(g) "Feed grains" means barley, corn, oats, flaxseed, rapeseed, soybeans and other field crop seeds, grain screenings, and mill feed containing not more than 35% of ingredients other than grain or grain products.

* * * * *

2. Sections 402.4 (b) and (c) are revised to read as follows:

§ 402.4 Tolls.

* * * * *

(b) The tolls under this tariff are due from the representative of each vessel as soon as they are incurred and payment shall be made within thirty (30) days of the vessel's entry into the Seaway.

(c) The tolls for the section between Montreal and Lake Ontario shall be paid 73 percent in Canadian dollars and 27 percent in United States dollars. Payments for transit through locks in Canada only shall be in Canadian dollars, and payments for transit through locks in the United States only shall be in United States dollars.

* * * * *

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended)

Issued at Washington, D.C., January 22, 1985.

Saint Lawrence Seaway Development Corporation.

James L. Emery,

Administrator.

[FR Doc. 85–2164 Filed 1–28–85; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–2765–5]

Approval and Promulgation of State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice, EPA proposes to approve two revisions to the Oregon State Implementation Plan (SIP). The revisions are: (1) Rules and statutes restricting the sale of woodstoves to only clean burning models, and (2) administrative changes to the current field burning rules. These revisions were submitted to the State of Oregon Department of Environmental Quality (ODEQ) after adequate opportunity for public input. These changes will reduce emissions from woodstoves and make the federally enforceable field burning rules in Oregon consistent with those recognized by the State.

DATE: Comments must be postmarked on or before February 28, 1985.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A–84–10), Environmental Protection Agency, 1200 Sixth Avenue, Seattle Washington 98101

State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland, Oregon 97207

FOR FURTHER INFORMATION CONTACT: E. Ann Williamson, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone No. (206) 442–8178; (FTS) 399–8178.

SUPPLEMENTARY INFORMATION:

I. Background

Residential wood heating has been the fastest growing source of particulate matter air pollution in Oregon. Several airshed studies have identified wood heating as a significant source of uncontrolled pollutants and a major cause of air quality standard violations in Portland and Medford. Recent surveys have shown that over 50 percent of Oregon residences use wood for some space heating. This pattern is expected to continue as more individuals try to offset accelerating costs of conventional heating.

In response to this situation, the ODEQ sought solutions to the growing woodstove problem. After consultation with governmental agencies, air quality committees, business groups, and the wood heating industry, a mandatory statewide certification program was determined to be the most effective, supportable approach. A woodstove certification bill was introduced to the Oregon Legislature early in 1983 and ultimately signed into law in July 1983. The law requires adoption of emission standards and testing procedures, a period of voluntary testing and labeling, and limiting advertising and sale of woodstoves and fireplace inserts to only certified models after July 1, 1986.

The Environmental Quality Commission (EQC) adopted rules, in accordance with the woodstove certification law, on June 8, 1984. ODEQ submitted them to EPA on July 26, 1984.

Amendments to Oregon's field burning rules were adopted by the EQC on June 29, 1984 and submitted to EPA on August 7, 1984.

II. Plan Revisions

A. Woodstove Certification

Woodstove certification rules restrict the sale of residential wood heating appliances to only clean burning models. Woodstoves sold in the State of Oregon on or after July 1, 1986, must be tested and certified by ODEQ that they meet recently adopted performance specifications. Particulate emissions from such stoves may not exceed 15 grams per hour for non-catalytic units and 6 grams per hour for catalyst equipped models. On July 1, 1988, the emission limits are tightened further to 9 grams per hour for a non-catalytic woodstove and 4 grams per hour for a catalyst equipped stove.

Reductions in particulate emissions from woodstoves are required for attainment of total suspended particulate (TSP) standards in Medford and Portland. The Medford TSP attainment plan, approved on August 15, 1984 (49 FR 32754), calls for a number of woodstove control measures for attainment of primary standards and relies specifically on the woodstove certification program for some of the emission reductions necessray to attain secondary standards. The plan for attaining TSP secondary standards in Portland (47 FR 15587) also identifies emission reductions from residential home heating appliances.

In addition, emission reductions associated with the woodstove

certification rules will provide environmental benefits beyond reducing ambient TSP levels. Due to the nature of woodstove smoke, emission reductions from more complete combustion will also reduce emissions of carbon monoxide and polycyclic organic matter (POM) which include carcinogenic compounds. Further, virtually all the particulate emissions from woodstoves are in the fine particle range. Thus, the subject controls will also be an integral part of any future strategies to attain PM-10 standards in Oregon.

B. Field Burning

Changes to field burning rules involve deleting OAR 340-26-030 which provided for tax credits for approved alternative methods and approved alternative facilities. This in turn requires corresponding revision of the "introduction" (OAR 340-26-001) to the field burning rules. These tax credit provisions have been relocated in a new rule, OAR 34-16, "Pollution Control Tax Credits," which has not been submitted for inclusion in the SIP. However, deletion of the tax credit provisions from the SIP is justified since the approved control strategies demonstrate attainment and maintenance of ambient standards and PSD increments without the use of alternative methods or facilities.

III. Proposed Action

EPA is proposing to approve rules of the Oregon woodstove certification program (OAR 340-21-100 through 340-21-166 and Appendix I) as part of the SIP. Further, these rules are proposed for incorporation into the Medford (49 FR 32754) and Portland (47 FR 15587) plans for attaining TSP secondary standards. Both of these plans contained commitments for the future adoption of woodstove measures necessary to attain TSP secondary standards; the woodstove certification rules fulfill, in part, those commitments.

EPA is also proposing to approve the deletion of OAR 340-26-030 from the Oregon field burning program and to amend OAR 340-26-001 (introduction) accordingly.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by February 28, 1985, will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Act will not have significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under Section 110 and 172 within the terms of the January 27, 1981 certification.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110(a), 172, and 316 of the Clean Air Act (42 U.S.C. 7410(a), 7502 and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 28, 1984.

Robert Burd, Jr.,

Acting Regional Administrator

[FR Doc 85-2160 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[EPA No. KS 1590; A-7-FRL-2765-4]

Designation of Areas for Air Quality Planning Purposes: State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). Today, EPA proposes to redesignate Topeka, Kansas, from secondary nonattainment to attainment with respect to the NAAQS for total suspended particulate matter (TSP). This redesignation proposal is based upon a request from the Kansas Department of Health and Environment (KDHE). This request is supported by air quality monitoring data, evidence of an applied control strategy, and modeling which supports the measured air quality improvements.

DATE: Public comments should be received by February 28, 1985.

ADDRESSES: Comments should be sent to Robert J. Chanslor, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The State submission is available for public inspection during normal business hours at the above address, and at the Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (816) 374-3791 or FTS 758-3791.

SUPPLEMENTARY INFORMATION: In response to Section 107(d) of the Clean Air Act, as amended, EPA and the State of Kansas have designated all areas of the State as attaining the NAAQS, not attaining the NAAQS, or having insufficient data to make a determination (unclassified). A nonattainment area is one in which the air quality standard is worse than a standard. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonatainment. The areas of the State which are nonattainment for one or more pollutants are identified at 40 CFR Part 81, Subpart C.

EPA's current redesignation policy under Section 107 of the Act is summarized in an April 21, 1983, memorandum from Sheldon Meyers. Generally, eight consecutive quarters (two years) of monitoring data showing no violations are required to support redesignation requests for areas having an approved Part D control strategy. However, the most recent four quarters of monitoring data may be used if dispersion modeling shows that the SIP strategy is sound, and if actual enforceable emisions reductions have occurred.

On March 3, 1978 (43 FR 8964), EPA designated a portion of Topeka, Kansas, nonattainment with respect to the secondary standard for TSP. The secondary NAAQS for TSP is a 24-hour value of 150 ug/m^3 not to be exceeded more than once per year. Under the requirements of Part D of the Act, states were required to develop and submit plans to attain air standards in those areas where the NAAQS were violated. The Act requires growth sanctions for a nonattainment area if no plan is submitted. EPA determined that sanctions were to apply in primary nonattainment areas only. Thus, there were few secondary NAAQS attainment plans developed and submited to EPA. Topeka, Kansas, is one area for which no secondary TSP plan was developed and submitted to EPA for approval.

The boundaries of the Topeka secondary TSP nonattainment area are as follows: Kansas River on the east and south, Vail Avenue on the west, and Lyman Avenue on the north. On April 5, 1983, the KDHE submitted a request to redesignate this portion of Topeka to attainment for TSP. The submittal included air quality data showing no violations of the secondary TSP NAAQS. The State's submittal omitted a substantiated showing that the air

quality improvements were attributable to some control strategy. For that reason, EPA returned the State's redesignation request.

On July 26, 1984, the KDHE submitted a request for redesignating Topeka, Kansas, from secondary nonattainment to attainment with respect to TSP. This submittal contains the necessary eight quarters of TSP data showing no violation of the secondary standard and identified point source TSP emissions reductions obtained through State enforcement activities. On September 21, 1984, the KDHE submitted an impact analysis using an EPA approved model that shows point source emissions reductions which resulted from enforcement of particulate regulations in the approved Kansas SIP clearly contributed to the measured air quality improvement in Topeka. EPA believes that the State's redesignation request for Topeka, Kansas, is approvable.

ACTION: EPA proposes to redesignate Topeka, Kansas, from secondary nonattainment to attainment with respect to TSP.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 4709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407 and 7601).

List of Subjects in 40 CFR Part 81

Air Pollution Control, National Parks, Wilderness Areas.

Dated: November 7, 1984.

Morris Kay,

Regional Administrator.

[FR Doc. 85-2190 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 80, 82, and 83

Crime Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: These revisions to the Federal Crime Insurance Program are proposed to achieve the following: Introduce a new rating plan for commercial crime insurance policies; revise the commercial crime insurance rates; revise the list of commercial classifications of businesses; revise the number of premium classes by which applications for crime insurance are rated and amend the protective device requirements for some commercial business to permit a premium modification for specific degrees of protection. The proposed regulations also provide more detailed and helpful instructions for calculating premiums and identifying the classification of businesses. Those revisions are based upon the experience gained in administering the Federal Crime Insurance Program over the past thirteen (13) years.

DATES: All comments received on or before April 1, 1985, will be considered before final action is taken on the Proposed Rule.

ADDRESSES: Persons wishing to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, DC 20472, telephone number (202) 287-0395.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street, SW., Room 433, Washington, DC 20472, telephone, telephone number (202) 287-0800.

SUPPLEMENTARY INFORMATION: These amendments are the result of the experience gained in the 13 years the Federal Crime Insurance Program has been in operation and the Federal Insurance Administration's desire to make the rating of Federal Crime Insurance policies more closely aligned to the rating methods used by the private insurance sector. The new rating plan is being proposed to make the rating of Federal Crime Insurance policies simpleer for producers to explain and apply and should result in fewer rating errors and reduce program costs. While the proposed new commercial rating plan will increase the commercial crime insurance rates, the plan also provides for premium reductions by offering loss prevention incentives to businesses and permitting the issuance of a premium modification (credit) for superior loss preventive characterists, such as, central station alarms with guard response at the time of burglary. The introduction of such a permium credit plan will be a direct financial incentive for the installation of improved protective devices.

These regulations also provide detailed instructions for calculating premiums and provide greater clarity to existing provisions and reflect program experience which has indicated the desirability of more precise terminology.

FEMA has determined that an environmental impact statement is not needed for this proposed rule. A copy of the finding of no significant impact and an environmental assessment is available at the above address.

List of Subjects

44 CFR Parts 80 and 83

Crime insurance.

44 CFR Part 82

Crime insurance, security measures.

Accordingly, 44 CFR Parts 80, 82 and 83 are amended as follows:

PART 80—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

§ 80.1 [Amended]

1. Section 80.1, paragraph (a) is amended by redesignating subparagraphs (6)-(14) as (7)-(15) respectively.

2. Section 80.1 entitled Definitions paragraph (a) is amended by adding new Paragraph 6 entitled discounts to read as follows:

§ 80.1 Definition.

* * * * *

(6) "Discounts": The premium credit issued to businesses protected by a burglar alarm system, considered adequate for the type of risk involved.

* * * * *

PART 82—PROTECTIVE DEVICE REQUIREMENTS

Subpart A—General

§ 82.1 [Amended]

1. Section 82.1 is amended by redesignating paragraphs (c)-(j) as paragraphs (d)-(k).

2. Section 82.1 entitled definitions is further amended by adding new paragraph (c) Central Station, Supervised Alarm System (without guard dispatch) to read:

§ 82.1 Definitions.

* * * * *

(c) "Central Station, Supervised Alarm System (without guard dispatch)" means a silent alarm system that is constantly in operation, which signals upon any breach of a door, windows (including store front windows and unbarred skylights), or other accessible openings to the protected premises, at an office of the law enforcement authorities or at an office of an independent agency, located at a

distance from the protected property, which has trained operators continually on duty twenty four (24) hours a day to receive signals and to notify law enforcement authorities as soon as any breach of the premises is confirmed.

* * * * *

3. Section 82.5 entitled "Inspection of commercial premises" is amended by revising the existing paragraphs (b) and (d) by revising the last sentence of paragraph (e) to read as follows:

§ 82.5 Inspection of Commercial Premises.

* * * * *

(b) Coverage under a commercial crime insurance policy indemnifying against burglary losses shall not commence unless it is determined that the premises sought to be insured comply with all applicable protective device requirements. Provided, That all commercial premises whose exterior doors and accessible openings are found upon inspection to be protected by central station supervised service alarm systems or silent alarm systems (as those systems are defined in paragraphs (b), (c), and (l) of § 82.1) shall not be required to comply with the provisions of paragraphs (b) and (e) of § 82.31 pertaining to the protection of those exterior doors and accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision, therefore, applies also to commerical premises which, because of their particularly high risk inventories of merchandise continue to be required by paragraphs (f) (1) and (2) of § 82.31 to have exterior doors and accessible openings protected by specified types of alarm systems, namely, supervised service alarm systems for the highest risk inventories and silent alarm systems for less high risk inveniories.

* * * * *

(d) Because the statement of annual gross receipts is a significant factor in the determination of the correct premium, the annual gross receipts figure (ventas netas for Puerto Rico) or the Total Income of the tax returned as derived from interest, rents, capital gains, etc., reported on the application or at the time of renewal shall be verified at the time of the adjustment of any loss. The applicant or insured shall at the time make available any necessary documentation to substantiate the annual gross receipts figure reported.

(e) * * * The Administrator may also in his or her discretion determine that the frequency and/or severity of occurrences of loss experienced under any policy issued under the provision of paragraphs (b) and (c) of this section, requires that as a condition of continuation of coverage on renewal of such policy the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), (f) (1), (2), (3), and (4) of § 82.31 for applicable points of entry for incurred losses.

4. Section 82.31 entitled "Minimum Standards for Industrial and Commercial Properties" paragraph (f) is revised as follows:

§ 82.31 Minimum standards for industrial and commercial properties.

* * * * *

(f) The following types of establishments whose inventories pose a particularly serious risk shall, as a minimum, in addition to the requirements of paragraphs (a), (b), and (d) of this section be protected by the type of alarm system indicated. If the system specified in paragraphs (f)(1) and (f)(2) of this section is not available in the community in which the premises are located, the type of system specified in paragraph (f)(3) of this section shall be permitted. In addition to, but not in place of, any central station supervised alarm system or silent alarm system required under paragraphs (f) (1), (2), and (3) of this section, an insured may also utilize a local alarm system.

(1) Central Station (with Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Beer/Wine—Wholesale
(ii) Boutiques
(iii) Cameras/Photo Supplies/Film Processing—Wholesale/Retail/Mfg.
(iv) Clothing/Men's (age 12 and over)—Wholesale/Retail
(v) Clothing/Women's (age 12 and over)—Wholesale/Retail
(vi) Drug Stores and Druggists Sundries
(vii) Electrical Appliances/Apparatus/Parts—Wholesale/Retail/Mfg.
(viii) Food Stuffs/Wholesale
(ix) Gasoline Service Station—Fuel Dealers
(x) Jewelry—Retail/Wholesale/Mfg./Storage
(xi) Liquor Sales—Retail
(xii) Pawnbrokers
(xiii) Precious Metals/Electroplating—Mfg./Wholesale/Retail
(xiv) Radio/TV/Stereo/Electronic Equipment/Computer—Wholesale/Retail/Mfg.
(xv) Record Shop
(xvi) Tobacco—Wholesale
(xii) Used Clothing/Shoe Repair/Thrift Shops
(xviii) Variety Stores/Department Stores

(2) Central Station (without Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Art Supplies—Retail/Wholesale/Mfg.
(ii) Auto Parts—(No Service)—Wholesale/Retail/Mfg.
(iii) Beer/Wine with Food Retail
(iv) Drugs—Wholesale
(v) Dry Goods/Textiles/Sewing Material—Wholesale/Retail/Mfg.
(vi) Furniture/Home Furnishing/Floor Covering/Upholstery—Wholesale/Retail/Mfg.
(vii) Furriers—Wholesale/Retail/Mfg./Storage
(viii) Grocery Stores/Delicatessens/Health Food Stores
(ix) Guns/Ammunition—Wholesale/Retail/Mfg.
(x) Hardware/Houseware—Wholesale/Retail/Mfg.
(xi) Hobby Shops/Toys/Novelty—Wholesale/Retail/Mfg.
(xii) Leather Products—Wholesale/Retail/Mfg.
(xiii) Liquor—Wholesale
(xiv) Meat/Poultry/Fish Dealers
(xv) Music Stores/Instruments/Supplies—Wholesale/Retail/Mfg.
(xvi) Precious Metals/Electroplating—Wholesale/Retail/Mfg.
(xvii) Shoe Stores—Wholesale/Retail/Mfg.
(xviii) Sport Goods—(General)—Wholesale/Retail/Mfg.
(xix) Tobacco Dealers—Retail
(xx) Wig Shops

(3) Silent alarm system shall be required for the following businesses:

(i) All Risks Not Otherwise Classified
(ii) Amusement Enterprises
(iii) Antique Store
(iv) Art Gallery
(v) Beach Concession Stands/Supplies
(vi) Beauty & Health Supplies/Cosmetic—Wholesale/Retail/Mfg.
(vii) Billiard/Pool Parlors
(viii) Building Contractors—Material—Retail/Wholesale
(ix) Candy/Nut Stores—/Retail/Wholesale
(x) Clothing Apparel (Children 12 and under)—Retail/Wholesale
(xi) Clothing Manufacturers/Tailoring
(xii) Clubs (Serving Alcoholic Beverages)
(xiii) Coin/Stamp Shop
(xiv) Distributors—Variety/Non-Alcholic Beverages
(xv) Dry Cleaners
(xvi) Fine Arts (Porcelain, Ivory, Oriental Rugs, Paintings, etc.)
(xvii) Florist—Wholesale/Retail
(xviii) Garages/Auto Repair/Body Shop

(xix) Gift Stores—(Costume Jewelry $25.00 Wholesale Limit)—Retail/Wholesale/Mfg.
(xx) Hotel/Motel/Rooming House/Apartments
(xxi) Industrial Materials/Iron & Metal Work—Wholesale/Retail/Mfg.
(xxii) Laundries
(xxiii) Marine/Aircraft Materials—Sales/Service—Retail/Wholesale/Mfg.
(xxiv) Medical (Doctors/Dentist, etc.) Supplies—Wholesale/Retail/Mfg.
(xxv) Motorbikes/Bicycles/Moped
(xxvi) Office Supplies/Business Machines/Equipment—Retail/Wholesale/Mfg.
(xxvii) Pet Stores/Kennels—Supplies
(xxviii) Restaurants
(xxix) Savings/Loans/Bank and Other Financial Institutions excluding Check Cashing
(xxx) Schools (Profit) Day Care Centers/Studios
(xxxi) Specialized Clothing (Sportswear/Lingerie/Accessories/etc.)—Wholesale/Retail/Mfg.
(xxxii) Stationery/Books/Printing/Engraving/Paper—Plastic Products—Retail/Wholesale/Mfg.
(xxxiii) Tavern/Bar/Lounge

(4) Local alarm systems shall be required for the following businesses:
(i) Auto Parts—Sales/Service—Wholesale/Retail/Mfg.
(ii) Beauty/Barber Shops
(iii) Check Cashing Agency/Money Exchange—Collectors
(iv) Discos/Dance Halls/Pavilions
(v) Donut/Pastry/Coffee/Ice Cream—(Seated Service)
(vi) Fast Food/Bakery/Ice Cream—(carry out)
(vii) Flea Markets/Auction Houses
(viii) Fruit/Vegetable/Newspaper Stands
(ix) Funeral Homes
(x) Golf and Other Sports Professionals
(xi) Health Clubs/Spas/Massage Parlors
(xii) Nursing Homes/Convalescent
(xiii) Parking Lots/Rental Cars/Carwash/Taxi Office
(xiv) Photographers Studios
(xv) Professional/Specialized Services (Lawyers/Accountants/etc./Couriers/Housekeeping/etc.)
(xvi) Radio/TV/Stereo/Electronic Equipment/Computers—(Service Only)
(xvii) Realty/Insurance/Travel/Employment (Agencies)
(xviii) Security/Locksmiths/Alarms—Retail/Wholesale/Mfg.
(xix) Vending Machines—Sales/Rentals/Mfg.

* * * * *

PART 83—COVERAGE, RATES AND PRESCRIBED POLICY FORMS

Subpart B—Commercial Crime Insurance Coverage

5. Section 83.24 entitled classification of commercial risk is amended by revising the last sentence in paragraph (a) and by revising paragraph (d) as follows:

§ 83.24 Classification of Commercial risks.

(a) * * * For example, a business with the following types of merchandise inventoried, 60% handbags and wigs, and 40% fine jewelry, shall be classified as Class 6 Fine Jewelry.

* * * * *

(d) The following business classifications shall be applicable to the Commercial Crime Insurance Policy:

CLASSIFICATION/ALARM LISTING

Premium Code	Premium Class	Description	Alarm type
A1	3	All risks not otherwise classified	3
02	3	Amusement enterprise	3
B1	2	Antique store	3
C1	4	Art gallery	3
33	5	Art supplies (retail, wholesale, mfg.).	2
D1	2	Auto parts/no service (retail, wholesale, mfg.).	2
03	2	Auto parts/sales/service (retail, wholesale, mfg.).	4
47	2	Beach concession stands/supplies.	3
32	2	Beauty/barber shops	4
41	2	Beauty & health supplies/cosmetic (retail, wholesale, mfg.).	3
C6	4	Beer/wine with food (retail)	2
F1	6	Beer/wine (wholesale)	1
04	4	Billiard/pool parlors	3
70	6	Boutiques	1
05	2	Bowling lanes/centers/skating rinks.	0
34	2	Building contractors/materials (retail, wholesale, mfg.).	3
06	4	Cameras/photo supplies/film processing (retail, wholesale, mfg.).	1
43	2	Candy/nuts stores (retail, wholesale).	3
G1	4	Check Cashing Agency/money exchange/collectors.	4
J1	1	Churches/charities/nonprofit org/public properties.	0
36	4	Clothing apparel/children 12 & under (retail, wholesale).	3
I1	5	Clothing manufacturer/tailoring	3
22	5	Clothing/men's (age 12 & over) (retail, wholesale).	1
30	5	Clothing/women's (age 12 & over) (retail, wholesale).	1
07	4	Clubs (serving alcoholic beverages).	3
K1	3	Coin/stamp shop	3
08	2	Discos/dance halls/pavilions	4
50	2	Distributors—variety/nonalcoholic beverages.	3
C5	3	Donut/pastry/coffee/ice cream shop (seated service).	4
09	4	Drug stores/druggist's sundries	1
L1	3	Drugs (wholesale)	2
10	4	Dry cleaners	3
38	3	Dry goods/textile/sewing material (retail, wholesale, mfg.).	2
11	3	Electrical appliances/apparatus/parts (retail, wholesale, mfg.).	1
E1	2	Fast food/bakery/donut, ice cream (carryout only).	4
39	2	Fine arts, procelain/ivory/oriental rugs/paintings/etc.	3

CLASSIFICATION/ALARM LISTING—Continued

Premium Code	Premium Class	Description	Alarm type
78	2	Flea markets/auctions houses	4
40	2	Florist (retail, wholesale)	3
M1	4	Food stuffs (wholesale)	1
N1	2	Fruit/vegetable/newspaper stands	4
45	2	Funeral homes	4
42	2	Furniture/home furnishings/floor covering/upholstery new or used (retail, wholesale, mfg.).	2
12	4	Furriers (retail, wholesale, mfg., storage).	2
13	3	Garages/auto repair/body shops	3
14	3	Gasoline service station/fuel dealers.	1
44	2	Gift Store/costume jewelry $25 wholesale limit (retail, wholesale, mfg.).	3
15	2	Golf and other professional sports shops.	4
16	4	Grocery Stores/delicatessen/health food store.	2
17	6	Guns/ammunition (retail, wholesale, mfg.).	2
46	3	Hardware/housewares (retail, wholesale, mfg.).	2
C2	2	Health clubs/spas/massage parlors.	4
80	2	Hobby shops/toys/novelty (retail, wholesale, mfg.).	2
48	2	Hotel/motel/rooming house/apartments.	3
01	2	Industrial materials/iron & metal work (retail, wholesale, mfg.).	3
18	5	Jewelry (retail, wholesale, mfg., storage).	1
19	2	Laundries	3
52	2	Leather products (retail, wholesale, mfg.).	2
20	5	Liquor sales (retail)	1
P1	5	Liquor (wholesale)	2
37	3	Marine/aircraft materials (sales, service) (retail, wholesale, mfg.).	3
21	2	Meat/poultry/fish dealers	2
54	2	Medical supplies (doctors, dentists, etc.) (retail, wholesale, mfg.).	3
Q1	2	Motorbikes/bicycles/mopeds	3
56	3	Music stores/instruments/supplies (retail, wholesale, mfg.).	2
35	2	Nursing/convalescent homes	4
C3	2	Office supplies/business machines/equipment (retail, wholesale, mfg.).	3
58	3	Parking lots/rental cars/carwash/taxi offices.	4
23	4	Pawn brokers	1
76	2	Pet stores/kennels/supplies	3
R1	2	Photographers studios	4
S1	6	Precious metals/electroplating/storage.	2
C8	6	Precious metals/electroplating (retail, wholesale, mfg.).	1
74	2	Professional/specialized services (lawyers, accountants, couriers, housekeeping, etc.).	4
24	5	Radio/TV/stero/electronic equipment/computers (retail, wholesale, mfg.).	1
C4	2	Radio/TV/stereo/electronic equipment/computers (service only).	4
62	2	Realty/insurance/travel/employment agencies.	4
T1	3	Record shop	1
25	3	Restaurant/caterer	3
26	4	Savings/loans/bank & other financial institutions (excluding check cashing).	3
66	2	Schools (profit)/day care centers/studios.	3
64	2	Security/locksmiths/alarms (retail, wholesale, mfg.).	4
68	5	Shoe stores (retail, wholesale, mfg.).	2
H1	5	Specialized clothing (sportswear/lingerie/accessories/etc.) (retail, wholesale, mfg.).	3
U1	5	Sports goods/general (retail, wholesale, mfg.).	2
60	2	Stationery/books/printing/engraving/paper or plastic products (retail, wholesale, mfg.).	3

CLASSIFICATION/ALARM LISTING—Continued

Premium Code	Premium Class	Description	Alarm type
27	4	Tavern/bar/lounge	3
V1	3	Taxi/limousines (robbery only)	0
28	2	Theatre	0
29	4	Tobacco dealers (retail)	2
C9	4	Tobacco dealers (wholesale)	1
72	5	Used clothing/shoe repair/thrift shops.	1
W1	6	Variety stores/department stores	1
X1	2	Vending machines (sales/rentals/mfg.).	4
Y1	4	Wig shops	2

6. Section 83.24a entitled Gross Receipts is amended by revising paragraphs (f) and (i) as follows:

§ 83.24a Gross receipts.

* * * * *

(f) (1) A warehouse operated as a distribution center for store(s) under common ownership and management shall report the total gross receipts of the store(s) it supplies. If a warehouse supplies more than one store, it shall report the sum of the gross receipts figures for all the stores it supplies. If more than one warehouse supplies one store, the gross receipts figure applicable to the store shall be apportioned among the warehouses acccording to the percentage the value of merchandise supplied by each warehouse bears to the total value of merchandise supplied.

(2) A warehouse operated as a distribution center for store(s) *not* under common ownership and management shall report the total gross receipts of the warehouse only, if the business is taxed on gross receipts.

(3) A warehouse operated as a distribution center for store(s) *not* under common ownership and management shall report the "Total Income" line of the tax return as derived from interest, rents, capital gains, other, etc., if the business is not taxed on gross receipts.

* * * * *

(i) Any questions regarding gross receipts or unique or unusual risk requiring special rating treatment shall be submitted to the servicing company listed in § 80.6 of this chapter for rate quotation.

7. Section 83.25 entitled Commercial Crime Insurance Rates is revised in its entirety and shall now read as follows:

§ 83.25 Commercial Crime Insurance Rates.

(a) Premium rates for Commercial Crime Insurance Policies for risks shall be determined by reference to the rate charts contained in paragraph (e) of this section. The annual gross receipts shall be determined in accordance with § 83.24a.

(b) *Option 1:* An applicant may apply for insurance coverage under Insuring Agreements I, II, III, IV, and VII of the Commercial Policy dealing with Safe Burglary, Theft from Night Depository, and Burglary or Robbery of a Watchman, and Damage resulting from losses under Insuring Agreements I and VII only. Such coverage shall be referred to as Option 1.

(c) *Option 2:* An applicant may apply for insurance coverage under Insuring Agreements V, VI, VII, and VIII of the Commercial Policy dealing with Robbery and Observed Theft inside and outside the premises and Damage resulting from losses under Insuring Agreements V and VI only. Such coverage shall be referred to as Option 2.

(d) *Option 3:* An applicant may apply for insurance coverage under all of the Insuring Agreements I, II, III, IV, V, VI, and VII of the Commercial Crime Insurance Policy. This Option provides for uniform as well as varying limits of coverage under Option 1 and 2 but only in the same policy. Both Options 1 and 2 must be applied for at the same time. If one of the options has been selected the other option may be added upon a renewal or upon an endorsement of the original policy. A discount will be provided for Combined Coverage, Option 3.

(e) The following tables shall be used to determine rates for commercial risks.

ANNUAL PREMIUMS—CLASS 1

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	78	106	118	160	118	160	156	212	194	262	310	420
2,000	148	190	222	284	222	284	296	378	368	472	588	756
3,000	218	274	326	410	326	410	434	546	542	682	868	1,090
4,000	282	346	424	522	424	522	566	696	706	868	1,128	1,388
5,000	334	394	502	592	502	592	668	788	834	984	1,336	1,574
6,000	352	432	528	648	528	648	704	864	880	1,078	1,406	1,724
7,000	366	460	548	690	548	690	732	920	912	1,148	1,460	1,836
8,000	380	488	568	732	568	732	758	974	946	1,216	1,514	1,948
9,000	384	498	576	746	576	746	768	994	956	1,240	1,530	1,984
10,000	392	516	588	774	588	774	784	1,030	978	1,286	1,566	2,058
11,000	414	562	622	844	622	844	828	1,124	1,034	1,404	1,565	2,246
12,000	432	600	648	900	648	900	864	1,196	1,078	1,496	1,726	2,394
13,000	442	618	662	928	662	928	882	1,236	1,100	1,542	1,762	2,468
14,000	446	628	668	942	668	942	890	1,254	1,112	1,566	1,780	2,506
15,000	450	636	676	956	676	956	900	1,272	1,124	1,590	1,796	2,544

(1) *Option 1:* Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2) See Discount Page for applicable multipliers and discounts.

ANNUAL PREMIUMS—CLASS 2

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	94	134	142	200	142	200	188	268	234	330	374	528
2,000	178	240	266	358	266	358	354	476	442	594	706	950
3,000	250	344	390	516	390	516	520	688	648	858	1,038	1,372

ANNUAL PREMIUMS—CLASS 2—Continued

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
4,000	338	438	506	658	506	658	674	876	842	1,092	1,348	1,748
5,000	398	498	598	746	598	746	796	992	994	1,238	1,590	1,982
6,000	420	544	632	816	632	816	840	1,086	1,050	1,358	1,680	2,170
7,000	438	578	656	868	656	868	874	1,156	1,092	1,444	1,746	2,310
8,000	454	614	682	922	682	922	908	1,226	1,134	1,532	1,814	2,450
9,000	460	626	690	938	690	938	920	1,250	1,148	1,560	1,836	2,496
10,000	472	650	708	974	708	974	942	1,298	1,176	1,620	1,882	2,592
11,000	500	708	750	1,062	750	1,062	998	1,414	1,246	1,766	1,994	2,826
12,000	522	754	782	1,132	782	1,132	1,044	1,508	1,302	1,884	2,084	3,014
13,000	534	778	800	1,166	800	1,166	1,066	1,556	1,330	1,942	2,128	3,106
14,000	538	790	808	1,184	808	1,184	1,076	1,578	1,344	1,972	2,150	3,154
15,000	544	802	816	1,202	816	1,202	1,088	1,602	1,358	2,000	2,174	3,200

(1) *Option 1:* Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2) See Discount Page for applicable multipliers and discounts.

ANNUAL PREMIUMS—CLASS 3

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	106	140	160	208	160	208	212	278	262	344	420	550
2,000	198	248	298	374	298	374	396	496	494	618	790	990
3,000	292	358	438	538	438	538	582	716	726	894	1,162	1,428
4,000	378	456	568	684	568	684	756	912	942	1,138	1,508	1,820
5,000	446	518	668	776	668	776	890	1,034	1,110	1,290	1,776	2,064
6,000	470	566	706	850	706	850	940	1,130	1,174	1,412	1,878	2,258
7,000	490	602	736	904	736	904	980	1,204	1,222	1,504	1,956	2,404
8,000	510	640	764	958	764	958	1,018	1,278	1,270	1,594	2,032	2,552
9,000	516	652	774	978	774	978	1,030	1,302	1,286	1,626	2,058	2,600
10,000	528	676	792	1,014	792	1,014	1,056	1,350	1,318	1,686	2,110	2,698
11,000	560	736	840	1,106	840	1,106	1,120	1,472	1,398	1,838	2,238	2,942
12,000	586	786	880	1,178	880	1,178	1,172	1,570	1,462	1,960	2,340	3,136
13,000	598	810	898	1,216	898	1,216	1,196	1,618	1,494	2,022	2,392	3,234
14,000	606	822	908	1,234	908	1,234	1,210	1,644	1,510	2,052	2,416	3,284
15,000	612	834	918	1,252	918	1,252	1,222	1,668	1,526	2,082	2,442	3,332

(1) *Option 1:* Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2). See Discount Page for applicable multipliers and discounts.

ANNUAL PREMIUMS—CLASS 4

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	118	144	176	216	176	216	236	288	294	358	470	572
2,000	222	258	334	388	334	388	444	516	554	642	886	1,028
3,000	326	372	490	560	490	560	652	744	812	928	1,300	1,486
4,000	424	474	634	712	634	712	846	948	1,054	1,182	1,688	1,892
5,000	498	538	748	806	748	806	996	1,074	1,242	1,340	1,988	2,144
6,000	528	588	790	882	790	882	1,054	1,176	1,314	1,468	2,102	2,348
7,000	548	626	822	940	822	940	1,096	1,252	1,368	1,562	2,190	2,500
8,000	570	664	856	996	856	996	1,140	1,328	1,422	1,658	2,276	2,652
9,000	578	678	868	1,016	868	1,016	1,154	1,354	1,440	1,690	2,304	2,702
10,000	592	702	888	1,054	888	1,054	1,182	1,404	1,476	1,752	2,362	2,804
11,000	628	766	942	1,148	942	1,148	1,254	1,530	1,566	1,912	2,506	3,058
12,000	656	816	984	1,226	984	1,226	1,312	1,632	1,638	2,038	2,620	3,260
13,000	670	842	1,006	1,264	1,006	1,264	1,340	1,682	1,674	2,102	2,678	3,362
14,000	678	854	1,018	1,282	1,018	1,282	1,356	1,708	1,692	2,134	2,708	3,412
15,000	686	868	1,028	1,302	1,028	1,302	1,370	1,734	1,710	2,164	2,736	3,464

(1) *Option 1:* Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2) See Discount Page for applicable multipliers and discounts.

ANNUAL PREMIUMS—CLASS 5

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	112	128	170	192	170	192	224	256	280	316	446	508
2,000	208	230	314	344	314	344	416	458	518	570	830	912
3,000	304	330	456	496	456	496	608	660	758	822	1,214	1,316
4,000	392	420	590	630	590	630	784	840	978	1,048	1,566	1,676
5,000	458	476	686	714	686	714	914	952	1,140	1,188	1,826	1,900
6,000	488	522	732	782	732	782	976	1,042	1,218	1,300	1,950	2,080
7,000	512	556	768	832	768	832	1,022	1,110	1,276	1,384	2,042	2,216
8,000	534	588	802	884	802	884	1,068	1,176	1,334	1,468	2,134	2,350
9,000	542	600	814	900	814	900	1,084	1,200	1,354	1,496	2,166	2,394
10,000	558	622	838	934	838	934	1,116	1,244	1,392	1,554	2,228	2,484
11,000	596	678	896	1,018	896	1,018	1,192	1,356	1,488	1,694	2,382	2,710
12,000	628	724	942	1,086	942	1,086	1,254	1,446	1,566	1,806	2,506	2,890
13,000	644	746	964	1,120	964	1,120	1,286	1,492	1,604	1,862	2,568	2,980
14,000	650	758	976	1,136	976	1,136	1,300	1,514	1,624	1,890	2,598	3,024
15,000	658	768	988	1,152	988	1,152	1,316	1,536	1,644	1,918	2,630	3,070

(1) *Option 1*: Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2) See Discount Page for applicable multipliers and discounts.

ANNUAL PREMIUMS—CLASS 6

Amount of insurance	Gross receipts											
	Less than $100,000		$100,000 to $199,999		$200,000 to $299,999		$300,000 to $499,999		$500,000 to $999,999		$1,000,000 or greater	
	Option		Option		Option		Option		Option		Option	
	1	2	1	2	1	2	1	2	1	2	1	2
1,000	114	114	170	172	170	172	226	228	280	284	450	454
2,000	210	206	314	308	314	308	418	410	520	512	832	818
3,000	304	296	456	444	456	444	606	592	758	738	1,214	1,180
4,000	392	378	588	566	588	566	782	754	976	940	1,562	1,504
5,000	454	428	682	642	682	642	908	854	1,134	1,066	1,814	1,706
6,000	468	468	730	702	730	702	974	934	1,216	1,166	1,944	1,866
7,000	512	498	768	748	768	748	1,022	998	1,276	1,242	2,042	1,988
8,000	536	528	804	792	804	792	1,072	1,056	1,336	1,318	2,140	2,108
9,000	544	538	816	808	816	808	1,088	1,076	1,358	1,342	2,172	2,145
10,000	560	558	840	838	840	838	1,120	1,116	1,398	1,394	2,236	2,230
11,000	602	606	902	914	902	914	1,202	1,216	1,500	1,520	2,400	2,430
12,000	634	650	950	974	950	974	1,266	1,298	1,580	1,620	2,530	2,592
13,000	650	670	974	1,004	974	1,004	1,298	1,338	1,622	1,670	2,594	2,672
14,000	658	680	986	1,020	988	1,020	1,314	1,358	1,642	1,696	2,626	2,714
15,000	668	690	1,000	1,034	1,000	1,034	1,332	1,378	1,662	1,720	1,660	2,754

(1) *Option 1*: Burglary only.
Option 2: Robbery only.
Option 3: A combination of Options 1 and 2 in uniform or varying amounts.
(2) See Discount Page for applicable multipliers and discounts.

(f) If the premises are protected by an acceptable burglar alarm system or Class E safe, premium discounts shall be permitted as follows:

ALARM/SAFE CREDITS

Alarm System	Safe Type	
	Class E	Other
None	.85	1.00
Local	.75	.90
Silent	.70	.80
Central Station	.65	.75
Central Station With Guard	.60	.70

Note.—Multiply the Burglary rate by the appropriate factor.

Package Discount

Apply a factor of .90 to the total premium if both burglary and robbery are purchased.

§ 83.6 [Amended]

8. Section 83.26, paragraph (b) entitled "Commercial Crime Insurance Policy Form" is amended in the following respects.

A. The paragraph entitled "Insuring Agreements" is amended to read as follows:

Option 1 (Burglary only including safe burglary)

Option 1 includes insurance coverage only under the individually numbered insuring Agreements I, II, III, and IV listed below.

I. Burglary: Robbery of a Watchman

To pay for loss by burglary or by robbery of a watchman, while the named premises are not open for business, of merchandise, furniture, fixtures and equipment within the named premises provided that this Insuring Agreement does not extend to the loss of money or securities or to cash value in excess of $50 for any item of jewelry unless such property is forcibly extracted from a locked safe as provided under Insuring Agreement II entitled "Safe Burglary" which follows:

II. Safe Burglary

To pay for loss by safe burglary of money, securities and merchandise within the named premises while the premises are not open for business, but no payment shall be made for loss not forcibly extracted from a locked safe, nor by a loss in excess of $5,000 except with respect to loss by safe burglary of a safe rated for burglary resistance as Class E or better weighing at least seven hundred and fifty pounds or securely anchored to the floor.

III. Damage

To pay for damage to the named premises and to money, securities, merchandise, furniture, fixtures and equipment within the named premises by burglary, robbery of watchman, safe burglary or attempt thereat provided the insured is the owner thereof or is liable for such damage

IV. Policy Period, Territory

To pay for losses under Insuring Agreements I, II, and III only when occurring

during the policy period within a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and such other territories or possessions of the United States, including the Trust Territory of the Pacific Islands, as defined in 12 U.S.C. 1749bbb–10a et seq. and set forth in 44 CFR Part 80 *et seq.*

Option 2 (Robbery Only)

Option 2 includes insurance coverage only under the individually numbered insuring Agreements V, VI, VII and VIII listed below.

V. Robbery, Including Observed Theft Inside the Premises

To pay for loss by robbery or observed theft of money, securities, merchandise, furniture, fixtures, and equipment within the named premises.

VI. Robbery, Including Observed Theft, Outside of the Premises

To pay for loss by robbery or observed theft of money, securities, and merchandise, including the wallet or bag containing such property while such property is in conveyance by the insured or his messenger outside the named premises, but no payment shall be made for any loss in excess of $5,000 except when the insured or his messenger is accompanied by a guard armed with a firearm. The person carrying the insured property and the armed guard cannot be same person.

This Insuring Agreement includes theft from a night depository but only if a deposit of money has been made at a night depository of a banking institution by a bonded armored car messenger service.

VII. Damage

To pay for damage to the named premises and to money, securities, merchandise, furniture, fixtures and equipment within the named premises, by robbery, or attempt thereat, provided the insured is the owner thereof or is liable for such damage.

VIII. Policy Period, Territory

To pay for losses under Insuring Agreements V, VI, VII only when occurring during the policy period within a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and such other territories or possessions of the United States including the Trust Territory of the Pacific Islands, as defined in 12 U.S.C. 1749bbb–10a et seq. and set forth in 44 CFR Part 80 *et seq.*

Option 3 (Robbery and Burglary in uniform and varying amounts)

Option 3 shall provide for uniform and varying limits of coverage under Option 1 and 2 but only in the same policy. Both Option 1 and 2 must be applied for at the same time.

If one of the options has been selected, the other option may be added upon a renewal or upon an endorsement of the original policy. A discount will be provided for Combined Coverage, Option 3.

B. The paragraph entitled "Exclusions" is amended by revising paragraph (d) to read as follows:

This policy does not apply:

* * * * *

(d) under Insuring Agreements I and II to loss occurring during a fire in the premises.

9. Paragraph 1 of the Commercial Insurance Policy under the heading "Conditions" is amended as follows:

A. Subparagraph 8, "No benefit to bailee," is removed.

B. This Section headed "Conditions" is further amended by redesignating paragraphs (9)–(15) as paragraphs (8)–(14), respectively.

These amendments issued under 12 U.S.C. 1749bbb–17.

Issue Date: December 21, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85–1898 Filed 1–28–85; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF ENERGY

48 CFR Ch. 9

Acquisition Regulations

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is to amend the Department of Energy Acquisition Regulation (DEAR). The revisions are intended to update the DEAR as a result of the Competition in Contracting Act of 1984, Pub. L. 98–369. Also incorporated are changes resulting from comments submitted by the Federal Energy Regulatory Commission (FERC). A detailed listing of the proposed changes is given below under the section entitled **SUPPLEMENTARY INFORMATION.**

The DEAR is being supplemented by this proposed regulation because the Federal Acquisition Regulation (FAR) has been amended to incorporate and reflect the changes to Federal procurement policy required by the Competition in Contracting Act. The comments from FERC relate to the independent nature of that regulatory body within the Department of Energy, and the separate delegations of procurement authority made to FERC by the Secretary of Energy. The comments were made at the time the initial DEAR was published in March, 1984.

DATE: Written comments should be submitted no later than February 28, 1985, to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, Richard Langston, MA–421.1, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Richard Langston, Procurement Policy Branch (MA–421.1) Procurement and Assistance Management Directorate, Washington, D.C. 20585, (202) 252–8250

Paul J. Sherry, Office of the AGC for Procurement and Financial Incentives, GC–43, Washington, D.C. 20585, (202) 252–1526

SUPPLEMENTARY INFORMATION:

I. Background

Under section 644 of the Department of Energy Organization Act, Pub. L. 95–91, (42 U.S.C. 7254), and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2166), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the Department of Energy Acquisition Regulation (DEAR) was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR Chapter 9.

The primary purpose of this rulemaking is to revise the DEAR, as necessary, to implement the Federal Acquisition Regulation (FAR) implementation of the Competition in Contracting Act of 1984, Pub. L. 98–369. The purpose of the Act and the FAR coverage, as implemented herein, is to increase the use of full and open competition in the acquisition of property and services. The FAR and related DEAR coverage provides for full and open competition by soliciting sealed bids or requesting competitive proposals, or use of other competitive procedures, unless a statutory exception permits other than full and open competition. There are new justification, approval, and notice requirements for contracts employing other than full and open competition. The coverage also provides for appointment of the competition advocates required by the Act. The Act contains a requirement for the submission and certification of cost and pricing data for certain contracts exceeding $100,000. As a result, the Department proposes to delete subsection 915.804–2 which provides that such requirements need not apply to cost-reimbursement contracts with educational institutions, or State, local, or Federally recognized Indian Tribal or governments. DOE no longer has

administrative discretion to make such an exemption since the requirement for cost or pricing data is now based in statue. A secondary purpose is to make revisions requested by the Federal Energy Regulatory Commission (FERC) to reflect the fact that FERC has independent acquisition authority pursuant to Title IV of the Department of Energy Organization Act, Pub. L. 95–91. Another purpose of the rule is to add uniformity to the contract close-out process by requiring that contract close-out be accomplished by the issuance of Standard Form SF30.

The parts affected by the proposed revisions are as follows: Table of Contents changes. Subsection 901.103–70, "Exclusions." Section 902.100, "Definitions." Section 902.200, "Definitions clause." Subpart 903.3, "Reports of Suspected Antitrust Violations." Section 903.303, "Reporting suspected antitrust violations." Section 904.601, Federal procurement data system." Subsection 904.601–70, "Procurement and Assistance Data System (PADS)." Subpart 905.2, "Synopses of Proposed Contract Actions." Subpart 905.3, "Synopses of Contract Awards." Section 905.403, "Requests from Members of Congress." A new Part 906, "Competition Requirements." Subsection 914.201–5, "Part IV—Representations and instructions." Subsection 914.201–7, "Contract clauses." Subpart 914.5, "Two-Step Sealed Bidding." Subpart 915.1, "General Requirements for Negotiation." Subpart 915.2, "Negotiation Authorities." Subsection 915.406–5, "Part IV Representations and Instructions." Subpart 915.3, "Determinations and Findings to Justify Negotiation." Subsection 915.804–2 "Requiring certified cost or pricing data." Subsection 915.804–8 "Contract clauses." Subsection 915.804–70, "Uncertified cost or pricing data." Subpart 915.10, "Preaward, Award, and Postaward Notifications, Protests, and Mistakes." Section 915.1003, "Debriefing of unsuccessful offerors." Section 919.201, "General policy." Section 924.202, "Policy." Subsection 928.101–1, "Policy on use." A new Section 943.301, "Use of forms." Section 950.7002, "Definitions." Subpart 952.2, "Text of Provisions Clauses." Subsection 952.202–1, "Definitions." Subsection 952.215–23 "Price reduction for defective cost or pricing data—modifications."

II. Procedural Requirements

A. Review Under Executive Order 12291

Procurement rules are normally exempt from review under Executive Order 12291, entitled "Federal Regulation," based on a determination that they generally relate only to the management of an agency function and do not have any major economic impact. The Office of Management and Budget, OMB, has decided however that agency implementations of the Competition in Contracting Act of 1984, Pub. L. 98–369, warrant review. Accordingly, this proposed rule has been submitted to OMB for review in accordance with Executive Order 12291 and OMB Circular 85–6.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this proposed rulemaking. Accordingly, no OMB clearance is required by section 350(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq., or OMB's implementing regulations at 5 CFR Part 1320.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 et seq. 1976), or the Council on Environmental Quality regulations (40 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

III. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to the proposed DEAR amendments set forth in this notice.

All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

List of Subjects in 48 CFR Ch. 9

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, DC on January 11, 1985.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

The regulations in 48 CFR Chapter 9 are proposed to be amended as set forth below.

Authority: Sec. 644 of the Department of Enegy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

1. The Table of Contents for Chapter 9, Subchapter A—General and Subchapter C—Contracting Methods and Contract Types is amended by adding Part 906 and revising the heading of Part 914 as follows:

* * * * *

PART 906—COMPETITION REQUIREMENTS

* * * * *

PART 914—SEALED BIDDING

* * * * *

PART 901—[AMENDED]

2. Section 901.103–70 is amended by adding a new paragraph (f) as follows:

901.103–70 Exclusions.

* * * * *

(f) Subject matter which is procedural in nature and which is internal to the operation of the Federal Energy Regulatory Commission (FERC). These matters are contained in the FERC Directive System.

PART 902—[AMENDED]

3. Section 902.100 is amended by revising the definitions for "Head of the Agency", "Senior Program Official", and the introductory text and paragraph (j) of the "Procurement Executive", and by adding a definition for "Senior Procurement Executive," as follows:

902.100 Definitions.

* * * * *

"Head of the Agency" means the Secretary, Deputy Secretary, or Under Secretary and, for acquisitions by the Federal Energy Regulatory Commission, the Chairman, Federal Energy Regulatory Commission.

* * * * *

"Procurement Executive" means the individual appointed as such by the Head of the Agency pursuant to Executive Order 12352. The Direc.or,

Procurement and Assistance Management Directorate, has been appointed as the DOE Procurement Executive except for the activities of the Federal Energy Regulatory Commission (FERC). The Executive Director, FERC, functions as the Procurement Executive with respect to FERC acquisition activities. The FERC Procurement Executive's responsibilities are those described at paragraphs (a), (b), (c), (d), (f), (g), (h), (i) and (j) below. Duties of the Procurement Executive include:

* * * * *

(j) Appoint advocates for competition; and

* * * * *

"Senior Procurement Executive" as defined at FAR 2.1 is synonymous with the term "Procurement Executive" used in this chapter.

"Senior Program Official" means the Assistant Secretaries; Administrators of Administrations; Director, Office of Energy Research; and heads of DOE Headquarters staff offices.

4. Section 902.200 is revised to include the Chairman, Federal Energy Regulatory Commission, as follows:

902.200 Definitions clause.

As prescribed by FAR 2.2, insert the clause at FAR 52.202-1, Definitions, but modify it to limit the definition, at paragraph (a) of the clause, to encompass only the Secretary, Deputy Secretary, or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission. The contracting officer shall also add a paragraph (d) (or (c) in case Alternate I is used), which defines "DOE" as meaning the United States Department of Energy and "FERC" as meaning the Federal Energy Regulatory Commission.

PART 903—[AMENDED]

5. Section 903.3 is amended to revise the subpart title and to correct 903.302-2 to read section 903.303, revise the section title and remove existing paragraph (a) and designate existing paragraph (b) as paragraph (a). As revised, it reads:

Subpart 903.3—Reports of Suspected Antitrust Violations

903.303 Reporting suspected antitrust violations.

(a) Potential anti-competitive practices, such as described in FAR 3.301, and antitrust law violations as described in FAR 3.303, evidenced in bids or proposals, shall be reported to the Office of General Counsel through the Head of the Contracting Activity with a copy to the Procurement Executive. The Office of General Counsel will provide reports to the Attorney General as appropriate.

* * * * *

PART 904—[AMENDED]

6. Section 904.601 is revised to include the Federal Energy Regulatory Commission as follows:

904.601 Federal procurement data system.

(c) DOE's data collection point is the Office of Procurement Support, Headquarters. The Office of Program Management is responsible for data collection and reporting by the Federal Energy Regulatory Commission.

904.601-70 [Corrected]

7. Section 904.601-70, Procurement and Assistance Data System (PADS), is corrected by changing the word "Forms" to "Form" in the last sentence in paragraph (b)(4).

PART 905—[AMENDED]

Subpart 905.2—[Amended]

8. Subpart 905.2 is amended by revising the title to read "Synopses of Proposed Contract Actions."

905.205 [Amended]

9. Section 905.205, Special situations, is corrected by adding to paragraph (a) in the first sentence the word "as" between "if", and "a".

10. A new Subpart 905.3 is added as follows:

Subpart 905.3—Synopses of Contract Awards

905.303 Announcement of contract awards.

(a) *Public Announcement.* See 905.403(c) for procedures to be followed in DOE as pertains to requests from Members of Congress.

905.403 [Amended]

11. Section 905.403, Requests from Members of Congress, paragraph (b) is redesignated as paragraph (c).

12. A new Part 906 is added to Subchapter A as follows:

PART 906—COMPETITION REQUIREMENTS

Subpart 906.1—Full and Open Competition

Sec.
906.102 Use of competitive procedures.

Subpart 906.2—Full and Open Competition After Exclusion of Sources

906.202 Establishing or maintaining alternative sources.

Subpart 906.3—Other Than Full and Open Competition

906.302 Circumstances permitting other than full and open competition.
906.302-70 Otherwise authorized by law.
906.303 Justifications.
906.303-1 Requirements.
906.303-70 Exemptions.
906.304 Approval of the justification.
906.5—Competition Advocates.
906.501 Requirement.

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

Subpart 906.1—Full and Open Competition

906.102 Use of competitive procedures.

(d) *Other competitive procedures.* (1) Professional architect-engineer services shall be negotiated in accordance with Subpart 936.6 and FAR Subpart 36.6

(2) Competitive selection of basic research proposals for award received in response to a Program Research and Development Announcement (See Subpart 917.73 and Part 935).

(4) Competitive selection of award of proposals offered in response to program opportunity notices (See Subpart 917.72).

Subpart 906.2—Full and Open Competition After Exclusion of Sources

906.202 Establishing or maintaining alternative sources.

(b)(1) Every proposed contract action under the authority of FAR 6.202(a) shall be supported by a determination and finding (D&F) signed by the Senior Procurement Executive.

Subpart 906.3—Other Than Full and Open Competition

906.302 Circumstances permitting other than full and open competition.

906.302-70 Otherwise authorized by law.

(a) *Authority.* (1) The Atomic Energy Act of 1954, as amended, provides in Section 162 that the President may, in advance, exempt any specific action of the Department of Energy in a particular matter carried out under the authority of the Atomic Energy Act of 1954, as amended, from the provisions of law relating to contracts whenever it is determined that such action is essential in the interest of common defense and security.

(b) *Application.* This authority shall not be used if any of the authorities in FAR 6.302 apply.

(c) *Limitation.* (1) A written determination to use this authority shall

be made in accordance with FAR Subpart 1.7 by the Secretary of Energy. This authority may not be delegated.

(2) If required by the Head of the Agency, the contracting officer shall prepare a justification to support the determination in paragraph (c)(1) of this section.

(3) This determination shall not be made on a class basis.

906.303 Justifications.

906.303-1 Requirements.

(a) The justification for other than full and open competition shall examine the reasons for the acquisition being other than full and open and shall contain in the first sentence of the justification an appropriate recommendation (e.g., I recommend that negotiations be conducted only with (name of entity) for the supplies or services described herein). In accordance with FAR 6.303-1 each justification shall set forth enough facts and circumstances to clearly and convincingly establish that full and open competition would not have been feasible or practicable. Justification for sole source acquisition exceeding $1,000,000, or such other dollar amount as may be determined by agreement of Counsel and the Head of the Contracting Activity, shall be submitted by the initiator to Counsel, at the Headquarters or field location of the initiator, for concurrence prior to forwarding to the contracting officer. Procedural guidance is provided in DOE Order 4200.1B. For small purchases the justification for other than full and open competition should be in accordance with small purchase procedures.

906.303-70 Exemptions.

(a) The provisions of FAR 6.303-1 do not apply to:

(1) Acquisitions resulting from program opportunity notices, or program research and development announcements;

(2) Contracts which are subject to separate justification for recompetition or extension;

(3) Special Research Contracts with educational institutions and extensions thereof entered into under 917.71; and

(4) Subscriptions to periodicals (within the small purchase limitation).

906.304 Approval of the justification.

(c) Class justifications within the delegated authority of a Head of the Contracting Activity may be approved for:

(1) Contracts for electric power or energy, gas (natural or manufactured), water, or other utility services when such services are available from only one source;

(2) Contracts under the authority cited in FAR 6.302-4 or 6.302-5; or

(3) Contracts for educational services from nonprofit institutions. Class justifications for classes of actions that may exceed $10,000,000 require the approval of the Senior Procurement Executive.

Subpart 906.5—Competition Advocate

906.501 Requirement.

The Secretary of Energy has delegated the authority for appointment of the agency and contracting activity competition advocates to the Procurement Executive. The Procurement Executive has delegated authority to the Head of the Contracting Activity to appoint contracting activity competition advocates. Procedural guidance is provided in DOE Order 4200.1B.

13. The heading to 914 is revised to read as follows:

PART 914—SEALED BIDDING

14. Section 914.201-5 is amended to remove the words "formally advertised" and add the words "sealed bid" in paragraph (a)(1). As revised, paragraph (a)(1) reads:

914.201-5 Part IV—Representations and instructions.

(a) * * *

(1) DOE contracting activities may elect to adopt the simplified representations and certifications technique, described in 915.406-5, in their sealed bid acquisitions.

* * * * *

15. Section 914.201-7 is amended to remove the words "formal advertising" and add the words "sealed bidding". As revised 914.201-7 reads:

914.201-7 Contract clauses.

(b)(1) When contracting by sealed bidding, the contracting officer shall insert the clause at FAR 52.214-27, Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding, in all solicitations and contracts expected to exceed $100,000.

16. A new 914.404-1 is added as follows:

914.404-1 Cancellation of invitations after opening.

(c) The Procurement Executive has been delegated authority to make the determination under FAR 14.404-1 (c) and (e) and has redelegated this authority to the Heads of Contracting Activities without power of redelegation.

17. Subpart 914.5 and section 914.502 are amended to remove the words "formal advertising" and add the words "sealed bidding". As revised they read:

Subpart 914.5—Two-Step Sealed Bidding

914.502 Conditions for use.

(c) Use of the two-step sealed bidding method shall be approved by the Head of the Contracting Activity. The contracting officer shall submit a written request for approval justifying its use in accordance with FAR 14.502.

PART 915—[AMENDED]

Subparts 915.1, 915.2 and 915.3—[Removed]

18. Part 915 is amended by removing Subpart 915.1—General Requirements for Negotiation, section 915.105—Competition; Subpart 915.2—Negotiation Authorities, sections 915.200—Scope of subpart, 915.201—National emergency, 915.204—Personal or professional services, 915.213—Technical equipment requiring standardization and interchangeability of parts, and 915.215—Otherwise authorized by law; and Subpart 915.3—Determinations and Findings to Justify Negotiations, section 915.307—Signatory authority.

19. Section 915.406-5 paragraphs (a)(4)(iii) and (v) are amended to remove the words "formal advertising" and add the words "sealed bidding". As revised, paragraphs (a)(4) (iii) and (v) read:

915.406-5 Part IV Representations and instructions.

(a) * * *

(4) * * *

(iii) Type of Business Organization-Sealed Bidding (Negotiation) FAR 52.214-2 (FAR 52.215-6).

* * * * *

(v) Place of Performance—Sealed Bidding (Negotiation) FAR 52.214-14 (FAR 52.215-20).

* * * * *

915.804-2 [Removed]

20. Subpart 915.8 is amended to remove the exemption from the submission and certification of cost and pricing data presently provided to educational institutions, and State, local and tribal governments by removing 915.804-2 Requiring certified cost of pricing data.

21. Section 915.804-8 is amended, at paragraph (b), to delete the exemption from the requirement to submit and certify cost and pricing data now available to educational institutions, State, local, and Federally recognized Indian Tribal governments. As revised, paragraph (b) reads:

915.804-8 Contract clauses.

* * * * *

(b) The contracting officer shall insert the clause at FAR 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications, in solicitations and contracts when the clause prescribed in paragraph (a) above has not been included.

22. Section 915.804-70 is amended by removing $500,000 and adding $100,000. As revised, 915.804-70 reads:

915.804-70 Uncertified cost or pricing data.

Anytime an offeror is not required to submit certified cost or pricing data (proposals of $100,000 or less), the contracting officer may require the offeror or contractor to submit uncertified cost or pricing data. The amount of data required to be submitted should be limited to that data necessary to allow the contracting officer to determine the reasonableness of the price.

23. The heading to Subpart 915.10 is revised as follows:

Subpart 915.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

915.1002 [Redesignated as 915.1003]

24. 915.1002 is redesignated as 915.1003. The section heading is revised as follows:

915.1003 Debriefing of unsuccessful offerors.

PART 919—[AMENDED]

25. Section 919.201 is revised to include the Federal Energy Regulatory Commission as follows:

919.201 General policy.

(c) The Director, Office of Small and Disadvantaged Business Utilization (OSDBU), Headquarters, is responsible for the administration of the DOE small and small disadvantaged business programs. The Executive Director, Federal Energy Regulatory Commission, is responsible for the administration of the Commission's small and small disadvantaged business programs. This includes responsibility for developing, implementing, executing, and managing these programs, providing advice on these programs, and representing DOE before other Government agencies on matters primarily affecting small and small disadvantaged businesses. Heads of Contracting Activities (HCAs) shall appoint a small business/small disadvantaged business (SB/DB) specialists.

PART 924—[AMENDED]

26. Section 924.202 is revised to include the Federal Energy Regulatory Commission as follows:

924.202 Policy.

(b) See 10 CFR Part 1004, Freedom of Information for the DOE regulations relating to the availability of DOE records to the public. See 18 CFR Part 388, Public Information and Records, for the regulations relating to the availability of Federal Energy Regulatory Commission records.

PART 928—[AMENDED]

27. Section 928.101-1 is revised to remove the words "formal advertising" and add "sealed bidding" as follows:

928.101-1 Policy on use.

(a) In addition to the restriction on use of bid guarantees in FAR 28.101-1(a), a bid guarantee may be required only for fixed price or unit price contracts entered into as result of sealed bidding. They may not be required for negotiated contracts.

PART 943—[AMENDED]

28. Part 943 is amended by adding the table of contents, by designating 943.301 as Subpart 943.1, by adding 943.301, and by relocating the "Authority" paragraph as follows:

Subpart 943.1—General

Sec.
943.170 Extension of contracts resulting from unsolicited proposals.

Subpart 943.3—Forms

943.301 Use of forms.

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

Subpart 943.1—General

943.170 Extension of contracts resulting from unsolicited proposals.

* * * * *

Subpart 943.3—Forms

943.301 Use of forms.

(c) The Standard Form 30 (SF30) shall also be used to effect contract closeout.

PART 950—[AMENDED]

29. 950.7002 is amended by correcting the first sentence of paragraph "Public liability" to read as follows:

950.7002 Definitions.

* * * * *

"Public liability" means any legal liability (including liability for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the contract activity arising out of or resulting from a nuclear incident) except:

* * * * *

PART 952—[AMENDED]

30. Section 952.202-1 is amended to revise the second paragraph designated (a) and paragraph (d) to include the Federal Energy Regulatory Commission as follows:

952.202-1 Definitions.

(a) * * *

(a) The term "Head of Agency" means the Secretary, Deputy, Secretary or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission.

* * * * *

(d) The term "DOE" means the Department of Energy and "FERC" means the Federal Energy Regulatory Commission.

31. Sections 952.214 and 952.214-27 are revised to remove the words "formal advertising" and add "sealed bidding" as follows:

952.214 Clauses related to sealed bidding.

952.214-27 Price reduction for defective cost or pricing data-modifications-sealed bidding.

As prescribed in 914.201-7(b)(1), when contracting by sealed bidding insert the clause at FAR 52.214-27, Price Reduction for Defective Cost or Pricing Data—Modification—Sealed Bidding, in solicitations and contracts unless this requirement is waived pursuant to FAR 14.201-7(b)(2).

32. Section 952.215-23 is revised as follows:

952.215-23 Price reduction for defective cost or pricing data-modifications.

As prescribed in 915.804-8(b), insert the clause at FAR 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications, in solicitations and contracts when the clause at FAR 52.215-22 has not been included.

PART 970—[AMENDED]

33. Section 970.1508-1 paragraphs (b)(1) (i) and (ii) are amended by removing $500,000 and adding $100,000. As revised (b)(1) (i) and (ii) read:

970.1508-1 Cost or pricing data.

* * * * *

(b) * * *
(1) * * *

(i) Award of a negotiated subcontract at any tier when the subcontract price is expected to exceed $100,000, or

(ii) Modification of any subcontract when the modification is expected to exceed $100,000 unless unrelated and separately priced changed, for which certified cost of pricing data would not otherwise be required, are included.

* * * * *

970.5204-24 [AMENDED]

34. Change $500,000 to $100,000 everywhere it appears in 970.5204-24

[FR Doc. 85-2098 Filed 1-28-85; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered and Threatened Status for the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Service gives notice that a public hearing will be held in Denver, Colorado on the proposed determination of endangered and threatened status for the piping plover and that the comment period on the proposal will be reopened. This bird is found on the Atlantic and Gulf Coasts, Great Lakes, and northern Great Plains. This hearing and the reopening of the comment period will allow comments on this proposal to be submitted from all interested persons.

DATES: The comment period on the proposal is reopened. The public hearing will be held from 5:30 p.m. to 10:00 p.m. on February 27, 1985, in Denver, Colorado. The comment period, which originally closed on January 7, 1985 and then extended to January 28, 1985, now closes March 29, 1985.

ADDRESSES: The public hearing will be held at the Denver City Council Chambers, Room 451, 4th Floor, 1437 Bannock St., Denver, Colorado. Written comments and materials should be sent to the Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials will be available for public inspection during business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information on the public hearing, contact James M. Engel, Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276 or FTS 725-3276).

SUPPLEMENTARY INFORMATION:

Background

The piping plover (*Charadrius melodus*) is a small shorebird that nests on beaches of the Atlantic Coast from Newfoundland to North Carolina, along the shores of the Great Lakes and saline wetlands of the northern Great Plains and on sandbars in rivers of the Upper Missouri River system. The species winters along the Gulf Coast and Atlantic Coast from South Carolina to Florida, and the Bahamas and Greater Antilles. The Service has information that the species is endangered and threatened by human disturbance, habitat destruction, alteration of natural river dynamics, and unfavorable plant succession. In the Federal Register of November 8, 1984 (49 FR 44712-44715), the Service proposed determination of endangered status for the piping plover in the Great Lakes watershed and threatened status throughout the remainder of its range. The period for submission of public comments on the proposal was originally scheduled to last until January 7, 1985 and then extended to January 28, 1985.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of a proposed rule. The Service originally received requests within the 45 day period from Tom Pitts & Associates, Consulting Engineers, Loveland, Colorado; Warren G. White, natural resource advisor at the Office of the Governor of Wyoming; Colorado Water Congress; Davis, Graham & Stubbs (on behalf of the Northern Colorado Water Conservancy District); Colorado Water Conservation Board; Nebraska Water Resources Association; and the Board of Water Commissioners of the City and County of Denver. They requested public hearings in Colorado, Nebraska, and Wyoming and a 60 day extension of the comment period. The Audubon Society of Omaha, Nebraska; the Central Nebraska Public Power and Irrigation District; and Cook & Kopf, P.C. (on behalf of the Central Platte Natural Resources District) requested a public hearing be held in Nebraska. The Wyoming Water Development Association requested a public hearing be held in Wyoming.

After the 45 day public hearing request period had ended on December 24, 1984, the Service received requests for public hearings and a 60 day extension of the comment period from the Central Colorado Water Conservancy District; Nebraska Rural Electric Association; Niobrara River Basin Development Association, Ainsworth, Nebraska; The Republican Valley Conservation Association, McCook, Nebraska; Board of Public Utilities, Casper, Wyoming; and Saunders, Snyder, Ross & Dickson, P.C. Denver, Colorado.

Although the piping plover is not believed to occur in Colorado or Wyoming, tributaries of the Platte River, Nebraska, where the species does occur, extend into Colorado and Wyoming. Water user organizations are concerned about the proposed listing in view of water development in the South Platte River, Colorado, and the North Platte River, Wyoming.

The Service held a public hearing on the proposed listing of the piping plover on January 18, 1985 in Omaha, Nebraska. Notice of the public hearing and reopening of the public comment period until January 28, 1985 was published in the Federal Register (49 FR 50748-50749) on December 31, 1984. The Service has determined to hold another public hearing in Denver, Colorado. The Service has scheduled the hearing for February 27, 1985 from 5:30 p.m. to 10:00 p.m., at the Denver City Council Chambers, Room 451, 4th Floor, 1437 Bannock St., Denver, Colorado. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 to 10 minutes, if the number of parties present necessitates some limitation. There are no limits to the length of written comments presented at the hearing or mailed to the Service.

In order to accomodate the hearing, the Service also reopens the public comment period on the proposal. Written comments may now be submitted until March 29, 1985, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is John G. Sidle, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612–725–3276 or FTS 725–3276).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: January 23, 1985.

Harvey K. Nelson,

Regional Director.

[FR Doc. 85–2215 Filed 1–28–85; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 50, No. 19
Tuesday, January 29, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Carson National Forest Grazing Advisory Boards; Meetings

The West Carson Grazing Advisory Board will meet at 10:00 a.m. on February 22, 1985, at the Northern New Mexico Community College, El Rito, New Mexico.

The East Carson Grazing Advisory Board will meet at 10:00 a.m. on February 23, 1985, in the Conference Room—Forest Supervisor's Office, Carson National Forest, Cruz Alta Road, Taos, New Mexico.

The purpose of the meetings will be to discuss the expenditure of FY '86 Range Betterment Funds and the status of Management Plans.

The meetings will be open to the public. Persons who wish to attend should notify Ken Bishop, Telephone 505/758–6200, P.O. Box 558, Taos, New Mexico 87571.

Written statements may be filed before or during the meetings.

Dated: January 21, 1985.

John C. Bedell,

Forest Supervisor.

[FR Doc. 85–2166 Filed 1–28–85; 8:45 am]

BILLING CODE 3410–11–M

Inyo National Forest Grazing Advisory Board; Meeting

The Inyo National Forest Grazing Advisory Board will meet at 10 a.m. on February 26, 1985, in the Inyo National Forest Conference Room in Bishop, California. The purpose of the meeting is:

FY 85 and 86 Range Management Budgets
Update on Forest Land Management Planning
Grazing Advisory Board recommendations
Establishment of sub-committees
Establish next meeting date

The meeting will be open to the public. Persons who wish to attend may notify Inyo National Forest—telephone (619) 873–5841. Written statements may be filed with the committee before or after the meeting. Members of the public wishing to speak at the meeting will be recognized by the committee chairman at the appropriate time.

Dated: January 21, 1985.

Eugene E. Murphy,

Forest Supervisor.

[FR Doc. 85–2267 Filed 1–28–85; 8:45 am]

BILLING CODE 3410–11–M

Pacific Crest National Scenic Trail Advisory Council, Northern California Subcommittee; Meeting

The Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet on April 5, 1985, at the Oroville Ranger Station, 875 Mitchell Avenue, Oroville. The meeting will begin at 10:00 a.m.

The purpose of the meeting is to discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the Northern California portion of the Pacific Crest Trail. The Subcommittee will discuss trail location and completion status near Belden, California, water along the Hat Creek Rim, and final rights-of-way needed to complete the trail in northern California.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Recreation Staff Director, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California, phone (415) 556–6986.

Dated: January 14, 1985.

Zane G. Smith, Jr.,

Chairman.

[FR Doc. 85–2265 Filed 1–28–85; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Privacy Act; Systems of Records

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Systems of Records for Implementation of the Privacy Act of 1974.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a, the Architectural and Transportation Barriers Compliance Board, hereafter known as the Board or as ATBCB, hereby publishes the systems of records subject to the Privacy Act of 1974 which are maintained by the Board. These systems were published for public comment on November 6, 1984, 49 FR 44315. No comments were received, and the systems are now published in final form without change. The Board's procedures for access to records in the systems are contained in 36 CFR Part 1121, also published this day as a final rule.

EFFECTIVE DATE: February 28, 1985.

FOR FURTHER INFORMATION CONTACT: Merrily F. Raffa, General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, D.C. 20202, (202) 245–1801 (voice of TDD).

Systems of Records for Implementation of the Privacy Act of 1974

SYSTEM NAME:

Payroll records–Architectural and Transportation Barriers Compliance Board.

SYSTEM LOCATION:

General Services Administration (GSA), National Payroll Center, Kansas City, Kansas; copies held by the Board. (GSA holds records for the ATBCB under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and public members of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W–2 forms; overtime request; leave data; retirement records. Records are used by the Board and GSA employees to maintain adequate payroll information for the Board employees, and otherwise by the Board and GSA employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance", generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury pursuant ot 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, ATBCB, 330 C Street, SW, Room 1010, Washington, D.C. 20202. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished to the city in response to written request from an appropriate city official to the Executive Director.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and the Board administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, ATBCB, 330 C Street, SW, Room 1010, Washington, D.C. 20202.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD SOURCE CATEGORIES:

The subject individual; the Board.

02

SYSTEM NAME:

General Financial Records—Architectural and Transportation Barriers Compliance Board.

SYSTEM LOCATION:

GSA, National Capital Region; copies held by the Board. (GSA holds records for the ATBCB under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Board.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

SF–1038, Application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Board who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance", generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and tape.

RETRIEVABILITY:

Manual and automated by name.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel including among others, GSA liaison staff, finance personnel and the Board administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Dirctor, ATBCB, 330 C Street, SW., Room 1010, Washington, D.C. 20202.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORDS ACCESS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD SOURCE CATEGORIES:

The subject individual; the Board.

03

SYSTEM NAME:

General Unofficial Personnel Files—Architectural and Transportation Barriers Compliance Board.

SYSTEM LOCATION:

ATBCB offices.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Biographic information; correspondence with members of the Board; personnel actions; position descriptions.

AUTHORIZATION FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. "Government Organization and Employees." generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY AND ACCESSING:

Manual.

SAFEGUARDS:

Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA liaison staff and the Board administrative staff.

RETENTION AND DISPOSAL:

Retained until no longer needed, then discarded.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, ATBCB, 330 C Street, SW., room 1010, Washington, D.C. 20202.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD SOURCE CATEGORIES:

The subject individual; the Board.

04

SYSTEM NAME:

Mailing List—Architectural and Transportation Barriers Compliance Board.

SYSTEM LOCATION:

ATBCB offices and the Fairfax Computer Center, Fairfax.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Architect or designer; Health Care; Transportation; Consumer, self help, or social service; Federal government; Private organization or firm, professional association; College, university, or trade school; Trade association; Media; Legal profession; Contractor or engineer; Manufacturer or industry; State/local government; Library; Veterans organization; Congress; Voluntary standard/code group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Same as above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 792.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Bimonthly newsletter (all categories), technical bulletins (varying categories), publications (varying categories), announcements (varying categories). The purpose of these mailings is to inform the general public and/or specific groups of Board activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Category, Last Name, Zip Code.

SAFEGUARDS:

Information can only be retrieved from the system by authorized personnel.

RETENTION AND DISPOSAL:

Ongoing process of changes, deletions and additions to list.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, ATBCB, 300 C Street, SW, Room 1010, Washington, D.C. 230202.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Board access regulations contained in 36 CFR Part 1121.

RECORD SOURCE CATEGORIES:

Same as mentioned previously.

Appendix—Architectural and Transportation Barriers Compliance Board

1. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed to a Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

4. A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

5. A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

6. A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

7. A record from this system of records may be disclosed to officers and employees of the GSA in connection with administrative services provided to the ATBCB under agreement with GSA.

8. In the event the Board deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

Signed this 4th day of January 1985.

Madeleine Will,

Acting Chairperson.

[FR Doc. 85-2269 Filed 1-28-85; 8:45 am]

BILLING CODE 6820-BP-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 2-85]

Proposed Foreign-Trade Zone; Gramercy, LA, Port of Entry Area; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Louisiana Port Commission (SLPC), a Louisiana public corporation, requesting authority to

establish a general-purpose foreign-trade zone with sites in the Parishes of St. Charles, St. John the Baptist, and St. James, adjacent to the Gramercy Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 18, 1985. The applicant is authorized to make this proposal under Sections 61 and 62, Title 51, Louisiana Revised Statutes of 1950, as amended.

The proposed foreign-trade zone will cover 1050 acres on three sites within the jurisdictional area of the SLPC, which covers 52 miles of the Mississippi River between New Orleans and Baton Rouge. Site 1 (A-1 in the application) involves a 600-acre tract within the SLPC's proposed Intermodal Container Transfer Facility, located on the west bank of the river by the Hale Boggs Bridge in St. Charles Parish. Site 2 (B-3 in the application) covers 250 acres within the Goldmine Industry Park, at River-Mile-Point (RMP) 137 on the west bank in St. John the Baptist Parish, which is being developed as an industrial park by Goldmine Plantation, Inc. Site 3 (B-6 in the application) covers 200 acres within Place Riviere, a planned private industrial park at RMP 150, west bank, in St. James Parish. The other sites covered by the application are possible sites for future expansion.

The application indicates a number of proposed zone uses including general cargo storage and distribution, food processing, barite blending, precious ore treatment, and metal and plastic packaging production. There is also reference to a power plant and bilge cleaning operations. No specific approvals for manufacturing are being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Max G. Willis, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, LA 70130; and Colonel Eugene S. Witherspoon, District Engineer, U.S. Army Engineer District New Orleans, P.O. Box 60267, New Orleans, LA 70160.

As part of its investigation, the examiners committee will hold a public hearing on March 7, 1985, beginning at 10:00 A.M., in the Council Meeting Room of the St. John's Parish Courthouse Annex (S. Edward Hebert Bldg.), Airline Highway (Hwy. 61), LaPlace.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by March 1, 1985. Written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 8, 1985.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, 432 International Trade Mart, No. 2 Canal Street, New Orleans, LA 70130

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW., Room 1529, Washington, D.C. 20230

Dated: January 23, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-2231 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 54-84]

Foreign-Trade Zone 29, Louisville, KY; Application for Subzone General Electric Appliance Park Plant; Extension of Comment Period

The period for comments on the above case, involving a special-purpose subzone for the home appliance plant of General Electric Corporation in Jefferson County, Kentucky (49 FR 48581, 12/13/84) is extended to February 20, 1985, to allow interested parties additional time in which to comment on the proposal.

Comments are invited in writing during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Ave., NW., Washington, D.C. 20230.

Dated: January 23, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-2229 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 1-85]

Foreign-Trade Zone 49, Newark/Elizabeth, NJ; Application for Subzone, General Motors Plant Linden, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, Newark/Elizabeth, New Jersey, requesting a special-purpose subzone at General Motors Corporation's (GM) automobile assembly plant in Linden, New Jersey, within the New York Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 11, 1985. The applicant is authorized to make this proposal under Section 12:13-1 of the New Jersey Statutes Annotated.

The GM facility is at 1016 W. Edgar Road in Linden, where 5300 persons are employed in the production of Buick Riveria, Oldsmobile Toronado, and Cadillac model automobiles. Though the majority of the parts used at the plant are produced domestically, some 5 percent are dutiable items, such as wiring harnesses, directional levers and radio receivers.

Zone procedures will exempt GM from paying duties on foreign components used for its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos. The average duty rate for the foreign components used by GM is 4.8 percent compared with a 2.7 percent rate for finished autos. The reduction of Customs costs is part of GM's overall program to modernize and reduce costs at its U.S. assembly plants making them more competitive with auto assembly facilities offshore.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of : Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Benjamin C. Jefferson, Area Director, U.S. Customs Service, New York Region, Room 210 A, Airport International Plaza, Newark, N.J. 07114; and Colonel F. H. Griffis, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, NY 10007.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations.

They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 25, 1985.

A copy of the application is available for public inspection at each of the following locations:

Area Director's Office, U.S. Customs Service, Airport International Plaza, Room 210 A, Newark, New Jersey 07114

Office of the Executive Secretary Foreign-Trade Zones Board U.S. Department of Commerce, Room 1529 14th and Pennsylvania Ave., NW. Washington, D.C. 20230

Dated: January 28, 1985.

John J. Da Ponte Jr.,

Executive Secretary.

[FR Doc. 85-2230 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 53-84]

Proposed Foreign-Trade Zone, Albany, NY; Amendment to Application

Notice is hereby given that the application submitted to the Foreign-Trade Zones Board on December 6, 1984, by the Capital District Regional Planning Commission for a foreign-trade zone at three sites in the Albany, NY area (49 FR 46582, 12/13/84), has been amended to include an additional 2 acres of open space and 616,000 square feet of covered space at Sites 1 and 2 within the Northeastern and Rotterdam Industrial Parks. The zone plan discussed at the January 15 public hearing remains otherwise unchanged.

The period for comments, which was to close on February 15 is extended to February 25.

The application and amendment material are available for public inspection at the following locations:

Port Director's Office, U.S. Customs Service, 445 Broadway, P.O. Bldg., Rm. 215, Albany, NY

Office of the Executive Secretary, Foreign-Trade Zones Board, Dept. of Commerce, Rm. 1529, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: January 23, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-2232 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-122-402]

Certain Dried Heavy Salted Codfish From Canada; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain dried salted codfish from Canada are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of certain dried heavy salted codfish from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by April 8, 1985.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Karen L. Sackett, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1756 or 377-3798.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain dried heavy salted codfish (codfish) from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found dumping margins on sales of certain dried salted codfish by all of the firms investigated.

We have found that the foreign market value of certain dried heavy salted codfish exceeded the United States price on 79 percent of the sales we compared. These margins ranged from 0 percent to 77 percent. The overall weighted-average margin on all sales compared is 24.30 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by April 8, 1985.

Case History

On July 19, 1984, we received a petition filed by Codfish Corp., on behalf of the U.S. industry producing dried heavy salted codfish. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of codfish from Canada are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation of August 8, 1984 (49 FR 32437). On September 4, 1984 (49 FR 35870), the ITC determined that there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reasons of imports from Canada of certain dried heavy salted codfish.

The petitioner alleged that several Canadian companies produced dried salted codfish for export to the United States. We found that Canadian Saltfish Corporation, National Sea Products, R.I. Smith Co., Sable Fish Packers, Sans Souci, and United Maritime Fishermen, accounted for 70 percent of imports to the United States during the period of investigation.

Questionnaires were presented to these companies in Canada on August 31, 1984. All six firms responded to the questionnaire on October 4, 1984. Our review of the responses revealed numerous deficiencies. On November 1, 1984, in a meeting with counsel representing these respondents we requested additional information on credit expenses, selling expenses and "other discounts."

On October 30, 1984, counsel for the petitioner, Codfish Corporation, further alleged that sales of codfish are being made at below the cost of production, and petitioner requested that the deadline for the preliminary determination be extended for 25 days in order to allow sufficient time for the cost of production investigation. On November 16, 1984, we sent cost of production questionnaires to each of the six companies.

On November 30, 1984, we announced the postponement of the preliminary antidumping duty determination for 25 days, or not later than January 22, 1985 (49 FR 47078). On November 29, 1984, we received a letter from National Sea Products, Ltd. (NSP) stating it purchased its codfish drying plant on April 28, 1984, and that all cost data were removed by the previous owner. On December 31, 1984, we received a cost response from Canadian Saltfish Corporation. United Maritime Fishermen informed us by letter dated December 31, 1984, that it was a cooperative and did not engage in production; it could not supply cost of production information.

On January 4, 1985, we received a partial cost response from Sans Souci Seafoods Ltd. Sable Fish Packers and R.I. Smith Company, Ltd. did not submit a cost response.

Scope of Investigations

The products covered by this investigation are currently provided for in item 111.22 of the *Tariff Schedules of the United States, Annotated* (TSUSA). The term "certain dried heavy salted codfish" covers cod, which has been dried and salted, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers.

Since the respondents produced and exported approximately 70 percent of the dried heavy salted codfish shipped from Canada to the United states during the period of investigation, we limited our investigation to them.

We investigated sales of certain dried salted codfish by these respondents during the period from February 1, 1984, to July 31, 1984.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

Comparisons were made on the basis of size, quality, and drieth groupings which conforms to industrywide standards.

United States Price

As provided in section 772 of the Act, we used the purchase price of certain dried heavy salted codfish to represent the United States price for sales by all the Canadian producers because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the f.o.b., c. & f., or c.i.f. price to unrelated purchasers for sale in the United States. We made deductions, where appropriate, for inland freight, ocean freight, marine insurance, quantity discounts, and brokerage and handling.

Foreign Market Value

In calculating foreign market value we constructed value in accordance with section 773 of the Act. There were no sales in the home market. The petitioner alleged that sales to third countries were at prices below the cost of producing certain dried heavy salted codfish. We examined production costs which included all appropriate costs for materials, labor and general expenses. Canadian Saltfish Corporation (CSC) submitted cost of production information. For the other five companies we used best information available to determine cost of production, as required by section 776(b) of the Act, because adequate responses were not submitted in an acceptable form. Best information available is the cost of production by size, quality and drieth groupings submitted by CSC. The other respondents either did not submit cost data or the cost data submitted had deficiencies that could not be corrected in the time available. We will give the respondents an opportunity to submit the missing data. Cost data submitted by petitioner do not give the detailed cost by moisture content, which reflects the greatest differences in the cost of the product.

We found virtually all sales are at prices below the cost of production for each company. Accordingly, we disregarded third country prices and used constructed value in making our comparisons.

Because CSC submitted cost data by moisture content, size and quality we are using its cost data to calculate constructed value. To determine constructed value we examined cost of material, processing costs, and general expenses. We used actual general expenses since they exceeded the statutory minimum. Profits were not reported; therefore we calculated profit on the basis of the statutory minimum of 8 percent of the cost of the material, fabrication and general expenses.

In calculatinig foreign market value we made currency conversions from Canadian dollars to United States dollars in accordance with § 35.56(a)(1) of our regulations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of certain dried heavy salted codfish from Canada which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amout by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted average margins are as follows:

Manufacturer	Dumping margin (percent)
Canadian Saltfish Corp	26.65
National Sea Products	34.29
R.I. Smith Co	20.24
Sable Fish Packers, Ltd	16.18
Sans Souci	19.77
United Maritime Fishermen	13.27
All others, manufacturers/producers and	24.30

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make a final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on February 28, 1985, at the U.S. Department of Commerce, Room 1851, 14th and Constitution Avenue NW, Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration,

Room B-099, at the above address within 10 days of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 21, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: January 22, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-2181 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-602-401]

Termination of Antidumping Investigation; Galvanized Carbon Steel Sheet From Australia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On January 18, 1985, United States Steel Corporation withdrew its antidumping petition, filed on February 10, 1984, on Galvanized Carbon Steel Sheet from Australia. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Case History

On February 10, 1984, we received a petition from United States Steel Corporation filed on behalf of the U.S. industry producing galvanized carbon steel sheet.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on March 1 (49 FR 8656). On April 4 the ITC found that there is a reasonable indication that imports of Galvanized Carbon Steel Sheet from Australia materially injure, or threaten material injury to, a United States industry (49 FR 13442). On July 19 we made a preliminary determination that Galvanized Carbon Steel Sheet from Australia was being, or was likely to be, sold in the United States at less than fair value (49 FR 29993). On December 18 we made a final determination that Galvanized Carbon Steel Sheet from Australia was being, or was likely to be, sold at less than fair value (49 FR 49134).

Scope of Investigation

The merchandise covered by this investigation is galvanized carbon steel sheet. The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320 or 608.1330 of the Tariff Schedules of the United States Annotated (TSUSA). Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc or with a zinc-aluminum-zinc alloy is not included.

Withdrawal of Petition

On January 18, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigation be terminated. Under section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. These withdrawals are based on arrangements with the Government of Australia to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a)(2) of the Act and consulted with potentially affected producers, workers, and consuming interests. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioner's withdrawal and our intention to terminate. For these reasons, we are terminating our investigation.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 18, 1985.

[FR Doc. 85-2235 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-405-401]

Termination of Antidumping Investigation; Carbon Steel Plate From Finland

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On January 18, 1985, United States Steel Corporation withdrew its antidumping petition, filed on February 10, 1984, on Carbon Steel Plate from Finland. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1756.

SUPPLEMENTARY INFORMATION:

Case History

On February 10, 1984, we received a petition from United States Steel Corporation filed on behalf of the U.S. industry producing carbon steel plate.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on March 1 (49 FR 8973). On March 26 the ITC found that there is a reasonable indication that imports of Carbon Steel Plate from Finland materially injure, or threaten material injury to, a United States industry (49 FR 13442). On July 19 we made a preliminary determination that Carbon Steel Plate from Finland was being, or was likely to be, sold in the United States at less than fair value (49 FR 29986). On December 14 we made a final determination that Carbon Sheet Plate from Finland was being, or was likely to be, sold at less than fair value (49 FR 48578).

Scope of Investigation

The merchandise covered by this investigation is carbon steel plate. Carbon steel plate covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold rolled; not in coils; not cut, not pressed, and not stamped to a non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width. It is currently provided for under item numbers 607.6620 and 607.6625 of

the Tariff Schedules of the United States Annotated (TSUSA).

Semi-finished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Withdrawal of Petition

On January 18, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigation be terminated. Under section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. These withdrawals are based on arrangements with the Government of Finland to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a)(2) of the Act and consulted with potentially affected producers, workers, and consuming interests. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioner's withdrawal and our intention to terminate. For these reasons, we are terminating our investigation.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 18, 1985.

[FR Doc. 85-2234 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

Termination of Antidumping Investigation; Certain Carbon Steel Products From Spain

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On January 18, 1985 United States Steel Corporation withdrew its antidumping petition, filed on February 10, 1984, on certain carbon steel products from Spain. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Ken Stanhagen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1776.

SUPPLEMENTARY INFORMATION:

Case History

On February 10, 1984, we received a petition from United States Steel Corporation filed on behalf of the U.S. industry producing certain carbon steel products.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on March 8 (49 FR 8645, 8655). On March 26 the ITC found that there is a reasonable indication that imports of Certain Carbon Steel Products from Spain materially injure, or threaten material injury to, a United States Industry. On July 19 we made a preliminary determination that Certain Carbon Steel Products from Spain were being, or were likely to be sold in the United States at less than fair value (49 FR 29967). On December 13 we made a final determination that Certain Carbon Steel Products from Spain were being, or were likely to be, sold at less than fair value (49 FR 48582).

Scope of Investigation

For purposes of these investigations certain carbon steel products covers carbon steel structural shapes, carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel flat-rolled products, and galvanized carbon steel sheet.

The term "carbon steel structural shapes" covers hot-rolled, forged, extruded, or drawn or cold-formed or cold-finished carbon steel angles, shapes conforming completely to the specifications given in the headnotes to Schedule 6, Part 2, Subpart B of the Tariff Schedules of the United States Annotated ("TSUSA"), for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the TSUSA, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the TSUSA. Such products are generally referred to as structural shapes.

The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils, not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the TSUSA. Semifinished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

The term "hot-rolled carbon steel sheet" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not Clad; 0.1875 inch or more in thickness and over 8 inches in width; in coils; as currently provided for in item 607.6610 of the TSUSA.

The term "cold-rolled carbon steel flat-rolled products" covers flat-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 inch or more in thickness; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the TSUSA.

The term "galvanized carbon steel sheet" covers hot- or cold-rolled carbon steel sheet which have been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330 of the TSUSA.

Withdrawal of Petition

On January 18, 1985, petitioners notified us that it was withdrawing its petition, and requested that the investigation be terminated. Under Section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. These withdrawals are based on arrangements with the Government of Spain to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a)(2) of the Act and consulted with potentially affected producers, workers, and consuming interests. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigation.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 18, 1985.

[FR Doc. 85-2233 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Long Marine Laboratories; Modification No. 1 to Permit No. 357

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 357 issued to Dr. Daniel P. Costa, Long Marine Laboratory, University of California, Santa Cruz, California, on November 3, 1981 (46 FR 55130), is modified in the following manner:

Accordingly, Section B-1 is deleted and replaced by:

1. Ten (10) cow/pup pairs or male Northern elephant seals may be taken each year and sampled up to four (4) times each. In addition, all animals may be visually tagged with paint or peroxide bleach, and all cows may have a maximum depth recorder attached to the hind flipper or head as described in the application.

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 23, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-2239 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Northwest Fisheries Center; Modification No. 6 to Permit No. 71

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 71 issued to the Northwest Fisheries Center, National Marine Fisheries Service on January 21, 1975 (40 FR 4325), as modified on October 6, 1975 (40 FR 47817), February 26, 1979 (44 FR 13060), December 21, 1979 (44 FR 77229), October 2, 1980 (45 FR 67404), and October 8, 1982 (47 FR 46350), is further modified as follows:

Section B-5 is deleted and replaced by:

This Permit is valid with respect to the taking and importing authorized hereunder until December 31, 1985.

This modification is effective as of January 1, 1985.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 89115.

Dated: January 22, 1989.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-2241 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Oregon Department of Fish and Wildlife; Receipt of Application for Permit: Corrections

In **Federal Register** Volume 50, Number 4, published January 7, 1985 page 873, column 1, Item 3 reads:

"Northern seal lion (*Eumetopias jubatus*) 1100 per year."

It should read: "Northern sea lion (*Eumetopias jubatus*) 4100 per year."

The last address reads: Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

It should read: Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 89115.

Dated: January 22, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service

[FR Doc. 85-2237 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Southwest Fisheries Center, Modification No. 1 to Permit No. 387

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 387 issued to Southwest Fisheries Center, P.O. Box 271, La Jolla, California 92038, on July 19, 1982 (47 FR 31914), is modified to extend the period of authorized taking for two years

Accordingly, Section B-3 is deleted and replaced by:

3. This permit is valid with respect to the taking authorized herein until December 31, 1986.

This modification became effective January 1, 1985.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 23, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-2238 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Taking of Marine Mammals Incidental to Commercial Fishing Operations; Bermuda, et al.

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of determination.

SUMMARY: The Assistant Administrator for Fisheries has determined that the following nations which purse seined for yellowfin tuna in the eastern tropical Pacific Ocean in 1983 remain in conformance with Marine Mammal Protection Act regulations regarding the protection of porpoises and may continue to export yellowfin tuna to the United States until December 31, 1985, provided prohibitions are not imposed under other U.S. statutes. These nations are: Bermuda, Canada, Cayman Islands, Costa Rica, Ecuador, El Salvador, Panama, Peru, and Venezuela. Mexico, which has not supplied the information required by regulations, is already under a Marine Mammal Protection Act

embargo, and therefore may not export yellowfin tuna to the United States.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. K.R. Hollingshead, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, Telephone: 202/634-7529.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) published regulations in the Federal Register on December 23, 1977 (42 FR 64548-64560), governing the taking of marine mammals incidental to commercial fishing operations. These regulations were repromulgated on October 31, 1980 (45 FR 72178-72196). Included in these regulations are provisions concerning the importation of yellowfin tuna and tuna products from nations known to be involved in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean (ETP). Effective January 1, 1978, these importation provisions made the importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Assistant Administrator for Fisheries. The Assistant Administrator must find: (a) that the fishing operations of the nation concerned "* * * are conducted in conformance with these regulations and standards * * *" or (b) that "although not in conformance with these regulations, such fishing is accomplished in a manner which does not result in incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations" * * * (see 50 CFR 216.24(e)(5)). These findings would then be subject to an annual review in which the information items listed in § 216.24(e)(5)(ii) are updated for the previous calendar year.

In 1983, ten nations, not including the United States, were known to be purse seining in the ETP. During 1984, information was requested from six of these nations: the Cayman Islands, Costa Rica, Ecuador, El Salvador, Panama and Venezuela. All have responded and have been determined to be fishing in accordance with the requirements of § 216.24(e) and may therefore continue to export yellowfin tuna and tuna products to the United States until December 31, 1985, provided prohibitions are not imposed under other U.S. statutes. Bermuda, Canada, and Peru whose active purse seine vessels are smaller than those known to effectively fish on porpoise, may also continue to export yellowfin tuna to the United States.

Mexico is prohibited from exporting yellowfin tuna to the United States under both the Marine Mammal Protection Act (MMPA) (46 FR 10974, February 5, 1981) and the Magnuson Fishery Conservation and Management Act (45 FR 47562, July 15, 1980), and during 1984 did not submit information requesting a finding of conformance under the MMPA. Therefore, the importation of yellowfin tuna and yellowfin tuna products from Mexico remains prohibited under section 101(a)(2) of the MMPA and § 216.24(e) of Title 50 of the Code of Federal Regulations.

It should be noted that the NMFS is proposing to modify its regulations regarding the importation of yellowfin tuna (50 CFR 216.24(e)) in accordance with the 1984 amendments to the MMPA (see 49 FR 46921, November 29, 1984). Effective January 1, 1986, all nations that wish to export yellowfin tuna to the U.S. and have tuna purse seine vessels in the ETP must provide documentary evidence that they have adopted a regulatory program governing the incidental taking of marine mammals in its fishery that is comparable to that of the U.S. They must also provide documentation that the average rate of incidental take of marine mammals in the fishery is comparable to that of the U.S. in the course of such harvesting. The NMFS has notified all nations that currently have findings of these new requirements for importation.

Dated: January 23, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-2240 Filed 1-28-85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Assistant Secretary of Defense (Health Affairs)

Blue Ribbon Panel on Sizing DoD Medical Treatment Facilities; Open Meeting

SUMMARY: Pursuant to the provisions of Subsection (a) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that an open meeting of the Blue Ribbon Panel on Sizing DoD Medical Treatment Facilities has been scheduled as follows:

DATE: February 14, 1985, 8:30 a.m. to 4:00 p.m.

ADDRESS: To be announced. Please call (202) 653-0800 for location information.

FOR FURTHER INFORMATION CONTACT: LTC Michael Averbuch, Deputy Staff Director, Blue Ribbon Panel on Sizing DoD MTF c/o ASD (HA), Room 3E349, The Pentagon, Washington, D.C. 20301 [(202) 653-0800/0081].

SUPPLEMENTARY INFORMATION: The panel meeting will concentrate on presentation of information related to resource utilization within the Military Health Care System and utilization of civilian health care services. The meeting is open to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1985.

[FR Doc. 85-2224 Filed 1-28-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Certificate of Physician.

This form is prepared by a physician to certify that the mental and/or physical incapacity of an unmarried child annuitant of Survivor Benefit Plan (SBP)/Retired Serviceman's Family Protection Plan (RSFPP) had this condition prior to his/her 18th birthday or before age 22 while attending a full-time course of study or training at a recognized educational institution. Certification will allow the custodian or legal guardian of the annuitant to receive annuity pay in behalf of the annuitant.

Individuals
Responses 240
Burden hours 48

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Art Samson, AFAFC/CPR, Denver, Colorado 80279, commercial telephone (303) 370–7277.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1985.

[FR Doc. 85–2225 Filed 1–28–85; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Claim for Unpaid Annuity Pay of Deceased Annuitant Under the Survivor Benefit Plan (SBP)/Retired Serviceman's Family Protection Plan (RSFPP)

This form is prepared by either the Executor or Administrator of the Estate, spouse, children, or grandchildren of the deceased, or by the person who paid for the funeral expenses of the deceased annuitant. Completed form is mailed to the Air Force Accounting and Finance Center (AFAFC/RPC) by the claimant or an authorized agent or attorney in behalf of the claimant.

Individuals
Responses 1000
Burden hours 200

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Art Samson, AFAFC/CPR, Denver, Colorado 80279, commercial telephone (303) 370–7277.

Patricia H. Means,

OSD Fedeal Register Liaison Officer, Department of Defense.

24, January 1985.

[FR Doc. 85–2221 Filed 1–28–85; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Custodial Certificate to Support Claim on Behalf of Minor Children of Deceased Members of the Air Force.

This form is prepared by the custodian of a minor child(ren) who will receive survivor annuity benefit funds when an Air Force retiree dies. The custodian will receive the funds in behalf of the minor(s) until the the child(ren) reaches the age of majority. Form is prepared with the help of Air Force Casualty Assistance Representative and mailed to the Air Force Accounting and Finance Center (AFAFC/RPC) by the local Accounting and Finance Center.

Custodians of Minor Children of Deceased Air Force Retirees
Responses 1200
Burden hours 120

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Art Samson, AFAFC/CPR, Denver, Colorado 80279, commerical telephone (303) 370–7277.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1985.

[FR Doc. 85–2222 Filed 1–28–85; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responsse; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Affidavit in Support of Common-Law Marriage.

This form is prepared by the claimant of the deceased retiree when the couple presented themselves as husband and wife in a state that accepted common-law marriages. The form is used to support a claim for Survivor Benefit Plan (SBP)/Retired Serviceman's Family Protection Plan (RSFPP).

Individuals
Responses 250
Burden hours 30

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Art Samson, AFAFC/CPR, Denver, Colorado 80279, commercial telephone (303) 370–7277.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1985.

[FR Doc. 85–2223 Filed 1–28–85; 8:45 am]

BILLING CODE 3810–01–M

USAF Scientific Advisory Board; Meeting

January 16, 1985.

The USAF Scientific Advisory Board's Ad Hoc Committee on the Application of Artificial Intelligence will meet at the Pentagon, Washington, DC from February 28–1 March, 1985.

The purpose of the meeting will be to review the long-range artificial intelligence applications. The Committee will review Air Force and industry applications and technology programs. The agenda will also contain a working session for the members to work on an interim report on near term AI application. The meeting will convene from 9:00 a.m. to 5:00 p.m. both days.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–2161 Filed 1–28–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board, Ad Hoc Committee on the Enhancement of Special Operations Forces; Meeting

January 16, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on the Enhancement Of Special Operations Forces will meet 19 February at 11:00 a.m. to 5:00 p.m. and 20 February at 8:00 a.m. to 8:00 p.m. at Scott AFB, IL, Building 1600 and 21–22 February at 8:00 a.m. to 5:00 p.m. at Hurlburt AFB, FL, location to be determined.

The purpose of the meeting will be to discuss Military Airlift Command support to joint special operations. The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically, subparagraphs (1) and (4) thereof and is closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–2162 Filed 1–28–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

January 17, 1985.

The USAF Scientific Advisory Board's Ad Hoc Committee on High Power Microwave (HPM) Systems will meet at the Pentagon, Washington, DC from February 21–22, 1985.

The purpose of the meeting is to provide the Committee a background on current research and development of HPM. The Committee will be briefed on Air Force plans and programs and other DOD agency work in the HPM field. The meeting will convene from 8:30 a.m. to 5:00 p.m. both days.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–2163 Filed 1–28–85; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit, DA Form 3126.

The form is used as a contract between the US Government and secondary level schools who would like to establish a new JROTC unit.

Non-profit Institutions
Responses 100
Burden Hours 100

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. David O. Cochran, DAIM–ADI, Room 1D667, The Pentagon, Washington, DC 20310–0700, telephone (202) 695–5111

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1985.

[FR Doc. 85–2220 Filed 1–28–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee China Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee China Task Force will meet February 14–15, 1985, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to examine the broad policy issues related to maritime aspects of U.S.-P.R.C. relations. The entire agenda for the meeting will consist of discussions of key issues related to maritime policy

aspect of U.S.-P.R.C. relations and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 765–1205.

Dated: January 24, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–2145 Filed 1–28–85; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations; Executive Panel Advisory Committee SLCM Defense Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Chief of Naval Operations (CNO—Executive Panel Advisory Committee SLCM Defense Task Force will meet February 13–14, 1985, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review technological aspects of cruise missile defense. The entire agenda for the meeting will consist of discussions of key issues regarding the Navy's policy and technical responses to Soviet SLCM deployments and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756–1205.

Dated: January 24, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–2144 Filed 1–28–85; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations; Executive Panel Advisory Committee Space Exploitation Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Space Exploitation Task Force will meet February 21, 1985, from 9 a.m. to 5 p.m., at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review Navy space issues. The entire agenda for the meeting will consist of discussions of key issues regarding the Navy's role in the military exploitation of space and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756–1205.

Dated: January 24, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85–2146 Filed 1–28–85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Theodore M. Ragsdale d/b/a Salem Ventures, Inc., 94OX00236; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Theodore M. Ragsdale, d/b/a Salem Ventures, Inc. of Gardena, California. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 205.202, and 210.62(c). The total violation alleged during December 1979 through December 1980 is $365,652.85.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 14th day of December 1984.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 85–2173 Filed 1–28–85; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and Time: February 25–26, 1985—9:00 a.m. until 5:00 p.m.

Location: U.S. Department of Energy, Forrestal Building, Room IE–245, Washington, D.C. 20585.

Contact: Rosalie Weller, Office of Fusion Energy, ER–50, U.S. Department of Energy, Mail Stop G–226, Washington, D.C. 20545. Phone: (301)–353–3347.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help mainatain appropriate balance between competing elements of the program.

1. FY 1986 Budget Outlook—Trivelpiece, Clarke

2. Magnetic Fusion Program Plan—Clarke

3. MFAC Panel Findings on the Magnetic Fusion Program Plan—Davidson

4. Status of Copper-Magnet Ignition Studies—Stone, Furth
5. Interim Report of MFAC Panel Reviewing High Power Density Fusion Systems Conn, Gross
6. Key Issues in Nuclear Technology—Dowling, Baker, Abdou
7. New Charge Areas—Clarke, Davidson
8. MFAC Discussion and Recommendations
9. Public Discussion

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Rosalie Weller at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available approximately 30 days following the meeting.

Issued at Washington, D.C., on January 23, 1985.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 85-2171 Filed 1-28-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Research Advisory Board, Research Subpanel of the Energy R&D Strategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Research Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board (ERAB).

Date and Time: February 6, 1985—1:00 p.m. to 5:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 7B058, Washington, DC 20585.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-5444.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel: To examine the future energy needs of the Nation and develop judgments on the essential ingredients of a balanced energy R&D effort. The Panel has established Supply, Demand, and Infrastructure Subpanels to assist in carrying out its assignments.

Tentative Agenda:

- Discussion of guidelines issued by the Long Range Energy R&D Steering Committee
- Status report by the Environmental Health and Safety Group
- Status report by the High Energy/Nuclear Sciences/Basic Energy Sciences Group
- Discussion of outline for draft Research Subpanel Report
- Make assignments for individual tasks
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 22, 1985.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85-2172 Filed 1-28-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP81-107, et al.]

Boundary Gas, Inc.; Revised Notice of Availability of Material Received From the National Energy Board

January 23, 1985

The Commission has made arrangements to exchange documents, relating to this proceeding, with the National Energy Board of Canada (NEB).

Materials received from the NEB will be organized and maintained by Mr. James Edwards in the File Section of the Office of Pipeline and Producer Regulation, Room 6409, 825 N. Capitol Street, NE, Washington, D.C.

All public requests to review the files will be accepted by the Reference Branch in the Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C., 20426, between the hours of 9:00 a.m. and 4:00 p.m.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2142 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7879-001]

City of Des Moines, IA; Surrender of Preliminary Permit

January 24, 1985.

Take notice that the City of Des Moines, Iowa, Permittee for the proposed Center Street Project, FERC No. 7879 has requested that its preliminary permit be terminated. The permit was issued on May 31, 1984, and would have expired on October 31, 1985. The project would have been located on the Des Moines River, in the City of Des Moines, Polk County, Iowa.

The Permittee filed the request on December 17, 1984, and the preliminary permit for Project No. 7879 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2152 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-11-000]

K N Energy, Inc., Informal Conference

January 23, 1985.

Take notice that there will be an informal conference in the above-captioned proceeding on February 6, 1985 at 9:30 a.m. at the Federal Energy Regulatory Commission, 825 North Capital Street, NE, Washington, D.C. 20426.

The conference is being held in order to comply with the Presiding Judge's December 10, 1984 order requiring the parties to prepare, prior to the February 7, 1985 prehearing conference, a statement of issues, a discovery schedule, and a procedural schedule.

All interested parties may attend.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2153 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-8-000]

Nadel and Gussman Oil Co.; Petition for Adjustment

Issued: January 24, 1985.

On November 30, 1984, Nabel and Gussman Oil Company filed a petition

with the Federal Energy Regulatory Commission for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and § 385.1103 of the Commission's Rules of Practice and Procedure. The filling fee was paid on December 17, 1984. Nadel and Gussman seeks a waiver of § 271.805 of the Commission's stripper gas well regulations which allows collection of the NGPA section 108 prices subject to refund only if a motion for enhanced recovery is filed within 150 days from the last 90-day period during which average production exceed the maximum for a stripper well.

Nadel and Gussman allege that if it had charged the lower NGPA section 105 prices from November 1, 1981, when its well disqualified as a stripper well until February 28, 1984, when it filed for qualification as an enhanced recovery system well, it would have incurred a loss of $6,069.36; and that its failure to file for enhanced recovery sooner was an inadvertent oversight.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117 (1984). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with Rule 1105. All petitions to intervene must be filed within fifteen days after the publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2154 Filed 1–28–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85–63–000]

Northwest Pipeline Corporation v. Cascade Natural Gas Corporation; Complaint, or, In the Alternative, Request for Declaratory Order

January 24, 1985.

Take notice that on January 4, 1985, Northwest Pipeline Corporation (Northwest) tendered for filing a Complaint against Cascade Natural Gas Corporation (Cascade) requesting that the Commission: (1) Find that the terms and conditions of Northwest's tariff, and specifically Rate Schedule LS–1, carry the full force and effect of law; (2) find that Cascade has failed to comply with the lawful terms and conditions of that tariff; and (3) take whatever actions the Commission deems appropriate to assist Northwest in enforcing the terms of its tariff. In the alternative, Northwest requests the Commission issue a Declaratory Order making findings (1) and (2) above.

Northwest asserts that it has consistently provided firm resale service and natural gas liquefaction and storage services to Cascade pursuant to the terms of its tariff, but that Cascade has refused to pay the total rates and charges prescribed in the tariff under Northwest's Rate Schedule LS–1.

Northwest states it is willing to develop revisions to its Rate Schedule LS–1. To that end, Northwest filed proposed revisions with the Commission on December 3, 1984. In that filing, Northwest requested that the Commission approve these changes prior to March 1, 1985, in order that customers may make their desired nominations prior to the "1985 Liquefaction Period." Northwest asserts that the proposed revisions would not affect the 1984 obligations of Cascade.

Any person desiring to be heard or to protest said filing shoud file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Feb. 25, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person whishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2155 Filed 1–28–85 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85–9–000]

Texas Gas Transmission Corp.; Petition for Declaratory Order

Issued: January 22, 1985.

On December 6, 1984, Texas Gas Transmission Corporation (Texas Gas) filed a petition for a declaratory order with the Federal Energy Regulatory Commission (Commission) under Rule 207 of the Commission's Rules of Practice and Procedure.[1] Texas Gas seeks a Commission finding as to the proper maximum lawful price applicable to certain gas purchased from Texaco Inc. (Texaco). On January 9, 1985, Texaco filed a motion with the Commisson to intervene.

Specifically, both Texas Gas and Texaco agree that the issue is whether the surplus reserves were dedicated to interstate commerce within the meaning of section 2 (18) of the Natural Gas Policy Act[3] on November 8, 1978. Therefore, what is the maximum lawful price applicable to the surplus gas? Texas Gas states the gas *was* dedicated and therefore the appropriate maximum lawful price would be NGPA section 104. Texaco states that the gas *was not* dedicated and therefore the appropriate maximum lawful price would be NGPA section 109.

Any person who desires to be heard or to make any protest to this complaint should file, within 30 days after notice is published in the **Federal Register,** with the Federal Energy Regulatory Commission, 825 N. Capitol St., NE, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–2157 Filed 1–28–85 4:24 pm]

BILLING CODE 6717-01-M

[Docket No. QF85–155–000]

Terry G. White; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 24, 1985.

On December 27, 1984, Terry G. White (Applicant) of Route #3 Box 201, Buhl, Idaho 83316 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal consititutes a complete filing.

The proposed 150 kilowatt hydroelectric facility (FERC Project No. 4115–002—Mud Creek Hydro Project) will be located on Mud Creek, northeast on Buhl, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C.

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[1] 18 CFR 385.207, 47 FR 19,025 (May 3, 1982).

[2] Gas from Tiger Shoal, Lighthouse Point and Mound Point Fields, Offshore Louisiana.

[3] 15 U.S.C. 3310(18) (1982).

20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2156 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-142-000]

Alexandria/Arlington Resource Recovery Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 24, 1985.

On December 18, 1984, Alexandria/Arlington Resource Recovery Corporation, (Applicant) of 2200 Century Parkway, NE, Suite 390, Atlanta, Georgia 30345, submitted for filing an application for certification of a facility as a small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal consititutes a complete filing.

The small power production facility will be located at 5201 Eisenhower Avenue, Alexandria, Virginia. The primary energy source will be solid waste. The facility will consist of two turbine/generators with maximum electric power production capacity of 18,174 kilowatts and two waterwall boilers, each rated at 73,800 pounds per hour.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2151 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8734-000, et al.]

Applications Filed With the Commission; Hydroelectric Applications (Palmdale Water District, et al.)

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Conduit Exemption.

b. Project No: 8734-000.

c. Date Filed: November 23, 1984.

d. Applicant: Palmdale Water District.

e. Name of Project: Palmdale Energy Recovery Facility.

f. Location: On the Applicant's turnout on the California Aqueduct in Los Angeles County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ms. Jeanne-Marie Hand, Senior Engineer, James M. Montgomery, Consulting Engineers, Inc., 250 North Madison Avenue, Pasadena, California 91109.

i. Comment Date: March 4, 1985.

j. Description of Project: The Applicant proposes to connect a 2,000-foot-long pipeline to its existing turnout on the California Aqueduct and draw water into Lake Palmdale for municipal use. The proposed project would be located at the end of the proposed pipeline, on the south shore of Lake Palmdale, and would consist of: (1) A powerhouse containing a generating unit with a rated capacity of 100 kW operating under a head of 120 feet; and (2) a 200 to 300-foot-long transmission tap to an existing Southern California Edison Company (SCE) line south of the proposed powerhouse.

k. Purpose of Project: The project's estimated 745,000 kWh of annual energy would be sold to SCE.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

2a. Type of Application: License (Minor).

b. Project No: 5130-002.

c. Date Filed: October 12, 1984.

d. Applicant: Floyd N. Bidwell.

e. Name of Project: Lost Creek No. 2 Power Project.

f. Location: On Lost Creek, partly within Lassen National Forest, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Louis J. Simpson, 2704 Hartnell, Suite C, Redding, California 96002.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 40-foot-long diversion dam at elevation 3,845 feet; (2) a 57-inch-diameter, 2,000-foot-long penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 455 kW, operating under a head of 85 feet; (4) a 12-kV, 2,500-foot-long transmission line will connect the powerhouse with an existing Pacific Gas and Electric Company line east of the project.

k. Purpose of Project: The estimated annual generation of 3.36 million kWh of project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A9, B, C & D1.

m. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: If an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric

exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

This application has been accepted for filing as of June 2, 1983, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Company, et al., 28 FERC ¶ 61,061, issued July 18, 1984.

3a. Type of Application: License (Minor).

b. Project No: 6549–001.

c. Date Filed: August 1, 1984.

d. Applicant: Conway Ranch Partnership.

e. Name of Project: Conway Virginia Creek Water Power Project.

f. Location: On Virginia Creek in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dwight C. Schroeder, P.O. Box 3030, Newport Beach, California 92658.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would utilize the Applicant's existing diversion and irrigation ditch right-of-way and would consist of: (1) An existing 24-inch-diameter concrete sluice gate within the east bank of Virginia Creek at approximate elevation of 8,380 feet; (2) a 16-inch-diameter, 7,000-foot-long pipeline; (3) a 12-inch-diameter, 7,000-foot-long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 500 kW operating under a head of 1,440 feet; (5) a 1.5-mile-long, 16-kV transmission line will connect the powerhouse with an existing Southern California Edison Company line west of the powerhouse. The discharge from the proposed powerhouse will be used for irrigation.

k. Purpose of Project: The project's estimated annual generation of 1.8 million kWh will be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C & D1.

4a. Type of Application: Preliminary Permit.

b. Project No: 8677–000.

c. Date Filed: October 23, 1984.

d. Applicant: R. G. Associates.

e. Name of Project: Aloma 1.

f. Location: At the Bureau of Reclamation's Conconully Dam in Okanogon County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(r)–825(a).

h. Contact Person: Ray L. Gunderson, Star Route Box 60, Spirit Lake, Idaho 83869.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would utilize the Bureau of Reclamations Conconully Dam and Reservoir and would consist of: (1) Three 4-foot-diameter, 200-foot-long steel penstocks; (2) a power plant, near the left abutment of the dam, housing three generating units with a combined capacity of 600 kW and an average annual generation of 2,000,000 kWh; and (4) a 3,000-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $5,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

5a. Type of Application: Preliminary Permit.

b. Project No: 8246–000.

c. Date Filed: April 16, 1984.

d. Applicant: Helena Valley Irrigation District.

e. Name of Project: Helena Valley Pumping Plant.

f. Location: Missouri River, Lewis and Clark County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ronald J. Schofield, Helena Valley Irrigation District, 3840 North Montana Avenue, Helena, Montana 59601.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would be located at the existing Helena Valley Pumping Plant which is located on U.S. Bureau of Reclamation administered lands about 1,000 feet downstream of the U.S. Bureau of Reclamation's Canyon Ferry Dam and Power Plant. The proposed project would consist of: (1) Installation of 2 generating units with a total capacity of 9,000 kilowatts in the existing pumping plant structure and utilizing the existing 2 turbines used for pumping; and (2) a short 115-kV transmission line to connect with the existing power grid. The applicant estimates that the average annual energy production would be 26,800,000 kWh.

k. Purpose of Project: The power produced at the project would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform surveys and geologic investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, analyse the potential environmental effects of the project, and prepare an application for an FERC license, including an environmental report. Applicant estimates the cost of the work under the permit would be 40,000.

6a. Type of Application: Major License.

b. Project No: 6863–001.

c. Date Filed: May 4, 1984.

d. Applicant: Grisdale Hill Company.

e. Name of Project: Gibson Dam.

f. Location: At the U.S. Bureau of Reclamation's Gibson Dam and Reservoir on Sun River on the border between Lewis and Clark County and Teton County, Montana, within Lewis and Clark National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: William S. Fowler, Project Manager, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02166.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would utilize the Gibson Dam and Reservoir and would consist of: (1) Two 84-inch-diameter penstocks connected to existing irrigation conduits in the dam and each bifurcating into (2) an 84-inch-diameter bypass pipe with flow-control apparatus at the downstream end and (3) an 84-inch-diameter penstock bifurcating into (4) a 72-inch-diameter penstock and (5) a 48-inch-diameter penstock; (6) a 95-foot-long, 30-foot-wide concrete powerhouse containing four generating units, two rated at 6 MW and two at 1.5 MW with a total average annual energy output of 46.1 GWh; (7) a tailrace with a maximum tailwater elevation of 4,556 feet; and (8) a 23-mile-long, 69-kV transmission line from the switchyard downstream of the powerhouse to a Montana Power Company substation near Augusta, Mondana. Access would be provided by existing county and Forest Service roads, with the replacement of one bridge to allow the use of heavy equipment. The estimated total project cost is $16,743,500 in 1984 dollars. The Applicant had a preliminary permit for this project.

k. Purpose of Project: Power output would be sold to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

7a. Type of Application: License (5MW or Less).

b. Project No: 6885–003.

c. Date Filed: October 3, 1984.

d. Applicant: Mr. Richard Moss.

e. Name of Project: Cinnamon Ranch.

f. Location: On Middle Creek and Birch Creek, near Bishop, in Mono County, California, located partially within Inyo National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mark Henwood, Henwood Associates, Inc., 1818 11th Street, Suit 4, Sacramento, California 95814.

i. Comment Date: April 1, 1985.

j. Description of Project: The existing operating project consists of: (1) A diversion flume on Middle Creek at elevation 5,520 feet; (2) a lined 2-foot-wide, 2-foot-deep ditch; (3) a diversion flume on Birch Creek at elevation 5,360 feet; (4) a desilting pond at elevation 5,325 feet; (5) a 12-inch-diameter, 5,940-foot-long penstock; (6) a powerhouse to be upgraded to contain a single unit with a capacity of 150 kW; (7) a short, 12-kV transmission line connecting with an existing Southern California Edison Company (SCE) line. The project would affect the United States lands administered by the Bureau of Land Management and the Forest Service. No recreational facilities are proposed by the Applicant.

k. Purpose of Project: The estimated 815,000 kWh generated annually by the project would be used by the Applicant. Any excess power generated would be sold to SCE.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

8a. Type of Application: Preliminary Permit.

b. Project No: 8859–000.

c. Date Filed: January 3, 1984.

d. Applicant: Mr. David Ames.

e. Name of Project: Seiad Creek Power Project.

f. Location: On Seiad Creek, near town of Seiad Valley, within the Klamath National Forest, in Siskiyou County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David Ames, Star Route Box 220, Kneeland, California 95549.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 25-foot-long diversion dam at elevation 2,400 feet; (2) a 12-inch-diameter, 5,000-foot-long penstock; (3) a powerhouse with a total installed capacity of 200 kW, operating under a head of 400 feet; and (4) a 6,000-foot-long, 12-kV transmission line to be connected to an existing Pacific Gas and Electric Company (PG&E) transmission line. The applicant estimates an average annual energy generation of 1.44 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 24-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $5,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

9a. Type of Application: License (Over 5MW).

b. Project No: 6682–001.

c. Date Filed: April 20, 1984, and supplemented August 30, 1984.

d. Applicant: F. and T. Services Corporation.

e. Name of Project: Columbia Lock and Dam Hydro Project.

f. Location: On Ouachita River in Caldwell Parish, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–825(r).

h. Contact Person: Ralph L. Laukhuff, Jr., Secretary-Treasurer, F. and T. Services Corporation, P.O. Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: March 22, 1985.

j. Description of Project: The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Columbia Lock and Dam, existing 18,000-foot-long and 800-foot-wide diversion channel, and existing closure dam that is located in the diversion channel which, also, parallels the lock and dam structures. The proposed hydrogenerating facility, located entirely in the diversion channel, would consist of: (1) A proposed intake channel originating 250 feet from the closure dam's centerline; (2) three new 12-foot-diameter steel penstocks each approximately 500 feet long; (3) a new powerhouse that would be constructed integral with the closure dam and that would house three 2,000-kW generators for a total installed capacity of 6,000 kW; (4) a proposed tailrace channel; (5) a new 13.8-kW transmission line approximately 0.5 miles long; and (6) appurtenant facilities.

The lands of the United States affected by the project total 16.1 acres under the control of the U.S. Army Corps of Engineers inclusive of 0.1 acre of lands that will be required as an easement for the proposed transmission line.

The Applicant estimates that the average annual generation would be 24,607 MWh. Project energy would be sold to Louisiana Power & Light. The license application was filed during the term of the Applicant's preliminary permit Project No. 6682.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

10a. Type of Application: Preliminary Permit.

b. Project No.: 8566–000.

c. Date Filed: August 31, 1984.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Lock and Dam No. 9 Hydroelectric.

f. Location: On the Kentucky River, in Madison and Jessamine Counties, Kentucky.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: G. William Miller, Independence Electric Corp., 919—18th Street, N.W., Suite 750, Washington, D.C. 20006.

i. Comment Date: March 25, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Dam No. 9 and Reservoir and would consist of: (1) A proposed forebay channel approximately 80 feet wide by 150 feet long; (2) a new reinforced concrete powerhouse, housing two turbine-genrator units with a total installed capacity of 6,000 kW; (3) a proposed tailrace channel approximately 60 feet wide by 150 feet long; (4) a proposed 138-kV transmission line approximately 2.5 miles long; and (5) appurtenant facilities. Applicant estimates that the average annual energy would be 22,000 Mwh.

k. Purpose of Project: The applicant anticipates that project energy would be sold to a nearby utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the

studies under the permit would be $50,000.

11a. Type of Application: Preliminary Permit.

b. Project No: 8758–000.

c. Date Filed: December 3, 1984.

d. Applicant: Enviro Hydro, Incorporated.

e. Name of Project: Haypress Weir Hydroelectric Project.

f. Location: On Haypress Creek, near Downieville, within Tahoe National Forest, in Sierra County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. H. L. "Pete" Childers, Enviro Hydro, Inc., 9200 Shanley Lane, Auburn, California 95603.

i. Comment Date: March 25, 1985.

j. Description of Project: The proposed project would consist of: (1) The existing 6-foot-high, 75-foot-long U.S. Geological Survey's diversion structure at elevation 5,854 feet; (2) a 48-inch-diameter, 5,300-foot-long penstock; (3) a powerhouse with a total installed capacity of 2,000 kW operating under a head of 320 feet; and (4) a 1.5-mile-long, 12-kV transmission line to be connected to an existing 60-kV Northwest Power Company's transmission line. The Applicant estimates the average annual energy generation at 7 GWh to be sold to Pacific Gas and Electric Company.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

12a. Type of Application: Preliminary Permit.

b. Project No.: 8733–000.

c. Date Filed: November 20, 1984.

d. Applicant: Power House Systems.

e. Name of Project: Lower Israel River.

f. Location: On the Israel River in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gregory Cloutier, RR 1 Box 2, Jefferson, New Hampshire 03583.

i. Comment Date: March 22, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 13-foot-high, 160-foot-long, rock-filled embankment weir structure; (2) the addition of a 3-foot-high flashboards; (3) a reservoir having a surface area of 15 acres, with a negligible storage capacity, and a normal water surface elevation of 887 feet msl; (4) a proposed 200-foot-long, 5-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit with an installed capacity of 200 kW; (6) a proposed tailrace; (7) an existing 34.5-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 1,000,000 kWh. The existing dam and project facilities are owned by the Town of Lancaster, New Hampshire.

k. Purpose of Project: All project power generated would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $30,000.

13a. Type of Application: License (Under 5 MW).

b. Project No.: 7929–001.

c. Date Filed: April 16, 1984.

d. Applicant: Richard D. Ely.

e. Name of Project: Willimantic #1.

f. Location: On the Willimantic River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Richard D. Ely, P.O. Box 474, Storrs, Connecticut 06268.

i. Comment Date: March 25, 1985.

j. Competing Application: Project No. 8051–001.

Date Filed: March 21, 1984.

k. Description of Project: The proposed run-of-river project would consist of: (1) An existing 16-foot-high and 225-foot-long granite block dam with a spillway crest elevation of 182.5 feet mean sea level; (2) a reservoir with a surface area of 3 acres; (3) existing intake structures at the north end of the dam; (4) 2 existing concrete-lined short rectangular penstocks constructed within the dam; (5) an existing powerhouse with 3 new turbine-generator units with a total installed capacity of 465 kW; (6) an existing 200-foot-long tailrace; and (7) other appurtenances. Applicant estimates an average annual generation of 2,200,000 kWh. Existing facilities are owned by the American Thread Company.

l. Purpose of Project: Project energy would be sold to Northeast Utilities.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

14a. Type of Application: Major License.

b. Project No.: 6329–001.

c. Date Filed: November 15, 1984.

d. Applicant: Intermountain Power Corporation.

e. Name of Project: Oxbow Bend Hydroelectric.

f. Location: On the South Fork Payette River in Boise County, Idaho, within the Boise National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Marc A. Auth, Intermountain Power Corporation, 8969 Kiowa Street, Boise, Idaho 83709.

i. Comment Date: March 29, 1985.

j. Competing Application: Project No. 6677–000. Date Filed: 9/7/82.

k. Description of Project: The proposed project would consist of: (1) A 30-foot-long, 10-foot-high diversion dam with crest elevation 3,665 feet; (2) a 100-foot-long, 10-foot-wide streamside intake structure; (3) an 850-foot-long, 12-foot-diameter steel liner within an existing tunnel; (4) a 100-foot-long, 12-foot-diameter buried penstock; (5) a 56-foot-long, 30-foot wide concrete and steel powerhouse at elevation 3,625 feet containing two generating units, rated at 300 kW and 2,850 kW; (6) a 750-foot-long, 12.5kV transmission line; and (7) upgrading 12,000 feet of existing road for use as an access road. A concrete chute will be installed opposite the intake to safety pass recreational craft. The estimated project cost in 1985 dollars is $4,400,000.

This application has been accepted for filing as of May 13, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd. et al., 28 FERC ¶61,062 issued July 18, 1984.

l. Purpose of Project: Project output would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A9, B and C.

n. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing

license, conduit exemption, or small hydroelectric exemption application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exemption: If an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

15a. Type of Application: Minor License.

b. Project No.: 5894–001.

c. Date Filed: August 2, 1984.

d. Applicant: The Town of Granby Colorado.

e. Name of Project: Granby Dam.

f. Location: In Grand County on the Colorado River and occupying lands administered by the Bureau of Reclamation.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Alan R. Mauzy, CH2M HILL, P.O. Box 22508, Denver, Colorado 80222.

i. Comment Date: March 25, 1985.

j. Description of Project: The proposed project would utilize the existing Granby Dam and Reservoir owned by the Bureau of Reclamation and would consist of: (1) An existing penstock 525 feet long and 5.5 feet in diameter; (2) a proposed powerhouse 50 feet wide and 30 feet long containing 2 proposed turbine/generators with a total rated capacity of 1.5 MW; (3) a proposed tailrace 10 feet wide and 10 feet long; (4) a new 24.9–kV transmission line 1,300 feet long; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 4,200,000 kilowatt-hours operating under a net hydraulic head of 200 feet. Project power would be sold to local utilities in the project area. This project was filed while the preliminary permit was still in effect.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

16a. Type of Application: License (Minor).

b. Project No.: 8418–000.

c. Date Filed: July 9, 1984.

d. Applicant: Umetco Minerals Corporation.

e. Name of Project: Pine Creek Water Power Project.

f. Location: Unnamed tributary of Morgan Creek partly within Inyo National Forest, in Inyo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. W. C. Thurber, Vice President, Umetco Minerals Corporation, Old Ridgebury Road, Danbury, Connecticut 06817.

i. Comment Date: April 1, 1985.

j. Description of Project: The water for the project emanates from fissures formed and encountered during tunneling and mining operations by the Applicant. The project consist of: (1) A 16 to 24-inch-diameter, 500-foot-long penstock, leading to; (2) powerhouse No. 1, containing a generating unit with installed capacity of 80 kW, operating under a head of 68 feet; (3) a 24-inch-diameter, 550-foot-long penstock, leading to; (4) powerhouse No. 2, containing a generating unit with installed capacity of 170 kW, operating under a head of 100 feet and discharging into Morgan Creek. There are no transmission lines involved as the project's estimated annual generation of 1.3 million kWh would be used by the Applicant in its mining operations at the site.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

17a. Type of Application: Preliminary Permit.

b. Project No: 8369–000.

c. Date Filed: June 18, 1984.

d. Applicant: The Village of Saranac Lake.

e. Name of Project: Lake Flower Dam.

f. Location: On Saranac River in Franklin County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David MacDowell, Director, The Village of Saranac Lake, Office of Community Development, 38 Main Street, Saranac Lake, New York 12983.

i. Comment Date: March 25, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 19-foot-high, 97-foot-long concrete dam owned by the Applicant, with a crest elevation of 1,528 feet msl: (2) an existing reservoir with a surface area of 1,360 acres, and a gross storage capacity of 8,200 acre-feet; (3) an existing intake at the base of the dam; (4) a proposed powerhouse containing a generating unit with a rated capacity of 260-kW; and (5) a proposed 100-foot-long transmission line tying into the existing Niagara Mohawk Power Corporation system. The Applicant estimates a 260,000 kWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

18a. Type of Application: Preliminary Permit.

b. Project No: 8742–000.

c. Date Filed: November 27, 1984.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Wachocastinook Creek.

f. Location: On Wachocastinook Creek in Litchfield County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 15-foot-high, 200-foot-long cemented piled rock dam owned by Mt. Riga Inc.; (2) an existing reservoir with a maximum surface elevation of 1,717 feet msl, a surface area of 4.3 million square feet, and negligible storage capacity; (3) a proposed 1.25-foot-diameter, 18,200-foot-long penstock; (4) a proposed powerhouse containing a generating unit with a rated capacity of 450-kW; (5) a proposed 20-foot-long tailrace; and (6) a proposed, 100-foot-long transmission line tying into the existing Connecticut Light and Power System. The Applicant estimates a 2,250,000 kWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18-months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $16,700.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

19a. Type of Application: Preliminary Permit.

b. Project No.: 8649–000.

c. Date Filed: October 9, 1984.

d. Applicant: Yankee Hydro Company.

e. Name of Project: Welch Brook & Swift River.

f. Location: Welch Brook & Swift River in Franklin County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: George S. Bass, P.O. Box 1961, Boston, Massachusetts 02105.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would consist of: (1) Two proposed 2-foot-high, 25-foot-long concrete dams, one each on Welch Brook and Swift River; (2) two proposed reservoirs, each at elevation 1,570 feet ASL, with an area of 375 square feet and impounding 4,000 gallons of water; (3) two proposed 16-inch-diameter, 300-foot-long conduits, one from each dam; (4) one proposed 1.3-mile-long, 16-inch-diameter conduit; (5) a proposed powerhouse containing one 99-kW turbine/generator; (6) a proposed 1,300-foot-long, 480-volt transmission line; and (7) appurtenant facilities. The estimated average annual generation is 599 MWh.

k. Purpose of Project: Project energy could be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $14,000.

20a. Type of Application: Preliminary Permit.

b. Project No.: 8796–000.

c. Date Filed: December 3, 1984.

d. Applicant: A.C.T. Energy Company.

e. Name of Project: Reed Creek.

f. Location: On Reed Creek in Wythe County, Virginia

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: C. Tate Graham III, 1021 Fairfax, Radford, Virginia 24141.

i. Comment Date: April 1, 1985.

j. Description of Project: The proposed project would consist of two new developments. The first development would consist of: (1) A proposed dam 30 feet high and 200 feet long including spillway at elevation of 1,955 m.s.l.; (2) a proposed reservoir with a surface area of 30 acres and a storage capacity of 440 acre feet; (3) a proposed penstock 100 feet long and 3 feet in diameter; (4) a proposed powerhouse containing one proposed turbine/generator with a rated capacity at 500 kW. The second development would consist of: (1) A proposed dam 30 feet high and 200 feet long including spillway at elevation 1,920 m.s.l.; (2) a proposed reservoir with a surface area of 60 acres and a storage capacity 1,200 acre-feet; (3) a proposed penstock 100 feet long and 3 feet in diameter; (4) a proposed powerhouse containing one proposed turbine/generator with a rated capacity of 500 kW; (5) a new 12.5-kV transmission line 10.6 miles long for both developments; and (6) appurtenant facilities. The total estimated average annual energy produced by both developments would be 6 GWh operating under an approximate hydraulic head of 40 feet. Project would be sold to the Appalachian Power Company.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

21a. Type of Application: Preliminary Permit.

b. Project No.: 8753–001.

c. Date Filed: December 3, 1984.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Wallahatchee Hydro Project.

f. Location: On the Tallapoosa River near Tallassee, Tallapoosa and Elmore Counties, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: G. William Miller, Independence Electric Corp., 919 18th Street, N.W., Suite 750, Washington, DC. 20006.

i. Comment Date: April 1, 1985.

j. Description of Project: The totally unconstructed project would consist of: (1) A 1200-foot-long and 60-foot-high earth dam; (2) a reservoir with a maximum surface area of 1,530 acres at a normal pool elevation of 190 feet m.s.l; (3) a powerhouse housing two 12-MW generators for a total installed capacity of 24 MW; (4) a 115-kV transmission line approximately 1 mile long; and (5) appurtenant facilities. The Applicant estimates the average annual generation would be 76,000 MWh. The proposed project would not be located on any Federal lands. All project energy generated would be sold to Alabama Power Company.

k. This Notice also consists of the following standards paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

22a. Type of Application: Preliminary Permit.

b. Project No.: 8779–000.

c. Date Filed: December 7, 1984.

d. Applicant: Mega Renewables.

e. Name of Project: Latour Butte Power Project.

f. Location: On South Cow and Beal Creeks, near town of Whitmore, Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, 2576 Hartnell Avenue, Redding, California 96002.

i. Comment Date: March 29, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 8foot-long intake structure at elevation 3,420 feet within the South Bank of South Cow Creek; (2) a 4-foot-high, 8-foot-long intake structure on Beal Creek at elevation 3,420 feet within the North Bank of Beal Creek; (3) a 39-inch-diameter, 8,500-foot-long diversion conduit; (4) a 21-inch-diameter, 3,200-foot-long diversion conduit; (5) a 42-inch-diameter, 8,600-foot-long steel penstock; (6) a powerhouse with a total installed capacity of 2,000 kW operating under a head of 450 feet; and (7) a 6-

mile-long, 23-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 6.1 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $40,000.

k. This Notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

23a. Type of Application: Preliminary Permit.

b. Project No.: 8806–000.

c. Date Filed: December 17, 1984.

d. Applicant: Mega Renewables.

e. Name of Project: Cedar Creek Power Project.

f. Location: On Cedar Creek, near town of Round Mountain, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, 2576 Hartnell Avenue, Redding, California 96002.

i. Comment Date: March 29, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 8-foot-long intake structure at elevation 4,040 feet within the South Bank of the Cedar Creek; (2) a 21-inch-diameter, 8,000-foot-long diverson conduit; (3) an 18-inch-diameter, 5,200-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 1,000 kW operating under a head of 1,350 feet; and (5) a 3,000-foot-long, 12-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 3.1 milion kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 30-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $60,000.

k. This Notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

24a. Type of Application: Preliminary Permit.

b. Project No.: 8780–000.

c. Date Filed: December 17, 1984.

d. Applicant: Mega Renewables.

e. Name of Project: Beaty/Atkins Power Project.

f. Location: On Atkins Creek, near town of Whitmore, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, 2576 Hartnell Avenue, Redding, California 96002.

i. Comment Date: March 29, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 8-foot-long intake structure at elevation 3,640 feet within the South Bank of the Creek; (2) a 36-inch-diameter, 4,200-foot-long diversion conduit; (3) a 30-inch-diameter, 2,200-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 1,000 kW operating under a head of 450 feet; and (5) a 6.5-mile-long, 12-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric (PG&E) transmission line. The Applicant estimates the average annual energy generation at 3.1 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 30-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $40,000.

k. This Notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

25a. Type of Application: Preliminary Permit.

b. Project No.: 8797–000.

c. Date Filed: December 13, 1984.

d. Applicant: Mega Renewables.

e. Name of Project: Lower Pine Mountain Power Project.

f. Location: On Clover Creek, near town of Oak Run, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, 2576 Hartnell Avenue, Redding, California 96002.

i. Comment Date: March 29, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 8-foot-long intake structure at elevation 2,400 feet within the South Bank of the Creek; (2) a 36-inch-diameter, 8,000-foot-long diversion conduit; (3) a 30-inch-diameter, 1,320-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 1,000 kW operating under a head of 380 feet; and (5) a 3,000-foot-long, 12-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 3.1 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 30-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $40,000.

k. This Notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

26a. Type of Application: Preliminary Permit.

b. Project No.: 8344–000.

c. Date Filed: June 4, 1984.

d. Applicant: Pacific Malibu Development Corporation.

e. Name of Project: Las Vegas Wash Hydroelectric Project.

f. Location: Las Vegas Wash, Clark County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Barry Silverton, Pacific Malibu Development Corporation, 12021 Wilshire Blvd., Suite 1900, Los Angeles, California 90025.

i. Comment Date: March 29, 1985.

j. Description of Project: The proposed project would utilize the existing Las Vegas Wash (Wash) which would be located entirely on lands owned by the Applicant, and would consist of: (1) A proposed concrete bypass intake structure which will create no impoundment and which will divert all waters from the Wash into, (2) a proposed penstock 10,700 feet in length and 84 inches in diameter, (3) a proposed powerhouse with the installation of one turbine/generator unit, operating at a hydraulic head of 56 feet, for a total installed capacity of 2,780 kW; (4) a proposed tailrace 30 feet long and 10 feet wide, which conveys water from the powerhouse back to the Washl (5) a proposed 12.5–kV transmission line less than ½–mile in length; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 1.2 GWh.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facilities to the Nevada Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant

would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in the project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or or conduit exemption applicating that proposes to develop at least 7.5 megwatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: If an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectirc exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit application, or notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric

exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydrolectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATIN", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named doucments must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 24, 1985.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2255 Filed 1–28–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85–231–000, et al.]

Electric Rate and Corporate Regulation Filings; Long Island Lighting Company, et al.

January 23, 1985.

Comments are due on the following filings on or before February 5, 1985 in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filing have been made with the Commission:

1. Long Island Lighting Company

[Docket No. ER85-231-000]

The filing Company submits the following:

Take notice that on January 14, 1985, Long Island Lighting Company (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the New York Power Authority to Brookhaven National Laboratory in Upton, New York. The proposed changes would increase revenues from such service by $38,750.40 based on the 12-month period ending May 31, 1984 and would expand service in order to include transmission of power and energy from the Power Authority to the Grumman Corporation.

LILCO states that the increase in the rates is necessary for LILCO to recover the increase in the cost of service.

LILCO requests an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the New York Power Authority, Brookhaven National Laboratory, the Grumman Corporation and the New York State Public Service Commission.

2. Pacific Power & Light Company, an Assumed Business Name of PacifiCorp

[Docket No. ER85-232-000]

The filing Company submits the following:

Take notice that on January 14, 1985, Pacific Power & Light Company (Pacific) tendered for filing, Contract Supplement Nos. 23 and 24, dated August 5, 1981 and April 6, 1982, respectively, to Pacific's Rate Schedule FPC No. 45 between Pacific and the Western Area Power Administration.

Pacific respectively requests, that a waiver of prior notice be granted and an effective date of August 5, 1981 and April 16, 1982 be assigned to Supplement Nos. 23 and 24, respectively.

Copies of the filing were supplied to Western and the Wyoming Public Service Commission.

3. Long Island Lighting Company

[Docket No. ER85-230-000]

The filing Company submits the following:

Take notice that on January 14, 1985, Long Island Lighting Company (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the New York Power Authority to the three municipal electric utilities on Long Island: The Villages of Greenport, Rockville Centre and Freeport. The changes increases revenues from such service by $63,771 based on the 12-month period ending May 31, 1984.

LILCO states that the purpose of the increase in rates is to recover the increase in the cost of service.

LILCO requests an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the New York Power Authority, the Municipal Electric Utilities Association of New York State, the Villages of Greenport, Freeport and Rockville Centre and the New York State Public Service Commission.

4. Portland General Electric Company

[Docket No. ER85-229-000]

The filing company submits the following:

Take notice that on January 14, 1985, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during November of 1984, along with a cost justification for the rates charged.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77-131 and the Oregon Public Utility Commissioner.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-2256 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-231-00, et al.]

Natural Gas Certificate Filings; Transcontinental Gas Pipe Line Corporation, et al.

January 18, 1985.

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-231-000]

Take notice that on January 16, 1985, Transcontinental Gas Pipe Line Corporation (Transco), P. O. Box 1396, Houston, Texas 77251, filed in Docket No. CP85-231-000 a request pursuant to § 157.205 of the Regulations of the Natural Gas Act (18 CFR 157.205) for authorization to transport on an interruptible basis up to 2,500 dt equivalent of natural gas per day for use in B.F. Goodrich Company's (B.F. Goodrich) plant in Pedricktown, New Jersey, under Transco's blanket certificate issued in Docket No. CP82-426-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport, for a term expiring June 30, 1985, on an interruptible basis up to 2,500 dt equivalent of natural gas per day, pursuant to the terms of a transportation agreement dated November 1, 1984, between Transco and B.F. Goodrich. It is asserted that the gas would be transported from the Agua Dulce Field, Nueces County, Texas, from a point of interconnection with the facilities of Valero Transmission Company, LaSalle County, Texas, to the existing delivery points of South Jersey Gas Company (South Jersey). Transco indicates the gas purchased by B.F. Goodrich from GHR Energy Company (GHR) would be used as boiler fuel at the Pedricktown plant.

Transco proposes to charge B.F. Goodrich a transportation charge based upon its currently effective Rate Schedule T-II, FERC Gas Tariff, Second Revised Volume No. 1.

Transco also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply not to delivery points in the market area. Transco will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities

herein and not to increase those quantities.

Comment date: March 4, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Algonguin Gas Transmission Company

[Docket No. CP83-348-003]

Take notice that on December 28, 1984, Algonquin Gas Transmission Company (Petitioner), 1248 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP83-348-003 a petition to amend the order issued June 30, 1983, in Docket No. CP83-348-000, as amended, pursuant to Section 7(c) of the Natural Gas Act as to authorize interruptible sales service on behalf of existing customers on a year-round basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner is authorized to render gas sales service, on an interruptible basis, to existing Rate Schedule F-1 customers, pursuant to its Rate Schedule I-2, for successive years during the period, April 16 through November 15 (summer period). The service available under Rate Schedule I-2 is contingent upon the availability of surplus gas on the Texas Eastern Transmission Corporation (Texas Eastern) system, a pipeline supplier of Petitioner, it is asserted. The surplus gas was made available to Petitioner during the summer period under Texas Eastern's Rate Schedule I-D.

It is stated that Texas Eastern's Rate Schedule I-D provides winter period (November 16 through April 15) sales and that Texas Eastern has informed Petitioner that gas surplus to its system requirements may be available under Rate Schedule I-D throughout the year. It is further stated that its existing customers have expressed an interest in the availability of a year-round service under Rate Schedule I-2. Petitioner has requested that the Commission amend the existing certificate so as to authorize Petitioner to render Rate Schedule I-2 service on a year-round basis, rather than solely during the summer period.

It is stated that Texas Eastern charges a higher rate for winter period interruptible gas than summer period deliveries. It is further stated that Texas Eastern's higher rate would be reimbursed automatically under the effective rate schedule and that the Petitioner does not intend to make any change in its effective rate. It is asserted that the proposal to expand the service to include winter period deliveries may bring deliveries within the period that Petitioner generally operates its compressor facilities. It is further asserted that Rate Schedule I-2 is being amended to include a fuel reimbursement provision to compensate for the operation of the compressor facilities, which is similar to provisions in several of Petitioner's other existing rate schedules.

Comment date: February 7, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Mississippi River Transmission Corporation

[Docket No. CP85-193-000]

Take notice that on December 21, 1984, Mississippi River Transmission Corporation (Mississippi), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP85-193-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and conversion of abandoned field production or exploratory wells to storage field wells and the construction and operation of related minor facilities in Mississippi's East and West Unionville storage fields located in Lincoln Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mississippi proposes blanket certificate authorization for a five-year period to acquire abandoned production wells which have been and may be drilled by others within the existing surface boundaries of its East and West Unionville storage fields. Mississippi states that in recent years producers have increased drilling activities in the area of its Unionville storage fields in efforts to find commercially producible quantities of natural gas in formations underlying the storage reservoirs in these fields. Mississippi further states that it believes that certain of the wells which have been and may be drilled and which are ultimately abandoned by producers may be located in areas of the storage fields in which an observation well or injection/withdrawal well would be useful in conducting storage operations. Additionally, Mississippi, further believes that such wells could be acquired and converted for use in storage operations at costs less than would be incurred to drill new wells.

Mississippi states that its proposal would permit it to acquire such wells as it may determine would be useful in conducting its storage operations at the time the wells are abandoned by producers. Mississippi also states that while the costs related to the acquisition, conversion, and attachment to its existing field gathering system of specific wells cannot be known at this time, total costs to be incurred under this proposal would not exceed $5 million. Additionally, Mississippi states that it would not acquire more than 10 wells in total under this proposal. Mississippi states that it would file with the Commission annual reports similar to what is described in Section 157.215(b)(1) of the Commission's Regulations regarding underground storage testing and development.

Comment date: February 7, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Algonquin Gas Transmission Company

[Docket Nol. CP82-119-013]

Take notice that on January 4, 1985, Algonquin Gas Transmission Company (Petitioner), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-119-013 a petition to amend the Commission's order issued June 18, 1984 in Docket No. CP82-119-000, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize a change in delivery point for its customer, Commonwealth Gas Company (Commonwealth), under Rate Schedule F-2, and Rate Schedule F-3, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that, subsequent to the authorization issued to it on June 18, 1984, as amended, it received a request from its customer, Commonwealth, to change the delivery point under Rate Schedule F-2 and Rate Schedule F-3 from the Westwood, Massachusetts, meter station to the Third Street meter stations located in Cambridge, Massachusetts. To comply with Commonwealth's request, Petitioner proposes to supersede the existing service agreements under Rate Schedule F-2 and Rate Schedule F-3 to reflect such a change. Petitioner further states that there would be no adverse effect on the other Rate Schedule F-2 and Rate Schedule F-3 purchasers.

Petitioner also requests that the Commission find and determine that the proposal set forth in the application does not involve a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 83 Stat. 853, 42 U.S.C. 4332(2)(C)(1982), and § 157.14(a)(6-d) of the Commission's Regulations under the Natural Gas Act.

Comment date: February 4, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Northwest Central Pipeline Corporation

[Docket No. CP80-499-007]

Taken notice that on January 2, 1985, Northwest Central Pipeline Corporation (NW Central), P.O. Box 3288, Tulsa, Oklahoma 7401, filed in Docket No. CP80-499-007 a petition to amend further the Commission's order issued December 22, 1980 in Docket No. CP80-499-000, as amended, pursuant to section 7(c) of the Natural Gas Act authorizing a one-year extension of its limited-term sale of gas to El Paso Natural Gas Company (El Paso) and changing the annual average sales quantity of gas from 200,000 Mcf per day to 100,000 Mcf per day, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

NW Central states that the sale to El Paso would continue to be made from its system supplies at a rate equal to its Rate Schedule I-2 rate. NW Central further states that this rate is fully compensatory and non-discriminatory. NW Central also states that it would continue to deliver the gas volumes to Natural Gas Pipeline Company of America at their interconnections in Ford and Barton Counties, Kansas, for transportation and redelivery to El Paso in Lea County, New Mexico.

Other than its proposed reduction in the annual average sale volume, NW Central states that it seeks no other change of its prior arrangement.

Comment date: February 7, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission be considered by it in determining the appropriate action to be taken, but will not serve to make 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 jurisdiction conferred upon the Federal Energy Regulatory 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 or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-2257 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-20-000 and TA85-5-20-001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 24, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on January 17, 1985 tendered for filing First Revised Sheet No. 204 and Eleventh Revised Sheet No. 213 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that First Revised Sheet No. 204 is being filed to reflect in Algonquin Gas' Rate Schedule F-3 revised rates in National Fuel Gas Supply Corporation's ("National Fuel") underlying Rate Schedule RQ. Eleventh Revised Sheet No. 213 is being filed to reflect in Algonquin Gas' Rate Schedule S-IS, a decrease in Texas Eastern Transmission Corporation's ("Texas Eastern") underlying Rate Schedule ISS-III Withdrawal Charge.

Algonquin Gas requests that the Commission accept First Revised Sheet No. 204 and Eleventh Revised Sheet No. 213, to be effective February 1, 1985, to coincide with the proposed effective date of National Fuel and Texas Eastern's respective rate changes.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before January 31, 1985. Protest will be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2247 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-36-002]

ANR Pipeline Co.; Filing

January 23, 1985.

Take notice that on January 14, 1985, ANR Pipeline Company (ANR) tendered for filing Substitute Second Revised Sheet No. 667A to its FERC Gas Tariff, First Revised Volume No. 2. ANR asserts that this filing is in compliance with Ordering Paragraph (B) of the Federal Energy Regulatory Commission's (Commission) December 28, 1984, order (order) in Docket No. RP85-36-000. ANR also submitted additional statements and schedules required in Ordering Paragraph (C) of the order.

ANR states that copies of its letter were served on all parties in the proceeding referenced on the service list.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2248 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-64-000]

Colorado Interstate Gas Co.; Tariff Filing

January 23, 1985.

Take notice that on January 14, 1985, Colorado Interstate Gas Company (CIG) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Substitute Alternate Twentieth Revised Sheet No. 7—proposed effective date—December 1, 1984.

Second Substitute Alternate Twentieth Revised Sheet No. 8—proposed effective date—December 1, 1984.

Substitute Replacement Twenty-First Revised Sheet No. 8—proposed effective date—December 2, 1984.

CIG asserts that these tariff sheets are in compliance with both Ordering Paragraph (F) of the Federal Energy Regulatory Commission's (Commission) December 13, 1984, order in Docket No. TA85-2-32-000 and § 154.111(a)(2) of the Commission's regulations which state:

> No rate schedule or tariff governing the sale of natural gas and filed on or after July 31, 1984, may provide for recovery of variable costs associated with gas not taken by the buyer.

CIG requests whatever waiver of the Commission's regulations as may be deemed necessary to accept these tariff sheets for filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2249 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-27-000]

Iowa Public Service Co.; Application

January 25, 1985.

Take notice that on January 16, 1985, Iowa Public Service Company filed an application pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $60 million of short-term unsecured promissory noted to commercial banks and its parent or affiliate companies and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1986, and will bear final maturity dates not later than March 31, 1987.

Any person desiring to be heard or to protest the application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2250 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-65-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

January 24, 1985.

Take notice that on January 17, 1985, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule TS-1 consisting of Original Sheet Nos. 82 and 83, and a revised Table of Contents and Index to its Volume No. 1 Tariff consisting of Fourth Revised Sheet Nos. 1 and 14.

Northwest states the purpose of this filing is to set forth on a prospective basis, the terms and conditions of transportation of natural gas under Order 319 issued July 20, 1983 in Docket No. RM81-19-000 and § 157.209 of the Federal Energy Regulatory Commission's regulations for an end user, local distribution company, interstate pipeline company or intrastate pipeline company.

Northwest requests an effective date of February 17, 1985 for the tendered tariff sheets.

A copy of this filing has been served on Northwest's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-2251 Filed 1-28-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-031]

Pennzoil Co.; Seventeenth Amendment to Application for Immediate Clarification or Abandonment Authorization

January 23, 1985.

Take notice that on January 22, 1985, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-031 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket or abandonment authorization for as much gas as is required to allow sales of gas to four new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25,

1982. In filing this Seventeenth Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend upon Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty . . . to provide adequate gas service to all applicants . . . and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same.

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, January 31, 1985, file with the Federal Energy Regulatory 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 385.211, 385.214). All protests filed with the Commisson 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 the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G–7004–006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G–7004–031.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2252 Filed 1–28–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP85–13–000]

Southern Natural Gas Co., Petition of Southern Natural Gas Company for Partial Waiver of Regulations

Issued: January 24, 1985.

On December 28, 1984, Southern Natural Gas Company (Southern) petitioned, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (1984), for a partial waiver of paragraph (e) of § 271.1104 of the Commission's regulations, 18 CFR 271.1104(e), which was issued as part of Order No. 94–A [1] on January 24, 1983. This waiver is requested in order that Southern may make retroactive payments after December 31, 1984 for delivery and compression costs incurred by producers between the earlier of July 25, 1980, or the date their application to recover such costs was filed with the Commission, and March 7, 1983.

Southern states that it and other pipelines [2] have been experiencing difficulties in connection with the review, verification and payment by December 31, 1984, of retroactive production-related claims as provided in 18 CFR § 271.1104(e)(3).[3] Southern therefore requests that the provisions of § 271.1104(e)(3) of the Commission's regulations be waived so as to permit the payment by Southern of retroactive allowances in twelve equal monthly installments beginning after verification of invoices and ending no later than June 30, 1986. Southern states that this extension is consistent with the extensions sought by other pipelines, and will prevent the economic dislocation that otherwise may occur if payment is made in a lump sum.

Any person desiring to be heard or to protest Southern's filing should file within 15 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person desiring to become a party must file a petition to intervene.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2253 Filed 1–28–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No RP81–60–007]

Valero Interstate Transmission Co.; Filing

January 24, 1985.

Take notice that on January 15, 1985, Valero Interstate Transmission Company (Vitco) tendered for filing a restatement of all of its FERC gas rate schedules (except FERC Gas Rate Schedule T–1) currently on file with the Federal Energy Regulatory Commission (Commission) pursuant to the terms of Article VIII of the "Stipulation and Agreement in Settlement of Rate Proceedings" approved on October 7, 1982 by Commission letter order. These rate schedules have been restated in a tariff format as Original Volume No. 2 of Vitco's FERC Gas Tariff. Vitco also tendered for filing First Revised Sheet Nos. 5, 6, and 7 to its Original Volume No. 1, FERC Gas Rate Schedule T–1, to reflect current conditions. Vitco requests that March 1, 1985 be the effective date for these tariff sheets.

Vitco requests the following waivers in order to change its rate schedule format to conform with the FERC tariff format. First, Vitco requests waiver of Ordering Paragraph (E) of Opinion No. 362, 28 FPC 401 (1962), which requires Vitco to submit contracts as FERC Gas Rate Schedules and amendments as supplements. Second, Vitco requests waiver of the § 154.1 requirements of the Commission's regulations, 18 CFR 154.1, so that Vitco is not required to file in tariff format all of numerous gas purchase contracts dedicated to its three gas sales rate schedules. In lieu of filing the gas purchase contracts, Vitco has submitted as a part of each gas sales tariff a listing of the dedicated gas purchase contracts with a description of

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[1] Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR 5152 (Feb. 3, 1983) (Order No. 94–A; Final Rule and Order on Rehearing of Order No. 94) (codified at 18 CFR Parts 2, 154, 270 and 271).

[2] Transcontinental Gas Pipe Line Corporation in Docket No. GP84–53–000 and Columbia Gas Transmission Corporation in Docket No. GP85–3–000.

[3] Section 271.1104(e)(3) provides that amounts are "to be collected through installments over a period of time commencing with March 7, 1983 and ending December 31, 1984; and such installments should, to the maximum extent practicable, be of equal amounts."

dedicated acreage. Vitco also requests a waiver of the 30-day notice requirement under section 4(d) of the Natural Gas Act (NGA), and asks for a waiver which would grant it authority to amend its list contracts once a year to reflect additions, deletions and changes.

Vitco has also included in the instant filing notices of cancellation of its FERC Gas Rate Schedule Nos. 3–9, all of which have been terminated. Vitco has asked for any waivers necessary to make these effective as of the date indicated on each notice.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–2254 Filed 1–28–85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 2742–6]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its Assembly-Line Test Procedures for 1983 and subsequent model year passenger cars, light-duty trucks and medium-duty vehicles. The amendments were adopted to provide for reduced, statistically valid quality audit testing for large engine families and to provide incentives to manufacturers to produce better quality low emission vehicles. I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its assembly-line test procedures. Since these amendments are within the scope of these waivers, a public hearing or comment period to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN340–F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW, Washington, D.C. 20460 (Docket EN–84–07). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. McKnight as noted below.

FOR FURTHER INFORMATION CONTACT: Cynthia Garrett McKnight, Attorney/Advisor, Manufacturers Operations Division (EN340–F), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–2521.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the changes replace "Excellence of Quality" procedures previously used to determine the eligibility of engine families for reduced quality audit testing with new statistically valid procedures to determine an engine family's eligibility for reduced testing. The amendments also require monthly evaluations of emissions data from tested vehicles to determine necessary adjustments in the rate of reduced testing and to allow for reduced testing beginning in the manufacturers' first quarter of production.

The changes do not undermine California's determination that its standards are, in the aggregate, at least as protective as Federal standards. A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since these amendments are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. The public has not had an opportunity to comment in advance of this determination. Therefore, my determination on these amendments will become final at the expiration of 30 days following publication of this notice, unless an objection is filed and a public hearing is scheduled.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b) (2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

This action is not a rule as defined by section 1(a) of the Executive Order 12291, 46 FR 13193 (February 19, 1981), because it does not "implement, interpret, or prescribe law or policy." Therefore, it is exempt from review by the Office of Management and Budget required for rules and regulations by Executive Order 12291. Additionally a Regulatory Impact Analysis is not being prepared for this within the scope determination since it is not a rule.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2) because EPA is not

[1] 45 FR 54126 (August 14, 1980) and 44 FR 7607 (February 7, 1979).

required to undergo prior "notice and comment" section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: January 17, 1985.

Lee M. Thomas,

Acting Administrator.

[FR Doc. 85-2188 Filed 1-28-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51552; TSH-FRL 2749-5]

Certain Chemicals; Premanufacturer Notices

Correction

In FR Doc. 85-244 beginning on page 543 in the issue of Friday, January 4, 1985, make the following correction:

On page 544, first column, "PMN 85-317" should have read "PMN 85-314".

BILLING CODE 1505-01-M

[OPTS-51554; FRL-2758-5]

Certain Chemicals; Premanufacturer Notices

Correction

In FR Doc. 85-1436 beginning on page 2718 in the issue of Friday, January 18, 1985, make the following correction:

On page 2720, first column, "P 85-385" should have read "P 85-395".

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Application for Capital Assistance. (OMB No. 3064-0066).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget, Standard Form 83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389-4351.

Summary

The FDIC is requesting OMB to extend to January 31, 1988, the authorization to require banks to submit written application to obtain capital assistance from the FDIC. The FDIC requires a bank in need of capital assistance, as authorized by section 13(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823), to submit a written application, in letter form, containing the data necessary for the FDIC to determine the bank's eligibility for assistance and to compute the amount of assistance to be given the bank. It is estimated that it takes 50 hours for the average bank to prepare the letter application.

Dated: January 18, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-2146 Filed 1-28-85; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 85-3]

Matson Navigation Company, Inc., Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports; Investigation and Hearing

On November 19, 1984, Matson Navigation Company, Inc. (Matson) filed amendments[1] to its Tariffs FMC-F Nos. 9, 10, 11 and 12 proposing an overall rate increase of 2.5 percent on all rates and charges on commodities moving in its Pacific Coast/Hawaii trade (except on molasses in bulk) to become effective January 1, 1985. Documents submitted in support of the rate increase indicate that the rate increase would permit Matson to earn a 13.65 percent rate of return on its rate base for 1985.

A protest received from Chrysler Corporation (Chrysler) states that Matson's increase will make it increasingly difficult for Chrysler to remain competitive in Hawaii and that Matson should improve productivity in order to recover cost increases.

In its reply to Chrysler's protest, Matson states it agrees with Chrysler's philosphy that in order to remain competitive it must make every effort to offset unavoidable cost increases through productivity increases. Matson claims its adherence to the philosophy is evidenced by the fact that it has taken only a 2.5 percent increase during a two year period in which the Consumer Price Index has gone up by about 9 percent.

A preliminary analysis of the rate-of-return by the Commission's Office of Policy Planning and International Affairs (OPPIA) concluded that the increase was excessive. Accordingly, the Commission approached Matson informally in an effort to negotiate a reduction in the 2.5 percent increase. Matson rejected these efforts arguing that the 13.65 return on rate base was not excessive. In further support of its position, Matson subsequently submitted the written "testimony" of Zvi Benderly, wherein Mr. Benderly concludes that Matson's permissible rate of return is in the 14.5-15 percent range. Based on its review and analysis of the testimony of Mr. Benderly, OPPIA disputes the findings of Matson's witness and concludes that Matson's rate increase results in an unreasonably high rate of return.

Discussion

Both the analysis prepared by OPPIA and that prepared by Mr. Benderly are consistent with the methodology set forth in the Commission's regulations [46 CFR 552.6(d)(2)(ii)]. Both considered the return on total capital earned by U.S. corporations, the risks of Matson vis-a-vis those of an average U.S. corporation as indicated by, among other things, the variability of earnings and the current trends in rates of return and interest rates. Perhaps the greatest difference between the methodology employed by Mr. Benderly and that used by OPPIA involves the selection of a time period for estimating risk based upon the variation in earnings analysis. Mr. Benderly believes a fifteen-year period (1968-1982) is appropriate. OPPIA disagrees, believing that a ten-year period (1973-1982) provides a better indicator of Matson's future risk. There is also a fundamental disagreement between Mr. Benderly and OPPIA

[1] Involved publications are Supplement No. 1 to FMC-F No. 9, Supplement No. 1 to FMC-F No. 10, Supplement No. 1 to FMC-F No. 11 and Supplement No. 1 to FMC-F No. 12.

regarding current trends in rates of return and interest rates.

Whether Matson's increase results in an excessive rate of return depends on the level of the fair rate of return, which in turn depends on the choice of methodology. The Commission cannot determine on the basis of the information before it, which of the two methodologies is more appropriate. Accordingly, the Commission will order a hearing to determine the appropriate methodology for calculating Matson's fair rate of return and whether Matson's increases are excessive when measured by that standard.

As Chrysler's protest did not address the allowable rate of return issue Chrysler will not be named a Protestant in this proceeding. Chrysler may, however, file a petition to intervene.

Further, as Matson's 2.5 percent increase is not a general rate increase under the terms of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, *et seq.*), the only remedy available if Matson's rate of return is found to be excessive is the establishment of a just and reasonable rate.

Threfore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 (46 U.S.C. app. 817 and 821) and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 821, 845 and 845a), an investigation be instituted to determine whether the rate increase of 2.5 percent shown in the following tariff supplements published by Matson Navigation Co. is just and reasonable:

FMC–F No. 9, Supplement No. 1
FMC–F No. 10, Supplement No. 1
FMC–F No. 11, Supplement No. 1
FMC–F No. 12, Supplement No. 1

It is further ordered, That in determining the fair rate of return for Matson Navigation Co., the following issues shall be addressed:

1. What is the most appropriate methodology to assess the relative business and financial risks of Matson Navigation Co. vis-a-vis those of an average U.S. corporation?

2. Using that "most appropriate methodology" of comparison, are the business and financial risks faced by Matson Navigation Co. greater or less than those faced by an average U.S. corporation?

3. What are the current trends in rates of return and interest rates?

It is further ordered, That Matson Navigation Co. is named respondent in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, That the prehearing statements required to be filed by all parties in accordance with Rule 67(d)(2) of the Commission's Rules of Practice and Procedure (46 CFR 502.67(d)(2)) shall be filed no later than seven days after the service of this Order of Investigation and Hearing;

It is further ordered, That all parties will serve testimony and exhibits constituting their direct case, together with all the underlying workpapers, on all parties and lodge copies of testimony and exhibits with the Administrative Law Judge no later than February 11, 1985 and will serve any rebuttal testimony and exhibits they wish to present, together with all the underlying workpapers, on all parties and lodge copies of any rebuttal testimony and exhibits with the Administrative Law Judge no later than February 19, 1985;

It is further ordered, That subsequent to the exchange of testimony, exhibits and underlying data constituting the parties' direct cases the Administrative Law Judge shall, at his discretion, direct all parties to attend a prehearing conference to consider:

1. Simplication of issues;

2. Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

3. The need for filing of rebuttal testimony and exhibits, together with underlying workpapers;

4. Identification of any issues which require an evidentiary hearing;

5. Limitation of witnesses and areas of cross-examination should an evidentiary hearing be necessary;

6. Requests for subpoenas; and

7. Other matters which may aid in the disposition of the hearing.

It is further ordered, That after considering the procedural recommendations of the parties, the Administrative Law Judge shall limit the issues to the extent possible and establish a procedure for their resolution;

It is further ordered, That any hearing in this proceeding shall be completed within sixty (60) days of the January 1, 1985 effective date of the tariff matter under investigation;

It is further ordered, That the initial decision of the Presiding Administrative Law Judge shall be submitted in writing to the Commission within one hundred and twenty (120) days of the January 1, 1985 effective date of the tariff matter under investigation, and the final decision of the Commission shall be issued within one hundred and eighty (180) days of the January 1, 1985 effective date of the tariff matter under investigation;

It is further ordered, That during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record; and

Finally, it is ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.*

Francis C. Hurney,

Secretary.

Commissioner Moakley, *dissenting.*

The majority decision to commence an investigation and hearing into this 2.5 percent increase by Matson Navigation Company is a costly exercise in futility and a frustration of the Congressional intent in passing the Intercoastal Shipping Act Amendments of 1978, Pub. L. No. 95–475, 92 Stat. 1494 (1978).

This is the first across-the-board increase filed by Matson in two years. While previous rate increases by this carrier have generated numerous protests from shippers and from the State of Hawaii, the current increase was met with only one protest, in the

* Commissioner Thomas F. Moakley's dissenting opinion is attached. Commissioner Robert Setrakian is also dissenting. His opinion will follow.

form of a letter from the Chrysler Corporation. That letter simply suggests that Matson should find more ways to increase productivity before raising its rates. Matson responded by agreeing entirely with Chrysler's philosophy and suggesting that its success in increasing productivity has been the primary reason why its rates have increased only 2.5 percent in a two year period when the consumer price index has increased by about 9 percent.

The majority base their decision to investigate this increase upon a disagreement between Matson and the Commission's Office of Policy Planning and International Affairs over rate of return methodology issues. According to Matson's methodology, their 13.65 percent projected rate of return is well within the bounds of a reasonable return. According to OPPIA, a 13.65 percent return slightly exceeds a reasonable return. The major differences between the two opinions involve the assessment of risk and projections of interest rates and rates of return.

The Intercoastal Shipping Act of 1933, was amended in 1978 to limit and streamline the Commission's authority over rates in the domestic offshore trades. The primary stimuli for these legislative changes were the lengthy rate proceedings conducted by the Commission during the mid-1970s and the lack of remedies available to ratepayers at the conclusion of such proceedings. One of the major reasons cited for the length of these former proceedings was the continually recurring litigation over methodology questions. Congress specifically addressed this problem by directing the Commission to establish methodology guidelines by rule in order to avoid repeated and lengthy litigation over such issues. *See e.g.* S. Rep. No. 1240, 95th Cong. 2d Sess. 13 (1978).

Moreover, Congress limited the Commission's suspension authority to that portion of a carrier's cumulative rate increases which exceeded 5 percent in any 12 month period. In return for this limit, shippers could be awarded a refund for any portion of an unsuspended general rate increase later found to be unreasonable. A general rate increase was defined, in part, as one which increases a carrier's gross revenues by at least 3 percent.

The instant Matson increase does not qualify as a general rate increase, cannot be suspended, and, if found unreasonable, cannot be refunded to the ratepayers. The majority would investigate not because shippers are complaining, but rather to resolve a methodology question that Congress clearly told us to handle by rule.

Finally, if we do find, after six months of extensive effort by all concerned, that Matson's *projected* rate of return is slightly higher than that deemed to be fair and reasonable, our only remedy is to direct Matson to decrease the 2.5% increase *prospectively*. At that point, there is nothing to prevent the carrier from filing another increase of less than 2.5 percent to make up the difference and to start the cycle over again. Clearly Congress did not intend for this Commission to pursue such unproductive issues.

The concern over a possibly excessive rate of return by Matson is clearly unrelated to this carrier's recent earnings history. The data supplied with this increase indicate that Matson's average rate of return between 1979 and 1983 was 9.08 percent at the same time that the average yield on A-rated bonds was 13.9 percent. These statistics are important factors to be considered in assessing the risk of investing in a regulated company such as Matson which is now being challenged for seeking the *opportunity* to earn 13.65 percent.

For all of the foregoing reasons I strongly disagree with the majority's decision to engage in this futile investigation.

[FR Doc. 85-2216 Filed 1-28-85; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants, Air, Land, Ocean Int'l. Svc., et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Air, Land, Ocean Intl. Svc., 4201 Long Beach, Long Beach, CA 90807, Officers: Essie Stewart, President, John Ferguson, Vice President

International Pursuits, Ltd., 15009 Stevens Avenue South, Burnsville, MN 55337, Officers: Larry P. Garrison, President/Director, June Oakins, Vice President

Mega Trans Corporation, 437 Rozzi Place, South San Francisco, CA 94080, Officers: Siegbert Eichhorst, President, Michael Bruce Baird, Vice President

Georges Toufic Samaha dba Metro Freight Services, 705 Franklin Avenue, Massapequa, NY 11758

Boris Joseph Frigan dba Four Stars Forwarding, 10581 Oakbend Drive, San Diego, CA 92128

Roger A. Halphen dba Seaway International Transport, 2701 S.W. 90th Avenue, Miami, FL 33165

By the Federal Maritime Commission.

Dated: January 24, 1985.

Francis C. Hurney,

Secretary.

[FR Doc. 85-2262 Filed 1-28-85; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations; Suzanne's Forwarding Corp., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2710
Name: Suzanne's Forwarding Corporation
Address: One World Trade Ctr., #1149, New York, NY 10048
Date Revoked: December 14, 1984
Reason: Voluntarily requested revocation

License Number: 1725
Name: Mory Intermodal Transport Co., Inc.
Address: 5 World Trade Ctr., #9289, New York, NY 10048
Date Revoked: December 16, 1984
Reason: Failed to maintain a valid surety bond

License Number: 955-R
Name: A. B. Barone Forwarding, Inc.
Address: 1251 Riviera Avenue, New Orleans, LA 70122
Date Revoked: January 9, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1310
Name: Neptune Worldwide Moving, Inc.
Address: 55 Weyman Avenue, New Rochelle, NY 10805
Date Revoked: January 9, 1985
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-2263 File 1-28-85 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Commerce Group, Inc., and The National Bank of Commerce Trust and Savings Association; Formations of, Acquisitions by, and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become bank holding companies or to acquire voting securities of banks or bank holding companies. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (49 Federal Register 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of companies engaged in nonbanking activities that are listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such activities. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 15, 1985.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Group, Inc.*, Lincoln, Nebraska and *The National Bank of Commerce Trust and Savings Association*, Lincoln, Nebraska; to acquire up to 100 percent of the voting shares, respectively, of Commerce Group Kearney, Inc., Kearney, Nebraska (indirectly acquiring First National Bank and Trust Company of Kearney, Kearney, Nebraska); Commerce Group Hastings, Inc., Hastings, Nebraska (indirectly acquiring City National Bank and Trust Co., Hastings, Nebraska); Commerce Group West Point, Inc., West Point, Nebraska (indirectly acquiring The First National Bank of West Point, West Point, Nebraska); Commerce Group Grand Island, Inc., Grand Island, Nebraska (indirectly acquiring The Overland National Bank of Grand Island, Grand Island, Nebraska); and Commerce Group North Bank, North Platte, Nebraska (indirectly acquiring North Platte National Bank, North Platte, Nebraska (formerly North Platte State Bank)).

Applicants have also applied to retain the following institutions which are now owned by Commerce Group, Inc., Lincoln, Nebraska, as industrial banks under authority granted under Section 4 of the Bank Holding Company Act and to operate these institutions as banks under Section 3 of the Bank Holding Company Act: Commerce Savings Lincoln, Inc., Lincoln, Nebraska; Commerce Savings Scottsbluff, Inc., Scottsbluff, Nebraska; and Commerce Savings Columbus, Inc., Columbus, Nebraska.

Additionally, Commerce Group, Inc. has applied to indirectly acquire Commerce Affiliated Life Insurance Company, Phoenix, Arizona, through the proposed acquisition of Commerce Group, Kearney, Inc., Commerce Group Hastings, Inc., Commerce Group West Point, Inc., Commerce Group Grand Island, Inc., and Commerce Group North Platte, Inc.; and to indirectly acquire West Point Insurance Agency, West Point, Nebraska, through the proposed acquisition of Commerce Group West Point, Inc. West Point Insurance Agency will engage in the activity of acting as agent for the sale of general insurance in a town with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2129 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

Delaware National Bancshares Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 21, 1985.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Delaware National Bancshares Corp.*, Georgetown, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of the Delaware National Bank, Georgetown, Delaware.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers Bancshares, Inc.*, Pomeroy, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers Bank and Savings Company, Pomeroy, Ohio.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Security Acadia Bancshares, Inc.*, Rayne, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Rayne State Bank and Trust Company, Rayne, Louisiana.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Cromwell Financial Corp.*, Cromwell, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank Cromwell, Cromwell, Indiana.

2. *F & M Bancorporation, Inc.*, Kaukauna, Wisconsin; to merge with WCB Corporation, Omro, Wisconsin, thereby indirectly acquiring Winnebago County Bank, Omro, Wisconsin.

3. *Mt. Zion Bancorp, Inc.*, Mt. Zion, Illinois; to acquire 70.40 percent of the voting shares of First National Bank of Mt. Zion, Mt. Zion, Illinois.

4. *Security Bancorp, Inc.*, Southgate, Michigan; to acquire 100 percent of the voting shares of Imlay City State Bank, Imlay City, Michigan.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Texico Bancshares Corporation*, Texico, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of Texico State Bank.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mount Vernon Bankshares, Inc.*, Mount Vernon, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Mount Vernon, The Mount Vernon, Texas.

2. *Provident Bancorp, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Provident Bank-Denton, Denton,Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2130 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

First Interstate Bancorp; Application to Engage de novo in Nonbanking Activities

The company listed in this notice has filed an application under section 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activity will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than Februray 22, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bankcorp*, Los Angeles, California; to engage *de novo* through its subsidiary, First Interstate Discount Brokerage, San Francisco, California, in acting as agent for purchase and sale of precious metals for the account of others.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 2131 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

Horizon Bancorp; Application to Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under section 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)), to engage *de novo* through a state chartered bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than February 14, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Horizon Bancorp*, Morristown, New Jersey; to engage through a state chartered bank subsidiary, Horizon State Bank of New York, New York, New York, in deposit-taking, including demand deposits; the issuance and sale of U.S. Treasury securities and municipal securities.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2132 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

MCorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under section 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1985.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp*, Dallas, Texas; to engage through its subsidiary, Florida Computer Services, Inc. (doing business as "Infoserve"), Altamonte Springs, Florida, in permissible data processing services.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2133 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

Merchants Bancshares, Inc., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under section 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 19, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *Merchants Bancshares, Inc.*, Kenner, Louisiana; to engage *de novo* through its subsidiary, Merchants Mortgage Corporation, Kenner, Louisiana, in making, originating, acquiring or servicing loans such as would be made by a consumer finance company; to sell such loans in the secondary market through FNMA, FHLMC, private institutional investors, or other private investors; and to sell credit life, credit disability and involuntary unemployment insurance directly related to any such extensions of credit so made or originated. These activities would be conducted in the State of Louisiana.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Banking Corporation*, Flint, Michigan; to engage *de novo* through its subsidiary, Citizens Heritage Life Insurance Company, Phoenix, Arizona, in the activity of underwriting as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit by the credit extending affiliates of Citizens Banking Corporation. The activity will be conducted from offices in Phoenix, Arizona.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bankshares, Inc.*, Abilene, Texas; to engage *de novo* through its subsidiary, First Independent Bankshares Life Insurance Co., Abilene, Texas, in underwriting credit related insurance that is directly related to an extension of credit by the bank holding company system. This activity will be conducted in the State of Texas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation*, Salt Lake City, Utah; to engage *de novo* through an existing subsidiary, First Security Insurance, Inc., Salt Lake City, Utah, in general insurance agency and brokerage activities pursuant to exemption G, title VI of the Garn-St Germain Depository Institutions Act of 192. These activities will be conducted through the State of Utah.

Board of Governors of the Federal Reserve System, January 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2134 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

Investark Bankshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 7, 1985.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Investark Bankshares, Inc.*, Stuttgart, Arkansas: to acquire at least 80.1 percent of the voting shares of North Central Financial Corporation, Melbourne, Arkansas, thereby indirectly acquiring The Bank of North Arkansas, Melbourne, Arkansas.

Board of Governors of the Federal Reserve System, January 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2371 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

State Street Bank & Trust Co.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"). The Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than February 12, 1985.

A. Board of Governors of the Federal Reserve System, (William W. Wiles, Secretary) Washington, D.C. 20551:

State Street Bank & Trust Co., Boston, Massachusetts: to establish a corporation to be known as State Street International Holdings, Boston, Massachusetts would operate as a subsidiary of State Street Bank & Trust Co., Boston, Massachusetts. This application may be inspected at the Federal Reserve Bank of Boston.

Board of Governors of the Federal Reserve System, January 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2370 Filed 1-28-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Discontinuance of Review of Complaints Concerning Contracts Under Federal Grants

AGENCY: General Accounting Office.

ACTION: Notice of discontinuance of review of complaints concerning contracts under Federal grants.

SUMMARY: On September 12, 1975, the General Accounting Office published a notice that it would undertake the review of complaints concerning the award of contracts under Federal grants. The General Accounting Office has determined that it will no longer review such complaints.

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: James W. Vickers, Senior Attorney, General Accounting Office, 441 G Street, NW., Washington, D.C. 20548; telephone (202) 275-6181.

SUPPLEMENTARY INFORMATION: On September 12, 1975, the General Accounting Office published in the Federal Register (40 FR 42406), a notice that the General Accounting Office would undertake the review of the award of contracts under Federal grants. The GAO has determined to no longer consider such complaints because of the following reasons:

As stated in the 1975 notice, we undertook the review to further compliance by grantees with competitive bidding requirements imposed by Federal agencies relative to the expenditure of Federal grant funds. In the more than 9 years that have elapsed since the notice was published, the number of complaints filed by disappointed contractors has steadily decreased. In the same timeframe, the major grantor agencies have instituted their own review procedures of complaints against the award of contracts under grants to assure compliance by the grantees with the applicable regulations. It is evident to us, therefore, that our review of grantee compliance with Federal bidding requirements is not needed at this time.

Dated: January 23, 1985.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 85-2138 Filed 1-28-85; 8:45 am]

BILLING CODE 1610-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0146]

Federation of American Societies for Experimental Biology; Closed Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming closed meeting of the Federation of American Societies for Experimental Biology's (FASEB) Scientific Steering Group on the Use of Scientific Expertise in Food and Cosmetic Safety Analyses (Scientific Steering Group). The Scientific Steering Group will meet in executive session to review progress on task orders initiated since June 1, 1984, and to evaluate study procedures used on task order number 5 in conjunction with a contract that FDA has with FASEB concerning the use of outside scientific expertise in food and cosmetic safety analyses.

DATE: The closed meeting will be held at 9 a.m., February 8, 1985.

ADDRESS: The meeting will be held at the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 30, 1984 (49 FR 18358), FDA announced an open meeting of FASEB's Scientific Steering Group. That meeting was held on May 11, 1984. In the **Federal Register** of August 1, 1984 (49 FR 30798), FDA announced a closed meeting of FASEB's Scientific Steering Group. That meeting was held on August 14, 1984.

FDA has a contract with FASEB concerning the use of outside scientific expertise in food and cosmetic safety analyses. The objectives of this contract are (1) to provide expert, objective counsel to FDA on general and specific issues of scientific fact and (2) to explore various review mechanisms with respect to their effectiveness and efficiency. FASEB established the Scientific Steering Group to serve FASEB in conjunction with this contract.

In accordance with 21 CFR 14.15(b)(1), notice is given that the Scientific Steering Group will hold a closed meeting in executive session on February 8, 1985, to review progress on task orders initiated since June 1, 1984, under the contract and to evaluate the procedures used in the completion of task order number 5 under the contract.

An open meeting of the Scientific Steering Group will be held later in 1985 and will be announced in the **Federal Register**.

Dated: January 23, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–2135 Filed 1–24–85; 10:42 am]

BILLING CODE 4160–01–M

[Docket No. 84F–0409]

H.B. Fuller Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that H.B. Fuller Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium 2-hydroxy-3-(2-propenyloxy)-1-propanesulfonic acid monomer as a reactant to manufacture copolymers for use in adhesives.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under 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 5B3832) has been filed by H.B. Fuller Co., 1200 Wolters Blvd., Vadnais Heights, MN 55110, proposing that the food additive regulations be amended to provide for the safe use of sodium 2-hydroxy-3-(2-propenyloxy)-1-propanesulfonic acid monomer (CAS Reg. No. 52556–42–0) as a reactant to manufacture copolymers for use in adhesives for food packaging.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 22, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–2136 Filed 1–28–85 8:45 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mescalero Apache, NM; Addition of Land to Indian Reservation

January 14, 1985.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1. Notice is hereby given that under the authority of section 7 of the Act of June 18, 1934 (25 U.S.C. 467; 48 Stat. 984) the hereinafter described four parcels of land located in Otero and Lincoln Counties, New Mexico, were proclaimed to be a part of the Mescalero Apache Indian Reservation, effective January 14, 1985.

Tuton Ranch

Parcel No. 1 A parcel of land located in Otero County, New Mexico, locally known as the Tuton Ranch and being more particularly described as follows:
Township 15 South, Range 15 East, New Mexico Principal Meridian, Lots 1, 2, 3, 4, and N½ NE¼SW¼NE¼, N½SE¼NE¼, N½SE¼SE¼NE¼ Section 24.

Parcel No. 2 A parcel of land located in Otero County New Mexico, locally known as the Tuton Ranch and being more particularly described as follows:
Township 15 South, Range 16 East, New Mexico Principal Meridian, Lots 4, 5, 6, Section 19.

Cienegita Property

Parcel No. 3 A parcel of land located in Lincoln County, New Mexico locally known as the Cienegita property and being more particularly described as follows:
Township 11 South, Range 13 East, New Mexico Principal Meridian, Lot 2 and NE¼SW¼ Section 31.

Parcel No. 4 A parcel of land located in Lincoln County, New Mexico, locally known as the Cienegita property and being more particularly described as follows:
Township 11 South, Range 13 East, New Mexico Principal Meridian, Lot 4 and SE¼SW¼ and S½SE¼ Section 31.

These four parcels of land, containing 505.65 acres more or less, are subject to all valid rights, reservations, rights-of-way, and easements of record.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85–2150 Filed 1–28–85; 8:45 am]

BILLING CODE 4310–02–M

Turtle Mountain Band of Chippewas; Turtle Mountain Indian Reservation, Belcourt, ND; Transfer of Federally-Owned Lands

January 17, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On April 5, 1984, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949 as amended by Pub. L. 93–599 dated January 2, 1975 (88 Stat. 1954), the below described property was transferred by the Administrator of the General Services Administration to the Secretary of the Interior without reimbursement to be held in trust by the United States for the benefit and use of the Turtle Mountain Band of Chippewas, Turtle Mountain Indian Reservation, Belcourt, North Dakota.

5th Principal Meridian

Township 162 North, Range 70 West, Town of Belcourt

Sec. 21, more specifically described as:
Beginning at the center of said Section twenty-one (21); thence Northerly a distance of six hundred seventy-two and eight tenths (672.8) feet more or less along the quarter line to a point on the center line of the State Highway as surveyed and staked over and across said Northwest quarter of Section twenty-one (21), said point being station 628+22; thence running south 52°55' West

one thousand one hundred twenty-one (1,121.0) feet more or less to a point on the South line of said Northwest quarter of Section twenty-one (21), said point being station 817+01, thence Easterly along the South line of said Northwest quarter nine hundred and eigtht (908.0) feet more or less, to the point of beginning, excepting all of that portion lying within one hundred (100) feet of the highway center line which has heretofore been acquired for public highway purposes, containing 4.67 acres, more or less.

Subject to an easement for a road right-of-way over the following described property granted by the United States of America, Bureau of Indian Affairs to Vern Parisien in Realty Right-of-Way File No. 357(57) dated November 7 1983, and filed in the records of the Bureau of Indian Affairs, Aberdeen Area Office on December 6, 1983:

Commencing at the Southeast corner of said SE¼NW¼, Section 21, Township 162 North, Ranges 70 West, thence North 254 feet, thence Westerly 300 feet to intersect with North Dakota State Highway #5 right-of-way, thence North 30 feet along State Highway #5 right-of-way, thence Easterly a distance of 300 feet, thence South a distance of 30 feet to said point of beginning.

Subject to a 10-foot-wide easement for an electric distribution line as it now exists over the above-described property as granted by the United States of America, Bureau of Indian Affairs to Otter Tail Power Company in Realty Right-of-Way File No. 378(14) dated August 26, 1983, and filed in the records of the Bureau of Indian Affairs' Aberdeen Area Office on September 21, 1983.

Subject to existing easements for public roads and highways, public utilities, railroads, pipelines and to other easements and encumbrances of record.

No structures or alterations to existing structures shall be made which would exceed four hundred nine (409) feet in height unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14 CFR Part 77 "Objects Affecting Navigable Air Space," or under the authority of the Federal Aviation Act of 1958, as amended.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Turtle Mountain Band of Chippewas. Appropriate notations will be made in the land records of the Bureau of Indian Affairs.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-2165 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior, Susanville District Grazing Advisory Board, Susanville, California 96130.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on March 12, 1985.

The meeting will begin at 10:00 a.m. at the Cal Pines Lodge, located about 10 miles west of Alturas, California on the Cedarville Road. The agenda will include reorganization of the Board, a discussion of the Wild Horse Program, adoption fee waivers for wild horses, the CMA Program, the status of the grazing fee study, progress of Grazing and Rangeland Development Program for FY 1985, project funding in the future, CRS workshops, omnibus range bill, and other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m. on March 12, 1985, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by March 6, 1985. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 85-2261 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-40-M

Idaho Falls District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Thursday, February 28, 1985. Notice of this meeting is in accordance with Pub. L. 92-463. The meeting will begin at 9 a.m. at the Idaho Falls BLM Office, 940 Lincoln Road in Idaho Falls. The meeting is open to the public; public comments on agenda items will be accepted from 11:15 to 11:45 a.m.

Agenda items for the meeting include:

1. Idaho Falls District activities update.

2. *Progress reports on:* Big Lost grazing decisions; range inventory in the Pocatello Resource Area; 1986 grazing reductions in the Bannock Onieda EIS Area.

3. Review of RMP issues for Pocatello Resource Area.

4. Request for Grazing Advisory Board funds from the three Resource Areas.

5. Grazing fee study update pending arrival of the necessary information.

6. Update on Weed Control Program.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telephone: (208) 529-1020.

O'dell A. Frandsen,

District Manager.

January 21, 1985.

[FR Doc. 85-2259 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-01-M

[A-20302]

Arizona; Order Providing for Opening of Lands To Entry

January 22, 1984.

1. The lands described below were acquired by the United States in accordance with the Act of Congress approved February 26, 1931, 45 Stat. 1421, 40 U.S.C. section 258A (1964) and the acts supplementary thereto and amendatory thereof; and under further authority of the Colorado River Basin Salinity Control Act of June 24, 1974, 88 Stat. 266, 43 U.S.C. section 1571 et seq., which Act authorized the acquisition of lands for the construction, operation, maintenance, and control of well fields, for use in connection with the Colorado River Basin Salinity Control Program, and for such other uses as may be authorized by law:

Gila and Salt River Meridian, Arizona

T. 11 S., R. 24 W.,

Sec. 16, Lots 3, 4, NE¼, N½SE¼, excepting 1/16th of all gas, oil, metals and minerals rights reserved to the State of Arizona.

The area described contains 287.96 acres in Yuma County.

2. At 9 a.m., on March 5, 1985, the land described in paragraph 1 shall be open to mineral leasing under the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351), et seq., subject to valid existing rights, th provisions of existing withdrawals and the reqirements of applicable law. No applications will be accepted prior to March 5, 1985. All applications received

on March 5, 1985 prior to 9 a.m., will be considered as simultaneously filed as of 9 a.m. on March 5, 1985 and a drawing will be held in accordance with 43 CFR 1821.2-3, if necessary. Those received after 9 a.m. shall be considered in the order of filing.

3. The above-described lands will remain closed to all other forms of appropriation.

Don R. Mitchell,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-2260 Filed 1-29-85; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals; John Gilbert Morris

On August 9, 1984, a notice was published in the **Federal Register** (49 FR 135) that an application had been filed with the Fish and Wildlife Service by John Gilbert Morris (APP# 0409AB) for a permit to take (=harass) West Indian Manatees (*Trichecus manatus*) for the purpose of scientific research.

Notice is hereby given that on January 9, 1985, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: January 16, 1985.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-2195 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit; Savannah River Ecology Laboratory

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Savannah River Ecology Laboratory, PRT 677776, Aiken, SC.

The applicant requests an amendment to an existing permit to band and radio-tag wood storks *(Mycteria americana)* for scientific research. The amendment would allow them to take abandoned chicks for captive-rearing by the New York Zoological Society, as well as allow taking a single feather from each of 50 young storks for genetic structure study.

Documents and other information submitted with this application are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service at the above address.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: January 24, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-2196 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co., Interior

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5438 and 4215, Blocks 314 and 315, respectively, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on January 18, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-2258 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Extend a Concession Contract; Bryce-Zion Trail Rides, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the present concessions contract with Bryce-Zion Trail Rides, Inc., authorizing them to continue to provide saddle service, commercial guides, pack service, and pack trips and services for the public at Bryce Canyon and Zion National Parks, Utah, for a period of one (1) year from January 1, 1985, through December 31, 1985, pending contract award in calendar year 1985.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1984, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked; or

hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, Denver, Colorado, for information as to the requirements of the proposed contract.

Dated: December 20, 1984.

Jack Neckels,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 85-2264 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 19, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 13, 1985.

Bruce MacDougal,

Acting Chief of Registration, National Register.

ALABAMA

Limestone County

Athens, *Athens College*, 202-212 and 311 N. Beaty St., central campus area roughly bounded by Beaty, Pryor and Hobbs Sts.

Mobile County

St. Elmo, *Bishop Manor Estate*, Argly Rd.

Walker County

Jasper, *First United Methodist Church*, 1800 3rd Ave.

CALIFORNIA

El Dorado County

Placerville, *Combellack-Blair House*, 3059 Cedar Ravine

ILLINOIS

Carroll County

Milledgeville vicinity, *Steffens, Joseph, House*, Off of Elkhorn Rd.

Cook County

Chicago, *Burlington Building*, 104 W. Oak St
Chicago, *Dawson Brothers Plant*, 517-519 N. Halsted St.
Chicago, *Hermitage Apartments (4606 North Hermitage Avenue)*, 4606 N. Hermitage Ave.
Chicago, *Ropp-Grabill House*, 4132 N. Keeler Ave.
Kenilworth, *Wild Flower and Bird Sanctuary in Mahoney Park*, Sheridan Rd.

Jackson County

Carbondale vicinity, *Giant City State Park Lodge and Cabins (Illinois State Parks Lodges and Cabins TR)*, RR #1, Makanda

Jersey County

Alton vicinity, *Pere Marquette State Park Lodge and Cabins (Illinois State Parks Lodges and Cabins TR)*, Box 158, Grafton

Kane County

Elgin, *Elgin Milk Condensing Co./Illinois Condensing Co.*, Brook and Water Sts.

LaSalle County

LaSalle-Peru vicinity, *Starved Rock Lodge and Cabins (Illinois State Parks Lodges and Cabins TR)*, Box 116, Utica

Ogle County

Byron, *Soldier's Monument*, Chestnut and 2nd Sts.
Dixon, *White Pines State Park Lodge and Cabins (Illinois State Lodges and Cabins TR)*, RR #1, Mt. Morris

Rock Island County

Rock Island vicinity, *Black Hawk Museum and Lodge (Illinois State Parks Lodges and Cabins TR)*, 1510 46th Ave.

Sangamon County

Springfield, *Price/Wheeler House*, 618 S. 7th St.

LOUISIANA

Madison Parish

Tallulah, *Shirley Field*, Off U.S. 80

MAINE

Cumberland County

Falmouth, *Purington, Elisha, House*, 71 Mast Rd.

Hancock County

Seal Harbor, *Seal Harbor Congregational Church*, ME 3

Piscataquis County

Brownville, *Brown House*, High St.

MICHIGAN

Wayne County

Detroit, *Fox Theater Building*, 2111 Woodward

MISSOURI

Barry County

Cassville vicinity, *Roaring River State Park Bath House (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Camp Smokey/Company 1713 Historic District (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Roaring River State Park Dam/Spillway (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Roaring River State Park Deer Leap Trail (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Roaring River State Park Honeymoon Cabin (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Roaring River State Park Hotel (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.
Cassville vicinity, *Roaring River State Park Shelter Kitchen No. 2 and Rest Room (ECW Architecture in Missouri State Parks 1933-1942 TR)*, Off Park Rd.

Buchanan County

Rushville vicinity, *Sugar Lake State Park Open Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 138

Camden County

Camdenton vicinity, *Camp Pin Oak Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park
Camdenton vicinity, *Lake of the Ozarks Recreational Demonstration Area Barn/Garage in Kaiser Area (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park
Camdenton vicinity, *Lake of the Ozarks Recreational Demonstration Area Rising Sun Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park
Camdenton vicinity, *Lake of the Ozarks Recreational Demonstration Area Shelter at McCubbin Point (ECW Architecture in Missouri State Parks 1933—1942 TR)*, New of Camdenton in State Park
Camdenton vicinity, *Lake of the Ozarks State Park Camp Clover Pont Recreation Hall (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park
Camdenton vicinity, *Lake of the Ozarks State Park Camp Rising Sun Recreation Hall (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park
Camdenton vicinity, *Camp Hawthorne Central Area District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NE of Camdenton in State Park

Dallas County

Bennett Spring, *Bennett Spring State Park Shelter House and Water Gauge Station (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO A64
Bennett Spring, *Bennett Spring State Park (ECW Architecture in Missouri State Parks 1933—1942 TR)*, (also in Laclede County) MO A64

Dent County

Salem vicinity, *Dam and Spillway in the Hatchery Area at Montauk State Park (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 119
Salem vicinity, *Montauk State Park Open Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 119
Salem vicinity, *Old Mill at Montauk State Park (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 119

Franklin County

Sullivan vicinity, *Meramec State Park Lookout House (ECW Architecture in*

Missouri State Parks 1933—1942 TR), E. of Sullivan off MO 185
Sullivan vicinity, *Meramec State Park Lookout House (ECW Architecture in Missouri State Parks 1933—1942 TR)*, E. of Sullivan off MO 185
Sullivan vicinity, *Meramec State Park Pump House (ECW Architecture in Missouri State Parks 1933—1942 TR)*, E. of Sullivan off MO 185

Gasconade County

Gasconade, *William S. Mitchell (BOAT)*, Army Corps of Engineer Harbor

Grundy County

Trenton vicinity, *Crowder State Park Vehicle Bridge (ECW Architecture in Missouri State Parks 1933—1942 TR)*, MO 128

Johnson County

Knob Noster, *Camp Shownee Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SW of Knob Noster
Knob Noster, *Montserrat Recreation Demonstration Area Bridge (ECW Architecture in Missouri State Parks 1933—1942 TR)*, MO 132
Knob Noster, *Montserrat Recreation Demonstration Area Dam and Spillway (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SW of Knob Noster
Knob Noster, *Montserrat Recreation Demonstration Area Entrance Portal (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 132
Knob Noster, *Montserrat Recreational Demonstration Area Rock Bath House (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SW of Knob Noster
Knob Noster, *Montserrat Recreational Demonstration Area Warehouse #2 and Workshop (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 132

Lincoln County

Elsberry vicinity, *Camp Sherwood Forest Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SW of Elsberry in Cuivre State Park
Elsberry vicinity, *Cuivre River State Park Administrative Area Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SW of Elsberry in Cuivre State Park

Marion County

Palmyra, *Speigle House*, 406 S. Dickerson

Miller County

Brumley vicinity, *Lake of the Ozarks State Park Highway 134 Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, W. of Brumley along MO 134

Monroe County

Santa Fe vicinity, *Mark Twain State Park Picnic Shelter at Buzzard's Roost (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Off MO 107

Saline County

Arrow Rock vicinity, *Arrow Rock State Historic Site Bridge (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SE of Arrow Rock
Arrow Rock vicinity, *Arrow Rock State Historic Site Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SE of Arrow Rock
Arrow Rock vicinity, *Arrow Rock State Historic Site Lookout Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, E. of Arrow Rock
Arrow Rock vicinity, *Arrow Rock State Historic Site Open Shelter (ECW Architecture in Missouri State Parks 1933—1942 TR)*, SE of Arrow Rock
Marshall vicinity, *Van Meter State Park Combination Building (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Van Meter State Park
Marshall vicinity, *Van Meter State Park Shelter Building (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Van Meter State Park

St. Louis County

Grover vicinity, *Dr. Edmund A. Babler Memorial State Park Historic District (ECW Architecture in Missouri State Parks 1933—1942 TR)*, NW of Grover
Ladue, *Price School*, Price School Lane

Washington County

Potosi vicinity, *Washington State Park CCC Historic District (ECW Architechture in Missouri State Parks 1933-1942 TR)*, Roughly Bounded by MO 102 and MO 104

Wayne County

Patterson vicinity, *Sam A Baker State Park Historic District (ECW Architecture in Missouri State Parks 1933-1942 TR)*, St. Francis Moutains bounded roughly around Cedar Creek, Big Creek and Mudlick Cayon off MO 143

OREGON

Benton County

Corvallis, *Fairbanks, J. Leo, House*, 316 NW 32nd

Clackamas County

Oregon City, *Gray-Hackett House*, 415 17th St.

Clatsop County

Astoria, *U.S. Post Office and Custom House (Significant U.S. Post Office in Oregon 1900-1941 TR)*, 750 Commercial St.

Deschutes County

Bend, *Old United States Post Office*, 745 NW Wall

Lane County

Eugene, *U.S. Post Office (Significant U.S. Post Office in Oregon 1900-1941 TR)*, 520 Willamette St.

Multnomah County

Portland, *Monastery of the Precious Blood*, 1208 SE 76th
Portland, *U.S. Post Office (St. John's Station) (Significant U.S. Post Offices in Oregon 1900-1941 TR)*, 8720 N. Ivanhoe St.

Tillamook County

Tillamook, *U.S Post Office (Significant U.S Post Offices in Oregon 1900-1941 TR)*, 210 Laurel Ave.

Umatilla County

Pendleton, *U.S. Post Office and Courthouse (Significant U.S Post Offices in Oregon 1900-1941 TR)*, 104 SW Dorian Ave.

Wasco County

Dalles, *U.S. Post Office (Significant U.S Post Offices in Oregon 1900-1941 TR)*, 100 W. 2nd St.

TEXAS

Washington County

Chappell Hill, *Applewhite, Isaac, House (Chappell Hill MRA)*, Church St.
Chappell Hill, *Chappell Hill Circulating Library (Chappell Hill MRA)*, Cedar St.
Chappell Hill, *Chappell Hill Methodist Episcopal Church (Chappell Hill MRA)*, Church St.
Chappell Hill, *Chappell Hill Public School and Chappell Hill Female College Bell (Chappell Hill MRA)*, Poplar St.
Chappell Hill, *Felder E. King, House (Chappell Hill MRA)*, Haller St.
Chappell Hill, *Main Street Historic District (Chappell Hill MRA)*, Main St.
Chappell Hill, *Rogers, William S., House (Chappell Hill MRA)*, Cedar St.
Chappell Hill, *Routt J. R., House (Chappell Hill MRA)*, Chestnut St.
Chappell Hill, *Smith, John Sterling, Jr. House (Chappell Hill MRA)*, Chestnut St.

VIRGINIA

Augusta County

Cedar Green, *Augusta County Training School (Public Schools in Augusta County Virginia 1870–1940)*, VA 693
Craigsville, *Craigsville School (Public Schools in Augusta County Virginia 1870–1940)*, Railroad Ave.
Crimora, *Crimora School (Public Schools in Augusta County Virginia 1870–1940)*, VA 612
Deerfield, *Deerfield School (Public Schools in Augusta County Virginia 1870–1940)*, VA 600
Estaline Valley, *Estaline Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 601
Middlebrook, *Middlebrook High School (Public Schools in Augusta County Virginia 1870–1940)*, VA 670
Middlebrook, *Middlebrook School (Public Schools in Augusta County Virginia 1870–1940)*, VA 670
Moscow, *North River High School (Public Schools in Augusta County Virginia 1870–1940)*, VA 42
Mt. Meridian, *Mt. Meridian Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 865
Mt. Sidney, *Mt. Sidney School (Public Schools in Augusta County Virginia 1870–1940)*, VA 11
Mt. Solon, *Mt. Zion Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 747
New Hope, *New Hope High School (Public Schools in Augusta County Virginia 1870–1940)*, VA 608
Newport, *Moffett's Creeks Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 681

Newport, *Walker's Creek Schoolhouse (Public Schools in Augusta County Virginia 1870—1940), VA 602*

Summerdean, *Glebe Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 876

Swoope, *Intervale, VA 720*

Verona, *Verona School (Public Schools in Augusta County Virginia 1870–1940)*, VA 11

Weyers Cave, *West View Schoolhouse (Public Schools in Augusta County Virginia 1870–1940)*, VA 774 and 773

Weyers Cave, *Weyers Cave School (Public Schools in Augusta County Virginia 1870–1940)*, VA 276

Staunton (Indepent City)

Staunton, *Gospel Hill Historic District*, Roughly bounded by E. Beverly, N. Market, E. Frederick and Kalorama Sts.

Wythe County

Fosters Falls vicinity, *Graham, Maj. David, House*, VA 619 and 626

Correction: The property below appeared as pending in the Federal Register on Tuesday, January 15, 1985 as being in the State of Nebraska. It should read as follows:

OREGON, *Benton County*, Corvallis vicinity, *Fiechter, John, House*, William L. Finley Nation Wildlife Refuge

[FR Doc. 85–2228 Filed 1–28–85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Proposed National Historic Landmark Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

Comments on the proposed boundaries will be received for 60 days after the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington D.C. 20240, Attention: Chief of Registration, (202) 343–9536. Copies of the documentation of the landmarks and their proposed boundaries, including maps may be obtained from that same office.

Bruce MacDougal,

Acting Chief of Registration, National Register of Historic Places, Interagency Resources Division.

El Cuartelejo Archeological District, NHL, Scott City, Scott Co., KS

A practice of describing National Historic Landmark Boundaries by verbal relation to topographic contours on USGS quadrangles is of limited utility in regions desmonstrating moderate to rapid geomorphological change. Mean relief changes for Ogallala escarpment, colluvial slopes, and terrace aggradation within Lake Scott State Park are calculated at 1.3 feet per year (cf., 1939 Lake McBride Kansas 7.5 minute topographic quadrangle and 1976 Lake Scott, Kansas 7.5 minute topographic quadrangle). These changes are principle consequences of headward fluvial erosion (i.e., Ogallala escarpment) and restablishment of stream grades by initiation and historic alteration of lake levels (i.e. terrace development). These geomorphic dynamics should initiate reevaluations of the boundary graphically illustrated herein every 5 years or until all cultural locality projections are sufficiently researched to resolve formal site status. The landmark boundary should be periodically monitored for adverse encroachment by geomorphological processes, *via-a-vis*, Section 8 of Pub. L. 91–383 as amended by Pub. L. 94–458 (90 Stat. 1939).

We are presently requesting comments on the proposed boundary for Cornwall Iron Furnace National Historic Landmark, located at Cornwall, Lebanon County, Pennsylvania:

Beginning on the north side of Rexmont Road at the Southeast corner of lock 19E Lot 40, then easterly along the north side of Rexmont Road crossing the intersection with Cornwall Road to a point on the north side of Rexmont Road due north of the northeast corner of Block 19J Lot 120 (said northeast corner being on the south side of Rexmont Road), then due south across Rexmont Road and along the west line of Block 19J Lot 120 to the north line of Block 19 Lot 500, then westerly along the north line of Block 19 Lot 500 to the east side of Boyd Street, then southeasterly along the east side of Boyd Street to the west line of Block 19J Lot 98, then along the west, north, and east lines of Block 19J Lot 98 to the north side of Gold Road, then easterly along the north line of Gold Road to a point around 145' in the course of the west line of Block 19K Lot 28 northerly of the northwest corner of the said Block 19K Lot 28, then southerly in the course of and along the west line of Block 19K Lot 28 to the north side of Boyd Street, then easterly and southerly along the north and east sides of Boyd Street to the north line of Block 19K Lot 30, then westerly in the north line of Block 19K Lot 30 and the south side of Nickel Alley to the east side of Quartz Street, then southerly along the east side of Quartz Street to the south side of Granite Street, then westerly along the south side of Granite Street to the west side of Shirk Street, then northerly along the west side of Shirk Street to the south side of Silver Road, then westerly along the south side of Silver Road crossing the northernmost section of Block 19J Lot 100 to the east line of Block 19 Lot 180, then southerly and westerly in the east and south lines of Block 19 Lot 180 to the point where the said line of Block 19 Lot 180 angles southward away from the rim of the mine hole, then due west from said angle around 1950' across Block 19 Lot 180 to a point around 600' due south of the southeast corner of Block 19H Lot 35, then due north around 600' to the sourtheast corner of Block 19H Lot 35, then northerly and westerly along the east and north lines of Block 19H Lot 35 to the east line of the 20' wide paper alley to the east of the east lines of the lots on the east side of Old Mine Road in the village of Burd Coleman, then northerly along the east line of said alley to a point aroung 3225' due west of the most southeasterly corner of Block 19 Lot 200, then due east around 3225' across Block 19 Lot 180 to the most southeasterly corner of Block 19 Lot 200, then northeasterly in the east line of Block 19 Lot 200, to the west side of Boyd Street, then northwesterly along the west side of Boyd Street to the northeasternmost corner of Block 19 Lot 200 then westerly along the north line of Block 19 Lot 200 to the west bank of Furnace Creek, then northwesterly along the several courses of the bank of Furnace Creek and into Block 19 Lot 195 to a point around 1200' westerly of the northwest corner of the main block of Cornwall Mansion, then easterly in the course of the north wall of the main block of Cornwall Mansion around 1200' to the said northwest corner, then along the rear facade of Cornwall Mansion, including the rear wing, then easterly from the northeast corner of the main block of Cornwall Mansion to a point on the north side of the lane leading easterly from the mansion directly

opposite the angle formed by the south side of the said lane and the east side of the driveway running along the east side of the fountain just east of the mansion, then southerly across the lane leading eastward from the mansion to the said angle, then continuing southerly along the east side of the driveway on the east side of the fountain to the east side of the driveway running southerly Rexmont Road, then southerly along the east side of the driveway to the northernmost corner of Block 19E Lot 40, then southeasterly along the north and east lines of Block 19E Lot 40 to the north side of Rexmont Road and the place of beginning.

Comments on the proposed boundary will received for 60 days from the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (Phone: 202–343–9536).

We are presently requesting comments on the proposed boundary for Fort Des Moines Provisional Army Officer Training School located at Des Moines, Polk County, Iowa:

Beginning of the intersection of the east curb of SW 9th Street and the south curb of Army Post Road; thence east along said south curb to its intersection with a line exended due north from the east curb of Brown Street; thence south along said east curb to the southeast curb of an unnamed street branching southwest from Brown Street; thence southwest along said southeast curb to a point on the west curb of an unnamed street parallel to Chaffee Road; thence south along said west curb to a point; thence west along a line extending east from the south curb of Winn Road; thence south along the east of Chaffee Road to its intersection with the east-west center line of Section 33; thence west along said center line to its intersection with east curb of SW 9th Street; thence north along the east curb to the point of the beginning.

We are presently requesting comments on the proposed boundary for Colt Historic District located at Hartford, Hartford County, Connecticut:

The National historic landmark boundary for the Colt District has been drawn rather restrictively to enclose the major extant features of Samuel Colt's 19th century "armory village." Most of the village is concentrated between Wethersfield Avenue and Van Dyke Streets and is connected by Colt Park. However, the area is surrounded by modern development and the boundary has been drawn to exclude certain areas, once part of the complex, but which have lost their historic character. For this reason, the Church and Parish House of the Good Shepherd, an integral part of the Colt industrial district, is defined as a non-contiguous unit of the district, to exclude non-historic features now located between them and the rest of the historic complex.

Beginning at the southeast corner of the intersection of Wethersfield Avenue and Stonington Street, the national historic landmark boundary runs southeasterly along the south curb of Stonington Street to its end; thence easterly to the northeast corner of the intersection of Van Block Avenue and Weehasset Street; thence northerly along the east curb of Van Block Avenue for one block; thence easterly along the south curb of Sequassen Street for two blocks; thence southerly along the west curb of Van Dyke Avenue for two blocks; thence southwesterly along the north curb of Masseek Street for two blocks; thence southeasterly along the west curb of Hendricksen Avenue for one and a half blocks; thence southwesterly along the south (rear) property lines of the Potsdam cottages, parallel to the south curb of Curcombe Street, for one block; thence along the north curb of Warwarme Avenue for several blocks, following the boundary of Colt Park; thence northerly, parallel to Wethersfield Avenue, following the east (rear) property lines of the row of houses on the east side of Wethersfield, north of Warwarme, to the south property line of the James Colt House; thence westerly along this line to the east curb of Wethersfield Avenue; thence northerly along the curb to the beginning point.

The Church and Parish House of the Good Shepherd, on the east and south sides of a wide lawn, are the only features within the rectangular, non-contiguous unit of the district. Beginning at the southwest corner of the intersection of Wyllys and Van Block Streets, the national historic landmark boundary runs southerly, along the west curb of Van Block Avenue; thence west along the driveway which runs south of the church; thence west behind the parish house and between it and a modern parish building; thence north along the driveway to the parish house on the west side of the front lawn; thence east along the south curb of Wyllys to the beginning point.

[FR Doc. 85–2227 Filed 1–28–85; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of five annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The five reports, covering the States of Missouri, New Mexico, Oklahoma, Utah and Wyoming, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESSES: See **"SUPPLEMENTARY INFORMATION"** for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: Copies of the reports are available, free of charge, at the respective OSM offices listed below:

1. *Missouri*: Kansas City Field Office, Office of Surface Mining, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106.

2. *New Mexico and Utah*: Albuquerque Field Office, Office of Surface Mining, 219 Central Ave, NW., Albuquerque, New Mexico 87102.

3. *Oklahoma*: Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103.

4. *Wyoming*: Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Background

Under section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted

primacy, and the Federal Government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the States, which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The schedule for the reports calls for staggered completion dates.

The first six evaluation reports for this year (Colorado, Kentucky, Mississippi, Montana, Ohio and West Virginia) were completed and sent to Congress September 5, 1984. These final reports were made publicly available on September 17, 1984 (49 FR 36453). Four additional evaluation reports for Alaska, Illinois, Maryland and Viginia were completed and sent to Congress September 28, 1984 and were made publicly available on October 16, 1984 (49 FR 40453). Two other evaluation reports for Alabama and North Dakota were completed and sent to Congress November 26, 1984, and were made publicly available on December 26, 1984 (46 FR 50120). OSM has now completed five additional reports for Missouri, New Mexico, Oklahoma, Utah and Wyoming. These final reports sent to Congress on December 20, 1984 (Missouri and Wyoming) and Janaury 7, 1985 (New Mexico, Oklahoma and Utah), are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: January 23, 1985.

John D. Ward,

Director, Office of Surface Mining.

[FR Doc. 85-2198 Filed 1-28-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration

OWCP Representative Fee Requests
1215-0078; CM-972; CA-38; Longshore Requirement
Other (As needed)

Businessess or other for-profit, Small businesses or organizations 14,500 responses; 10,183 hours; 2 forms; 1 instruction sheet Fee request submitted by attorney/representatives for services provided in behalf of Black Lung, FECA and Longshore claimants.

Office of Pension and Welfare Benefit Programs

Proposed class exemption for certain transactions involving employee benefit plans and securities broker-dealers (Previously titled Prohibited Transactions Class Exemption 79-1 and Recapture Exemption)
1210-0059
Business or other for-profit; small businesses or organizations 143,150 responses; 66,200 burden hours

This class exemption exempts from the prohibited transaction restrictions of ERISA the effecting or executing of securities transactions on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan and who is acting in such transactions as agent for the plan.

Extension

Office of Pension and Welfare Benefit Programs

DOL/IRS/PBGC Forms 5500, 5500-C, and 5500-R
1210-0016; OPWBP 5500 Series
Annually
Businesses or other for profit; Non-profit institutions; Small businesses or organizations 900,000 responses; 824,195 hours; 3 forms

Section 104(a)(1)(A) of ERISA requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement.

Reinstatement

Employment Standards Administration

Declaration of Citizenship
1215-0091; WH-509
On occasion
Individuals or households; state or local governments 15,000 responses; 3,750 hours; 1 form

The Migrant and Seasonal Agricultural Workers Protection Act provides that no farm labor contractor may knowingly employ illegal aliens. This optional form ensures that citizens are not denied employment because they lack documentary proof of citizenship and provides evidence that a contractor has made a bona fide attempt to verify citizenship.

Signed at Washington, D.C. this 24th day of January 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-2203 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Alaska State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

By letter dated June 16, 1980, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted State standards amendments to AAC 07., Article 1, Logging Code; Article 2, Sawmill Code; and Article 3, Pulp, Paper and Paperboard Mills Code, which were approved in the **Federal Register** (41 FR 56110) on December 28, 1976.

The amendments have been compared to Federal standards and determined to maintain standards at least as effective as Federal standards. The significant differences of the amendments are additional paragraphs concerning skylines in the Logging Code; new paragraphs concerning elevator counter weights, baffles, and overhead belts in the Sawmill Code; and one paragraph concerning guarding of sawyers in the Pulp, Paper, and Paperboard Mills Code.

These State standards amendments, contained in Subchapter 7, Alaska Occupational Safety and Health Code, were promulgated by the State on August 14, 1979 under authority vested in Edmund Orbeck, Commissioner by AS 18.60.020, and after notice and opportunity for public comments under AS 44.62.190, 44.62.200, and 44.62.210. The Alaska State Logging, Sawmill, and Pulp, and Paperboard Mills amendments became effective on June 13, 1980.

2. Decision

These standards have been in effect since June 13, 1980. During this time OSHA has received no indication of significant objection to the State's different requirements either as to their effectiveness in comparison to the Federal standard or as to their conformance with product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distrubuted or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying.

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Room N-3613, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective January 29, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 27th day of June 1984.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 85-2214 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Alaska State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628 of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

By letter dated July 29, 1976 from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted a State standards amendment to AAC 07., Article 3, Pulp, Paper, and Paperboard Mills, previously approved in the **Federal Register** (41 FR 39112) on September 14, 1976. This State standards amendment, which is contained in Subchapter 7 Alaska Occupational Safety and Health Code, was promulgated by the State on June 3, 1976 after public notice under authority vested in Edmund Orbeck, Commissioner, by AS-18.60.020. The Pulp, Paper, and Paperboard Mills amendment became effective on August 11, 1976.

2. Decision

Having reviewed the minor State editorial changes in comparison with the Federal standards, it has been

determined that the State standards continue to be at least as effective as the Federal standards. These revisions have been in effect since August 11, 1976. During this time OSHA has received no indication of significant objection to the State's standards amendment either as to its effectiveness in comparison to the Federal standard or as to its conformance with product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves the standards amendment. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alsaka 99801; and the Office of State Programs, Room N3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval efective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective January 29, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 18th day of May 1984.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 85-2211 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Alaska State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the Federal Register (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1952.243 of Subpart R sets forth the State's schedule for the adoption of at least as effective State standards.

By letter dated September 8, 1980 from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted amendments to the Construction Code, General Safety Code, and Occupational and Industrial Stuctures Code. These codes, which are comparable to 29 CFR Part 1910, General Industry, and 29 CFR Part 1926, Construction, were originally approved in the Federal Register (38 FR 21268) on August 10, 1973, (40 FR 43101) on September 18, 1975, (40 FR 50582) on October 30, 1975, (40 FR 33291) on August 7, 1975, (41 FR 39112) on September 14, 1976, (41 FR 47613) on October 29, 1976, (41 FR 53077) on December 3, 1976, (41 FR 56110) on December 28, 1976, and (42 FR 2366) on January 11, 1977. Subsequently, numerous amendments to the original standards were approved in the Federal Register.

The primary differences in the General Safety Code are additional paragraphs concerning the prohibition of the sale, lease, or installation of portable fire extinguishers or fixed fire extinguishing systems containing toxic or poisonous liquids or other agents; the requirement of a permit from the State Fire Marshal for persons who commercially service, repair, fill, or install portable fire extinguishers or fixed fire extinguishers or fixed fire extinguishing systems; the use of Halon 1301 and 1211 fire extinguishers for Class B hazards; and the replacement of defective fire pails with serviceable fire pails in lieu of new fire pails. The primary differences in the Construction Code are two new paragraphs concerning additional first aid training requirements for supervisory personnel and the requirement for ice in contact with drinking water to be made of potable water and be maintained in a sanitary condition.

These State standards amendments, which are contained in Subchapters 1, 2, and 5 of the Alaska Safety and Health Code, were promulgated by the State on November 1, 1978 and became effective on December 24, 1978 under authority vested in Edmund Orbeck, Commissioner, by AS 18.60.020, following notice and opportunity for public comment under AS 44.62.190, 44.62.200, and 44.62.210.

2. Decision

Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards as amended continue to be at least as effective as the Federal standards and accordingly should be approved. During the time the amended standards have been in effect since December 24, 1978, OSHA has received no indication of significant objection to these State standards either as to their effectiveness in comparison to the Federal standards or as to their conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the supplement, with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the

Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99811; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective January 29, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 28th day of September 1983.

James W. Lake,

Regional Administrator.

Editorial Note.—This document was submitted for publication to the office of the Federal Register on January 24, 1985.

[FR Doc. 85-2204 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Alaska State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted, by letter dated December 22, 1983 from Jim Robison, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.1000, Toxic and Hazardous Substances, as published in the **Federal Register** (43 FR 57601) on December 8, 1978. **The Federal Register** contains corrections that remove errors, omissions, and ambiguities from the tables of exposure limits for air contaminants. The corrections do not make subtantive changes.

These State standards, which are contained in Subchapter 4, Alaska Occupational Safety and Health Code, were promulgated on February 18, 1983 after public notice under authority vested by AS 18.60.020 to Jim Robison, Commissioner, and became effective March 20, 1983.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved. A minor difference is that the reference to cotton yarn manufacturing that relates to 29 CFR 1910.1043(c) and (e) has been deleted from the footnotes to the tables. The State of Alaska previously elected not to promulgate the Cotton Dust standard because there is no cotton manufacturing industy in Alaska.

3. Location of supplement for inspection and copying

A copy of the standards supplement, with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Adminstration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802, and the Office of State Programs, Room N-3476, Department of Labor Building, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternate procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons.

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

2. The standards are identical to the Federal standards which were promulgated in accordance with Federal law, including meeting requirements for public participation.

This decision is effective January 29, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this twentieth day of December 1984.

James W. Lake,

Regional Administrator.

[FR Doc. 85-2206 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Maryland State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administration for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834), of the approval of the Maryland State plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210 of

Subpart 0 sets forth the State's schedule for the adoption of Federal standards. By letter dated November 5, 1984 from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to (1) 29 CFR 1910.177, pertaining to emergency Servicing of Single Piece and Multi-Piece Rim Wheels as published in the **Federal Register** of February 2, 1984 (49 FR 4349-4352), and (2) 29 CFR 1910.6 through 1910.262, pertaining to Advisory and Repetitive Standards as published in the **Federal Register** of February 10, 1984 (49 FR 5321-5324). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after public hearings on April 27, 1984 and August 17, 1984. These standards were effective November 5, 1984.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. Location of supplement for inspection and copying.

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, PA 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law, including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 29, 1985. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania, this 19th day of December 1984.

Linda R. Anku

Regional Administrator.

[FR Doc. 85-2208 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standard; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as those which are promulgated under section 6 of the Act. In accordance with ORS Chapter 183.337, the Workers' Compensation Department duly filed notice of intent to amend OAR Chapter 9, 11, 16, and 437 of the Oregon Occupational Safety and Health Code, pertaining to unguarded machinery nip points. The State standards are more specific than Federal standards in defining vertical and horizontal clearance of unguarded machinery nip points.

2. Decision

These standards have been in effect since June 15, 1977. During this time OSHA has received no indication of significant objection to the State's different standards either as to effectiveness or conformance with product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves the standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying.

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 29, 1985. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608(29 U.S.C. 667))

Signed At Seattle, Washington, this 31st day of March, 1981.

James W. Lake,

Regional Administrator.

[FR Doc. 85-2213 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated

pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 CFR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated August 17, 1984, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to repeal State rules comparable to the revocation of 29 CFR 1910.411, Commercial Diving, as published in the **Federal Register** (49 FR 831) on January 6, 1984, pertaining to medical requirements held invalid by the U.S. Court of Appeals for the Fifth Circuit.

These State standards which were originally contained in OAR 437–86–043 through 437–86–083, received OSHA approval, and notice to that effect was published in the **Federal Register** (44 FR 29174) on May 18, 1979.

On May 29, 1984, the Notice of Proposed Amendment of Rules was mailed to those persons on the State's mailing list established pursuant to OAR 436–90–505. The Notice was published in the State Administrative Rules Bulleton on June 1, 1984. Both actions failed to elicit requests for a public hearing. The State's rules pertaining to medical requirements for commercial diving were revoked on August 3, 1984, effective August 6, 1984.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards revocations are identical to the comparable Federal standards revocations. There are no significant differences. Accordingly, the revocation of rules in OAR 437, Division 86, Commercial Diving, should be approved.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Board, Labor and Industries Building, Salem, Oregon 97310, and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The revocation of sections of the State rules are identical to those revoked from the Federal standard which were promulgated in accordance with Federal law including meeting requirements for public participation. The standards were adopted in accordance with the procedural requirement of State law which included opportunity for public comment and further public participation would be repetitious.

This decision is effective January 29, 1985. (Sec. 18, Pub. L.91–596, 84 Stat. 1608 (20 U.S.C. 667))

Signed at Seattle, Washington, this 13th day of december 1984.

James W. Lake,

Regional Administrator.

[FR Doc. 85–2212 Filed 1–28–85; 8:45 am]

BILLING CODE 4510–26–M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the Occupational Safety and Health Act of 1970. A public hearing was held on June 3, 1982 to consider amending OAR Chapter 437, Oregon Occupational Safety and Health Code, Division 40, General Provisions (formerly Chapter 1, General Provisions). The substance of the hearing was to afford interested persons an opportunity to present written and oral statements and arguments pertaining to workplace safety committees which are mandated by the 1981 Oregon Legislature.

The standards were modified as follows: (a) Chapter 1, General Provisions, was renumbered and codified to Division 40, General Provisions, effective July 30, 1982.

(b) New rules were added to Division 40, General Provisions, concerning workplace safety committees, to become effective November 1, 1982.

2. Decision

These standards have been in effect since November 1, 1982. During this time OSHA has received no indication of significant objection to the State's requirements either as to their effectiveness in comparison with Federal requirements or as to conformance with product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these rules. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Board, Labor and Industries Building, Salem, Oregon

97310, and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is one for which there is no comparable Federal standard and therefore the State standard exceeds the Federal standards.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 29, 1985. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 12th day of December 1984.

James W. Lake,

Regional Administrator.

Editorial Note.—This document was submitted for publication to the Office of the Federal Register on January 24, 1985.

[FR Doc. 85-2210 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "When * * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated February 28, 1984 from Edgar L. McGauian, Commissioner South Carolina Depatment of Labor to Alan C. McMillan, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Revision 29 CFR 1910.1002, Coal Tar Pitch Volatiles, dated January 21, 1983; New part 29 CFR Part 1917, Marine Terminals, dated July 5, 1983 (State standards applies to the public sector only); New 29 CFR 1910.1200, Hazard Communication, dated November 25, 1983.

The standards were promulgated after public hearings held on February 2, 1984 and filed with the South Carolina Secretary of State February 14, 1984, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

By letter dated April 24, 1984 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Alan C. McMillan, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Revocation 29 CFR 1910.411, Medical Requirements, Commercial Diving Operations, dated January 6, 1984; Amendments 29 CFR 1910.177, Servicing Multi-piece and Single Piece Rim Wheels, dated February 3, 1984; Revocation of certain advisory and repetitive standards 29 CFR Part 1910, dated February 10, 1984.

These standards were promulgated after public hearings held on April 4, 1984 and filed with the South Carolina Secretary of State April 4, 1984, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. Decision.

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. Location of supplement for inspection and copying.

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. Public participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 29, 1985. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 10th day of August 1984.

Alan C. McMillan,

Regional Administrator.

[FR Doc. 85-2205 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-26-M

Washington State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington

plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

By letter dated February 4, 1982 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1046, Cotton Dust for Recordkeeping Requirements.

The Federal standard was published in the **Federal Register** (43 FR 27394) on June 23, 1978. The amendment to the Washington State Cotton Dust standard contained in Chapter 296–62–14533 WAC, was promulgated pursuant to 34.04.040(2), 49.17.040, 49.17.050 RCW, and of the Open Public Meetings Act, Chapter 42.30 RCW. The State standard became effective February 15, 1982 by Administrative Order 82–1, that adopts recordkeeping requirements published in the **Federal Register** (45 FR 35212) on May 23, 1980.

2. Decision

Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is identical to the comparable Federal standard and accordingly is approved.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW, Washington D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirement for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 29, 1985.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 13th day of December 1984.

James W. Lake,

Regional Administrator.

[FR Doc. 85–2207 Filed 1–28–85; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefit Programs

[Application No. D–4677 et al.]

Proposed Exemptions: Kay-Bee Toy & Hobby Shops, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Kay-Bee Toy & Hobby Shops, Inc. Profit Sharing Plan (the Plan) Located in Lee, Massachusetts

[Application No. D–4677]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 Fr 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and through (E) of the Code shall not apply, effective July 1, 1981, to the extension of credit by the Plan to Melville Corporation (Melville), the parent

corporation of Kay-Bee Toy & Hobby Shops, Inc. (Kay-Bee), the sponsor of the Plan, in connection with the sale by the plan to Melville of all of its shares of stock of Kay-Bee; provided that the terms of the transaction were no less favorable to the Plan than those obtainable in arm's-length transactions with unrelated parties.

Effective Date: If granted, this exemption will be effective July 1, 1981.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan with approximately 800 participants. As of December 31, 1982, the Plan had total assets of $3,588,897. From February 1, 1979, to March 1, 1982, Messrs. Howard Kaufman, Saul Rubinstein, and Rinaldo DelGallo, officers and shareholders of Kay-Bee, served as the trustees of the Plan, and maintained discretion with respect to plan investments. Messrs. Kaufman, Rubinstein and James Fitzpatrick, an officer of Melville, currently serve as the trustees of the Plan.

2. As of July 1, 1981, among the Plan's assets were 1,365 shares of voting stock of Kay-Bee and 2,457 shares of non-voting stock of Kay-Bee. The Plan acquired 72 shares of the stock (36 shares voting and 36 shares non-voting) in October, 1977, for $25,784. The Plan acquired 1,026 shares of voting stock and 1,890 shares of non-voting stock as a result of stock dividends and stock splits in July, 1979. The plan also acquired 303 shares of voting stock and 531 shares of non-voting stock from Kay-Bee in various acquisitions from October, 1977, to September, 1979. The applicant represents that the acquisitions by the Plan of Key-Bee stock satisfied the conditions contained in section 408(e) of the Act.[1] Since July, 1979, the Plan had not received any dividends from the stock.

3. On July 1, 1981, a stock purchase agreement (the Agreement) between Melville, Kay-Bee, and the shareholders of Kay-Bee (Sellers) was executed. As a result of the execution of the agreement all outstanding Kay-Bee stock was sold to Melville, and Kay-Bee became a wholly-owned subsidiary of Melville. Kay-Bee continues to operate as a retail toy store with outlets throughout the nation, and the Plan has continued in existence. Melville is a diversified coporation having various different retail divisions located throughout the nation. As a December 31, 1982, Melville had total assets of approximately $1.25 billion, and retained earnings of $632,427,000.

4. As of July 1, 1981, the total authorized capital stock of Kay-Bee consisted of 150,000 shares of voting common stock of which 119,265 shares were issued and outstanding, and 250,000 shares of non-voting stock of which 214,677 shares were issued and outstanding. (The total number of shares owned by the Plan (3,822) represented approximately 1% of the total issued and outstanding stock as of the date of the Agreement.) 3,120 shares of the voting stock and 5,616 shares of the non-voting stock were held by Mr. Allan M. Getz, an officer of Kay-Bee, pursuant to a stock purchase agreement dated December 22, 1980, between Kay-Bee and Mr. Getz whereby he acquired the shares for $500,000. Pursuant to a termination agreement dated July 6, 1981, between Kay-Bee and Getz, Kay-Bee redeemed, prior to the closing of the sale pursuant to the Agreement, which occurred on August 14, 1981, the Getz shares for $500,000 plus interest at 9% per annum. Therefore, the number of shares of stock issued and outstanding as of the closing date totalled 116,145 voting shares and 209,061 non-voting shares.

5. Pursuant to the Agreement, Melville purchased all of the outstanding shares, including the shares held by the Plan, for a total purchase price of $64,200,000, less a credit of $5,938,871 representing consideration owed to a Kay-Bee shareholder, Mr. Donald Kaufman (to be discussed further in this notice). The stock of Kay-Bee has never been traded publicly and no public market for it existed. The price of the stock was determined by negotiations between Kay-Bee and Melville. The brokerage and investment firm Kidder-Peabody (Kidder) was retained by Kay-Bee to advise all of the shareholders with respect to the value of the stock and to assist in the negotiations with Melville. The applicant represents that Kidder determined that the price of the stock was fair market value.

6. Pursuant to the Agreement, Melville paid the Sellers at closing cash in the amount of $6,076,633, and the executed notes (the Notes) payable to the account of each Seller for the balance of the purchase price. The Notes are dated as of the closing date, August 14, 1981, and provided for the payment of the blanace of the purchase price in six consecutive equal semi-annual installments, commencing January 15, 1982, together with interest on the unpaid balances at the rate of 15¼%. The Notes were not registered under the Securities Act of 1933. The Notes were secured by an irrevocable letter of credit in favor of the noteholders. The letters of credit were authorized to be drawn on Melville's account at the Manufacturers Hanover Trust Company (Manufacturers), and copies were retained by the Berkshire Bank and Trust Company, located in Pittsfield, Massachusetts, the exchange agent for the sale, for presentment to Manufacturers if notified of a default. The Notes were senior to various issues of subordinated debentures issued and to be issued by Melville.

7. As of the record date of the transaction there were 37 shareholders of the stock including the Plan. Because the shares were closely held, the majority of the stock was held by the principals of Kay-Bee and their families. Messrs. Howard Kaufman, Donald Kaufman, Richard Kaufman, Saul Rubinstein, Richard Clement and trusts holding shares for the benefit of their families totalled 25 of the 37 shareholders and owned a substantial portion of the outstanding stock. The Kaufmans and Mr. Rubinstein and their respective family interests were designated as the principal shareholders. Other shareholders included six non-family shareholders, two of whom owned in total less than 270 shares of non-voting stock, a charitable organization owning 6,207 of non-voting stock, and three non-family shareholders, Messrs. Kirt, J. La France, Gary S. Slate, and Gerald Reed, owning approximately 27,000 shares of voting and non-voting stock. The remaining shares included 392 shares of stock held by one of the former trustees of the Plan, Mr. DelGallo, and trusts holding interests on behalf of his family members.

8. Pursuant to an attachment to the Agreement designated as exhibit 1.1.1, each Seller, including the plan, received consideration for their shares pursuant to a specific formula. Pursuant to the formula the voting and non-voting shares were assigned specific values, and non-voting shares held by shareholders other than the designated principal shareholders received a slightly higher assigned value for their shares. Accordingly, voting shares received $211.21 per share, non-voting shares held by principal shareholders received $161.09 per share, and non-voting shares held by minority shareholders, including the Plan, received $162.82 per share. Therefore, the Plan received the same price for its voting shares as every shareholder holding voting shares, including the principal shareholders, and received the same consideration for its non-voting

[1] In this proposed exemption the Department expresses no opinion as to whether the transactions satisfied the requirements of section 408(e) of the Act.

shares as every other minority shareholder holding non-voting shares. The Plan's consideration received totalled $687,858.

9. As mentioned, Getz redeemed his shares of stock for $500,000 plus interest at 9% from December 22, 1980, the date he purchased his shares. The price per share received by Getz for his stock was substantially less than the price per share received by the shareholders, including the Plan, under the Agreement. With respect to Mr. Donald Kaufman's credit, Kay-Bee and Mr. Kaufman entered into a stock redemption agreement (Redemption Agreement) on April 29, 1981, pursuant to which Kay-Bee redeemed from Mr. Kaufman a portion of his shareholdings (11,850 shares of voting shares and 21,330 shares of non-voting shares) for $1 million in cash. The Redemption Agreement provided for an adjustment of the redemption price in the event of a sale of all the outstanding stock of Kay-Bee to an acquiring corporation. Accordingly, a balance of $4,938,871 was paid to Mr. Kaufman and was represented by a Note identical to those received by the shareholders, including the Plan, pursuant to the Agreement. The total consideration received by Mr. Kaufman ($5,938,871) for these shares represents a payment of $211.21 for his voting shares and $161.09 for his non-voting shares, the same consideration received by similarly situated shareholders under the Agreement.

10. With respect to the allocation of the cash downpayment to the individual Sellers, almost all, including the Plan, received 11.1% of their total consideration in cash with the remainder represented by the Notes. The only Sellers who did not receive consideration allocated according to this percentage were the two minority shareholders who each owned 134 shares of stock, six family members of Mr. Richard Kaufman each of whom held no more than 258 shares, Mr. DelGalla who held 140 shares and his four family members who each owned 63 shares of stock. These Sellers received cash for their stock and did not receive any Notes with respect to their shares. These Sellers in total owned a very small percentage (approximately .4%) of the total outstanding shares. Every other shareholder, which included the Plan, the principal shareholders and their families (with the exception of Mr. Richard Kaufman's family members), and the other minority shareholders constituting, in the aggregate, 99.6% of the outstanding shares, received the same percentage of their total consideration in cash and Notes. The applicant represent that these Sellers received cash only for their shares because of the small number of shares held. No Seller who received cash and a Note held less than 840 shares of stock.

11. The Plan received cash at closing in the amount of $68,785 and a Note in the amount $619,073. Based upon the total Plan's assets of $2,477,000 as of December 1, 1981, the Note held by the Plan represented approximately 24% of its total assets. This percentage has continued to decrease as payments have been made by Melville under the Note. The applicant represents that to date all payments have been timely received under the Note, and that the Note, as of July 1984, was completely repaid.

12. Pursuant to the Agreement each Seller entered into an indemnification agreement with Melville thereby holding it harmless against any loss, liability or cost arising out of breach of representations and warrants made by Kay-Bee to Melville under the Agreement. The applicant represents that the trustees of the Plan do not have any continuing liability under the representations and warranties made in the Agreement.

13. The Agreement also provides that Kay-Bee has no existing employment contracts relating to any of its employees. Pursuant to the Agreement Kay-Bee did not, except for scheduled pay increases for warehouse supervisors, certain hourly employees and truckdrivers, and senior employees of the company, enter into any form of incentive or special compensation with any employee of Kay-Bee.

14. The law firm of Cook and Shepard, P.C. (Cook) located in Pittsfield, Massachusetts (now known as Cain, Hibbard, Myers & Cook), represented all of the Kay-Bee shareholders in the negotiations for the sale with Melville. Cook represents that after extensive negotiations with Melville and consultation with Kidder it represented to all of the shareholders, including the trustees of the Plan, that the offer of Melville be accepted. The Melville offer required the acceptance of all of the shareholders and did not allow for any minority interests to continue.

15. Cook also held the Notes on behalf of the Sellers and has been empowered to take any action against Melville in the event Melville defaults under the Notes. In the event of a default Cook was empowered to notify Berkshire who had the authority to draw upon the letter of credit held by Manufacturers.

16. The applicant represents that the sale of the stock by the Plan enabled the Plan to realize a substantial capital gain, and convert a non-income producing asset into cash and a three year note yielding 15¼% interest per annum. The applicant represents that because little or no market for the stock would exist if the Plan retained its minority stock interest, a decision by the Plan not to sell the stock to Melville in connection with the sale of all of the outstanding stock of Kay-Bee would have caused the Plan to incur a substantial loss. As described, the Plan received consideration for its stock on identical terms as similarly situated shareholders. The applicant represents that except for the extension of credit the sale of the stock satisfied the statutory provisions of section 408(e) of the Act.[2]

17. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act as (a) the board of directors and officers of Kay-Bee, including the then trustees of the Plan, negotiated the Agreement with Melville on an arm's-length basis and determined that the sale of the stock to Melville be accepted; (b) the Plan received the same price for its stock as all similarly situated shareholders; (c) independent parties, Cook and Kidder, determined that the sale of the stock was in the best interests of the shareholders and determined that the price of the shares was at fair market value; (d) the Notes were secured by a letter of credit drawn upon a major bank, Manufacturers, and an independent party, Cook, has monitored the repayments and was empowered to enforce collection in the event of default; and (e) the trustees of the Plan determined that the sale of the shares was in the best interests of the Plan.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Mitchell, Lewis & Staver Profit Sharing Plan (the Plan) Located in Portland, Oregon

[Application No. D-4728]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the

[2] See footnote 1 above.

Code shall not apply to: (1) The continued lease (the New Lease) by the Plan from June 29, 1984, through October 31, 1984, of a parcel of improved real property (Parcel I) to Mitchell, Lewis & Staver Company (the Employer), the Plan sponsor; (2) the proposed sale (the Sale) by the Plan of Parcel I and two parcels of unimproved real property (Parcels II and III) to Hubert A. Brown, a trustee of the Plan and Shirley L. Brown (the Browns) pursuant to an earnest money agreement (the Agreement) between the Plan and the Browns; and (3) an extension of credit (the Loan) between the Plan and the Browns in connection with the sale, provided that all the terms and conditions of the transactions are at least as favorable to the Plan as those obtainable in transactions with unrelated parties.

Effective date: The effective date of this exemption, if granted, will be June 29, 1984, as to the New Lease and the date of the grant as to the Sale and the Loan.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan. As of October 31, 1983, the Plan had 52 participants and net assets of $1,303,524.51. The trustees of the Plan (the Trustees) are Hubert A. Brown, President of the Employer; Lowell W. Haines, Secretary/Treasurer of the Employer; and William M. Keller, Esq., a director of the Employer. The Trustees have sole discretion over the investment of Plan assets.

2. Prior to the enactment of the Act, the Plan purchased a parcel of real property located in Wilsonville, Oregon (the Wilsonville Property). The Wilsonville Property was acquired from parties unrelated with respect to the Plan. The Wilsonville Property is divided into four parcels. Parcel I is a 2.44 acre parcel improved with a building constructed by the Plan and leased to a subsidiary of the Employer pursuant to a lease, dated December 18, 1973 (the Old Lease). Parcel II is a 3.52 acre unimproved parcel covered by an option (the Option), dated December 18, 1973, between the Plan and the Employer. The applicant represents that the Option, as it was structured with monthly payments yielding an 8% annual return on the cost of the land, is equivalent to a binding lease under Oregon law.[3] Parcel III is an unimproved 1.22 acre railroad access strip acquired by the Plan to provide rail access to portions of the Wilsonville Property. The applicant represents that Parcel III is not desirable for uses other than providing access to the abutting Burlington Northern Railway tracks. Parcel III is separated from the rest of the Wilsonville Property by a strip of land owned by an unrelated third party. Parcel IV, which the Plan will retain, is a 7.57–7.88 acre unimproved parcel.

3. In August, 1982, the Trustees, in response to the Plan's liquidity needs, decided to offer the Wilsonville Property for sale along with other real properties owned by the Plan. Prior to this decision, the Plan contacted Dale R. Cowen, Vice President of Bullier & Bullier, Inc., real estate brokers and appraisers, to conduct an independent appraisal of the Wilsonville Property. Mr. Cowen determined that the Wilsonville Property had a fair market value of $1,400,000 as of January 11, 1982. On November 1, 1982, the Plan listed the Wilsonville Property with Robert R. Rogers Co. The listing was split with Parcel I listed for Parcel I listed for $595,000 and the remainder listed for $776,875 or $62,500 per acre. On April 4, 1983, after the expiration of the listing contract, a party unrelated with respect to the Plan offered the Plan $595,000 for Parcels I and II only. The offer was for $125,000 in cash with the balance payable monthly on a 15 year amortized contract at 9 ¾% interest per annum. The applicant represents that the Trustees rejected this offer because it was $200,000 below the asking price and required the Plan to give the purchaser a three year option to purchase Parcels III and IV for which the Plan was to receive no consideration. The Plan has received no other offers for the Wilsonville Property, nor for any portion thereof.

5. On October 15, 1983, Mr. Cowen reappraised the Wilsonville Property. Mr. Cowen determined that as of that date the fair market value of Parcel I was $487,000; the fair market value of Parcel II was $196,000; the fair market value of Parcel III was $48,000 (for a total of $731,000); and the fair market value of Parcel IV was $480,000. In a letter dated February 27, 1984, Mr. Cowen stated that the poor economic conditions in the Portland metropolitan area and the superior locations of available sites had caused a decline in land prices in Wilsonville and forced property owners to offer purchasers more attractive sale terms such as reduced contract interest rates. The applicant represents that neither the Browns nor the Employer own any other property in the vicinity of Wilsonville, Oregon.

6. On June 29, 1984, the Plan entered into the New Lease with the Employer to replace the Old Lease. The applicant seeks an exemption for the New Lease. The New Lease was a month to month triple net lease providing for a monthly rent of $4500. Prior to entering into the New Lease, the Pacific Western Bank Trust Groups (the Bank) accepted appointment as independent trustee of the Plan with respect to the New Lease. The Bank represents that it is independent of the Browns and Employer and that its commercial relationships with the Browns and the Employer amount to less than a small fraction of 1% of the Bank's total assets.

7. The Bank represents that it alone set the terms and conditions of the New Lease based on Mr. Cowen's October 15, 1983 appraisal, which determined that the fair market rental value of Parcel I was $4500 per month as of that date. The Bank further represents that after contracting realtors and appraisers in the Portland area and reviewing a February, 1984 appraisal prepared by Craig T. Morrow, the Bank's appraiser, which valued the Wilsonville Property at between $700,000 and $720,000, the Bank concluded that Mr. Cowen's October 15, 1983 appraisal of the Wilsonville Property and of the fair market rental value of Parcel I were still valid. The Bank, acting as independent fiduciary on behalf of the Plan monitored the Employer's performance under the terms of the New Lease. By letter dated October 23, 1984, the Bank reported that the Employer had made all rental payments through October 31, 1984 and had vacated the premises.

8. The applicant represents that the Plan is suffering from a very severe liquidity program. Approximately $300,000 is needed for distribution to Plan participants in the near future. The Wilsonville Property constitutes 65% of the Plan's assets. The applicant represents that the Sale will solve the Plan's cash flow problem giving the Plan a continuing cash flow to meet its obligations and anticipated future retirements. Additionally, the Sale will permit the Plan to diminish the percentage of Plan assets invested in real estate.

9. Accordingly, the Plan seeks an exemption to permit the Sale according to the terms of the Agreement, dated June 6, 1984, as amended. The Sale is contingent on the grant of an exemption by the Department. Pursuant to the Agreement, the Browns shall pay, in the aggregate, $761,130.00, including a cash downpayment of $152,226.00. The

[3] The applicant represents that the transitional rules of section 414 of the Act are applicable to the Old Lease and the Option. In this proposed exemption the Department expresses no opinion as to the applicability of section 414 of the Act to the Old Lease and Option respectively.

$608,904.00 balance will be paid according to three joint and several promissory notes (the Notes), one for each Parcel, which the Browns will execute in favor of the Plan. Each Note will be payable over 15 years in monthly installments of principal and interest at the rate of 11% per annum. The Plan will incur no expenses with respect to the Sale. The applicant represents that the Plan will continue to attempt to sell Parcel IV, which it represents should be more readily marketable than Parcel I, II and III.

The Agreement allocates the purchase, downpayment, balance of the Notes and monthly payments among Parcels I, II and III as follows:

	Total	Parcel I	Parcel II	Parcel III
Purchase price	$761,130	$585,000	$140,223	$25,907
Down payment	152,226	119,000	28,044	5,181
Balance	608,904	476,000	112,178	20,725
Monthly payment	6,920.79	5,410.20	1,275.02	235.57

The Agreement provides that a default in the terms of any of the Notes will be considered as a default in the terms of all three Notes. Each Note is payable in monthly installments as set forth above. All or any portions of the balance owing on each Note may be paid at any time without penalty. The first installment on each Note shall be paid one month after closing.

10. The Agreement provides that the Plan will convey the Property to the Browns by special warranty deed. The conveyance will be subject to a mortage on Parcil I held by the United States National Bank of Oregon (the Mortgage) with an approximate balance of $60,000 as of February 9, 1984. The Mortgage arose out of a loan by that bank to the Plan to finance the construction of the improvements on Parcel I. The last scheduled payment on the Mortgage is due on May 1, 1986. Interest on the Mortgage is at 8¾% per annum. The Plan pledges to continue to make payments on the Mortgage in accordance with its terms. Upon payment in full of any one of the three Notes, the Browns shall not be entitled to any reconveyance or release of the Parcel securing said Note until such time as the Browns have paid an additional $25,000 in excess of the minimum monthly payments required to be paid under the terms of the other two Notes. If any of the three Notes has been paid in full, and if the other two Notes are in a current condition and not in default, the Browns shall have the option of completing the payment of such additional $25,000, to be allocated in proportion to the original balance of the two other Notes. Upon such payment, the Browns shall be entitled to receive a partial reconveyance of the Parcel securing the Note that has been paid in full, and such parcel shall no longer constitute security under the trust deed which secures the Notes. The Agreement provides that the Browns will execute and record a single trust deed on Parcels I, II and III to secure the Notes.

11. The Bank represents that it has reviewed the proposed Sale and determined that each individual component of the Sale transaction is at fair market value and that the Sale is in the best interest of the Plan participants and beneficiaries for the following reasons: (a) The $761,130 Sales price is in excess of the appraised value of the Property as determined by Mr. Cowen, and that based on its familiarity with the Wilsonville Property and the general development of commercial property in that area, the Bank considers that the proposed Sales price is probably further in excess of the true market value that the Plan could expect from an unrelated party; (b) Craig Morrow, an appraiser with the Bank's mortgage banking group determined that as of February, 1984, the Property was worth between $700,000 and $720,000; (c) the Browns are a very good credit risk with a current net worth statement on file with the Bank showing a net worth in excess of $2,000,000, with virtually no current cash obligations beyond a small mortgage payment; (d) the down payment offered by the Browns is slightly higher than current market trends in the Portland/Wilsonville area; (e) the interest rate on the Notes is common for the geographic area and type of transaction and it meets current market trends; (f) Parcel IV, which the Plan will retain, represents a good investment in and of itself. If the Browns develop Parcel II, its increase in value will affect the value of Parcel IV making it more desirable for sale purpose: and (g) the Plan may be better able to find a buyer for property the size of Parcel IV than it could for the entire Wilsonville Property.

12. With particular reference to the price and interest rate involved in the proposed transaction, the Bank makes the following representations: (a) If Parcels, I, II and III were the property of one of the Bank's trusts and the Bank was trying to sell it, the Bank would accept an offer of $720,000, with a 20% down payment and an interest rate of 12%; (b) the Bank would also accept an offer of $761,130 with a 20% down payment and an interest rate of 11%; (c) the Bank believes that the Plan should accept the higher purchase price offer at the lower interest rate because this will produce a higher down payment, easing the Plan's liquidity problems; and (d) in all other respects, the Bank considers the Brown's offer and an offer of $720,000 with a 20% down payment and an interest rate of 12% as of equivalent value to the Plan. The Bank represents that after discussing the types of financing available to a prospective purchaser of commercial properties with several commercial loan officers located in the Portland area, the Bank determined that this type of commercial property normally could not be sold without seller financing.

13. The Bank concludes that considering the value of Parcels I, II and III, the Browns' net worth and ability to repay and the size of the down payment, it is satisfied that the security for the Loan is sufficient to protect the interests of the Plan participants. The Bank represents that it does not expect the value of Parcels I, II and III to decrease as dramatically in the future as it has over the past few years, but even if the value of those Parcels does decrease, the net worth and credit worthiness of the Browns provides clearly adequate capacity to pay on the Notes. The Bank further concludes that the transaction as a whole is a fair market value transaction and can be viewed as at least as good as the Plan could ever hope to obtain. Additionally, the Bank represents that it will continuously monitor the transaction and that it will enforce the terms of the Note and the transaction throughout their full duration.

14. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The Bank, acting as independent fiduciary on behalf of the Plan, set the terms of the New Lease at fair market value and monitored the employer's performance of the terms and conditions; (b) the Sales price is in excess of that determined by an independent appraiser; (c) the Bank, acting as an independent fiduciary for the Plan, has reviewed the terms of the Sale and concluded that they are at fair market value and can be viewed as at least as good as the Plan could ever hope to obtain; (d) the Bank determined that the security for the Loan is sufficient to protect the interests of the Plan participants; and (e) the Sale will permit the Plan to divest itself of real estate that is declining in value while helping to solve the Plan's liquidity problem.

For Further Information Contact: David M. Cohen of the Department,

telephone (202) 523-8671. (This is not a toll-free number.)

Cogan Management Inc. Pension Trust (the Plan) Located in New York, New York

[Application No. D-5426]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of $330,000 by the Plan to Management Service Company (MSC), under the terms described in this notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of the transaction.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with three participants. As of June 18, 1984, the Plan had total assets of approximately $1,795,641. MSC is a party in interest with respect to the Plan because it is a company which is owned by the Plan trustees, who are also the owners of Cogan Management, Inc., the Plan sponsor.

2. MSC currently leases a cooperative (the Apartment) located at 210 Central Park South, New York, New York, from Central Park South, Inc. (CPS), an unrelated company. MSC uses the Apartment as an office, meeting place, and facility for lodging many of its clients.

3. MSC now wishes to borrow $330,000 from the Plan in order to purchase the Apartment. MSC has been offered a special "insiders" purchase price for the Apartment of $431,320 by Douglas-Elliman Gibbons & Ives, the selling agent for CPS. The loan will be a 20 year amortization mortgage at a variable rate of interest which at the current time is 14 percent per annum. The mortgage is callable at the end of five years. Chemical bank (the Bank), an unrelated bank in New York City, has represented that it would make the identical loan to MSC. The loan's interest rate will be adjusted each year to bring it into conformity with the going rate of the Bank at such time for such loans. The Bank has also represented that it would charge MSC a one percent loan origination fee, and MSC has represented that it will pay that fee to the Plan.

4. The loan will be secured by a first mortgage on the Apartment. Three independent real estate brokers in New York City have represented that the Apartment would have a fair market value ranging from $600,000 to $750,000 on the open market as of September, 1984. Thus, the collateral/loan ratio will be at least 180%. The mortgage will be duly filed and recorded in the appropriate office in New York City.

5. The Plan has appointed Mr. Howard Furman as an independent fiduciary with respect to the proposed transaction. Mr. Furman is an attorney in New York City who is experienced in the specific area of pension and profit sharing plans. Mr. Furman represents that he understands and accepts his duties, responsibilities and liabilities as a fiduciary with respect to the Plan. He further represents that he has no business relationship with Cogan Management, Inc.

6. Mr. Furman represents that he has reviewed the proposed transaction and has determined that it is appropriate for the Plan and in the Plan's best interests. Mr. Furman further represents that he will monitor the loan throughout its duration and will take whatever action is necessary to enforce the Plan's rights. Mr. Furman will review the interest rate annually to see that it is not less than the prevailing fair market interest rate at the time. Mr. Furman represents that he will call the loan at the end of five years if he determines it is in the Plan's best interest to do so, and he will call the loan if at any time the collateral/loan ratio should fall below 150%

7. In summary, the applicant represents that the loan transaction meets the criteria of section 408(a) of the Act because: (1) The loan involves approximately 18% of the Plan's assets; (2) the loan is at terms identical to those required by Chemical Bank, an unrelated bank in New York City; (3) the loan will be secured by the Apartment, which has been determined by independent real estate brokers to have a fair market value at least 1.8 times the principal amount of the loan; (4) Mr. Furman, the Plan's independent trustee, has determined that the loan is appropriate for the Plan; and (5) Mr. Furman will monitor the loan and take whatever action is necessary to enforce the Plan's rights.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Floyd Browne Associates, Limited et al. Employees Profit Sharing Trust (the Plan) Located in Marion, Ohio

[Application No. D-5473]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of an improved parcel of real property (the Property) by the Plan to either Floyd Browne Associates, Limited (FBA), the Plan sponsor, or Browne Investment Company (Browne), a party in interest with respect to the Plan, provided that the sales price is not less than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 103 participants and total net assets of $1,479,399 as of September 30, 1983. The Huntington National Bank of Columbus, Ohio (the Bank) serves as the trustee of the Plan. FBA serves as the Plan administrator and named fiduciary and has investment discretion with respect to Plan assets.

2. FBA and its two wholly-owned subsidiaries, Aqua Tech Environmental Consultants, Inc. (ATEC) and Macola, Incorporated (Macola) are professional companies engaged in consulting engineering activities. Both ATEC and Macola are sponsors of the Plan along with FBA. FBA is managed by a board of five managers, Messrs. Melvin Koehler, Lawrence Rigby, Bayliss Prater, Garry Cole and Charles Wright. These managers are five of the nine partners of Browne, an Ohio partnership. The nine partners of Browne together own 57 of the 82 issued and outstanding shares of FBA.

3. The Property is improved by an office building located at 181 South Main Street in Marion, Ohio. The Property is currently being leased to FBA under a 15 year triple net lease dated October 1, 1973. The applicant represents that this leasing arrangement was exempt from the prohibitions of section 406 of the Act by virtue of the transitional rules contained in section

414(c)(2) of the Act.[4] The applicant recognizes that the continuation of the lease beyond June 30, 1984 is a prohibited transaction not subject to any transitional or statutory relief and represents that it will pay all applicable excise taxes to the Internal Revenue Service with regard to the lease within 30 days from the grant of an individual exemption on behalf of the Plan. The applicant also represents that FBA will pay to the Plan an amount equal to the difference, if any, between the rental paid to the Plan from July 1, 1984 until the date of sale of the Property and the fair market rental of the Property for such time period. FBA will pay such amount, if any, within 30 days from the grant of an individual exemption on behalf of the Plan.

4. The applicant seeks an exemption for the Plan to sell the Property to FBA or Browne for cash at its appraised fair market value. The Property was first appraised by Messrs. Anthony F. Mollica, MAI and Terence B. Arnold, real estate appraisers located in Columbus, Ohio, who determined, as of September 19, 1983, that the Property had a fair market value of $495,000. The applicant submitted with the filing of the exemption application another appraisal of the Property by Mr. Lowell E. Norris, MAI, an appraiser located in Columbus, Ohio. Mr. Norris determined, as of April 24, 1984, that the Property had a fair market value of $356,500.

Because of the substantial decline in the value of the Property as indicated by Mr. Norris' appraisal, the Department requested Mr. Mollica to reappraise the Property and render another determination as to its fair market value. Mr. Mollica determined, as of October 3, 1984, that the Property had a fair market value of $390,000, a value $105,000 less than the value of the Property one year earlier. Each of the above appraisals valued the Property as unencumbered by the lease to FBA. Mr. Mollica utilized the income approach in appraising the Property. Mr. Mollica determined in his October, 1984, report that the expenses per square foot of the Property had increased from $1.75 to $3.00 causing the net rental per square foot of the Property to decrease from September, 1983. Mr. Mollica accordingly determined, using the lower net rental per square foot figure, that the fair market value of the Property was less than in September, 1983.

5. Because of the wide discrepancies in the value conclusions of the three appraisals, the applicant appointed the Bank to serve as the independent fiduciary for the Plan with respect to the Property. The Bank has no commercial, depository, or custodial relationships with FBA or Browne other than serving as the trustee of the Plan. The Bank acknowledges that it is acting as a fiduciary to the Plan with regard to the Property.

6. The Bank determined, after a complete review and independent evaluation of the appraisals, an on-site inspection of the Property, and a review of all other relevant documents, including financial statements that, as of December 12, 1984, the Property had a fair market value of $376,000. The Bank also determined, as the fiduciary for the Plan with respect to the Property, that the sale of the Property for cash is appropriate and in the best interests of the Plan. In this regard, the Bank determined that the probable trend of the Property's value is at best stable with only a minimal chance for appreciation. The Bank represents that the sale of the Property will enable the Plan to invest the proceeds in more liquid assets and other investment opportunities which afford better appreciation potential. The Plan will not incur any costs or any other expenses in connection with the sale of the Property.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the Bank, as independent fiduciary for the Plan, determined the fair market value of the Property; (b) the sale of the Property will be for cash at its fair market value; (c) the Bank determined that the sale of the Property is appropriate and in the best interests of the Plan; and (d) the Plan will not incur any expenses or other costs in connection with the sale.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Shelly's Tall Girl Shops, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, CA

[Application No. D-5587]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code shall not apply to the loan by the Plan of amounts not to exceed 25% of its total assets to Shelly's Tall Girl Shops, Inc., the sponsor of the Plan (The Plan Sponsor), on a recurring basis over a five-year period,[5] and the guarantee of repayment of those loans by Messrs. Sheldon Kort, Irving Kellogg, and Sherman Andelson, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of Exemption: If granted, this exemption will be effective for five years from the date a grant of an individual exemption is published in the Federal Register on behalf of the transaction. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with approximately 160 participants. As of March 31, 1984, the Plan had total assets of approximately $1,950,000. The Plan's administrators and trustees are Sherman L. Andelson and Zoltan Batyka (the Trustees). The Trustees collectively own 22% of the stock of the Plan Sponsor. The Plan Sponsor is a California corporation incorporated in 1953 to conduct retail sales of women's clothing.

2. The Trustees request an exemption to allow the Plan to make loans to the Plan Sponsor (the Loans) for a period of five-years, on a recurring basis. The proceeds of the Loans will be used to finance the purchase of office and warehouse equipment, retail store remolding installations, and building leasehold improvements (collectively, the Equipment). The total amount of the Loans, and any other loans made by the Plan to the Plan Sponsor, will not exceed 25% of the assets of the Plan.

3. Each Loan will be evidenced by a promissory note and a security agreement which will itemize the collateral. In addition, a UCC-1 filing statement will be filed in accordance with California law for each Loan transaction. Each Loan will be personally guaranteed by Messrs. Sheldon Kort, Irving Kellogg, and Sherman Andelson, the majority

[4] The Department expresses no opinion herein as to whether the leasing arrangement satisfied the conditions stated in section 414(c)(2) of the Act.

[5] Prohibited Transaction Exemption 84-82 (49 26840, June 29, 1984) granted similar relief to the Plan to permit the loan of amounts not to exceed 25 percent of the total amount of Plan assets to the Plan Sponsor for the purchase of other equipment. The applicant represents that at the time of its making, no loan, together with other loans, will exceed 25 percent of the total assets of the Plan.

shareholders of the Plan Sponsor. It is represented that these individuals each have a net worth in excess of $500,000.

4. Each Loan will have a first lien on the Equipment. The amount of each Loan will at no time exceed 66⅔% of the value of the Equipment acquired and will therefore, at the time of purchase, represent 150% collateralization of the outstanding Loan balance. If the value of the Equipment decreases to less than 150% of the outstanding Loan balance, the Plan Sponsor will offer any additional collateral that may be required to assure that the collateralization remains 150 percent of the outstanding blance of the Loans. The Equipment will be fully insured by a qualified, licensed insurance company with the Plan designated as the loss payee.

5. The interest rate of the Loans will be fixed at a rate ½% above the prevailing rate for similar commercial loans in the Los Angeles area. The maximum length of each Loan will be 60 months. The Loans will be repaid in monthly installments of principal and interest.

6. Mr. Max Goodman, Attorney at Law, will serve as the independent fiduciary (Independent Fiduciary) for the Loans. The applicant represents that the Independent Fiduciary is unrelated to the Plan and the Plan Sponsor. Prior to the Plan entering each Loan, the Independent Fiduciary will certify that such Loan would be an appropriate investment for the Plan, and that the terms of each Loan equal to or better than those which the Plan would receive in dealing with an unrelated party. The Independent Fiduciary will monitor repayment of the Loans and review the fair market value of the collecteral.

7. The Plans will release money to fund the Loans only upon the Plan's receipt of (1) a promissory note and security agreement in proper form personally guaranteed by Messrs. Kort, Kellogg and Andelson, (2) an application for a certificate of title to the Equipment, and (3) the written approval of the Independent Fiduciary.

8. The Independent Fiduciary has made the following representations:

(1) That he understands the general fiduciary duties and responsibilities he has agreed to perform in accordance with Section 404 of the Act.

(2) That the value of the collateral for the Loans will be determined by independent appraisals to assure that at all times the collateral represents 150% of the Loan.

(3) That he will have the authority to monitor the collateral to assure that it remains 150% of the outstanding balance of the Loans, and will act on behalf of the Plan to require additional collateral should the existing collateral decrease in value below the 150% limit and take whatever steps are necessary to protect the Plan's assets invested in the Loans.

(4) That the interest rate received on the Loans will be a similar rate to that charged by outside lending institutions on similar loans for similar commercial business equipment.

(5) That the Loans fit into the overall asset investment scheme of the Plan and that no Plan assets other than liquid money asset investments will be needed to be sold to fund the Loans.

9. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(a) the Loans will be adequately secured at all times by personal property valued at 150% of the outstanding balance of the Loans and by personal guarantees of the majority stockholders of the Plan Sponsor;

(b) the Loans will be limited to a five-year period; and

(c) the Independent Fiduciary has determind that the Loans are in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

McKay of California, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, California

[Application No. D-5602]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of the Code shall not apply to the loan by the Plan of amounts not to exceed 25% of its total assets to McKay of California, the sponsor of the Plan (the Plan Sponsor), on a recurring basis over a five-year period,[6] and the guarantee of repayment of these loans by Messrs. Sherman L. Andelson, Irving Kellogg, and Sherman Kort, parties in interest with respect to the Plan, provided the terms of the loans are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

Temporary Nature of Exemption: This exemption will be effective for five years from the date a grant of an individual exemption is published in the **Federal Register** on behalf of the transactions. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

Summary of Facts and Representations

1. The Plan is a defined benefit pension paln with approximately 150 participants. As of March 31, 1984, the Plan had total assets of approximately $283,000. The Plan's administrators and trustees are Sherman L. Andelson and Zoltan Batyka (the Trustees). The Trustees collectively own 22% of the stock of the Plan Sponsor. The Plan Sponsor is a California corporation incorporated in 1953 to conduct retail sales of women's clothing.

2. The Trustees request an exemption to allow the Plan to make loans to the Plan Sponsor (the Loans) for a period of five-years, on a recurring basis. The proceeds of the Loans will be used to finance the purchase of office and warehouse equipment, retail store remolding installations, and building leasehold improvements (collectively, the Equipment). The total amount of the Loans, and any other loans made by the Plan to the Plan Sponsor, will not exceed 25% of the assets of the Plan.

3. Each Loan will be evidenced by a promissory note and a security agreement which will itemize the collateral. In addition, a UCC-1 filing statement will be filed in accordance with California law for each Loan transaction. Each Loan will be personally guaranteed by Messrs. Sheldon Kort, Irving Kellogg, and Sherman Andelson, the majority shareholders of the Plan Sponsor. It is represented that these individuals each have a net worth in excess of $500,000.

4. Each Loan will have a first lien on the Equipment. The amount of each Loan will at no time exceed 66⅔% of the value of the Equipment acquired and will therefore, at the time of purchase, represent 150% collateralization of the outstanding Loan balance. If the value of the Equipment decreases to less than 150% of the outstanding Loan balance, the Plan Sponsor will offer any additional collateral that may be required to assure that the

[6] Prohibited Transaction Exemption 84-93 (49 FR 26840, June 29, 1984) granted similar relief to the Plan to permit the loan of amounts not to exceed 25 percent of the total amount of Plan assets to the Plan Sponsor for the purchase of other equipment. The applicant represents that at the time of its making, no loan, together with other loans, will exceed 25 percent of the total assets of the Plan.

collateralization remains 150 percent of the outstanding balance of the Loans. The Equipment will be fully insured by a qualified, licensed insurance company with the Plan designated as the loss payee.

5. The interest rate of the Loans will be fixed at a rate ½% above the prevailing rate for similar commercial loans in the Los Angeles area. The maximum length of each Loan will be 60 months. The Loans will be repaid in monthly installments of principal and interest.

6. Mr. Max Goodman, Attorney at Law, will serve as the independent fidcuciary (Independent Fiduciary) for the Loans. The applicant represents that the Independent Fiduciary is unrelated to the Plan and the Plan Sponsor. Prior to the Plan entering each Loan, the Independent Fiduciary will certify that such Loan would be an appropriate investment for the Plan, and that the terms of each Loan are equal to or better than those which the Plan would receive in dealing with an unrelated party. The Independent Fiduciary will monitor repayment of the Loans and review the fair market value of the collateral throughout the duration of the Loans.

7. The Plan will release money to fund the Loans only upon the Plan's receipt of (1) a promissory note and security agreement in proper form personally guaranteed by Messrs. Kort, Kellogg and Andelson, (2) an application for a certificate of title to the Equipment, and (3) the written approval of the Independent Fiduciary.

8. The Independent Fiduciary has made the following representations:

(1) That he understands the general fiduciary duties and responsibilities he has agreed to perform in accordance with Section 404 of the Act.

(2) That the value of the collateral for the Loans will be determined by independent appraisals to assure that at all times the collateral represents 150% of the Loan.

(3) That he will have the authority to monitor the collateral to assure that it remains 150% of the outstanding balance of the Loans, and will act on behalf of the Plan to require additional collateral should the existing collateral decrease in value below the 150% limit and take whatever steps are necessary to protect the Plan's assets invested in the Loans, including any actions involving foreclosure.

(4) That the interest rate received on the Loans will be a similar rate to that charged by outside lending institutions on similar loans for similar commercial business equipment.

(5) That the Loans fit into the overall asset investment scheme of the Plan and that no Plan assets other than liquid money asset investments will be needed to be sold to fund the Loans.

(9) In summary, the applicant represented that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(a) The Loans will be adequately secured at all times by personal property valued at 150% of the outstanding balance of the Loans and by personal guarantees of the majority stockholders of the Plan Sponsor;

(b) The Loans will be limited to a five-year period; and

(c) The Independent Fiduciary has determined that the Loans are in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 24th day of January, 1985.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-2273 Filed 1-28-85; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be held on February 11, 1985 from 9:00 a.m.-6:00 p.m. and on February 12, 1985 from 9:00 a.m.-5:00 p.m. in the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on February 12, 1985 from 11:45 a.m.-1:00 p.m. to discuss guidelines.

The remaining sessions of this meeting on February 11, 1985 from 9:00 a.m.-6:00 p.m., February 12, 1985 from 9:00 a.m.-11:30 a.m., and February 12, 1985 from 2:00 p.m.-5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: January 18, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-2159 Filed 1-28-85; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on February 7-9, 1985, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on January 23, 1985.

The agenda for the subject meeting will be as follows:

Thursday, February 7, 1985

8:30 A.M.-8:45 A.M.: Report of ACRS Chairman (open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.-9:45 A.M.: Fire Protection in Nuclear Power Plants (Open)—The members will hear a report of the cognizant ACRS subcommittee and discuss NRC Staff activities regarding implementation of requirements for fire protection (10 CFR Part 50, Appendix R, Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979) in nuclear power plants. Representatives of the NRC Staff, nuclear power plant licensees, fire insurance companies, and organizations doing related research will participate as appropriate.

9:45 A.M.—12:30 P.M.: NRC Safety Research Program and Budget (Open)—Members of the Committee will discuss the proposed ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1986-87.

1:30 P.M.-2:30 P.M.: Pressurized Thermal Shock of Reactor Pressure Vessels (Open)—The Committee will discuss dissenting views of a member of the NRC Staff regarding proposed provisions for dealing with the potential for thermal shock of reactor pressure vessels. Representatives of the NRC Staff will also participate, as appropriate.

2:30 P.M.—6:00 P.M.: Braidwood Nuclear Plant, Units 1 and 2 (Open/Closed)—The members will consider the request by the applicant for operation of the Braidwood Nuclear Plant. Representatives of the NRC staff and the applicant will participate in this review.

Portions of this session will be closed as required to discuss Proprietary Information applicable to this facility and details of the applicant's provisions for plant security.

Friday, February 8, 1985

8:30 A.M.—8:45 A.M.: Decay Heat Removal (Open)—The members will discuss proposed NRC Staff activities related to resolution of USI A-45, Shutdown Decay Heat Removal Requirements.

8:45 A.M.-9:45 A.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

9:45 A.M.-10:30 A.M.: Topics for Meeting with NRC Commissioners (Open)—The members will discuss proposed topics for meeting with the NRC Commissioners including use of the "check-operator" concept for requalification of nuclear power plant operators, requirements regarding experience levels required for reactor operators, and the status of other safety-related items including backfitting of nuclear power plants, use of quantitative safety goals, and consideration of seismic occurrences in provisions for emergency planning.

10:30 A.M.-12:00 Noon: Meeting with NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners to discuss the topics noted above.

1:00 P.M.-3:00 P.M.: NRC Safety Research Program and Budget (Open)—The members will continue discussion of the proposed NRC safety research program and budget for FY 1986-87.

3:00 P.M.-5:30 P.M.: Backfitting of Nuclear Power Plants (Open/Closed)—The members will discuss proposed revisions to NRC requirements (10 CFR Part 109) regarding backfitting of nuclear plants. Representatives of the NRC Staff and the nuclear industry will participate, as appropriate.

Portions will be closed as necessary to discuss Proprietary Information applicable to this matter.

Saturday, February 9, 1985

8:30 A.M.-9:30 A.M.: Systematic Review of Nuclear Power Plants (Open)—The members will discuss proposed comments to clarify the ACRS recommendation for systematic review of nuclear power plants in its report to NRC dated July 18, 1985 regarding NUREG-1070, "NRC Policy on Future Nuclear Designs: Decisions on Severe Accident Issues in Nuclear Power Plant Regulation."

9:30 A.M.-12:30 P.M.: Preparation of ACRS Report (Open/Closed)—The members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting in addition to the proposed ACRS report to the U.S. Congress regarding the proposed NRC Safety research program and budget for FY 1986-87.

Portions of this session will be closed as required to discuss Proprietary Informaton, detailed safeguards information, and information involved in an adjudicatory proceeding.

1:30 P.M.-2:30 P.M.: High-Level Radioactive Wastes (Open)—The members will hear and discuss a report of its designated subcommittee regarding proposed NRC and DOE activities to evaluate disposal sites for high-level radioactive wastes.

2:30 P.M.-3:30 P.M.: Foreign Regulatory Activities (Open/Closed)—The members of the Committee will hear and discuss information regarding Japanese nuclear power plant design and regulatory practices.

Portions of this session will be closed as required to discuss information provided in confidence by a foreign source.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 3, 1984 (49 FR 193). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is

necessary to close portions of this meeting as noted above to discuss safeguards information (5 U.S.C. 552b(c)(3)), Proprietary Information (5 U.S.C. 552b(c)(4)), information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)), and information involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: January 24, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85-2217 Filed 1-28-85; 8:45 am]

BILLING CODE 7590-01-M

NUREG-0800; Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants; Issuance and Availability, Revised Table of Contents

The U.S. Nuclear Regulatory Commission (NRC) has published a revision to the "Table of Contents" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The table of contents, Revision 5 incorporates all Standard Review Plan Sections that have been revised and issued since NUREG-0800 was issued in July 1981. All changes resulting from incorporating the revised SRP Sections and a few editorial changes are identified by a line in the margin of the revised Table.

A copy of the revised Table is expected to be available in the Public Document Room within 2 weeks. Copies of the revised SRP Sections or of the complete Standard Review Plan, NUREG-0800, Accession No. PD-81-920199, are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487-4650.

Dated at Bethesda, Maryland this 26th day of December 1984.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-2218 Filed 1-28-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-295]

Commonwealth Edison Co. (Zion Nuclear Unit No. 1); Issuance of Director's Decision Under 10 CFR 2.206

On August 7, 1984, a notice was published in the **Federal Register** that, by a Petition for Emergency Relief dated June 5, 1984 (Petition), Edward M. Gogol, on behalf of Citizens Against Nuclear Power, sought emergency relief and immediate action to remedy alleged inadequacies in the containment integrated leak rate test for the Zion Nuclear Power Station, Unit No. 1 conducted in March 1981. A variety of relief was requested, including immediate retesting of the Zion Nuclear Power Station, Unit No. 1 containment or, in the alternative, suspension of the facility's operating license.

Investigation into the allegations discovered procedural discrepancies in the 1981 integrated leak rate test performed at Zion Nuclear Power Station, Unit No. 1 and resulted in invalidation of the test. Following a voluntary shutdown of the unit by Commonwealth Edison Company, the containment was retested demonstrating compliance with Commission regulations in 10 CFR Part 50, Appendix J. Accordingly, the Petition has been granted in part and denied in part.

A copy of the formal decision (DD-85-2) is available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room located at Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy will also be filled with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c) this decision will become the final action of the Commission twenty-five days after issuance unless the Commission elects to review the decision on its own motion within that time.

Dated at Bethesda, Maryland this 23rd day of January 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-2219 Filed 1-28-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Proposal for a Coordinated Framework for Regulation of Biotechnology

In FR Doc. 84-33636, beginning on page 50856 in the issue of Monday, December 31, 1984, make the following correction: On page 50881, in the first column, the acronym appearing in the second line of the fourth complete paragraph should read "TSCA".

BILLING CODE 1505-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessment Commission scheduled for Wednesday, February 13, 1985. The meeting will convene at 10:00 a.m. in the Congressional Room of the Shoreham Hotel, 2500 Calvert Street and Connecticut Avenue, NW., Washington, D.C., and will be open to the public.

Donald A. Young, M.D.,

Executive Director.

[FR Doc. 85-2271 Filed 1-28-85; 8:45 am]

BILLING CODE 6820-BW-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title*: Student Beneficiary Monitoring.
(2) *Form(s) submitted*: G-315, G-315a.
(3) *Type of request*: Revision of a currently approved collection.
(4) *Frequency of use*: On occasion and semi-annually.
(5) *Respondents*: Individuals or households, businesses or other for-profit and non-profit institutions.
(6) *Annual responses*: 7,000.
(7) *Annual reporting hours*: 649.
(8) *Collection description*: Under the Railroad Retirement Act, a student benefit is not payable if the student ceases full-time school attendance marries, works in the railroad

industry, has excessive earnings or attains the upper age limit under the Act. The report obtains information to be used in determining if benefits should cease or be reduced.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–2167 Filed 1–28–85; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Executive Committee of the Government-Business Forum on Small Business Capital Formation; Meeting

The Small Business Investment Incentive Act of 1980 (Pub. L. No. 96–477, October 21, 1980) requires the Securities and Exchange Commission to conduct an annual Government-Business Forum to review the current status of problems and programs relating to small business capital formation. The Executive Committee, comprised of appointees from several federal agencies and private sector organizations, will meet on January 30, 1985, at 10:30 a.m. for the purpose of planning the 1985 Forum. The meeting is to be held at the Securities and Exchange Commission, Room 3059, 450 5th Street, NW., Washington, D.C. 20549, and will be open to the public.

For further information, contact Mary J. Jackley at (202) 272–2644.

John Wheeler,

Secretary.

January 24, 1985.

[FR Doc. 85–2246 Filed 1–28–85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21680; SR-Amex-84-37]

Self-Regulatory Organization; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 23, 1985.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, submitted on November 28, 1984, a proposed rule change to expand the Amex Options Switch System ("AMOS"), which enables member firms electronically to route certain options orders to the specialist's post and similarly to receive back execution reports. In particular, the proposed rule change would authorize the expansion of AMOS' capabilities to accommodate: (1) options market and marketable limit orders up to ten contracts; and (2) away-from-the-market options limit orders up to 100 contracts. The Commission solicited comment on the proposal but received none.[1]

Currently, AMOS is not authorized to receive options market and marketable limit orders of more than five contracts, nor is it authorized to receive any away-from-the-market options limit orders. As proposed, Amex would implement the proposed rule change immediately upon Commission approval only insofar as it concerns marketable limit orders and away-from-the-market options limit orders. Amex intends to implement the AMOS expansion with respect to eligible market orders at some time in the future upon determination of the Chairman of Amex.

Amex has indicated that there are two reasons for expanding AMOS' capabilities. First, the average size of an options order has increased significantly since the inception of AMOS, in 1979, when the five contract ceiling was established. As a result, the percentage of AMOS-eligible options orders has decreased substantially. Second, the expansion is responsive to member firm requests for greater efficiency in the processing of small, routine orders, including away-from-the-market limit orders, and in keeping with industry movement toward greater automation.[2]

Amex contends that the expansion of AMOS would increase the capacity of the options floor to handle order flow by facilitating the transmission, execution, and reporting of small routine options orders.[3] In addition, the Amex believes that the expansion of Amex's automated order routing and reporting system should extend the benefit of automation to a greater universe of trades by enhancing the accuracy of the data submitted by and the reports generated to Amex member firms with regard to a greater number of marketable and away-from-the-market limit orders.

The Commission believes that the 100 contract limitation on the size of AMOS-eligible away-from-the-market options limit orders is appropriate, at least initially, because of the lack of experience in handling these types of orders. This restriction should provide members with sufficient flexibility, while simultaneously limiting any potential financial risk. In addition, the Commission notes that at least one other exchange has imposed the same contract limitation on these types of orders.[4] Furthermore, the Commission believes that the ten contract limit on marketable limit orders is appropriate, particularly in light of Amex's assertion that this ceiling limit should increase the number of AMOS-eligible orders significantly.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, with the requirements of sections 6(b)(5) and 11(A)(a)(1)(B) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–2245 Filed 1–28–85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organization; Boston Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 23, 1985.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission

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[1] *See* Securities Exchange Act Release No. 21548 (December 7, 1984), 49 FR 49194 (December 18, 1984).

[2] The Commission notes that most of the options exchanges have implemented similar systems to accommodate certain small options orders. *See, e.g.*, Securities Exchange Act Release No. 21289 (September 5, 1984), 49 FR 36075 (September 20, 1984) (NYSE); and Securities Exchange Act Release No. 20811 (April 2, 1984), 49 FR 13932 (April 9, 1984) (CBOE).

[3] In its filing, Amex noted that similar benefits inured to the various trade participants when the Post Execution Reporting ("PER") System, designed to handle certain Amex equity orders, was implemented.

[4] *See* Securities Exchange Act Release No. 21289, *supra* note 3.

pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Alabama Power Company
Cumulative Preferred Stock, $100 Par Value, File No. 7-8233
American General Corp.
Preferred Stock, Series A, No Par Value, File No. 7-8234
Burlington Northern
Preferred Stock, No Par Value, File No. 7-8235
Detroit Edison Co.
Series B and Cumulative Preferred Stock, No Par Value, File No. 7-8236
El Paso Natural Gas
Depository Receipts, No Par Value, File No. 7-8237
Cincinnati Gas & Electric Co.
Cumulative Preferred Stock, $100 Par Value, File No. 7-8238
Columbia Gas System Inc.
Cumulative Preferred Stock, $50 Par Value, File No. 7-8239
Duke Power Co.
Cumulative Preferred Stock, $100 Par Value, File No. 7-8240
Indiana & Michigan Electric Co.
Cumulative Preferred Stock, $25 Par Value, File No. 7-8241
Northwest Pipeline Corp.
Cumulative Preferred Stock, $1.00 Par Value, File No. 7-8242
Ohio Power Co.
Cumulative Preferred Stock, $100 Par Value, File No. 7-8243
Public Service Co. of Colorado
Cumulative Preferred Stock, $25 Par Value, File No. 7-8244
Puget Sound Power & Light
Cumulative Preferred Stock, $25 Par Value, File No. 7-8245
Transcontinental Gas Pipe Line Corp.
Cumulative Preferred Stock, No Par Value, File No. 7-8246
American Brands, Inc.
Preferred Stock, No Par Value, File No. 7-8247
Marmon Group, Inc.
Cumulative Preferred Stock, $1.00 Par Value, File No. 7-8248
McDermott, Inc.
Cumulative Preferred Stock, $1.00 Par Value, File No. 7-8249
Occidental Petroleum Corp.
Cumulative Preferred Stock, $1.00 Par Value, File No. 7-8250
RCA Corp.
Cumulative Preferred Stock, No Par Value, File No. 7-8251
Tenneco, Inc.
Cumulative Preferred Stock, No Par Value, File No. 7-8252
R.J. Reynolds Industries, Inc.
Preferred Stock, No Par Value, File No. 7-8253

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2243 Filed 1-28-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

In the matter of applications of the Midwest Stock Exchange for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

January 23, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

The Newhall Land and Farming Company
Depositary Receipts, No Par Value, File No. 7-8220
Soo Line Company
Common Stock, No Par Value, File No. 7-8221
Fedders Corporation
Common Stock, $1.00 Par Value, File No. 7-8222
FPL Group, Inc.
Common Stock, Par Value, File No. 7-8223
SCANA Corporation
Common Stock, $4.50 Par Value, File No. 7-8224
John Hancock Investors Trust
Capital Stock, $1.00 Par Value, File No. 7-8225
John Hancock Income Securities Trust
Capital Stock, $1.00 Par Value, File No. 7-8226
Burlington Coat Factory Warehouse Corp.
Common Stock, $1.00 Par Value, File No. 7-8227
Delmed, Inc.
Common Stock, $.10 Par Value, File No. 7-8228
American Motor Inns
Common Stock, $.40 Par Value, File No. 7-8229
Conner Homes Corporation
Common Stock, $.10 Par Value, File No. 7-8230

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2242 Filed 1-28-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organization; Pacific Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

In the matter of applications of the Pacific Stock Exchange for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

January 23, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

AM International, Inc.
Common Stock, No Par Value, File No. 7-8231
General Motors
Common Stock, Class E, Par Value

$.10, File No. 7–8232

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if if finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–2244 Filed 1–28–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23576; 70–6874]

New England Power Co.; Proposed Issuance and Pledge of First Mortgage Bonds

January 18, 1985.

New England Power Company ("NEPCO"), 25 Research Drive, Westborough, Massachusetts 01582, an electric utility subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a proposal pursuant to section 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(4) there under.

By orders dated August 5, 1983 (HCAR No. 23025), December 2, 1983 (HCAR No. 23146), and December 16, 1983 (HCAR No. 23169) this Commission authorized NEPCO to: (i) Issue and sell additional preferred stock having an aggregate par value not exceeding $75 million; (ii) issue and sell series H, I, and J General and Refunding Mortgage Bonds ("G&R Bonds") in an aggregate amount not exceeding $100 million; and (iii) issue and pledge series V and W First Mortgage Bonds in an aggregate amount not exceeding $165 million. NEPCO has not issued any Pledge Bonds under these authorizations, which expired December 31, 1984.

The General and Refunding Mortgage Indenture ("the G&R Indenture") requires that First Mortgage Bonds be issued by the Company and pledged with the trustee under the G&R Indenture as additional security for all G&R Bonds. The principal amount of additional First Mortgage Bonds to be issued to the G&R Trustee (hereinafter, the "Pledge Bonds") is the lesser of: (a) The aggregate amount of all G&R bonds outstanding; or (b) the maximum amount of First Mortgage Bonds which can be issued, less a reserve for sinking an improvement fund requirements.

Because of the restrictive provisions in the First Mortgage Indenture concerning the types of property against which the Company may issue First Mortgage Bonds, there are currently more G&R Bonds outstanding from previously approved series than there are Pledged Bonds. Only Pledge Bonds may now be issued under the First Mortgage Indenture and no new First Mortgage Bonds will be issued to the public.

NEPCO therefore proposes to reduce or eliminate the short-fall of Pledged Bonds as compared to G&R Bonds through issues of Series V, Series W, and three additional series of Pledged Bonds corresponding to the Series H, I, and J G&R Bonds, in aggregate principal amount not exceeding $165 million, from time to time through December 31, 1986.

The provisions of the First Mortgage Indenture remain in full force, however, and, as the First Mortgage Bonds now outstanding mature or are redeemed, publicly held First Mortgage Bonds will represent a decreasing share of the security afforded by the lien of the First Mortgage Indenture. Upon the retirement of all publicly held First Mortgage Bonds, the First Mortgage Indenture will be discharged and the G&R Bonds will become First Mortgage Bonds.

The relationship of the total principal amount of Pledged Bonds to G&R Bonds will continue to vary from time to time depending on the ability of the Company to issue Pledged Bonds. As additional property becomes available, the Company will need to be able to pledge additional bonds. There will be no proceeds from the issue and pledge of the Pledged Bonds. Accordingly, the issuance of the Pledge Bonds will not affect the capitalization of the Company. The additional Pledged Bonds will be registered in the name of the G&R Trustee. As long as the Company is not in default under its G&R Indenture, the principal, interest, and premium, if any, on any Pledged Bonds need not be paid to the G&R Trustee. To the extent payments are made on the Pledged Bonds, the amount due from the Company to the holders of the G&R Bonds will be reduced to preclude any double recovery.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 12, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–2179 Filed 1–28–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21677; File No. SR–MCC–84–10]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by Midwest Clearing Corporation

January 22, 1985.

The Midwest Clearing Corporation ("MCC") on November 6, 1984, submitted a proposed rule change to the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). Notice of the proposal was published in Securities Exchange Act Release No. 21588 (December 19, 1984), 49 FR 50343 (December 27, 1984). The Commission received no letters of comment on the proposal.

MCC's proposed rule change would extend MCC's current physical settlement services to Participants comparing and settling municipal securities transactions through MCC's Municipal Bond Comparison System.[1] Under the proposal, the following settlement services would be available to MCC Participants: (1) Envelope Settlement Service ("ESS")—a Participant may group physical

[1] *See* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984), which approved implementation of MCC's Municipal Bond Comparison System.

securities destined for a receiving Participant into a single envelope that will be delivered against payment; (2) Special Securities Movement ("SSM")—MCC will verify good delivery of physical securities and deliver them against payment; (3) Correspondent Delivery and Collection Service ("CDCS")—a Participant may instruct MCC to deliver securities to a non-Participant against payment; and (4) Correspondent Receipt and Payment Service ("CRPS")—a Participant may instruct MCC to receive Securities delivered from a non-Participant and make payment for them.[2] The proposal provides that MCC will perform these services on a best efforts basis. In addition, the proposal also provides that MCC will charge Participants for each settlement service used.[3]

MCC believes that the proposal is consistent with section 17A of the Act in that it provides for the prompt and accurate settlement of securities transactions. MCC further believes that the proposal will allow MCC Participants to settle municipal securities transactions more efficiently and thereby enhance the establishment of a national system for securities clearance and settlement.

For the following reasons, the Commission believes the proposed rule change is consistent with section 17A of the Act and should be approved. The Commission believes that the proposed rule change will help expedite the physical settlement of municipal securities transactions compared in MCC's Municipal Bond Comparison System. Moreover, because the proposal provides to MCC Participants several physical settlement options for their municipal securities transactions, the proposal should enable MCC Participants to settle those transactions more efficiently. Consequently, the proposal should facilitate the establishment of an efficient national system for municipal securities clearance and settlement.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2178 Filed 1-28-85; 8:45 am]

BILLING CODE 8010-01-M

[2] These settlement services are similar to services currently provided by the National Securities Clearing Corporation ("NSCC") for municipal securities transactions. NSCC, however, does not perform SSM for its Participants.

[3] For example, a Participant will be charged for ESS and, if the envelope is re-delivered to a non-Participant, the Participant will also be charged for CDCS.

[Release No. 21679; SR-NASD-84-30]

Self-Regulatory Organization; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

January 23, 1985.

The National Association of Securities Dealers, Inc. ("NASD") 1735 K Street, NW., Washington, D.C. 20006, submitted on December 11, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Part II, section 2(c)(i)(a) of Schedule C of the NASD By-Laws to expand the type of products that an associated person, registered as either a Limited Principal—Investment Company and Variable Contracts Products or a Limited Representative—Investment Company and Variable Contracts Products, may sell. People registered in either of these categories will now be able to sell other contracts issued by an insurance company such as, fixed annuity contracts and funding agreements.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21568, December 17, 1984) and by publication in the **Federal Register** (49 FR 49743, December 21, 1984). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

John Wheeler,

Secretary.

[FR Doc. 85-2177 Filed 1-28-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Amdt. No. 1]

Designation of Disaster Loan Area No. 6252; Iowa

The above numbered Designation (50 FR 2640) is amended to include the County of Pottawattamie. All other information remains the same, i.e., the termination date for filing applications is the close of business on October 10, 1985.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 23, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-2199 Filed 1-28-85; 8:45 am]

BILLING CODE 8025-01-M

Las Vegas District Advisory Council; Public Meeting

The Small Business Administration, Las Vegas District Advisory Council will hold a public meeting on February 25, 1985, at the Small Business Administration, located at 301 E. Stewart, Downtown Station, Post Office, 3rd Floor, Las Vegas, Nevada, from 10:00 a.m. to 12:00 noon to discuss such matters as may be presented by Council members, staff or the Small Business Administration, or others present.

For further information, write or call Linda Davis, Secretary for Advisory Council, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89101, or call (702) 388-6611.

Jean M. Nowak,

Director, Office of Advisory Councils.

January 23, 1985.

[FR Doc. 85-2201 Filed 1-28-85; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory

Council, located in the geographical area of Boston, Massachusetts, will hold a public meeting at 1:00 p.m. Wednesday, February 20, 1985, in the District Director's Conference Room, 150 Causeway Street, 10th Floor, Boston Massachusetts, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John J. McNally, Jr., District Director, U.S. Small Business Administration, 150 Causeway Street, Boston, Massachusetts 02114 (617) 223–4074.

Jean M. Nowak

Director, Office of Advisory Councils.

January 23, 1985.

[FR Doc. 85–2202 Filed 1–28–85; 8:45 am]

BILLING CODE 8025–01–M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective February 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is *11.515%* per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: January 23, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85–2200 Filed 1–28–85; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed technical standard order (TSO) and request for comment.

SUMMARY: The proposed TSO–C112 prescribes the minimum performance standard that Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment must meet in order to be identified with the marking "TSO–C112."

DATE: Comments must identify the TSO file number and be received on or before June 14, 1985.

ADDRESS: Send all comments on the proposed Technical Standard Order to: Federal Aviation Administration, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness, File No. TSO–C112, 800 Independence Avenue, SW., Washington, D.C. 20591.

Or deliver comments to: Room 335, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone (202) 426–8395.

Comments received on the proposed Technical Standard Order may be inspected, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW, Washington, D.C. 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed TSO may be obtained by contacting the person under **FOR FURTHER INFORMATION CONTACT.** TSO–C112 references Radio Technical Commission for Aeronautical (RTCA) Document Nos. DO–181 dated March 1983 for the minimum operational performance standard and DO–178 dated November 18, 1981, for the software requirement. RTCA Document Nos. DO–181 and DO–178 may be purchased from the Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. 20005.

Issued in Washington, D.C., on January 18, 1985.

Thomas E. McSweeny,

Manager, Aircraft Engineering, Division.

[FR Doc. 85–2124 Filed 1–28–85; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 147; Traffic Alert and Collision Avoidance Sytem; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance System to be held on Febuary 13–15, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. commencing 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fifteenth Meeting Held October 2–4, 1984; (3) Review Revised Terms of Reference for Special Committee 147; (4) Develop a Work Plan for Developing Minimum Operational Performance Standards for TCAS–I and Assign Tasks; (5) Consideration of Reports and Recommendations Resulting From Task Assignments Made During Previous Meeting; (6) Briefing on SICASP/ICAO Activities; (7) Briefing on Separation Assurance Task Force Activities; (8) Review Status of Changes to RTCA Document DO–185 "Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment"; (9) Review Draft Committee Report on Minimum Operational Performance Standards for Enhanced TCAS–II; (10) Assignment of Tasks; and (11) Other Business.

Attendance is open to the interested public but limited to space available.

With the approval of the Chairman, membes of the public may present oral statement at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 15, 1985.

Karl F. Bierach,

Designated Officer.

[FR Doc. 85-2126 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 151; Airborne Microwave Landing System Area Navigation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 151 on Airborne Microwave Landing System (MLS) Area Navigation Equipment to be held on February 20-22, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on November 28-30, 1984; (3) Review and Discuss Special Committee 137 (Airborne Area Navigation Systems), Special Committee 149 (Airborne Distance Measuring Equipment) and the European Organization for Civil Aviation Electronics (WG-27) Activities; (4) Report on Instrument Procedures, Displays, and Guidance Development Activities; (5) Review of Task Assignments from the Previous Meeting; (6) Working Groups Meet in Separate Sessions; (7) Reports by Working Group Charimen; (8) Assignment of Tasks; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 22, 1985.

Karl F. Bierach,

Designated Officer.

[FR Doc. 85-2125 Filed 1-28-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Dated: January 24, 1985

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0582
Form Number: IRS Form 1139
Type of Review: Revision
Title: Corporation Application for Tentative Refund
Clearance Officer: Garrick Shear (202) 566-6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Comptroller of the Currency

OMB Number: 1557-0165
Form Number: Schedule EC (Small Bank Form) and Schedule EC (Large Banks)
Type of Review: Revision
Title: Special Energy Call Report

OMB Number: 1557-0094
Form Number: None
Type of Review: Extension
Title: Notice for Future and Forward Placement Contract Activities
Clearance Officer: Eric Thompson (202) 447-1177, Comptroller of the Currency, 6th Floor, L'Enfant Plaza, Washington, D.C. 20219
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 85-2197 Filed 1-28-85; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 85-20]

Suspension for 90 Days of Customhouse Broker's License No. 3605

Notice is hereby given that the Assistant Secretary of the Treasury, on December 21, 1984, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111), suspended for 90 days the individual customhouse broker's license No. 3605 issued to James A. Barnhart, Los Angeles, California on July 1, 1964, for the Customs District of Los Angeles, California. The decision is effective as of 30 days from the publication date of this notice.

William von Raab,

Commissioner of Customs.

[FR Doc. 85-2194 Filed 1-28-85; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

[Delegation Order No. 85-1]

Authority Delegation; Associate Director for Broadcasting

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, by Executive Order No. 11311 of October 14, 1966, by Executive Order No. 12048 of March 27, 1978, and by Executive Order No. 12388 of October 14, 1982, I hereby delegate to the Associate Director for Broadcasting, the following described authority:

The authority to administer the suitability responsibilities described in Chapter 731 of the Federal Personnel Manual as they may be revised from time to time and insofar as they apply to applicants for employment by the Voice of America, together with the power to redelegate the authority granted herein with power of further redelegation.

In establishing procedures and requirements to implement this delegation the Associate Director for Broadcasting shall consult with the Associate Director for Management.

On each anniversary date of this Delegation Order, the Associate Director

for Broadcasting shall submit to the Director of the Agency a report setting forth the results of a review of the suitability operations under this Order. The report shall be accompanied by an independent evaluation of the operations by the Director of the Office of Security in the Bureau of Management who shall make such recommendations for improvements as he or she may think desirable and necessary.

Notwithstanding any other provision of this Order, the Agency Director and the Associate Director for Management may exercise at any time any authority granted herein.

This Delegation Order, amending Delegation Orders No. 83–2 of January 12, 1983, No. 83–4 of January 13, 1983 and No. 84–6 of May 3, 1984, is effective immediately.

Dated: January 23, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85–2185 Filed 1–28–85; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Strengthening Program; Application Notice for New Plannig Grants and Renewable Development Grants in Fiscal Year 1985; Extension of Closing Date for Eligible Institutions in the Insular Areas

The Secretary entends to March 11, 1985, the closing date by which an eligible postsecondary institution in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands (Insular Areas) must submit an application for a new planning grant or new renewable development grant under the Strengthening Program. The previous closing date of February 15, 1985 was published in the Federal Register on December 13, 1984 (49 FR 48606–48608). The reader should refer to the previous application notice for complete information concerning submission of applications.

The Strengthening Program is authorized under Sections 311–313 and 341–347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1057–1059, and 1066–1069c).

The Secretary is extending the closing date only for institutions in the Insular Areas as a result of Congressional directives accompanying the Department of Education Appropriation Act, 1985. The Congress directed the Secretary to use the authority available under Section 1204 of the Higher Education Act to enhance the opportunity for postsecondary institutions in the Insular Areas to participate in the Title III programs.

Applications delevered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84:031A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Suplementary Information

The Department of Education will conduct application preparation workshops to assist eligible institutions in the Insular Areas to develop an application for a Strengthening Program grant.

The scheduled dates and locations are as follows:

February 11

Location: Honolulu, Hawaii, Honolulu Community College

Contact: Dr. Joyce Tsunoda, Vice Chancellor for Community Colleges (808) 948–7313

February 14–15

Location: Agana, Guam, University of Guam

Contact: William Kinder, Office 734–2962 or Home 734–3149.

The workshops will consist of presentations and follow-up assistance. The presentations will include a review of requirements for filing applications, the purpose of the Strengthening Program, allowable and nonallowable costs, and the application review process. Time will be provided for questions and answers. Each workshop will begin with registration at 8:30 a.m., and presentations are scheduled from 9:00 to 4:00 p.m.

The Department will not charge a registration fee for attendance at the workshops.

Further Information

For further information, contact Dr. Caroline J. Gillin, Director, Division of Institutional Development, U.S. Department of Education, Room 3042, Regional Office Building 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245–2429.

(20 U.S.C. 1057–1059, and 1066–1069c)

(Catalog of Federal Domestic Assistance N. 84.031A—Strengthening Program)

Dated: January 28, 1985.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 85–2474 Filed 1–28–85; 11:55 am]

BILLING CODE 4000–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 19
Tuesday, January 29, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMSSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 50. No. 15 p. 3075.

PREVIOUSLY ANNOUNCED TIME AND PLACE OF MEETING: Tuesday, Jan. 22, 1985.

CHANGES IN THE MEETING: Meeting Canceled.

LISTED BELOW IS THE CANCELED MEETING:

Commission Meeting: Tuesday, January 22, 1985, 9:30 a.m., 810 Conference Room, 1111—18th Street, NW., Washington, D.C.

Closed to the Public:

Commission Procedures Review
The Commission and staff will review internal procedures relating to Commission decisionmaking.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
January 22, 1985.
[FR Doc. 85–2326 Filed 1–25–85; 2:44 pm]
BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, January 30, 1985.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Apparel Revisions: Final Rule

The staff will brief the Commission on final amendments of the administrative and enforcement rules implementing flammability standards for 16 CFR, Part 1610—Standard for Flammability of Clothing Textiles, and 16 CFR, Part 1611—Standard for the Flammability of Vinyl Plastic Film.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
January 25, 1985.
[FR Doc. 85–2314 Filed 1–25–85; 1:17 pm]
BILLING CODE 6355–01–M

3

FEDERAL COMMUNICATIONS COMMISSION

January 24, 1985.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, January 31, 1985, following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing, 1—Application for Review in the St. Petersburg, Florida comparative UHF television proceeding (BC Docket Nos. 81–788 and 81–789).

This item is closed to the public because it concerns Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of this staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission January 23, 1985. Commissioners Fowler, Chairman; Quello, Dawson, Rivera, and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,
Secretary, Federal Communications Commission.
[FR Doc. 85–2367 Filed 1–25–85; 3:48 pm]
BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

January 24, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 31, 1985, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No, and Subject

Private Radio—1—Title: Amendment of Part 94 of the Commission's Rules and Regulations to Authorize Private Carrier Systems in the Private Operational-Fixed Microwave Radio Service. Summary: The Commission will consider whether to adopt a *Report and Order* Which authorizies Part 94 licensees to provide communication service on a commercial basis to Private Operational-Fixed Microwave Radio Service eligibles.

Common Carrier—1—Title: Report and Order eliminating the Computer II requirement that the Bell Regional Holding Companies' (RHCs) cellular subsidiaries fully separate the provision of cellular customer premises equipment (CPE) from cellular services; CC Docket No. 84–637. Summary: The Commission will consider whether to adopt a report and order which allows the RHCs' cellular subsidiaries to offer cellular CPE without resort to a separate subsidiary.

Common Carrier—2—Title: Notice of Proposed Rulemaking re Policy and Rules Concerning the Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone & Telegraph Co. and Related Waiver Requests. Summary: The Commission will consider whether to adopt a Notice of Proposed Rulemaking addressing isues raised by AT&T's Petition for Relief from *Computer II* structural separation conditions. The Commission will also consider an AT&T waiver request to provide CPE to the federal government and a request to realign personnel services in AT&T Technologies.

Common Carrier—3—Title: Amendment of Part 22 of the Commission's Rules Relative to to Domestic Public Cellular Telecommunications Service. Summary: The Commission will consider a Petition for Rulemaking, RM–4735, requesting amendment of the Commission's rules

requiring that all Cellular Customer Equipment be equipped with a means for subscriber selection of operation on frequency Block A or Block B.

Common Carrier—4—Title: Certification of Financial Qualifications of Advanced Business Communications, Inc. Summary: The Commission will consider whether Advanced Business Communications, Inc. has satisfied the financial qualification condition of its domestic satellite system authorization, 94 FCC 2d 1 (1983), or whether that authorization is null and void.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–2368 Filed 1–25–85; 3:49 pm]

BILLING CODE 6712-01-M

5

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to **Federal Register** on January 22, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, January 30, 1985.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda: Publication for comment on proposed amendments to Regulations J (Collection of Checks and Other Items and Transfers of Funds).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 25, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85–2313 Filed 1–25–85 1:17 pm]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:0 a.m., Monday, February 4, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement of the Board's organization and procedures and delegation of administrative responsibility and authority.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204 You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–2372 Filed 1–25–85 3:58 pm]

BILLING CODE 6210-01-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–85–2]

TIME AND DATE: 9 a.m., Tuesday, February 5, 1985.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the remaining item is closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Safety Study:* Ultralight Accidents.

2. *Marine Accident Report*-Ramming of the Popular Street Bridge by the Towboat M/V ERIN MARIE and Its 12-Barge Tow, St. Louis, Missouri, April 26, 1984.

3. *Marine Accident Report*-Fire ON Board the Bahamian Passenger Vessel SCANDINAVIAN SEA, Port Canaveral, Florida, March 9, 1984.

4. *Railroad Accident Report*-Derailment of Seaboard System Railroad Train Extra 8294 North and Release of Oleum During Wreckage-Clearing Operations, Clay, Kentucky, February 5, 1984.

5. *Opinion and Order:* Administrator v. Hegner, Dkt. SE–6448; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 25, 1985.

[FR Doc. 85–2316 Filed 1–25–85; 1:43 pm]

BILLING CODE 7533-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 28, February 4, 11, and 18, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 28

Monday January 28

2:00 p.m.
Proposed Legislative Package on Regulatory Reform (Public Meeting) (postponed from 1/14)

Tuesday, January 29

10:00 a.m.
Discussion of Plant Issues with Regional Administrators (Public Meeting)

Wednesday, January 30

1:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, January 31

10:00 a.m.
Discussion of 1985 Policy and Planning Guidance (Public Meeting)

1:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, February 1

10:00 a.m.
Commission Discussion of Export Related Matter (Closed—Ex. 1)

Week of February 4—Tentative

Tuesday, February 5

2:00 p.m.
Briefing by INPO (Public Meeting)

Thursday, February 7

10:00 a.m.
Staff Briefing on Standard Design Process (Public Meeting)

2:00 p.m.
Briefing by EPRI on Standard Design Process (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. San Onofre Order (tentative)
b. Shoreham Order (Tentative)

Friday, February 8

10:00 a.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

Week of February 11—Tentative

Monday, February 11

2:00 p.m.
Discussion of Material False Statements-Policy Options (Public Meeting)

Tuesday, February 12

10:00 a.m.
Quarterly Briefing on Safety Goal Evaluation Report (Public Meeting)

2:00 p.m.

Discussion/Possible Vote on Full Power Operating License for Byron-1 (Public Meeting)

Thursday, February 14

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of February 18—Tentative

Thursday, February 21

9:30 a.m.
American Physical Society Report on Source Term (Public Meeting)
2:00 p.m.
Affirmation Meeting (Public Meeting) (If needed)
3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

ADDITIONAL INFORMATION: Affirmation of "Low Enriched Uranium (LEU) Reform Amendments" (Public Meeting) was held on January 23, 1985.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado, (202) 634-1410.

January 25, 1985.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 85-2369 Filed 1-25-85; 8:45 am]

BILLING CODE 7590-01-M

federal register

Tuesday
January 29, 1985

Part II

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Safety Standards for Fire Prevention and Control at Metal and Nonmetal Mines; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Safety Standards for Fire Prevention and Control at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule updates and clarifies the Mine Safety and Health Administration's (MSHA) safety standards for fire prevention and control at metal and nonmetal mines. These revisions upgrade provisions consistent with advances in mining technology, eliminate duplicative and unnecessary standards, provide alternative methods of compliance, and reduce recordkeeping requirements. The final rule also combines the fire prevention and control standards in Part 55 and Part 56 into a revised Part 56 which will apply to all surface metal and nonmetal mines. Part 57 continues to apply to underground metal and nonmetal mines only.

EFFECTIVE DATE: April 15, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

On March 25, 1980, the Mine Safety and Health Administration (MSHA) published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. On November 20, 1981, MSHA published a subsequent ANPRM (46 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to fire prevention and control in 30 CFR 55/56/57.4 were included in the priority group.[1]

On March 9, 1982 (47 FR 10190), MSHA announced public conferences to discuss issues related to the fire prevention and control standards under review. Following these conferences, the Agency developed a preproposal draft and announced its availability for public comment on December 28, 1982 (47 FR 57883).

After reviewing suggestions and recommendations from mine operators, labor groups, equipment manufacturers and other interested parties, MSHA published a proposed rule in the **Federal Register** (48 FR 45336) on October 4, 1983. In the comments submitted on the proposed rule, MSHA received requests for public hearings and subsequently published a notice of public hearings on December 30, 1983 (48 FR 57702). In early February 1984, hearings were held in Chicago, Illinois; Phoenix, Arizona; and Atlanta, Georgia. Following the public hearings, interested persons were allowed to submit supplementary statements and data until the record closed on February 24, 1984. MSHA received and reviewed written and oral statements on the proposed rule from over 100 commenters.

II. Discussion and Summary of the Final Rule

A. General Discussion

An uncontrolled fire or its effects can generate heat, toxic fumes, and smoke that can cause serious injuries and fatalities. Therefore, adequate precautions to prevent fires from starting, and advance preparation for fire control should one start, are essential components of a mine's safety program. This final rule revises MSHA's existing fire prevention and control standards for metal and nonmetal mines to make them more effective by reducing duplication, upgrading provisions consistent with advances in mining technology, providing alternative methods of compliance, and reducing recordkeeping requirements where safety is not affected.

The final rule also includes several nonsubstantive, organizational changes. MSHA has reorganized the fire prevention and control standards in 30 CFR Parts 55 and 56 into Subpart C of Part 56 for surface metal or nonmetal mines and the fire prevention and control standards of 30 CFR Part 57 into Subpart C of Part 57 for underground metal or nonmetal mines. This reorganization, as well as the substantive changes made by this final rule, are reflected in the recodification of Parts 55 and 56 into a revised Part 56 that appears later in this issue of the **Federal Register.** In this recodification, Part 57 continues to apply to underground metal and nonmetal mines only.

The standards in each Subpart C are preceded by their own set of definitions and are arranged into seven related groups: Prohibitions/Precautions/Housekeeping; Firefighting Equipment; Firefighting Procedures/Alarms/Drills; Flammable and Combustible Liquids and Gases; Installation/Construction/Maintenance; Welding/Cutting/Compressed Gases; and Ventilation Control Measures. The last category does not appear in Part 56 because ventilation control measures only concern underground mines.

To facilitate this reorganization, Parts 56 and 57 use a numbering system different from that used in existing Parts 55, 56, and 57. For example, in the citation for § 57.4203, the first two numbers (57) represent Part 57 for metal and nonmetal underground mines. After the point, the first digit (4) represents the general subpart category, fire prevention and control; the second digit (2) represents the related group, in this case firefighting equipment; and the final two digits (03) indicate that the standard has general application. In Subpart C of Part 57, if the final two digits are 00 to 29, the standard applies to all areas of underground mines; if the digits are 30 to 59, the standard only applies to surface areas; if the digits are 60 to 99, the standard only applies to underground areas. The scope of each standard is also readily apparent from the content of the standard. To aid in comparing the existing standards with the new standards, this document includes a derivation table and a redesignation table which cross-reference the old numbers with new numbers.

Transfers and Deletions

The provisions of existing standards 55/56/57.4-11 and 57.4-57 concerning abandoned electrical circuits and trailing cables will be addressed in future revisions to the Agency's electrical standards for metal and nonmetal mines. However, these two standards are codified with the fire prevention and control standards as §§ 56/57.4011 and 57.4057 until revisions to the electrical standards are published as a final rule.

The final rule revokes §§ 55/56/57.4-28 which address the competency of welders and §§ 55/56/57.4-48 which cover instructions in fire emergency procedures because the training provisions in these standards duplicate existing requirements in 30 CFR Part 48, Training and Retraining of Miners. In addition to these deletions, the final rule does not adopt the proposed defined term "major electrical installation." The Agency agrees with commenters who pointed out that the term might have unnecessarily broadened the scope of several standards. In each of these standards, the final rule specifically lists the installations to which the standard applies.

[1] Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in this document as "55/56/57." Standards that will uniformly appear in 30 CFR Parts 56 and 57 are referred to as "56/57."

Existing standards 55/56/57.4–4 incorporate by reference National Fire Protection Association (NFPA) standards for the storage of flammable liquids. NFPA is a nationally recognized professional organization concerned with issues associated with fire protection. The final rule replaces the incorporation by reference with specific performance-oriented requirements developed from the NFPA code. These requirements include safety procedures and precautions to be taken in the storage of liquids which pose fire hazards. To assist mine operators in meeting these performance criteria, an appendix of national consensus standards is included as an informational aid at the end of each Subpart C.

Definitions

"Booster fan". The final rule makes no changes to the existing definition for booster fan. The definition characterizes a booster fan as one that is installed in the main airstream or a split of the main airstream to increase air flow through a section or sections of the mine. This definition only appears in Part 57.

"Combustible material". This term revises the existing definition of "combustible" and is derived from the definition for "noncombustible material" in the National Fire Protection Association's "Standard on Types of Building Construction," NFPA 220–1979. The definition characterizes combustible materials by their propensity to ignite, burn, support combustion, or release flammable vapors when exposed to fire or heat. The term "combustible material" replaces the proposed term "combustible" because "combustible material" is more frequently used in the standards. Some commenters requested that the definition exclude combustible ores. MSHA does not intend for "combustible material" to include the unmined ore body. However, the definition does include combustible ores that have been broken from the ore body. Fragmented combustible ores such as oil shale and gilsonite can pose the same fire hazards as other combustible materials and the appropriate precautions required by the standards should be taken. Agency accident reports show that oil shale rubble piles can be ignited by routine blasting and accumulations of gilsonite dust can be ignited by electric ignition sources.

"Combustible liquids". This new definition clarifies the term "combustible liquid" by defining combustible liquids according to their flash points. It is based on the definition for "combustible liquid" in NFPA's "Flammable and Combustible Liquid Code," NFPA 30–1981, which subdivides combustible liquids into three classes according to the temperature at which their flash points occur. These subdivisions provide an indication of the severity of hazard posed by a particular combustible liquid.

"Escapeways". In response to comment, the final rule clarifies that escapeways are "designated" passageways by which persons can leave an underground mine. This definition appears only in Part 57.

"Fire resistance rating". This new definition is based on NFPA's "Standard on Types of Building Materials," NFPA 220–1979 and "Standard Methods of Fire Tests of Building Construction and Materials," NFPA 251–1979. The definition clarifies the meaning of the numerical fire resistance ratings used in various standards. A fire resistance rating is a measure of structural endurance rather than propagation rate which is defined by "flame spread rating." One commenter suggested that MSHA define "fire resistance rating" as "the time that materials are capable of withstanding fires of specified intensity and duration without failure." However, such a definition does not provide any guidance as to what constitutes failure of an assembly of materials. In conformance with NFPA's definition, the final rule relates fire resistance to the ability of an assembly of materials to retain its protective characteristics or structural integrity.

"Flame spread rating". This new definition describes "flame spread rating" as a measure of fire propagation over the surface of a material during a specified period of time. It is derived from the NFPA definition of "flame spread rating" in "Standard on Types of Building Materials," NFPA 220–1979 and "Method of Test of Surface Characteristics of Building Materials," NFPA 255–1979. A flame spread rating depends on such factors as the composition and surface characteristics of the material and the quantity of the combustible vapors. Manufacturers can furnish flame spread ratings for their products following testing.

"Flammable gas". This new definition responds to commenters' concerns that the proposed use of the undefined term "gases" in several standards could lead to excessively broad application of the standards. The final rule specifically characterizes "gases" in each instance as "flammable gases." In conformance with the definition of "flammable gases" in the NFPA's "Fire Protection Handbook" (1981), MSHA has defined flammable gases as those that will burn in the normal concentrations of oxygen in the air.

"Flammable liquid". This new definition defines "flammable liquids" as Class I liquids in conformance with the definition of flammable liquid in NFPA's "Flammable and Combustible Liquid Code," NFPA 30–1981.

"Flash point". The final rule revises the existing definition to conform with the definition of "flash point" in NFPA's "Flammable and Combustible Liquid Code," NFPA 30–1981. Flash point is defined as the minimum temperature at which a liquid releases sufficient vapor to form a flammable vapor-air mixture near the surface of the liquid.

"Main fan". The final rule makes no substantive changes to the existing definition for main fan. The definition characterizes a main fan as one that controls the entire air flow of an underground mine or the flow of one of the major air currents of the mine. One commenter suggested that MSHA restrict the definition to "stationary" fans. However, the fire hazards arising at main fans are potentially present at all main fans whether they are stationary or portable. Another commenter suggested that the term "primary fan" be used instead of "main fan." Although the term "primary fan" is used at some underground mines, especially those using booster and secondary fans, "main fan" is the more commonly accepted term at underground mines with mechanical ventilation. This definition appears only in Part 57.

"Mine opening". The final rule makes no substantive changes to the existing definition for mine opening which is defined as an opening or entrance from the surface into an underground mine. This definition appears only in Part 57.

"Multipurpose dry-chemical fire extinguisher". The final rule defines multipurpose dry-chemical fire extinguishers as those meeting at least the nationally recognized criteria for extinguishers with a 2–A:10–B:C rating. These extinguishers are appropriate for use on fires involving combustible solids, flammable and combustible liquids, and electric equipment. Approval organizations such as the Underwriters Laboratories, Inc. and the Factory Mutual Research Corporation test and list fire extinguishers meeting this rating. Because fire equipment manufacturers designate the weight of dry-chemical agent in an extinguisher by "nominal" weight rather than by "minimum" weight, the final rule uses the term "nominal" and clarifies that the nominal weight must be 4.5 pounds or more. One commenter suggested that

MSHA delete all reference to the amount of extinguishing agent, stating that the minimum rating (2–A:10–B:C) provides for an appropriate amount of agent. However, the minimum rating is determined under carefully controlled laboratory test conditions, not under actual emergency conditions. The nominal weight further characterizes the amount of agent necessary to extinguish fires in their early stages.

"Noncombustible material." This definition clarifies the term "noncombustible" and replaces the undefined terms "fire resistant" and "fire retardant" which are used in many standards. The definition characterizes noncombustible materials by their resistance to ignition, burning, support of combustion, or release of flammable vapors when exposed to a fire or heat. It is consistent with the definition for "noncombustible material" in NFPA's "Standard on Types of Building Construction," NFPA 220–1979.

"Safety can." Safety cans are used for the storage of less than five gallons of flammable and combustible liquids. To minimize fire hazards from spillage, they must have a spring-closing lid and spout cover. In response to commenters and to conform to the definition of "safety can" in NFPA's "Flammable and Combustible Liquids Code," NFPA 30–1981, the final rule clarifies that safety cans must also be designed to relieve excessive internal pressure when exposed to heat.

"Storage tank." This new definition is in response to commenters who suggested that the term "tank" be defined to clarify several standards that address the storage of combustible or flammable liquids. MSHA has defined "storage tank" in order to distinguish storage tanks from other tanks such as fuel tanks and acetylene tanks. The definition of storage tank is taken from proposed §§ 57.4430 and 57.4463 which defined a "tank" as any container exceeding 60 gallons in capacity. In conformance with this new definition, standards in the final rule use the term "storage tank" instead of tank, where appropriate.

Standards

The following standard-by-standard analysis discusses the final rule and its effect on existing standards.

Prohibitions/Precautions/Housekeeping

Section 56/57.4100 Smoking and use of open flames. This standard revises §§ 55/56/57.4–1 and prohibits the hazards of smoking or using open flames around flammable or combustible liquids or flammable gases. In response to commenters, MSHA has clarified that the word "gases" means "flammable gases," which is a defined term.

Several commenters stated that inclusion of greases as combustible liquids would make the standard excessively restrictive. However, under the NFPA definition for combustible liquids adopted by MSHA, greases are combustible liquids. In addition, they are frequently found in exposed conditions in the mining environment. Although greases may be more difficult to ignite than flammable liquids, once ignited they burn intensely and are difficult to extinguish. In addition, many people do not readily recognize the danger of igniting grease. For these reasons, the standard specifically includes greases as an example of combustible liquids.

Some commenters believed that the standard would prohibit vehicle operators from smoking because flammable liquids are being "transported" in the fuel tanks. MSHA does not intend that the standard apply to gasoline in the fuel tank of a haulage truck that is the fuel source for the truck. However, fuel hauled in drums on a truck bed in a manner that could create a fire hazard would be covered by the standard. To clarify this point, the final rule clearly states that the restrictions on use or transport of flammable or combustible liquids or flammable gases apply only when a fire hazard is created.

Other commenters stated the standard would prohibit the use of rock drill oil with such equipment as jacklegs. Rock drill oil in a covered oiler or in the drill is "in use," and the standard would not apply as long as no fire hazard is created. However, the standard always prohibits smoking or use of open flame while rock drill oil is being "handled," for example, when being poured into an oiler.

Section 56/57.4101 Warning signs. This standard revises §§ 55/56/57.4–2 and requires signs indicating "no smoking or use of open flames" to be posted in areas where these activities could cause a fire or explosion. Some commenters stated that the standard should require warning signs to be posted a minimum of 25 feet from the hazard area. A minimum distance of 25 feet may not be appropriate in some circumstances, especially underground. Requiring that the signs be "readily visible" is sufficient to warn persons of the hazard area.

Section 56/57.4102 Spillage and leakage. This standard consolidates and revises §§ 55/56/57.4–7 and 55/56/57.4–16. It requires spillage or leakage of flammable or combustible liquids to be controlled or removed in a timely manner. The proposed phrase "as soon as practical" which addresses the removal or control of spillage is clarified by the phrase "in a timely manner to prevent a fire hazard."

The proposed rule would have required drip pans at stationary dispensing containers. Some commenters stated that MSHA should either discourage the use of drip pans or require flash-arresting drip pans. Other commenters believed that the standard should specifically allow means of containment other than drip pans. The final rule deletes reference to drip pans because the performance provisions of the standard provide for removal or control of any spillage or leakage that creates a fire hazard. However, because leakage or spillage can be a frequent occurrence at stationary dispensing containers, some means of control such as drip pans will usually be necessary at these facilities.

Section 56/57.4103 Fueling internal combustion engines. This standard revises §§ 55/56/57.4–21 and addresses the ignition of spills during the fueling of internal combustion engines by requiring that engines be switched off during refueling. The final rule retains the existing exclusion for diesel equipment because diesel fuel poses a lesser ignition hazard than gasoline.

Section 56/57.4104 Combustible waste. This standard revises and consolidates §§ 55/56/57.4–12, 55/56/57.4–13, and 57.4–50. It prohibits the accumulation of waste material that could create a fire hazard. In an underground mine, in particular, a fire arising in or spreading to waste material can develop into a life-threatening situation.

The standard also requires that waste or rags containing flammable or combustible liquids be placed in covered metal containers. If these materials ignite, the cover not only helps control the flame but also contains any smoke or gas that may be generated. In response to commenters, the final rule clarifies that this provision of the standard only applies where the waste or rags "could create a fire hazard." On the surface at underground mines and at surface mines, equivalent containers with flame containment characteristics may also be used. In response to commenters, the final rule clarifies that the term "waste material" includes liquid waste. One commenter suggested that MSHA limit application of the standard to waste containing flammable or combustible liquids. However, precautions need to be taken with any waste material, including solids such as rags, papers, and sawdust piles, that

could create a fire hazard. Other commenters suggested that the standard should prohibit the accumulation of all waste material. MSHA did not adopt this suggestion because it would unnecessarily broaden the application of the standard to waste material which poses no fire hazard. Another commenter expressed concern that the underground provisions could be inappropriately applied to waste rock in an oil shale mine and requested that the standard exclude waste mined material. MSHA has not exempted waste oil shale or any other combustible mined waste material from the requirements of the standards. In some instances, accumulations of such materials could pose a fire hazard because of the combustible substances they contain. On the other hand, if their accumulation does not present a fire hazard, the standard would not apply.

Section 56/57.4130 Surface electric substations and liquid storage facilities. This surface standard revises §§ 55/56/57.4–3 and prohibits the accumulation or storage of unnecessary or extraneous combustible materials around electric substations and flammable or combusible liquid storage facilities because of the potential fire hazards present at these installations. However, the standard does not prohibit limited use of combustible materials in the construction of these installations or in the actual operation of electric substations. In response to commenters, the final rule retains the term "electric substation" used in the existing standard rather than the proposed term "major electrical installation." The standard includes electric substations because the transformers at such facilities may contain significant quantities of mineral insulating oils or askarels with flashpoints low enough to be affected by a fire within 25 feet. However, under this standard, the term "electric substation" does not encompass an individual, pole-mounted transformer.

As suggested by commenters, MSHA has clarified that the standard would only apply if a hazard to persons could be created. At some mine sites, the installations addressed by the standard may be located in areas away from where persons work, travel, or congregate and would not pose a fire hazard to persons.

Commenters also requested that the standard allow dry vegetation to be removed through a systematic procedure that "minimizes" accumulations. They stated that, in some parts of the country, tumbleweeds are continually blown into the protective fences around such installations, making it difficult to keep the area free of dry vegetation. Tumbleweeds must be removed in a timely manner. Minimizing their presence is not a sufficient precaution to prevent them from becoming a fuel source in the event of a fire.

Section 57.4131 Surface fan installations and mine openings. This standard revises § 57.4–42 and applies to surface fan installations and mine openings at underground mines. It restricts storage of combustible materials in these areas and prohibits dry vegetation within 25 feet of mine openings. In response to commenters, the final rule clarifies that the standard addresses fan installations used for underground ventilation. In addition, the final rule clarifies that the standard does not prohibit the actual transit of combustible materials into the mine. Some commenters stated that the standard should exempt materials used in construction of mine installations. The standard addresses the storage of combustible materials and does not prohibit their use in construction.

Section 57.4160 Underground electric substations and liquid storage facilities. This underground standard revises § 57.4–3 and prohibits the presence of combustible materials around electric substations or combustible liquid storage facilities. Combustible materials in the area of one of these installations could spread fire to the installation or fuel a fire originating at the installation. The standard does not apply to installed wiring and treated timber.

In response to commenters, the final rule retains the existing term "electric substation" rather than the proposed term "major electrical installation." The term "tanks" is clarified both by use of the defined term "storage tanks" and a restriction on containers with a total storage of more than 60 gallons of combustible liquids. Some commenters suggested the standard should only address "fixed" storage tanks. Otherwise, they believed that the standard could be construed as prohibiting the transport of fuel in a tank truck within 25 feet of combustible material. MSHA does not intend to apply this standard to tank trucks engaged in delivering fuel. However, the standard would apply when the truck is parked and deliveries are not being made because of the potential ignition hazards. In addition, the standard would apply to portable tanks on skids or wheels which also have similar fire hazards.

Some commenters believed that the proposed provision allowing timber to be treated with materials with "equivalent fire protection" is ambiguous. In response to these commenters, the final rule uses the defined term "noncombustible material" and qualifies "equivalent protection" as equivalent to the protection provided by at least one inch of shotcrete or one-half inch of gunite.

Section 57.4161 Use of fire underground. This standard revises § 57.4–57 and addresses the danger of an underground fire spreading to combustible materials or producing toxic gases by prohibiting the lighting of fires underground except for open-flame torches. It clarifies that burning open-flame torches may be used underground provided they are attended at all times. In response to commenters, the term "built" has been changed to "lit." Other commenters expressed concern that this standard would prohibit the ignition and operation of underground retorts at oil shale mines. MSHA is developing standards to address the specific hazards brought about by this new mining technology. However, until these standards are issued, such operations must continue to request modification of this standard on a site-by-site basis under 30 CFR Part 44 to provide for the safety of the miners at oil shale retort projects.

Firefighting Equipment

Section 56/57.4200 General requirements. This standard combines and revises §§ 55/56/57.4–22 and 55/56/57.4–23. It addresses the need to provide appropriate firefighting equipment for all metal and nonmetal mining operations and clarifies the meaning of the terms "adequate" and "suitable" in the existing standard by requiring that onsite firefighting equipment be appropriate in "type, size and quantity" to extinguish the types of fires that may arise at the mine. One commenter suggested that the existing term "suitable" be retained to describe appropriate firefighting equipment. However, "type, size, and quantity" is more descriptive of the required qualities for firefighting equipment than "suitable." The standard also includes requirements for placement, maintenance, and marking of firefighting equipment. Appendix I lists several nonmandatory national consensus standards to aid mine operators in determining which firefighting equipment would be appropriate for their particular mining operation.

Some commenters suggested that MSHA clarify the term "available" in the existing standard to mean available through prior arrangements with a local

fire department. Based on these comments and the existing standards, the final rule clarifies that prior arrangements may be made with a local fire department to fight fires that have progressed beyond the early stages; however, each mine must have onsite firefighting equipment to allow prompt extinguishment of incipient fires. In both instances, the standard addresses the need to have a means to effectively fight fires where a hazard to persons could arise. However, it is particularly important that the capability to fight fires in their early stages be available at the mine site. The inspection provisions of the existing standards are addressed in §§ 56/57.4201.

Section 56/57.4201 Inspection. This standard revises §§ 55/56/57.4–23, 55/56/57.4–24, and 55/56/57.4–26. It requires periodic inspection of firefighting equipment to ascertain whether the equipment remains in fire-ready condition. It clarifies the inspection and testing intervals in the existing standards and replaces recordkeeping provisions with certification. If defective equipment is found during an inspection, §§ 56/57.4200 require the defect to be corrected so that the equipment remains in fire-ready condition.

The standard requires a monthly inspection of fire extinguishers. MSHA intends that a quick visual check would be sufficient to determine that the extinguishers have not been actuated or tampered with, and that there is no obvious physical damage or condition that would prevent the extinguishers from operating. The annual inspection of the mechanical parts, hose, nozzle, vessel, and the extinguishing agent and expellant is a more thorough check of extinguisher parts to determine that they will operate effectively and safely.

Some commenters objected that the proposed rule related hydrostatic testing schedules for extinguishing agent vessels to manufacturer's specifications. Other commenters believed that the monthly visual inspection requirement makes hydrostatic testing unnecessary. They stated that if a monthly inspection reveals any problem with the structural integrity of the vessel, the extinguisher would be replaced. However, hydrostatic testing reveals long-term degradation of the extinguishing agent vessel that may not be readily detectable by visual examination. Most manufacturer's specifications for fire extinguishers require hydrostatic testing once every 5 to 12 years, depending on the extinguishing agent. The final rule requires periodic hydrostatic testing of fire extinguishers either based on the manufacturer's specifications or according to Table C–1 which is derived from NFPA's "Standard for Portable Fire Extinguishers," NFPA 10–1981. If any of these inspections reveal conditions that may impair a fire extinguisher's firefighting capabilities, §§ 56/57.4200 would require removal of the extinguisher from service.

The standard exempts surface fire suppression systems from the annual inspection requirements if the systems are used solely for the protection of property where no persons would be affected by a fire. Fire suppression systems are usually engineered for site-specific applications. Therefore, the final rule requires that inspection schedules be based on either the manufacturer's specifications or equivalent specifications for the particular system in use.

One commenter submitted a detailed revision of the proposed rule based on NFPA's standards for fire extinguishers. The final rule is derived primarily from NFPA's standards.

Some commenters stated that the standard should require a record of each test or inspection rather than a certification that they had been done. The final rule requires certification. There is no need to record the actual condition of fire extinguishers because, if an extinguisher is not fire-ready, other Subpart C standards would require that it be repaired or replaced. To certify that an extinguisher has been inspected each month, a simple tag on the extinguisher with the initials of the person making the inspection and the date on which the inspection was made would suffice.

Section 56/57.4202 Fire hydrants. This standard revises §§ 55/56/57.4–25 and provides for quick connection of hose equipment to hydrants in the event of a fire through the use of uniform fittings, or adapters, and readily available wrenches or keys. The standard applies only to fire hydrants that are part of a mine's firefighting system.

Section 56/57.4203 Extinguisher recharging or replacement. This standard revises §§ 55/56/57.4–24. It requires recharging or replacement of a fire extinguisher after any discharge so that the extinguisher retains its full firefighting capabilities. The final rule deletes the existing reference to approval of fire extinguishers by private approval organizations because §§ 56/57.4200 require fire extinguishers to be appropriate for their intended use and maintained in fire-ready condition. Provisions in the existing standard which address the type and adequacy of extinguishers are covered in §§ 56/57.4200. Inspection provisions are addressed in §§ 56/57.4201. Permanently installed suppression devices are addressed in §§ 56/57.4200.

Some commenters stated that MSHA should require fire extinguishers to have safety seals to aid in visual inspections made to determine that the extinguishers are in a "fire-ready condition." The final rule does not incorporate this suggestion. Although a seal may be useful in visually checking that the actuating mechanism of an extinguisher has not been used, presence of the seal would not always reveal whether an extinguisher has lost pressure from leakage.

Section 56/57.4230 Surface self-propelled equipment. This standard revises §§ 55/56/57.4–27. The existing standard requires a fire extinguisher to be readily accessible to operators on all self/propelled mobile equipment. This final rule for surface activities applies only to self-propelled equipment where potential fire hazards could endanger persons on the equipment or other persons in the area. For example, the standard applies if a fire could occur in the path of someone's escape route off the equipment. In addition, the standard applies to equipment used in buildings or areas near buildings if a fire on the equipment could affect the escape of persons in that area. Standard 57.4260 addresses the need for fire extinguishers on self-propelled equipment underground.

The standard allows use of fire suppression systems on self-propelled equipment as an alternative to fire extinguishers. This alternative recognizes the technological advances made in such systems in recent years. It requires that the fire suppression system be appropriate for extinguishing the self-propelled equipment's inherent fire hazards.

The proposed rule would have required that the fire extinguisher or the manual actuator to a fire suppression system be "readily accessible to the equipment operator." In most instances, only the equipment operator's escape would be impeded by a fire on the equipment. However, some self-propelled equipment, such as shovels, are so large that other persons on the equipment may be exposed to fire hazards to which the equipment operator is not exposed. Therefore, the final rule clarifies that the fire extinguisher or manual actuator must be available for use by persons whose escape could be impeded by fire on the equipment.

Some commenters suggested that the Agency should specifically exempt all

compressed-air powered equipment. Such an exemption is not necessary because the final rule relates the need for fire extinguishing capability to the potential fire hazards present. Thus, if a particular piece of compressed-air powered equipment has no ignition sources and poses no fire hazards, the standard would not apply.

Section 57.4260 Underground self-propelled equipment. This standard revises § 57.4–27 and addresses the need to have fire extinguishers or fire suppression systems on self-propelled equipment underground. A fire on such equipment could not only endanger the equipment operator, but also other persons underground. Because of the confined environment of an underground mine, it is essential to have immediate access to a means of extinguishing an underground fire in its initial stages. For this reason, the final rule does not permit location of fire extinguishers anywhere other than on the equipment.

The final rule exempts compressed-air powered equipment, provided that such equipment has no inherent fire hazards. One commenter suggested that the standard should exempt equipment powered electrically by less than 48 volts or electric face equipment that travels less than 5 miles per hour. The commenter stated that the ground-trip relay circuits on such equipment would prevent sustained arcing from starting a fire. The commenter pointed out that at trona mines such equipment is provided with fire resistant hoses, cables, and hydraulic fluids. MSHA has not adopted this suggestion because under many circumstances cessation of electric arcing alone would not extinguish a fire that has already begun and traveled to lubricants or other combustible materials on the equipment.

Section 57.4261 Shaft-station waterlines. This standard for underground mining operations revises § 57.4–63 and requires that, if shaft station waterline outlets are part of the mine's fire protection system, they must have at least one fitting for quick connection to the mine's firefighting equipment.

One commenter suggested that MSHA specifically require waterline outlets at shaft stations. MSHA recognizes that many mines rely on such waterlines for fire protection. However, other mines must limit the use of such waterlines due to the solubility of the substance mined. In addition, § 57.4200 provides for appropriate fire protection at all mines. For these reasons, the final rule only applies to mines that use shaft station waterline outlets as part of the mine's firefighting capability.

Section 57.4262 Underground transformer stations, combustible liquid storage and dispensing areas, pump rooms, compressor rooms, and hoist rooms. This standard revises § 57.4–55 and specifically provides for firefighting capability at transformer stations, storage and dispensing areas for combustible liquids, pump rooms, compressor rooms, and hoist rooms. The standard applies to these installations regardless of their location underground because of the smoke and toxic fumes that could be generated by a fire at such locations.

Several commenters stated that the term "major electrical installation" used in the proposed rule was vague and could unnecessarily broaden the scope of the existing standard. In response to these commenters, the term "major electrical installation" is replaced by "transformer station" which is the term used in the existing standard. Transformers often contain mineral insulating oils with flash points from 260 °F to 280 °F.

Commenters objected to the inclusion of "other installations with similar type fire hazards" in the standard. The final rule deletes this general reference but specifically includes "hoist rooms" because the machinery and materials present in a hoist room pose fire hazards similar to those found in the other areas addressed by the standard. These machinery and materials include electric motor windings and other electric equipment, and oil and greases used for lubrication.

Section 57.4263 Underground belt conveyors. This standard for underground mining operations revises § 57.4–66. It addresses the potential for friction or electrical faults to cause a belt conveyor fire. It requires fire protection measures at the head, tail, drive, and take-up pulleys of belt conveyors. Electric systems, grease used for lubrication, and friction points are some of the potential fire hazards on belt conveyors. As suggested by commenters to the preproposal draft, the standard allows flexibility in the methods used for extinguishing incipient fires along the belt line. Examples of fire protection measures are water lines, fire extinguishers at strategic locations, or fire extinguishers on mobile equipment used to patrol the belt line.

Firefighting Procedures/Alarms/Drills

Section 56/57.4330 Surface firefighting, evacuation, and rescue procedures. This standard combines and revises §§ 55/56/57.4–39B and 55/56/57.4–40. It addresses the need for proper coordination of emergency procedures with available firefighting organizations in developing a fire protection program. This standard also addresses the need to establish procedures for promptly warning anyone who could be endangered by a fire. Advance provision for such warning capability is essential for any fire protection program to be effective. In addition, the standard requires fire alarms to be maintained so that they function properly in the event of an emergency. The firefighting drill requirements of existing §§ 55/56/57.4–39B are addressed in §§ 56/57.4331.

One commenter requested that the standard be more specific as to which persons must be warned in the event of a fire. Because of the varied nature of worksites at surface operations, MSHA cannot identify all persons who could be endangered by a fire at a particular mine. For this reason, the final rule retains the proposed requirement that advance provisions be made to warn "every person who could be endangered by a fire."

Section 56/57.4331 Surface firefighting drills. This standard revises §§ 55/56/57.4–39B. It requires semiannual firefighting drills for persons assigned surface firefighting duties by the mine operator. Firefighting drills maintain the preparedness of the personnel who would be involved in firefighting.

Some commenters believed that the standard duplicates training provisions in 30 CFR 48.28(b) which require all employees to receive annual instruction in firefighting procedures. However, MSHA intends that the drills required by this standard be actual hands-on exercises or simulations beyond the general instruction that may be given in a classroom environment. Since these drills are only required for personnel assigned firefighting duties, one commenter stated that the standard discriminates against mine operators who have made such assignments. However, the standard is intended to provide for the safety of personnel so assigned by increasing their familiarity with the procedures and equipment to be used and the potential hazards that may be encountered in the event of an actual fire.

Section 57.4360 Underground alarm systems. This standard revises § 57.4–51 and requires prompt warning of all persons underground in the event of a fire. The standard requires that fire alarm systems be provided and maintained for this purpose. However, if people are assigned to work areas beyond the warning capabilities of the alarm system, other provisions must be made to warn them so that they can

safely evacuate the mine in the event of a fire.

Unlike the proposed rule, the final rule does not refer to "remote areas" because the standard provides for alerting all persons beyond the warning capabilities of the fire alarm system regardless of their location underground. One commenter suggested that "fire alarm systems" should be referred to as "emergency alarm systems." MSHA realizes that emergencies other than fires occur underground and that a mine's fire alarm system is generally used to signal evacuation of the mine regardless of the emergency. However, the Agency has not adopted this suggestion because the standards in Subpart C are specific to fire hazards. Other commenters stated that the word "promptly" was ambiguous and should be deleted. MSHA believes that "promptly" appropriately describes the required capability of an effective fire alarm system, that is, to provide warning without delay.

Section 57.4361 Underground evacuation drills. This underground standard revises § 57.4–73 and requires mine operators to hold semi-annual mine evacuation drills for persons on each shift. MSHA requires that evacuation drills be held at least once every six months to familiarize everyone who works underground with the escape route for their work area. This familiarity is essential if everyone is to safely evacuate the mine in the event of an actual fire emergency. The standard requires drills at least once every six months because turnover in personnel, reassignment of personnel to work areas using a different escape route, and changes in the configuration of the mine during the normal production cycle can significantly affect the overall evacuation capabilities of an underground mine in that period of time. In addition, the drills indicate whether or not changes should be made to the mine's escape and evacuation plan which, under 30 CFR 57.11053, is jointly reviewed by both the mine operator and an MSHA inspector once every six months to determine its continued effectiveness. The final rule requires the mine operator to certify the date and the time that the evacuation began and ended at the completion of each drill.

The Agency did not adopt a suggestion by commenters that the standard require evacuation of all personnel to an "affirmative fresh-air base" instead of to the surface or designated central evacuation points. It has been MSHA's experience that fresh-air bases cannot be designated in advance but rather their location varies according to the location of the fire. However, the final rule incorporates a suggestion by the same commenters that relates evacuation drills to the time limits of the self-rescue devices that would be used in reaching the surface or other designated points of safety in the event of an actual emergency. Evacuation drills that take longer than this time to accomplish would indicate a need to improve the mine's provisions for actual fire emergencies.

One commenter suggested that persons required to remain underground to perform critical safety functions such as pump tending should be exempted from evacuation drills. MSHA intends that mine operators schedule evacuation drills when personnel are not assigned to critical work affecting safety. Evacuation drills are an exercise to familiarize all persons underground with the mine's evacuation procedures so that when an actual emergency arises they know how to evacuate safely.

Section 57.4362 Underground rescue and firefighting operations. This underground standard revises § 57.4–72 and establishes the conditions under which persons may advance beyond the fresh-air base in fire emergencies after a mine has been evacuated. It does not prevent mine personnel from fighting and controlling incipient fires prior to and during mine evacuation. However, once a fire emergency has been declared and a fresh-air base has been established, mine rescue apparatus must be worn as a precaution against the smoke, fumes, and toxic products of fire.

Section 57.4363 Underground evacuation instruction. This underground standard revises § 57.4–74 and requires evacuation instruction for persons assigned work underground. It is essential that all persons working underground be familiar with fire warning signals and the emergency escape and evacuation plan of the mine and their assigned work area. The standard provides for instruction in this area at least once every twelve months. The standard also retains the existing provisions requiring escapeway instruction to be given to persons assigned to a new work area. In addition, the existing recordkeeping provisions are replaced with certification provisions.

MSHA has deleted the existing requirement for training of new miners because this provision duplicates the training requirements under 30 CFR 48.5(b)(5). One commenter believed that the standard duplicates other training requirements in Part 48. However, Part 48 does not require annual refresher training in the escape and evacuation plans and procedures in effect at a mine.

Flammable and Combustible Liquids and Gases

Section 56/57.4400 Use restrictions. This standard combines and revises §§ 55/56/57.4–14 and 55/56/57.4–15. It prohibits use of flammable liquids for cleaning purposes because of their low flash points. This provision is not limited to solvents as in the existing standards because the flash point of "100 °F or below" used to characterize solvents in the existing standard defines a flammable liquid. Use of the term "flammable liquids" also clarifies that flammable liquids such as gasoline must not be used for cleaning.

The standard also addresses the hazards of using a solvent near ignition sources or in an atmosphere that could raise the temperature of the solvent above its flash point, causing it to ignite if an ignition source is present. Some commenters suggested that "flammable or combustible liquids" should replace the term "solvents" in this provision of the standard. However, such a characterization would prohibit the use of flammable or combustible liquids in many applications where ignition is a necessary element of their use, for instance, in an internal combustion engine.

Section 56/57.4401 Storage tank foundations. This standard revises §§ 55/56/57.4–5 and addresses hazardous leakage of flammable or combustible liquid storage tanks induced by settling. It requires storage tanks to be mounted on secure foundations and to have flexible pipe fittings, if necessary, to prevent leakage. The final rule uses the defined term "storage tanks" to clarify the types of tanks to which it applies. The proposed terms "underground" and "surface" have been deleted because the standard applies to all storage tanks regardless of their location.

Section 56/57.4402 Safety can use. This standard revises §§ 55/56/57.4–4 and provides for removal of small quantities of flammable liquids from storage by requiring the use of safety cans. Safety cans are readily available and widely used throughout the mining industry. They are specifically designed to safely relieve internal pressure when exposed to heat sources. The phrase "appropriately labeled" in the existing standard is clarified by "labeled to indicate the contents."

One commenter expressed concern that safety cans are not leakproof when tipped over. However, MSHA intends this standard to address removal of

small quantities of flammable liquids from an appropriate storage container to the point of use. During this transfer, the flammable liquid would be normally attended so that any leakage hazard is minimal compared to the safety features afforded by a safety can.

Section 56/57.4430 Surface storage facilities. This standard revises §§ 55/56/57.4–4 and addresses the hazards of fire and explosion that could occur from storage of flammable or combustible liquids in inappropriate containers. It replaces the existing incorporation by reference of "standards of the National Fire Protection Association or other recognized agencies" with performance requirements for the construction and maintenance of storage tanks, piping, and fittings. These requirements are derived from NFPA's "Flammable and Combustible Liquid Code," NFPA 30–1981.

In response to commenters and in conformance with NFPA 30, the final rule contains the following changes from the proposed rule. It clarifies that any storage tank construction, such as a floating top, that prevents the development of pressure or vacuum which could rupture or collapse a tank is an acceptable alternative to venting the tank. The final rule also clarifies that the venting requirements do not apply to tanks larger than 12,000 gallons that are used only for the storage of Class IIIB liquids. Finally, the final rule allows drainage of escaping liquid to a remote impoundment area as an alternative to means of containment around storage tanks.

One commenter suggested that MSHA require fixed surface storage tanks to have some form of construction or device to relieve excessive internal pressure caused by exposure to fires. While provision for emergency relief venting for fire exposure is a good safety practice, this standard and other standards in Subpart C address the prevention of fire in the area of storage tanks, thereby minimizing the need for emergency relief venting.

Section 57.4431 Surface storage restrictions. This standard revises § 57.4–46 and restricts storage of flammable and combustible liquids and flammable gases in areas near mine ventilation installations, mine openings, and hoist houses. The standard permits hoist house storage of small quantities of flammable and combustible liquids necessary for day-to-day maintenance of the hoist machinery provided that certain precautions are taken. These precautions include storing flammable liquids in safety cans away from heat sources.

One commenter believed that the standard would prohibit fan installations from using automatic lubrication systems which include a storage reservoir. However, MSHA considers the lubricant in such a system "in use" and not "in storage."

In response to other commenters, the final rule clarifies that flammable liquid storage cabinets must be labeled "flammables."

Section 57.4460 Underground storage of flammable liquids. This standard revises §§ 57.4–4 and 57.4–52 and prohibits the storage of most flammable liquids underground. Flammable liquids are extremely hazardous if ignited in the confined environment of an underground mine. The standard permits use of small quantities of flammable liquids provided that they are appropriately stored and limited to quantities placed in a safety can or containers of equivalent capacity. Acetylene and liquefied petroleum gas must be in containers designed for their storage. The standard prohibits any storage of gasoline underground because of gasoline's highly volatile characteristics.

Section 57.4461 Gasoline use restrictions underground. This standard revises § 57.4–52 and restricts underground use of gasoline to power internal combustion engines to certain limited mining conditions. The presence of gasoline-powered vehicles in the confines of an underground mine is inherently dangerous. A fire on such vehicles has the potential to generate large quantities of smoke, leading to poor visibility. Therefore the standard requires that the mine must be nongassy and have multiple horizontal or inclined roadways to the surface to provide numerous passageways around a burning vehicle. This minimizes the distance persons may need to travel through smoke to evacuate the mine. Some commenters objected to the existing requirement that the underground roadways or other openings must connect with another opening "every 100 feet." In response to these commenters, the final rule would allow use of alternate routes that provide for equivalent escape capabilities.

Section 57.4462 Storage of combustible liquids underground. This standard revises § 57.4–54 and adds new requirements to address underground storage of combustible liquids. The proposed rule would have required combustible liquids stored in underground mines to be in containers "designed in accordance with recognized engineering practices to hold the type of liquid stored." In order to better delineate compliance responsibilities, the final rule adopts the appropriate general performance requirements which were proposed for surface storage of combustible liquids in § 57.4430. These requirements are derived from the national consensus standards in NFPA's "Flammable and Combustible Liquid Code," NFPA 30–1981. They include provisions for venting storage tanks and for the construction and maintenance of piping, valves, and fittings connected with the storage of combustible liquids. The venting requirements address the hazard of pressure or vacuum developing that could cause a storage tank to rupture or collapse. The piping, valve, and fitting requirements also address the prevention of leakage. These requirements are essential for the safe storage of combustible liquids underground. The final rule also uses the new defined term "storage tanks" to distinguish the requirements for storage of combustible liquids in storage tanks from those for containers less than 60 gallons in capacity.

As was proposed, the standard also requires that means be provided for the confinement or removal of the contents of the largest storage tank in an underground storage area should a tank rupture.

Commenters stated that the proposed term "major electrical installation" would unnecessarily broaden the scope of the existing standard. In response to these commenters, the final rule requires that combustible liquids be separated from electric equipment that creates sufficient heat or sparks to pose a fire hazard. In addition, the final rule clarifies that "separation" of combustible liquids from ignition sources, explosives or blasting agents, electric equipment, and shaft stations means separation "sufficient to prevent the occurrence, or minimize the spread of fire."

One commenter stated that the storage of grease cartridges underground presents very little hazard, especially if stored in a metal cabinet in an underground shop. However, grease cartridges may catch fire if exposed to ignition sources, and once ignited, a grease fire burns extremely hot and is hard to extinguish. For these reasons, the final rule does not exempt grease cartridges.

Section 57.4463 Liquefied petroleum gas use underground. This underground standard contains no substantive changes to the existing standard 57.4–53 for underground mines. Because liquefied petroleum gas (LPG) is very

flammable, the standard limits its use underground to maintenance work so that its use is short in duration and closely attended.

Installation/Construction/Maintenance

Section 56/57.4500 Heat sources. This standard revises §§ 55/56/57.4–9 and 55/56/57.4–10 and requires isolation of heat ignition sources from combustible materials. Some commenters suggested that MSHA specifically exclude properly insulated power cables and conductors that meet MSHA's electrical standards. MSHA agrees that properly insulated wiring should not pose a heat ignition source, but a specific exemption is not necessary because the standard only applies to heat sources that generate heat in sufficient amounts to cause combustion. However, the standard would apply to overloaded insulated power cables and conductors or lighting equipment if they generate sufficient heat to ignite combustible materials.

Some commenters stated they found the term "separated" confusing. MSHA intends "separated" to mean a heat source is either insulated or removed a sufficient distance from combustible material in the area so that it no longer constitutes an ignition source.

Section 56/57.4501 Fuel lines. This standard revises §§ 55/56/57.4–8 which addresses the hazard of potential leakage or breakage of fuel lines. It requires a valve at the source to allow the fuel supply to be shut off in the event of leakage. In the proposed rule, MSHA addressed concerns expressed by commenters that the existing standard would require valves on fuel lines on trucks and other self-propelled equipment by proposing that the standard only apply to storage tanks. However, the term "storage tanks" as defined in the final rule is not appropriate in this standard. Therefore, to clarify the scope of the standard, the final rule states that the standard does not apply to fuel lines on self-propelled equipment.

Section 56/57.4502 Battery-charging stations. This standard revises §§ 55/56/57.4–20 and addresses hazardous build-up of highly flammable hydrogen gas at battery-charging stations by requiring proper ventilation of such areas. This ventilation requirement also minimizes the build-up of heat which could ignite the hydrogen. In addition, the standard prohibits activities at battery-charging stations that could lead to ignition of the hydrogen such as smoking and use of open flames when batteries are being charged. Because hydrogen is an odorless, colorless gas whose generation during battery charging is not immediately detectable, the standard requires that charging stations be posted with a sign prohibiting smoking or use of open flames during battery charging.

Section 56/57.4503 Conveyor belt slippage. This standard revises §§ 55/56/57.4–47 and addresses the hazard of belt-slippage causing ignition of the belt on a belt conveyor. Surface belt conveyors within confined areas that would restrict evacuation in the event of a fire and belt conveyors at underground mines that could pose a fire hazard due to belt-slippage must be equipped with a detection system capable of automatically stopping the drive pulley when slippage occurs. Installation of slippage switches would meet this requirement. The standard also requires that the drive pulley be attended when the automatic function of the slippage switch is temporarily by-passed. Leaving the slippage switch by-passed on an unattended belt could allow a friction fire to start unnoticed.

For surface belt conveyors, some commenters suggested deletion of the term "confined." However, this term appropriately characterizes areas around belt conveyors that may restrict evacuation in the event of fire. Confined areas include reclaim tunnels and other restricted passages where prompt evacuation from the structure would be hindered. Surface belt conveyers that are located where evacuation of persons in the area would not be impeded in the event of a fire do not need a detection system.

Some commenters stated that the provisions for surface areas are unnecessary because §§ 56/57.4530 provide for sufficient means for escape from surface buildings or structures. However, this standard is directed toward the prevention of belt fires in confined areas where escape would be restricted once a fire has started. Another commenter suggested that the standard be deleted because a fire from belt slippage is "hardly possible." However, MSHA's field experience has shown that heat generated from the friction of belt-slippage is a common cause of belt fires.

Some commenters suggested that the provisions for underground belt conveyors should specifically address the possibility of a fire resulting from friction due to frozen take-up pulleys or tail pulleys. Under the final rule, the standard would apply in this instance if the resistance created by a frozen pulley is sufficient to cause slippage at the drive pulley because the continual movement of the drive pulley over the stationary conveyor belt could create a fire-by-friction hazard. However, if no slippage occurs, the possibility of fire-by-friction at the frozen pulley is remote because the belt continually moves past the friction point before heat can build-up.

Section 57.4504 Fan installations. This standard revises §§ 57.5–18B and 57.5–22 and addresses fire hazards around fan installations for underground mining operations. Maintaining the integrity of such fan installations is essential to providing a safe working environment underground. Ventilation fans provide fresh air to underground workings and dilute toxic or flammable gases. The standard limits the combustible material allowed at fan installations to installed wiring, ground and track support, headframes, and direct-fired heaters. The standard permits the presence of timber or other combustible materials provided that they are coated with one-inch of shotcrete, one-half inch of gunite or other noncombustible material with equivalent fire protection characteristics. The term "fire-resistant" in existing standard 57.5–22 is replaced by the defined term "noncombustible material," and the term "fan housing" is clarified by the terms "fan houses" and "fan bulkheads." This standard does not apply to auxiliary fans because these fans are not used as a mine's principal source of ventilation. One commenter suggested that the standard include wording that specifically exempts auxiliary fans. However, this is unnecessary because the standard refers to only main fans and booster fans.

Section 57.4505 Fuel lines to underground areas. This standard is derived from § 57.4–8 which requires fuel lines to be maintained and located to minimize fire hazards. It addresses fuel lines into underground storage or dispensing areas. Fuel lines into these areas often extend down shafts or declines and may be exposed on level landings, making them subject to damage and therefore a potential source of substantial fuel leakage.

To minimize potential leakage from fuel lines, the proposed rule would have required that all such fuel lines be drained when not in use. However, commenters pointed out that some fuel lines are engineered as "wet-line" systems that safely allow fuel to remain in the lines at all times. These commenters cited U.S. Bureau of Mines Contract Report No. H0262023, "Improved Fire Protection Systems for Underground Fueling Areas" (1977) which assesses the hazards of both "wet and dry" fuel lines into underground mines. This report suggests that properly designed wet lines are safe to use, but

recommends drainage of fuel lines as a safer practice. For this reason, the final rule requires that fuel lines be drained after each fuel transfer, or, in response to commenters, allows an alternative use of wet-line systems provided that certain additional safety requirements are met.

In either a dry-line or wet-line system, fuel lines are conduits through which large volumes of combustible liquids are introduced into the underground environment. Therefore, if a wet-line system is used, the valve at the supply source must be kept closed when fuel is not being transferred to limit leakage to the contents of the line. As suggested by commenters, valve closure could be done either manually or with a spring-loaded solenoid valve. Wet-line systems must also be located to prevent damage. Such damage could occur during normal operation of moving equipment or from accidents such as derailments, collisions, or shaft conveyance mishaps. The systems must also be located in areas free of combustible materials to minimize the potential fire hazards. They must incorporate some means to control or contain leakage from the line so that it does not present a hazard to persons. As suggested by commenters, this can be done by running the fuel line through a double casing. Other means of containment could include diking off the area where leakage would flow. The standard also requires wet-line systems to be engineered to withstand the working pressures and stresses to which they will be subjected. Proper design and construction are important criteria for any fuel line; however, assurance that the fuel line will withstand pressures and stresses becomes particularly important if the line is to remain full all the time.

Reference in the proposed rule to transfer of fuel to "underground tanks" is changed to "underground storage or dispensing areas" in recognition that fuel in wet-line systems is sometimes directly transferred from the line to the equipment in which it will be used.

Section 56/57.4530 Exits for surface buildings and structures. This standard revises §§ 55/56/57.4–41 and addresses the hazard of persons being trapped in a burning building because of insufficient exit routes.

Some commenters suggested that all buildings in which persons work should have more than one exit. The final rule requires that the number of exits be sufficient to permit prompt escape in the event of fire. This number will vary from structure to structure depending on such factors as the number of persons working in a particular building and the location of the potential fire hazards in relation to the escape route. For small buildings, such as an operator's booth, a single exit may be sufficient. On the other hand, for buildings in which several people work or where multiple fire hazards exist, several exits may be necessary.

Section 56/57.4531 Surface flammable or combustible liquid storage buildings or rooms. This standard revises §§ 55/56/57.4–39A and requires isolation of flammable or combustible liquid storage areas in buildings in which persons normally work, or within 100 feet of where persons normally work. It requires flammable or combustible liquid storage areas to be well-ventilated and provides alternatives to the existing requirement that the storage buildings or rooms be constructed to meet a one-hour fire resistance rating. As alternatives to the existing construction requirement, the final rule permits use of automatic fire suppression systems in all instances, or use of detection/alarm systems in buildings that do not contain anyone's work station.

Several commenters pointed out that the existing standard clearly addresses storage buildings or storage rooms while the proposed rule appeared to address any building or room in which flammable or combustible liquids were stored. These commenters stated that this change would have unnecessarily broadened the scope of the existing standard. This was not MSHA's intent, and the final rule reflects the scope of the existing standard.

In response to commenters, the final rule clarifies that flammable or combustible liquids in use for day-to-day maintenance and operational activities are not considered "in storage" under this standard. For example, the standard would not apply to a 50-gallon drum that continually feeds lubricants into a wire rope system because the lubricant is "in use."

One commenter objected to MSHA's characterization of grease as a combustible liquid. However, inclusion of grease as a combustible liquid conforms to MSHA's definition of combustible liquid which is based on National Fire Protection Association consensus standards. Another commenter suggested that the standard should exempt storage buildings within 100 feet of where persons work, if the persons do not work in the storage building. The final rule does not make this exemption because of the potential for a fire in the unoccupied storage building to easily spread to work stations within 100 feet.

Some commenters requested that MSHA clarify the phrase "well-ventilated" and suggested various alternatives including "ventilation sufficient to prevent accumulation of significant quantities of vapor air mixtures in concentrations over one-fourth, twenty-five percent, of the lower flammable limit." However, MSHA has adopted a more general description which characterizes "well-ventilated" as a passage of air in a sufficient volume "to prevent the accumulation of flammable vapors."

Section 57.4532 Blacksmith shops. This standard revises § 57.4–45 and addresses the hazard of smoke and toxic fumes entering the underground environment of a mine if a fire starts from a blacksmith shop forge. It prohibits blacksmith shops within 100 feet of fan installations used for intake air or mine openings. The final rule retains the existing requirements for ventilation and inspection for smoldering fires.

The existing standard and proposed rule included additional construction requirements for blacksmith shops located beyond 100 feet of the fan installations and mine openings addressed, but that are located within or adjacent to structures which were within this 100-foot perimeter. The final rule does not include these requirements because § 57.4534 contains similar construction requirements for all structures located near critical fan installations and mine openings.

Section 57.4533 Mine opening vicinity. This standard revises § 57.4–43 and provides new compliance alternatives to the existing standard which addresses the hazard of smoke or gas from a surface fire entering the underground workings of a mine or obstructing an escapeway. Under the final rule, buildings or structures within 100 feet of mine openings use for intake air or mine openings designated as escapeways in exhaust air must meet minimum construction requirements or be provided with an automatic fire suppression system. The construction alternatives include the existing requirement for the structures to meet a one-hour fire-resistance rating and new alternatives which involve use of noncombustible materials. The final rule clarifies the proposed alternative for covering all interior and exterior surfaces with noncombustible or limited combustible materials by stating that "combustible, structural surfaces" must be covered. The standard also allows use of an automatic fire suppression system as an acceptable alternative. The existing standard limited this alternative to previously built structures.

In response to several commenters, the final rule provides that any one of the four alternatives may be used to comply with the standard. Each of these alternatives provides an effective means to prevent the spread of fire to underground areas.

Section 57.4560 Mine entrances. This underground standard revises § 57.4–62 and addresses the hazard of fire propagation leading to the collapse of ground support timber in escape routes or the spread of smoke or gas from intake openings. It requires timber used for ground support in intake openings and exhaust openings designated as escapeways to be provided with a fire suppression system or to be made fire retardant for at least 200 feet inside the mine portal or collar. The existing standard permits use of fire-retardant paint to attain a flame spread rating of 25 or less on the timber. The final rule allows use of any coating, including fire-retardant paint, that reduces the timber's flame spread index to 25 or less. This flame spread rating indicates a significant reduction in the flame propagation properties of the coated timber. The final rule includes additional alternatives that permit use of shotcrete, gunite, or other material with equivalent fire protection characteristics; or the use of a fire suppression system.

Section 57.4561 Stationary diesel equipment underground. This standard consolidated and revises §§ 57.4–85 and 57.4–86. It retains the existing requirement that stationary diesel equipment used underground be supported on a noncombustible base and have a thermal sensor to automatically stop the engine should overheating occur. These requirements help to prevent a fire in unattended diesel equipment and help prevent a fire from spreading to other parts of the mine.

Welding/Cutting/Compressed Gases

Section 56/57.4600 Extinguishing equipment. This standard revises §§ 55/56/57.4–29 and 57.4–76 and addresses the ignition hazards present in activities using an electric arc or open flames to weld, cut, solder, thaw, or bend, by requiring the presence of an appropriate fire extinguisher. It also addresses the hazard of using an inappropriate extinguishing agent under circumstances that could result in an electric shock hazard.

Several commenters requested that MSHA permit the use of halogenated extinguishing agents, such as Halon 1211 or Halon 1301. These commenters submitted many reports and other information discussing the effectiveness and toxicity of these agents. Other commenters expressed concern about the contaminants generated when these agents are applied to a fire. After review of the information submitted, MSHA has determined that Halon 1211, bromochlorodifluoromethane ($CBrClF_2$), and Halon 1301, bromotrifluoromethane ($CBrF_3$), extinguishers can be effective deterrents to the spread of fire and can be safely applied provided that appropriate precautions are taken. Halon 1211 and Halon 1301 are the only halogenated fire extinguishants recognized in NFPA's "Standard for Portable Fire Extinguishers," NFPA 10–1981.

If Halon 1211 or Halon 1301 extinguishers are used in unventilated or confined areas where the concentrations of gases produced by thermal decomposition of the agents could exceed acceptable limits, the final rule requires that precautions based on the manufacturer's use instructions be taken so that the gases produced by thermal decomposition of the extinguishing agents are not inhaled. These precautions could include application of the agent upwind or from the side of the fire, or ventilating the area after the fire has been extinguished to purge the area of decomposition products. The decomposition products of Halon 1211 and 1301 have a sharp, acrid odor, even in minute concentrations. These odors serve to warn of the presence of the decomposition products.

In selecting halogenated extinguishers for use, some consideration should be given to the conditions under which the extinguisher would be used. For example, selection of a multipurpose, dry-chemical extinguisher would be more appropriate for use in windy conditions because halogenated agents are light vapors that can be dispersed by the wind.

One commenter suggested replacing the phrase "at the worksite," which addresses the location of the fire extinguisher, with the phrase "within a reasonable distance of the work area." "Reasonable distance" allows too much latitude for interpretation given the potential fire hazards involved in welding operations. Requiring the presence of the extinguisher at the worksite assures that the extinguisher will be available for use when needed.

Section 56/57.4601 Oxygen cylinder storage. This standard revises §§ 55/56/57.4–18 and addresses the ignition hazard resulting when oxygen under pressure comes into contact with flammable and combustible liquids, especially oil or grease. It prohibits storage of oxygen cylinders in areas used or designated for storage of flammable or combustible liquids. The existing standard only addresses oil and grease; however, contact of any flammable or combustible liquid with oxygen under pressure can pose a serious ignition hazard. Grease is specifically included as an example because many people do not readily recognize it as a combustible liquid and are unaware of the potential ignition hazards, especially in applications using oxygen under pressure.

Section 56/57.4602 Gages and regulators. This standard makes no changes to §§ 55/56/57.4–19. It addresses the hazard of ignition of grease or oil by oxygen under pressure in the gages or regulators of oxygen or acetylene containers by requiring the gages and regulators to be kept free of oil and grease.

Section 56/57.4603 Closure of valves. This standard revises §§ 55/56/57.4–33 and addresses the need to keep oxygen and acetylene cylinder valves closed under circumstances that could allow escape of gases, thereby creating a flammable atmosphere. When valves on storage cylinders are open, the connecting hoses are extensions of the storage cylinders. Without close attention, the hoses could become damaged and release gases. The final rule clarifies the circumstances under which valves must be closed to prevent this hazard and, as proposed, also applies to manifold systems because the hoses of such systems pose essentially the same hazards as portable cylinders. In response to commenters, the final rule also replaces the term "tanks" with "cylinders."

MSHA received no comment on the requirement that valves must be closed when the cylinders are moved. However, several commenters suggested alternative wording for the proposed requirement that valves be closed "when the tanks or system is left unattended." Some commenters stated that the standard should require that "the torch and hoses" be attended because the hazard addressed by the standard would result from damage to or potential leakage from the hoses. MSHA agrees and has incorporated this suggestion into the final rule. Another commenter suggested using a time limit of twenty minutes to determine whether the system has been left "unattended." However, the hazards addressed are not a function of time, but rather of the activities in the work area. Other commenters recommended that MSHA define "unattended" as "unable to provide a prompt response to a failure." However, the final rule retains the word "unattended" which is used in NFPA's

"Oxygen-Fuel Gas Systems for Welding and Cutting," NFPA 51–1977. By "unattended," MSHA means that no one is present to keep the torch and hoses from being physically damaged by moving equipment, or other causes, and to watch for leakage so that appropriate action can be taken.

The proposed rule would have required that hoses be relieved of residual pressure after valve closure. Several commenters stated that, while this may be a good work practice, the amount of gas left in lines after closure of the valves is minimal and poses no significant hazard. MSHA agrees, and the final rule does not adopt the proposed requirement.

Section 56/57.4604 Preparation of pipelines or containers. This standard revises §§ 55/56/57.4–35 and addresses the hazard of ignition of residual flammable or combustible substances in pipelines or containers during activities involving welding, cutting, or application of heat with an open flame. The final rule retains the existing provisions for draining, cleaning, and ventilating the pipelines or containers. In addition to these requirements, the final rule requires venting of closed containers during the application of heat to prevent pressure build-up. As an alternative to the existing requirement for filling pipelines or containers with an inert gas or water, the final rule permits use of gas detection devices. In addition, the defined term "flammable gases" replaces the term "gases."

Section 57.4660 Work in shafts, raises, or winzes and activities involving other hazard areas. This underground standard combines and revises §§ 57.4–77 and 57.4–78. It addresses the hazard of igniting combustible materials when welding, cutting, soldering, or thawing pipes. The standard requires a supplemental multipurpose dry-chemical fire extinguisher and inspection of the area after the task has been completed. During the task, one of several alternatives must be taken, including isolation of combustible material, shielding, or use of a second person to watch for fire. The standard eliminates redundant provisions in the two existing standards and uses a table to clarify the different situations to which it applies. Some commenters suggested retention of the two existing standards. Other commenters shared MSHA's belief that the single standard is more readily understood.

When performing the activities covered by the standard, a multipurpose dry-chemical fire extinguisher must be available at the worksite to use for quick extinguishment of fires in their early stages. Fire extinguishers using halogenated agents are not acceptable under this standard because they are not as effective as dry-chemical extinguishers on deep-seated Class A fires, such as might occur in the timber in shafts, raises, or winzes. The 35-foot provision in Table C–2 is derived from NFPA 51B–1977 "Cutting and Welding Processes," and addresses the potential for sparks or hot metal to contact the fire hazards listed. The 10-foot provision applies to soldering or thawing with an open flame because these activities involve less hazardous ignition sources. The quantities of combustible liquids, non-fire-retardant wood, and combustible plastics in Table C–2 are based upon the smoke and noxious gases each material would create in the downstream air in the event of a fire. Allowance for these materials in limited quantities recognizes that they may be integral parts of the equipment or structures worked upon.

One commenter suggested that the alternative to cover or bulkhead the area immediately below and adjacent to the activity would not be an option because of the underground ventilation requirements. While this alternative might not be possible for ventilation shafts, it may be possible in raises not used for ventilation; otherwise, alternatives other than covering or bulkheading must be chosen. This commenter also suggested that the standard should exempt concrete shafts. If a concrete shaft contains no combustible material that could be ignited by falling sparks or hot metal, then the standard would not apply; there is no need for a more specific exemption.

Ventilation Control Measures

Section 57.4760 Shaft mines. This standard revises § 57.4–61A and addresses the need to protect persons underground in the event of a fire and the resultant spreading flames, smoke, and toxic gases, and to provide for their safe evacuation. Major disasters involving underground mine fires have been caused by lack of control of intake air feeding the fire. The existing standard addresses this hazard by requiring the installation of control doors in shaft mines. The final rule allows three compliance alternatives: control doors built to minimum construction criteria; reversal of mechanical ventilation; or demonstrated capability of evacuation if the evacuation could be completed within ten minutes. The evacuation alternative particularly applies to smaller mines where the number of persons underground is small and the fuel-load sources are limited.

The existing standard requires MSHA District Manager approval of the location or relocation of fire doors. Under the final rule, this approval is no longer necessary because the standard sets performance criteria for the construction of control doors based on their location in the mine. Some commenters suggested that any alternatives to control doors should be approved by the District Manager. However, MSHA has explicitly stated the performance criteria the Agency has established for each alternative in the standard.

The final rule no longer references the definition of "fire door" but rather includes the minimum requirements for "control doors" in Table C–3. Some commenters stated that the phrase "other combustibles" in Table C–3 was broad. They expressed concern that it could encompass conveyor belts or power cables. In response to these commenters, the final rule excludes installed wiring and track support as combustible materials for purposes of determining the construction requirements for control doors. However, MSHA has not excluded conveyor belts because the amount of combustible material involved with conveyor systems, including non-fire-resistant belts, could pose a significant fire fuel source which should not be present in the immediate area of most control doors. Although doors to control air flow can generally be located away from conveyor systems, they may be located within 20 feet of combustible materials provided that the appropriate control door construction requirements listed in Table C–3 are met.

Some commenters proposed that the construction characteristics of control doors only be based on a door's proximity to "combustible storage areas." However, this proposal could allow installation of unlimited quantities of combustible materials immediately adjacent to a wooden ventilation door, for example, without appropriate provision for fire control for the type of door installed. These commenters also believed that the standard should require control doors to be opened and closed according to § 57.5032, as well as according to predetermined procedures. However, § 57.5032 addresses opening and closure of all ventilation control doors during the normal mining cycle. This standard addresses the opening or closure of control doors under the emergency conditions of a fire underground.

Some commenters stated that the requirement for a second, independent power source for underground main fans used for ventilation reversal could imply the need to have a secondary power generator. This was not the Agency's intent, and the final rule clarifies "second, independent power source" as the power cables or conductors from the surface to the fan. These commenters also stated that in some instances it may be difficult to install two independent power cables to an underground fan. In response to these comments, MSHA has added two other alternatives that permit use of a single power supply routed through areas free of fire hazards or the use of a second fan that could provide ventilation reversal in the event the main fan fails. The final rule clarifies that the air reversal must be done rapidly to permit the escape of persons underground. The rapid air reversal required by the standard can be implemented by a motor-reversing switch, gates and ducts, or reversal of fan blades while the fan is in motion.

Several commenters requested that MSHA base the alternative of demonstrated evacuation capability on the time provided by the self-rescuer units in use at a mine. However, to provide equivalent protection to workers in underground mines, the ten-minute alternative is based on the time it would take to close control doors or to accomplish ventilation reversal. Control doors or ventilation reversal are measures taken to provide a safe passageway out of the mine that is clear of the effects or contaminants of an underground fire. To allow a longer time without these positive control measures could expose persons to smoke and gases during their evacuation attempts. The ten-minute alternative does not address evacuation through smoke or toxic fumes, but rather the limited conditions under which persons underground can evacuate without being exposed to heat, smoke, or toxic fumes.

The final rule includes the proposed construction requirement for bulkheads on inactive levels. If destruction of the bulkhead would allow fire contaminants to reach an escapeway, the bulkhead must be constructed and maintained to provide at least the same protection as required for control doors under Table C–3.

Section 57.4761 Underground shops. This standard revises § 57.4–61B and addresses the possibility of a fire in an underground shop spreading fire, smoke, and toxic gases through the mine. Underground shop maintenance of mobile equipment involves the presence of oils, greases, and tires which, in combination with activities such as grinding, welding, cutting, and heating, can create a high potential for fire.

The existing standard requires mine operators to address this hazard by either using fire doors or bulkheads, or routing shop air directly to the exhaust system. The final rule offers two additional methods of compliance: reversal of mechanical ventilation, or use of an automatic fire suppression system if an alternative escapeway around the shop areas exists.

In response to commenters, the final rule clarifies the ventilation reversal alternative. It states that underground main fans used for such reversal must be supplied by power from the surface by two independent power cables or sets of conductors, unless two other alternatives are used. These other alternatives include routing the power cables or conductors through areas free of fire hazards, or using a second fan which is capable of accomplishing the ventilation reversal in the event the main fan fails.

Some commenters suggested that the standard should apply only to shops where "internal combustion driven self-propelled equipment" is repaired. However, this suggestion could exclude shops used for repair of vehicles with rubber tires, hydraulic oils, lubricants, and other types of combustible liquids. These shops may also have the same ignition sources as shops used for repair of other mobile equipment.

One commenter requested that booster fan reversal be included as an alternative. The standard does not prohibit booster fan reversal in conjunction with reversal of the main fan. However, if the ventilation reversal alternative is used, the main fan must be reversed to prevent contaminants from a shop fire from affecting persons underground throughout the mine.

Another commenter expressed concern about the practicality of using control doors or barriers for large shops in underground limestone mines. The final rule provides other alternative compliance methods to address the fire hazards in an underground shop area, including routing the mine shop air directly to an exhaust system or installing an automatic fire suppression system.

Derivation Table

The following derivation table lists the number of each standard in the final rule, the number of the standard in the proposed rule, and the number of the existing standard.

DERIVATION TABLE

New No.	Proposed rule	Old No.
56/57.4011	Not applicable	55/56/57.4-11
57.4057	Not applicable	57.4-57
56/57.4100	58.4100	55/56/57.4-1
56/57.4101	58.4101	55/56/57.4-2
56/57.4102	58.4102	55/56/57.4-7
		55/56/57.4-16
56/57.4103	58.4103	55/56/57.4-21
56/57.4104	58.4130	55/56/57.4-12
	58.4162	55/56/57.4-13
		57.4-50
56/57.4130	58.4131	55/56/57.4-3
57.4131	58.4132	57.4-42
57.4160	58.4160	57.4-3
57.4161	58.4161	57.4-57
56/57.4200	58.4200	55/56/57.4-22
		55/56/57.4-23
56/57.4201	58.4201	55/56/57.4-23
		55/56/57.4-24
		55/56/57.4-26
56/57.4202	58.4202	55/56/57.4-25
56/57.4203	58.4203	55/56/57.4-24
56/57.4230	58.4230	55/56/57.4-27
57.4260	58.4260	57.4-27
57.4261	58.4261	57.4-63
57.4262	58.4262	57.4-55
57.4263	58.4263	57.4-66
56/57.4330	58.4330	55/56/57.4-39B
		55/56/57.4-40
56/57.4331	58.4331	55/56/57.4-39B
57.4360	58.4360	57.4-51
57.4361	58.4362	57.4-73
57.4362	58.4363	57.4-72
57.4363	58.4361	57.4-74
56/57.4400	58.4400	55/56/57.4-14
		55/56/57.4-15
56/57.4401	58.4401	55/56/57.4-5
56/57.4402	58.4402	55/56/57.4-4
56/57.4430	58.4430	55/56/57.4-4
57.4431	58.4431	57.4-46
57.4460	58.4461	57.4-4
		57.4-52
57.4461	58.4462	57.4-52
57.4462	58.4463	57.4-54
57.4463	58.4464	57.4-53
56/57.4500	58.4500	55/56/57.4-9
		55/56/57.4-10
56/57.4501	58.4501	55/56/57.4-8
56/57.4502	58.4502	55/56/57.4-20
56/57.4503	58.4532	55/56/57.4-47
	58.4562	57.4-75
57.4504	58.4503	57.5-188
		57.5-22
57.4505	58.4504	57.4-8
56/57.4530	58.4530	55/56/57.4-41
56/57.4531	58.4531	55/56/57.4-39A
57.4532	58.4533	57.4-45
57.4533	58.4534	57.4-43
57.4560	58.4560	57.4-62
57.4561	58.4561	57.4-85
		57.4-86
56/57.4600	58.4600	55/56/57.4-29
		57.4-76
56/57.4601	58.4601	55/56/57.4-18
56/57.4602	58.4602	55/56/57.4-19
56/57.4603	58.4603	55/56/57.4-33
56/57.4604	58.4604	55/56/57.4-35
57.4660	58.4660	57.4-77
		57.4-78
57.4760	58.4760	57.4-61A
57.4761	58.4761	57.4-61B

Redesignation Table

For the convenience of the reader, the following redesignation table cross references the old standard numbers with the standard numbers used in the final rule.

REDESIGNATION TABLE

Old No.	New No.
55/56/57.4-1	56/57.4100
55/56/57.4-2	56/57.4101
55/56/57.4-3	56/57.4130
	57.4160

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56/57.4-4	56/57.4402
	56/57.4430
	57.4460
55/56/57.4-5	56/57.4401
55/56/57.4-7	56/57.4102
55/56/57.4-8	56/57.4501
	57.4505
55/56/57.4-9	56/57.4500
55/56/57.4-10	56/57.4500
55/56/57.4-11	56/57.4011
55/56/57.4-12	56/57.4104
55/56/57.4-13	56/57.4104
55/56/57.4-14	56/57.4400
55/56/57.4-15	56/57.4400
55/56/57.4-16	56/57.4102
55/56/57.4-18	56/57.4601
55/56/57.4-19	56/57.4602
57.4-20	56/57.4502
55/56/57.4-21	56/57.4103
55/56/57.4-22	56/57.4200
55/56/57.4-23	56/57.4200
	56/57.4201
55/56/57.4-24	56/57.4201
	56/57.4203
55/56/57.4-25	56/57.4202
55/56/57.4-26	56/57.4201
55/56/57.4-27	56/57.4210
	57.4260
55/56/57.4-28	(1)
55/56/57.4-29	56/57.4600
55/56/57.4-33	56/57.4603
55/56/57.4-35	56/57.4604
55/56/57.4-39A	56/57.4531
55/56/57.4-39B	56/57.4330
	56/57.4331
55/56/57.4-40	56/57.4330
55/56/57.4-41	56/57.4530
57.4-42	57.4131
57.4-43	57.4533
57.4-45	57.4532
57.4-46	57.4431
55/56/57.4-47	56/57.4503
55/56/57.4-48	(1)
57.4-50	57.4104
57.4-51	57.4360
57.4-52	57.4460
	57.4461
57.4-53	57.4463
57.4-54	57.4462
57.4-55	57.4262
57.4-57	57.4057
57.4-58	57.4161
57.4-61A	57.4760
57.4-61B	57.4761
57.4-62	57.4560
57.4-63	57.4261
57.4-66	57.4263
57.4-72	57.4362
57.4-73	57.4361
57.4-74	57.4363
57.4-75	57.4503
57.4-76	57.4600
57.4-77	57.4660
57.4-78	57.4660
57.4-85	57.4561
57.4-86	57.4561
57.5-18B	57.4504
57.5-22	57.4504

(1) Remove.

III. Drafting Information

The principal persons responsible for preparing this final rule are: David J. Park, Metal and Nonmetal Mine Safety and Health, MSHA; Richard V. Zeutenhorst, Office of Standards, Regulations, and Variances, MSHA; and Eva L. Clark, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

Under Executive Order 12291, MSHA has prepared an analysis to identify potential costs and benefits associated with the changes to its fire protection and control standards for metal and nonmetal mines. The Agency has incorporated this analysis into the Final Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the final rule will not result in major cost increases nor have an effect of $100,000,000 or more on the economy. Since the final rule does not meet the criteria for a major rule a Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that, in developing regulatory proposals, agencies should evaluate and include, wherever possible, compliance alternatives which minimize any adverse impact on small businesses. The final rule contains many alternatives to the existing regulations, some of which will especially benefit small mining operations. In addition, the final rule clarifies compliance responsibilities, adopts performance-oriented criteria, and reduces recordkeeping provisions to the minimum necessary.

In the following summary of the Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the final rule with the costs of the existing requirements. A copy of the full analysis is available upon request.

MSHA estimates that annual recurring costs associated with the existing requirements amount to approximately $10.2 million. Estimated recurring costs for the final rule amount to $7.5 million. Capital expenditures associated with the existing standards amount to approximately $43.6 million. Estimated capital expenditures under the final rule amount to $26.6 million. Major reductions in capital expenditures are associated with the new requirements for fire extinguishers on surface self-propelled equipment and use of fire control doors underground. The final rule will affect about 13,000 mining operations. MSHA estimates that approximately 10,000 of these mines are small businesses. For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees. The final rule will not present a significant economic impact on a substantial number of small businesses under the criteria of the Regulatory Flexibility Act.

In developing cost estimates, MSHA has taken into consideration industry-wide safety practices. Current compliance costs are related to the following requirements: labor, equipment purchase and maintenance, and recordkeeping. In calculating the costs of the final rule, the Agency has also projected capital expenditures and recurring costs.

The primary benefit of the final rule is the protection that the standards will provide to persons who could be endangered by a fire at surface or underground operations. The final rule will reduce costs to the mining industry through alternative compliance methods without diminishing the safety of persons who work at the Nation's mines. In addition, several standards in the final rule accommodate advances in mining technology, particularly in the area of automatic fire suppression systems.

V. Paperwork Reduction Act

This regulation does not contain any recordkeeping provisions subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 30 CFR Parts 55, 56, and 57

Mine safety and health, Fire prevention.

Dated: December 18, 1984.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

PARTS 55 AND 56—[AMENDED]

Parts 55 and 56, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. Sections 55.4 and 56.4 are amended by removing standards 55.4-28, 55.4-48, 56.4-28, and 56.4-48.

2. Sections 55.4 and 56.4 are combined and redesignated as Subpart C of Part 56 (consisting of §§ 56.4000 through 56.4604) and revised to read as follows:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

* * * * *

Subpart C—Fire Prevention and Control

Sec.

56.4000 Definitions.
56.4011 Abandoned electric circuits.

Prohibitions/Precautions/Housekeeping

56.4100 Smoking and use of open flames.
56.4101 Warning signs.
56.4102 Spillage and leakage.
56.4103 Fueling internal combustion engines.
56.4104 Combustible waste.
56.4130 Electric substations and liquid storage facilities.

Firefighting Equipment

56.4200 General requirements.
56.4201 Inspection.
56.4202 Fire hydrants.

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (U.S.C. 811).

* * * * *

Subpart C—Fire Prevention and Control

§ 56.4000 Definitions.

The following definitions apply in this subpart. *Combustible liquids.* Liquids having a flash point at or above 100 °F (37.8 °C). They are divided into the following classes:

Class II liquids—those having flash points at or above 100 °F (37.8 °C) and below 140 °F (60 °C).

Class IIIA liquids—those having flash points at or above 140 °F (60 °C) and below 200 °F (93.4 °C).

Class IIIB liquids—those having flash points at or above 200 °F (93.4 °C).

Combustible material. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Fire resistance rating. The time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flammable gas. A gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid. A liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 ° F (37.8 °C), and is known as a Class I liquid.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Safety can. A container of not over five gallons capacity that is designed to safely relieve internal pressure when exposed to heat and has a spring-closing lid and spout cover.

Storage tank. A container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

§ 56.4011 Abandoned electric circuits.

Abandoned electric circuits shall be deenergized and isolated so that they cannot become energized inadvertently.

Prohibitions/Precautions/Housekeeping

§ 56.4100 Smoking and use of open flames.

No person shall smoke or use an open flame where flammable or combustible liquids, including greases, or flammable gases are—

(a) Used or transported in a manner that could create a fire hazard; or

(b) Stored or handled.

§ 56.4101 Warning signs.

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

§ 56.4102 Spillage and leakage.

Flammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard.

§ 56.4103 Fueling internal combustion engines.

Internal combustion engines shall be switched off before refueling if the fuel tanks are integral parts of the equipment. This standard does not apply to diesel-powered equipment.

§ 56.4104 Combustible waste.

(a) Waste materials, including liquids, shall not accumulate in quantities that could create a fire hazard.

(b) Until disposed of properly, waste or rags containing flammable or combustible liquids that could create a fire hazard shall be placed in covered metal containers or other equivalent containers with flame containment characteristics.

§ 56.4130 Electric substations and liquid storage facilities.

(a) If a hazard to persons could be created, no combustible materials shall be stored or allowed to accumulate within 25 feet of the following:

(1) Electric substations.

(2) Unburied, flammable or combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of flammable or combustible liquids.

(b) The area within the 25-foot perimeter shall be kept free of dry vegetation.

Firefighting Equipment

§ 56.4200 General requirements.

(a) For fighting fires that could endanger persons, each mine shall have—

(1) Onsite firefighting equipment for fighting fires in their early stages; and

(2) Onsite firefighting equipment for fighting fires beyond their early stages, or the mine shall have made prior arrangements with a local fire department to fight such fires.

(b) Onsite firefighting equipment shall be—

(1) Of the type, size, and quantity that can extinguish fires of any class which could occur as a result of the hazards present; and

(2) Strategically located, readily accessible, plainly marked, and maintained in fire-ready condition.

§ 56.4201 Inspection.

(a) Firefighting equipment shall be inspected according to the following schedules:

(1) Fire extinguishers shall be inspected visually at least once a month to determine that they are fully charged and operable.

(2) At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose, nozzle, and vessel to determine that the fire extinguishers will operate effectively.

(3) Fire extinguishers shall be hydrostatically tested according to

Table C–1 or a schedule based on the manufacturer's specifications to determine the integrity of extinguishing agent vessels.

(4) Water pipes, valves, outlets, hydrants, and hoses that are part of the mine's firefighting system shall be visually inspected at least once every three months for damage or deterioration and use-tested at least once every twelve months to determine that they remain functional.

(5) Fire suppression systems shall be inspected at least once every twelve months. An inspection schedule based on the manufacturer's specifications or the equivalent shall be established for individual components of a system and followed to determine that the system remains functional. Surface fire suppression systems are exempt from these inspection requirements if the systems are used solely for the protection of property and no persons would be affected by a fire.

(b) At the completion of each inspection or test required by this standard, the person making the inspection or test shall certify that the inspection or test has been made and the date on which it was made. Certifications of hydrostatic testing shall be retained until the fire extinguisher is retested or permanently removed from service. Other certifications shall be retained for one year.

TABLE C–1.—HYDROSTATIC TEST INTERVALS FOR FIRE EXTINGUISHERS

Extinguisher type	Test interval (years)
Soda Acid	5
Cartridge-Operated Water and/or Antifreeze	5
Stored-Pressure Water and/or Antifreeze	5
Wetting Agent	5
Foam	5
AFFF (Aqueous Film Forming Foam)	5
Loaded Stream	5
Dry-Chemical with Stainless Steel Shells	5
Carbon Dioxide	5
Dry-Chemical, Stored Pressure, with Mild Steel Shells, Brazed Brass Shells, or Aluminum Shells	12
Dry-Chemical, Cartridge or Cylinder Operated, with Mild Steel Shells	12
Bromotrifluoromethane—Halon 1301	12
Bromochlorodifluoromethane—Halon 1211	12
Dry-Powder, Cartridge or Cylinder-Operated, with Mild Steel Shells [1]	12

[1] Except for stainless steel and steel used for compressed gas cylinders, all other steel shells are defined as "mild steel" shells.

§ 56.4202 Fire hydrants.

If fire hydrants are part of the mine's firefighting system, the hydrants shall be provided with—

(a) Uniform fittings or readily available adapters for onsite firefighting equipment;

(b) Readily available wrenches or keys to open the valves; and

(c) Readily available adapters capable of connecting hydrant fittings to the hose equipment of any firefighting organization relied upon by the mine.

§ 56.4203 Extinguisher recharging or replacement.

Fire extinguishers shall be recharged or replaced with a fully charged extinguisher promptly after any discharge.

§ 56.4230 Self-propelled equipment.

(a)(1) Whenever a fire or its effects could impede escape from self-propelled equipment, a fire extinguisher shall be on the equipment.

(2) Whenever a fire or its effects would not impede escape from the equipment but could affect the escape of other persons in the area, a fire extinguisher shall be on the equipment or within 100 feet of the equipment.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. Fire extinguishers or manual actuators for the suppression system shall be located to permit their use by persons whose escape could be impeded by fire.

Firefighting Procedures/Alarms/Drills

§ 56.4330 Firefighting, evacuation, and rescue procedures.

(a) Mine operators shall establish emergency firefighting, evacuation, and rescue procedures. These procedures shall be coordinated in advance with available firefighting organizations.

(b) Fire alarm procedures or systems shall be established to promptly warn every person who could be endangered by a fire.

(c) Fire alarm systems shall be maintained in operable condition.

§ 56.4331 Firefighting drills.

Emergency firefighting drills shall be held at least once every six months for persons assigned firefighting responsibilities by the mine operator.

Flammable and Combustible Liquids and Gases

§ 56.4400 Use restrictions.

(a) Flammable liquids shall not be used for cleaning.

(b) Solvents shall not be used near an open flame or other ignition source, near any source of heat, or in an atmosphere that can elevate the temperature of the solvent above the flash point.

§ 56.4401 Storage tank foundations.

Fixed, unburied, flammable or combustible liquid storage tanks shall be securely mounted on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused by tanks settling.

§ 56.4402 Safety can use.

Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

§ 56.4430 Storage facilities.

(a) Storage tanks for flammable or combustible liquids shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Isolated or separated from ignition sources to prevent fire or explosion; and

(4) Vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class I, II, or IIIA liquids shall be isolated or separated from ignition sources. These pressure relief requirements do not apply to tanks used for storage of Class IIIB liquids that are larger than 12,000 gallons in capacity.

(b) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner that prevents leakage.

(c) Fixed, unburied tanks located where escaping liquid could present a hazard to persons shall be provided with—

(1) Containment for the entire capacity of the largest tank; or

(2) Drainage to a remote impoundment area that does not endanger persons. However, storage of only Class IIIB liquids does not require containment or drainage to remote impoundment.

Installation/Construction/Maintenance

§ 56.4500 Heat sources.

Heat sources capable of producing combustion shall be separated from combustible materials if a fire hazard could be created.

§ 56.4501 Fuel lines.

Fuel lines shall be equipped with valves capable of stopping the flow of fuel at the source and shall be located and maintained to minimize fire

hazards. This standard does not apply to fuel lines on self-propelled equipment.

§ 56.4502 Battery-charging stations.

(a) Battery-charging stations shall be ventilated with a sufficient volume of air to prevent the accumulation of hydrogen gas.

(b) Smoking, use of open flames, or other activities that could create an ignition source shall be prohibited at the battery charging station during battery charging.

(c) Readily visible signs prohibiting smoking or open flames shall be posted at battery-charging stations during battery charging.

§ 56.4503 Conveyor belt slippag.

Belt conveyors within confined areas where evacuation would be restricted in the event of a fire resulting from belt-slippage shall be equipped with a detection system capable of automatically stopping the drive pulley. A person shall attend the belt at the drive pulley when it is necessary to operate the conveyor while temporarily bypassing the automatic function.

§ 56.4530 Exists.

Buildings or structures in which persons work shall have a sufficient number of exists to permit prompt escape in case of fire.

§ 56.4531 Flammable or combustible liquid storage buildings or rooms.

(a) Storage buildings or storage rooms in which flammable or combustible liquids, including grease, are stored and that are within 100 feet of any person's work station shall be ventilated with a sufficient volume of air to prevent the accumulation of flammable vapors.

(b) In addition, the buildings or rooms shall be—

(1) Constructed to meet a fire resistance rating of a least one hour; or

(2) Equipped with an automatic fire suppression system; or

(3) Equipped with an early warning fire detection device that will alert any person who could be endangered by a fire, provided that no person's work station is in the building.

(c) Flammable or combustible liquids in use for day-to-day maintenance and operational activities are not considered in storage under this standard.

Welding/Cutting/Compressed Gases

§ 56.4600 Extinguishing equipment.

(a) When welding, cutting, soldering, thawing, or bending—

(1) With an electric arc or with an open flame where an electrically conductive extinguishing agent could create an electrical hazard, a multipurpose dry-chemical fire extinguisher or other extinguisher with at least a 2-A:10-B:C rating shall be at the worksite.

(2) With an open flame in an area where no electrical hazard exists, a multipurpose dry-chemical fire extinguisher or equivalent fire extinguishing equipment for the class of fire hazard present shall be at the worksite.

(b) Use of halogenated fire extinguishing agents to meet the requirements of this standard shall be limited to Halon 1211 ($CBrClF_2$) and Halon 1301 ($CBrF_3$). When these agents are used in confined or unventilated areas, precautions based on the manufacturer's use instructions shall be taken so that the gases produced by thermal decomposition of the agents are not inhaled.

§ 56.4601 Oxygen cylinder storage.

Oxygen cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease.

§ 56.4602 Gages and regulators.

Gages and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

§ 56.4603 Closure of valves.

To prevent accidental release of gases from hoses and torches attached to oxygen and acetylene cylinders or to manifold systems, cylinder or manifold system valves shall be closed when—

(a) The cylinders are moved;

(b) The torch and hoses are left unattended; or

(c) The task or series of tasks is completed.

§ 56.4604 Preparation of pipelines or containers.

Before welding, cutting, or applying heat with an open flame to pipelines or containers that have contained flammable or combustible liquids, flammable gases, or explosive solids, the pipelines or containers shall be—

(a) Drained, ventilated, and thoroughly cleaned of any residue;

(b) Vented to prevent pressure build-up during the application of heat; and

(c)(1) Filled with an inert gas or water, where compatible; or

(2) Determined to be free of flammable gases by a flammable gas detection device prior to and at frequent intervals during the application of heat.

Appendix I for Subpart C—National Consensus Standards

Mine operators seeking further information in the area of fire prevention and control may consult the following national consensus standards.

MSHA standard	National consensus standard
§§ 56.4200, 56.4201	NFPA No. 10—Portable Fire Extinguisher. NFPA No. 11—Low Expansion Foam and Combined Agent Systems. NFPA No. 11A—High Expansion Foam System. NFPA No. 12—Carbon Dioxide Extinguishing Systems. NFPA No. 12A—Halon 1301 Extinguishing Systems. NFPA No. 13—Water Sprinkler Systems. NFPA No. 14—Standpipe and Hose Systems. NFPA No. 15—Water Spray Fixed Systems. NFPA No. 16—Foam Water Spray Systems. NFPA No. 17—Dry-Chemical Extinguishing Systems. NFPA No. 121—Mobile Surface Mining Equipment. NFPA No. 291—Testing and Marketing Hydrants. NFPA No. 1962—Care, Use, and Maintenance of Fire Hose, Connections, and Nozzles.
§ 56.4202	NFPA No. 14—Standpipe and Hose Systems. NFPA No. 291—Testing and Marketing Hydrants.
§ 56.4203	NFPA No. 10—Portable Fire Extinguishers.
§ 56.423	NFPA No. 10—Portable Fire Extinguishers. NFPA No. 121—Mobile Surface Mining Equipment.

PART 57—[AMENDED]

Part 57, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is amended as follows:

1. Section 57.4 is amended by removing standards 57.4–28 and 57.4–48.

2. Sections 57.5–18B and 57.5–22 are combined and redesignated as § 57.4504, the text of which appears in new Subpart C below.

3. Section 57.4 is redesignated as Subpart C (consisting of §§ 57.4–4000 through 57.4761) and revised to read as follows:

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

* * * * *

Subpart C—Fire Prevention and Control

Sec.
57.4000 Definitions.
57.4011 Abandoned electric circuits.
57.4057 Underground trailing cables.

Prohibitions/Precautions/Housekeeping

Sec.
57.4100 Smoking and use of open flames.
57.4101 Warning signs.
57.4102 Spillage and leakage.
57.4103 Fueling internal combustion engines.
57.4104 Combustible waste.
57.4130 Surface electric substations and liquid storage facilities.

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (U.S.C. 811).

* * * * *

Subpart C—Fire Prevention and Control

§ 57.4000 Definitions.

The following definitions apply in this subpart. *Booster fan.* A fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.

Combustible liquids. Liquids having a flash point at or above 100 °F (37.8 °C). They are divided into the following classes:

Class II liquids—those having flash points at or above 100 °F (37.8 °C) and below 140 °F (60 °C).

Class IIIA liquids—those having flash points at or above 140 °F (60 °C) and below 200 °F (93.4 °C).

Class IIIB liquids—those having flash points at or above 200 °F (93.4 °C).

Combustible material. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Escapeway. A designated passageway by which persons can leave an underground mine.

Fire resistance rating. The time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flame spread rating. The numerical designation that indicates the extent flame will spread over the surface of a material during a specified period of time.

Flammable gas. A gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid. A liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 °F (37.8 °C), and is known as a Class I liquid.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Main fan. A fan that controls the entire airflow of an underground mine or the airflow of one of the major air circuits of the mine.

Mine opening. Any opening or entrance from the surface into an underground mine.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Safety can. A container of not over five gallons capacity that is designed to safely relieve internal pressure when exposed to heat and has a spring-closing lid and spout cover.

Storage tank. A container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

§ 57.4011 Abandoned electric circuits.

Abandoned electric circuits shall be deenergized and isolated so that they cannot become energized inadvertently.

§ 57.4057 Underground trailing cables.

Underground trailing cables shall be flame-resistant in accordance with 30 CFR 18.65.

Prohibitions/Precautions/Housekeeping

§ 57.4100 Smoking and use of open flames.

No person shall smoke or use an open flame where flammable or combustible liquids, including greases, or flammable gases are—

(a) Used or transported in a manner that could create a fire hazard; or

(b) Stored or handled.

§ 57.4101 Warning signs.

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

§ 57.4102 Spillage and leakage.

Flammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard.

§ 57.4103 Fueling internal combustion engines.

Internal combustion engines shall be switched off before refueling if the fuel tanks are integral parts of the equipment. This standard does not apply to diesel-powered equipment.

§ 57.4104 Combustible waste.

(a) Waste materials, including liquids, shall not accumulate in quantities that could create a fire hazard.

(b) Waste or rags containing flammable or combustible liquids that could create a fire hazard shall be placed in the following containers until disposed of properly:

(1) Underground—covered metal container.

(2) On the surface—covered metal containers or equivalent containers with flame containment characteristics.

§ 57.4130 Surface electric substations and liquid storage facilities.

The requirements of this standard apply to surface areas only.

(a) If a hazard to persons could be created, no combustible materials shall be stored or allowed to accumulate within 25 feet of the following:

(1) Electric substations.

(2) Unburied, flammable or combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of flammable or combustible liquids.

(b) The area within the 25-foot perimeter shall be kept free of dry vegetation.

§ 57.4131 Surface fan installations and mine openings.

(a) On the surface, no more than one day's supply of combustible materials shall be stored within 100 feet of mine openings or within 100 feet of fan installations used for underground ventilation.

(b) The one-day supply shall be kept at least 25 feet away from any mine opening except during transit into the mine.

(c) Dry vegetation shall not be permitted within 25 feet of mine openings.

§ 57.4160 Underground electric substations and liquid storage facilities.

The requirements of this standard apply to underground areas only.

(a) Areas within 25 feet of the following shall be free of combustible materials:

(1) Electric substations.

(2) Unburied, combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of combustible liquids.

(b) This standard does not apply to installed wiring or timber that is coated with at least one inch of shotcrete, one-half inch of gunite, or other noncombustible materials with equivalent fire protection characteristics.

§ 57.4161 Use of fire underground.

Fires shall not be lit underground, except for open-flame torches. Torches shall be attended at all times while lit.

Firefighting Equipment

§ 57.4200 General requirements.

(a) For fighting fires that could endanger persons, each mine shall have—

(1) Onsite firefighting equipment for fighting fires in their early stages; and

(2) Onsite firefighting equipment for fighting fires beyond their early stages, or the mine shall have made prior arrangements with a local fire department to fight such fires.

(b) Onsite firefighting equipment shall be—

(1) Of the type, size, and quantity that can extinguish fires of any class which could occur as a result of the hazards present; and

(2) Strategically located, readily accessible, plainly marked, and maintained in fire-ready condition.

§ 57.4201 Inspection.

(a) Firefighting equipment shall be inspected according to the following schedules:

(1) Fire extinguishers shall be inspected visually at least once a month to determine that they are fully charged and operable.

(2) At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose, nozzle, and vessel to determine that the fire extinguishers will operate effectively.

(3) Fire extinguishers shall be hydrostatically tested according to Table C–1 or a schedule based on the manufacturer's specifications to determine the integrity of extinguishing agent vessels.

(4) Water pipes, valves, outlets, hydrants, and hoses that are part of the mine's firefighting system shall be visually inspected at least once every three months for damage or deterioration and use-tested at least once every twelve months to determine that they remain functional.

(5) Fire suppression systems shall be inspected at least once every twelve months. An inspection schedule based on the manufacturer's specifications or the equivalent shall be established for individual components of a system and followed to determine that the system remains functional. Surface fire suppression systems are exempt from these inspection requirements if the systems are used solely for the protection of property and no persons would be affected by a fire.

(b) At the completion of each inspection or test required by this standard, the person making the inspection or test shall certify that the inspection or test has been made and the date on which it was made. Certifications of hydrostatic testing shall be retained until the fire extinguisher is retested or permanently removed from service. Other certifications shall be retained for one year.

TABLE C–1.—HYDROSTATIC TEST INTERVALS FOR FIRE EXTINGUISHERS

Extinguisher type	Test interval (years)
Soda Acid	5
Cartridge-Operated Water and/or Antifreeze	5
Stored-Pressure Water and/or Antifreeze	5
Wetting Agent	5
Foam	5
AFFF (Aqueous Film Forming Foam)	5
Loaded Stream	5
Dry-Chemical with Stainless Steel Shells	5
Carbon Dioxide	5
Dry-Chemical, Stored Pressure, with Mild Steel Shells, Brazed Brass Shells, or Aluminum Shells	12
Dry-Chemical, Cartridge or Cylinder Operated, with Mild Steel Shells	12
Bromotrifluoromethane—Halon 1301	12
Bromochlorodifluoromethane—Halon 1211	12
Dry-Powder, Cartridge or Cylinder-Operated, with Mild Steel Shells [1]	12

[1] Except for stainless steel and steel used for compressed gas cylinders, all other steel shells are defined as "mild steel" shells.

§ 57.4202 Fire hydrants.

If fire hydrants are part of the mine's firefighting system, the hydrants shall be provided with—

(a) Uniform fittings or readily available adapters for onsite firefighting equipment;

(b) Readily available wrenches or keys to open the valves; and

(c) Readily available adapters capable of connecting hydrant fittings to the hose equipment of any firefighting organization relied upon by the mine.

§ 57.4203 Extinguisher recharging or replacement.

Fire extinguishers shall be recharged or replaced with a fully charged extinguisher promptly after any discharge.

§ 57.4230 Surface self-propelled equipment.

(a)(1) Whenever a fire or its effects could impede escape from self-propelled equipment, a fire extinguisher shall be on the equipment.

(2) Whenever a fire or its effects would not impede escape from the equipment but could affect the escape of other persons in the area, a fire

extinguisher shall be on the equipment or within 100 feet of the equipment.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. Fire extinguishers or manual actuators for the suppression system shall be located to permit their use by persons whose escape could be impeded by fire.

§ 57.4260 Underground self-propelled equipment.

(a) Whenever self-propelled equipment is used underground, a fire extinguisher shall be on the equipment. This standard does not apply to compressed-air powered equipment without inherent fire hazards.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually actuated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. The fire extinguishers or the manual actuator for the suppression system shall be readily accessible to the equipment operator.

§ 57.4261 Shaft-station waterlines.

Waterline outlets that are located at underground shaft stations and are part of the mine's fire protection system shall have at least one fitting located for, and capable of, immediate connection to firefighting equipment.

§ 57.4262 Underground transformer stations, combustible liquid storage and dispensing areas, pump rooms, compressor rooms, and hoist rooms.

Transformer stations, storage and dispensing areas for combustible liquids, pump rooms, compressor rooms, and hoist rooms shall be provided with fire protection of a type, size, and quantity that can extinguish fires of any class in their early stages which could occur as a result of the hazards present.

§ 57.4263 Underground belt conveyors.

Fire protection shall be provided at the head, tail, drive, and take-up pulleys of underground belt conveyors. Provisions shall be made for extinguishing fires along the beltline. Fire protection shall be of a type, size, and quantity that can extinguish fires of any class in their early stages which could occur as a result of the fire hazards present.

Firefighting Procedures/Alarms/Drills

§ 57.4330 Surface firefighting, evacuation, and rescue procedures.

(a) Mine operators shall establish emergency firefighting, evacuation, and rescue procedures for the surface portions of their operations. These procedures shall be coordinated in advance with available firefighting organizations.

(b) Fire alarm procedures or systems shall be established to promptly warn every person who could be endangered by a fire.

(c) Fire alarm systems shall be maintained in operable condition.

§ 57.4331 Surface firefighting drills.

Emergency firefighting drills shall be held at least once every six months for persons assigned surface firefighting responsibilities by the mine operator.

§ 57.4360 Underground alarm systems.

(a) Fire alarm systems capable of promptly warning every person undergound, except as provided in paragraph (b), shall be provided and maintained in operating condition.

(b) If persons are assigned to work areas beyond the warning capabilities of the system, provisions shall be made to alert them in a manner to provide for their safe evacuation in the event of a fire.

§ 57.4361 Underground evacuation drills.

(a) A least once every six months, mine evacuation drills shall be held to assess the ability of all persons underground to reach the surface or other designated points of safety within the time limits of the self-rescue devices that would be used during an actual emergency.

(b) The evacuation drills shall—

(1) Be held for each shift at some time other than a shift change and involve all persons underground;

(2) Involve activation of the fire alarm system; and

(3) Include evacuation of all persons from their work areas to the surface or to designated central evacuation points.

(c) At the completion of each drill, the mine operator shall certify the date and the time the evacuation began and ended. Certifications shall be retained for at least one year after each drill.

§ 57.4362 Underground rescue and firefighting operations.

Following evacution of a mine in a fire emergency, only persons wearing and trained in the use of mine rescue apparatus shall participate in rescue and firefighting operations in advance of the fresh air base.

§ 57.4363 Underground evacuation instruction.

(a) At least once every twelve months, all persons who work underground shall be instructed in the escape and evacuation plans and procedures and fire warning signals in effect at the mine.

(b) Whenever a change is made in escape and evacuation plans and procedures for any area of the mine, all persons affected shall be instructed in the new plans or procedures.

(c) Whenever persons are assigned to work in areas other than their regularly assigned areas, they shall be instructed about the escapeway for that area at the time of such assignment. However, persons who normally work in more than one area of the mine shall be instructed at least once every twelve months about the location of escapeways for all areas of the mine in which they normally work or travel.

(d) At the completion of any instruction given under this standard, the mine operator shall certify the date that the instruction was given. Certifications shall be retained for at least one year.

Flammable and Combustible Liquids and Gases

§ 57.4400 Use restrictions.

(a) Flammable liquids shall not be used for cleaning.

(b) Solvents shall not be used near an open flame or other ignition source, near any source of heat, or in an atmosphere that can elevate the temperature of the solvent above the flash point.

§ 57.4401 Storage tank foundations.

Fixed, unburied, flammable or combustible liquid storage tanks shall be securely mounted on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused by tanks settling.

§ 57.4402 Safety can use.

Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

§ 57.4430 Surface storage facilities.

The requirements of this standard apply to surface areas only.

(a) Storage tanks for flammable or combustible liquids shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Isolated or separated from ignition sources to prevent fire or explosion; and

(4) Vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class I, II, or IIIA liquids shall be isolated or separated from ignition sources. These pressure relief requirements do not apply to tanks used for storage of Class IIIB liquids that are larger than 12,000 gallons in capacity.

(b) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner that prevents leakage.

(c) Fixed, unburied tanks located where escaping liquid could present a hazard to persons shall be provided with—

(1) Containment for the entire capacity of the largest tank; or

(2) Drainage to a remote impoundment area that does not endanger persons. However, storage of only Class IIIB liquids does not require containment or drainage to remote impoundment.

§ 57.4431 Surface storage restrictions.

(a) On the surface, no unburied flammable or combustible liquids or flammable gases shall be stored within 100 feet of the following:

(1) Mine openings or structures attached to mine openings.

(2) Fan installations for underground ventilation.

(3) Hoist houses.

(b) Under this standard, the following may be present in the hoist house in quantities necessary for the day-to-day maintenance of the hoist machinery:

(1) Flammable liquids in safety cans or in other containers placed in tightly closed cabinets. The safety cans and cabinets shall be kept away from any heat source, and each cabinet shall be labeled "flammables."

(2) Combustible liquids in closed containers. The containers shall be kept away from any heat source and the hoist operator's work station.

§ 57.4460 Storage of flammable liquids underground.

(a) Flammable liquids shall not be stored underground, except—

(1) Small quantities stored in tightly closed cabinets away from any heat source. The small quantities shall be stored in safety cans or in non-glass containers of a capacity equal to or less than a safety can. Each cabinet shall be labeled "flammables."

(2) Acetylene and liquefied petroleum gases stored in containers designed for that specific purpose.

(b) Gasoline shall not be stored underground in any quantity.

§ 57.4461 Gasoline use restrictions underground.

If gasoline is used underground to power internal combustion engines—

(a) The mine shall be nongassy and shall have multiple horizontal or inclined roadways from the surface large enough to accommodate vehicular traffic;

(b) All roadways and other openings shall connect with another opening every 100 feet by a passage large enough to accommodate any vehicle in the mine or alternate routes shall provide equivalent escape capabilities; and

(c) No roadway or other opening shall be supported or lined with wood or other combustible materials.

§ 57.4462 Storage of combustible liquids underground.

The requirements of this standard apply to underground areas only.

(a) Combustible liquids, including oil or grease, shall be stored in non-glass containers or storage tanks. The containers or storage tanks shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Located in areas free of combustible materials or in areas where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible material with equivalent fire protection characteristics; and

(4) Separated from explosives or blasting agents, shaft stations, and ignition sources including electric equipment that could create sufficient heat or sparks to pose a fire hazard. Separation shall be sufficient to prevent the occurrence or minimize the spread of fire.

(b) Storage tanks shall be vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class II or IIIA liquids shall be isolated or separated from ignition sources.

(c) At permanent storage areas for combustible liquids, means shall be provided for confinement or removal of the contents of the largest storage tank in the event of tank rupture.

(d) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner which prevents leakage.

§ 57.4463 Liquefied petroleum gas use underground.

Use of liquefied petroleum gases underground shall be limited to maintenance work.

Installation/Construction/Maintenance

§ 57.4500 Heat sources.

Heat sources capable of producing combustion shall be separated from combustible materials if a fire hazard could be created.

§ 57.4501 Fuel lines.

Fuel lines shall be equipped with valves capable of stopping the flow of fuel at the source and shall be located and maintained to minimize fire hazards. This standard does not apply to fuel lines on self-propelled equipment.

§ 57.4502 Battery-charging stations.

(a) Battery-charging stations shall be ventilated with a sufficient volume of air to prevent the accumulation of hydrogen gas.

(b) Smoking, use of open flames, or other activities that could create an ignition source shall be prohibited at the battery charging station during battery charging.

(c) Readily visible signs prohibiting smoking or open flames shall be posted at battery-charging stations during battery charging.

§ 57.4503 Conveyor belt slippage.

(a) Surface belt conveyors within confined areas where evacuation would be restricted in the event of a fire resulting from belt-slippage shall be equipped with a detection system capable of automatically stopping the drive pulley.

(b) Underground belt conveyors shall be equipped with a detection system capable of automatically stopping the drive pulley if slippage could cause ignition of the belt.

(c) A person shall attend the belt at the drive pulley when it is necessary to operate the conveyor while temporarily bypassing the automatic function.

§ 57.4504 Fan installations.

(a) Fan houses, fan bulkheads for main and booster fans, and air ducts connecting main fans to underground openings shall be constructed of noncombustible materials.

(b) Areas within 25 feet of main fans or booster fans shall be free of combustible materials, except installed wiring, ground and track support, headframes, and direct-fired heaters. Other timber shall be coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible materials.

§ 57.4505 Fuel lines to underground areas.

Fuel lines into underground storage or dispensing areas shall be drained at the completion of each transfer of fuel unless the following requirements are met:

(a) The valve at the supply source shall be kept closed when fuel is not being transferred.

(b) The fuel line shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Located to prevent damage; and

(3) Located in areas free of combustible materials or in areas where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible material with equivalent fire protection characteristics.

(c) Provisions shall be made for control or containment of the entire volume of the fuel line so that leakage will not create a fire hazard.

§ 57.4530 Exits for surface buildings and structures.

Surface buildings or structures in which persons work shall have a sufficient number of exits to permit prompt escape in case of fire.

§ 57.4531 Surface flammable or combustible liquid storage buildings or rooms.

(a) Surface storage buildings or storage rooms in which flammable or combustible liquids, including grease, are stored and that are within 100 feet of any person's work station shall be ventilated with a sufficient volume of air to prevent the accumulation of flammable vapors.

(b) In addition, the buildings or rooms shall be—

(1) Constructed to meet a fire resistance rating of at least one hour; or

(2) Equipped with an automatic fire suppression system; or

(3) Equipped with an early warning fire detection device that will alert any person who could be endangered by a fire, provided that no person's work station is in the building.

(c) Flammable or combustible liquids in use for day-to-day maintenance and operational activities are not considered in storage under this standard.

§ 57.4532 Blacksmith shops.

Blacksmith shops located on the surface shall be—

(a) At least 100 feet from fan installations used for intake air and mine openings;

(b) Equipped with exhaust vents over the forge and ventilated to prevent the accumulation of the products of combustion; and

(c) Inspected for smoldering fires at the end of each shift.

§ 57.4533 Mine opening vicinity.

Surface buildings or other similar structures within 100 feet of mine openings used for intake air or within 100 feet of mine openings that are designated escapeways in exhaust air shall be—

(a) Constructed of noncombustible materials; or

(b) Constructed to meet a fire resistance rating of no less than one hour; or

(c) Provided with an automatic fire suppression system; or

(d) Covered on all combustible interior and exterior structural surfaces with noncombustible material or limited combustible material, such as five-eighth inch, type "X" gypsum wallboard.

§ 57.4560 Mine entrances.

For at least 200 feet inside the mine portal or collar, timber used for ground support in intake openings and in exhaust openings that are designated as escapeways under Subpart J, "Travelways and Escapeways," shall be—

(a) Provided with a fire suppression system, other than fire extinguishers and water hoses, capable of controlling a fire in its early stages; or

(b) Covered with shotcrete, gunite, or other material with equivalent fire protection characteristics; or

(c) Coated with fire-retardant paint or other material to reduce its flame spread rating to 25 or less and maintained in that condition.

§ 57.4561 Stationary diesel equipment underground.

Stationary diesel equipment underground shall be—

(a) Supported on a noncombustible base; and

(b) Provided with a thermal sensor that automatically stops the engine if overheating occurs.

Welding/Cutting/Compressed Gases

§ 57.4600 Extinguishing equipment.

(a) When welding, cutting, soldering, thawing, or bending—

(1) With an electric arc or with an open flame where an electrically conductive extinguishing agent could create an electrical hazard, a multipurpose dry-chemical fire extinguisher or other extinguisher with at least a 2-A:10-B:C rating shall be at the worksite.

(2) With an open flame in an area where no electrical hazard exists, a multipurpose dry-chemical fire extinguisher or equivalent fire extinguishing equipment for the class of fire hazard present shall be at the worksite.

(b) Use of halogenated fire extinguishing agents to meet the requirements of this standard shall be limited to Halon 1211 ($CBrClF_2$) and Halon 1301 ($CBrF_3$). When these agents are used in confined or unventilated areas, precautions based on the manufacturer's use instructions shall be taken so that the gases produced by thermal decomposition of the agents are not inhaled.

§ 57.4601 Oxygen cylinder storage.

Oxygen cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease.

§ 57.4602 Gages and regulators.

Gages and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

§ 57.4603 Closure of valves.

To prevent accidental release of gases from hoses and torches attached to oxygen and acetylene cylinders or to manifold systems, cylinder or manifold system valves shall be closed when—

(a) The cylinders are moved;

(b) The torch and hoses are left unattended; or

(c) The task or series of tasks is completed.

§ 57.4604 Preparation of pipelines or containers.

Before welding, cutting, or applying heat with an open flame to pipelines or containers that have contained flammable or combustible liquids, flammable gases, or explosive solids, the pipelines or containers shall be—

(a) Drained, ventilated, and thoroughly cleaned of any residue;

(b) Vented to prevent pressure build-up during the application of heat; and

(c)(1) Filled with an inert gas or water, where compatible; or

(2) Determined to be free of flammable gases by a flammable gas detection device prior to and at frequent intervals during the application of heat.

§ 57.4660 Work in shafts, raises, or winzes and other activities involving hazard areas.

During performance of an activity underground described in Table C–2 or when falling sparks or hot metal from work performed in a shaft, raise, or winze could pose a fire hazard—

(a) A multipurpose dry-chemical fire extinguisher shall be at the worksite to supplement the fire extinguishing equipment required by §57.4600; and

(b) At least one of the following actions shall be taken:

(1) Wet down the area before and after the operation, taking precaution against any hazard of electrical shock.

(2) Isolate any combustible material with noncombustible material.

(3) Shield the activity so that hot metal and sparks cannot cause a fire.

(4) Provide a second person to watch for and extinguish any fire.

TABLE C–2

Activity	Distance	Fire hazard
Welding or cutting with an electric arc or open flame Using an open flame to bend or heat materials Thawing pipes electrically, except with heat tape	Within 35 feet of—	More than one gallon of combustible liquid, unless in a closed, metal container. More than fifty pounds of non-fire-retardant wood. More than ten pounds of combustible plastics.
Soldering or thawing with an open flame	Within 10 feet of—	Materials in a shaft, raise, or winze that could be ignited by hot metal or sparks.

5. Cover or bulkhead the opening immediately below and adjacent to the activity with noncombustible material to prevent sparkes or hot metal from falling down the shaft, raise, or winze. This alternative applies only to activities involving a shaft, raise, or winze.

(c) The affected area shall be inspected during the first hour after the operation is completed. Additional inspections shall be made or other fire prevention measures shall be taken if a fire hazard continues to exist.

Ventilation Control Measures

§ 57.4760 Shaft mines.

(a) Shaft mines shall be provided with at least one of the following means to control the spread of fire, smoke, and toxic gases underground in the event of a fire: control doors, reversal of mechanical ventilation, or effective evacuation procedures. Under this standard, "shaft mine" means a mine in which any designated escapeway includes a mechanical hoisting device or a ladder ascent.

(1) *Control doors.* If used as an alternative, control doors shall be—

(i) Installed at or near shaft stations of intake shafts and any shaft designated as an escapeway under § 57.11053 or at other locations that provide equivalent protection;

(ii) Constructed and maintained according to Table C–3.

(iii) Provided with a means of remote closure at landings of timbered intake shafts unless a person specifically designated to close each door in the event of a fire can reach the door within three minutes;

(iv) Closed or opened only according to predetermined conditions and procedures;

(v) Constructed so that once closed they will not reopen as a result of a differential in air pressure;

(vi) Constructed so that they can be opened from either side by one person, or be provided with a personnel door that can be opened from either side; and

(vii) Clear of obstructions.

(2) *Mechanical ventilation reversal.* If used as an alternative, reversal of mechanical ventilation shall—

(i) Provide at all times at least the same degree of protection to persons underground as would be afforded by the installation of control doors;

(ii) Be accomplished by a main fan. If the main fan is located underground,—

(A) The cable or conductors supplying power to the fan shall be routed through areas free of fire hazards; or

(B) The main fan shall be equipped with a second, independent power cable or set of conductors from the surface. The power cable or conductors shall be located so that an underground fire disrupting power in one cable or set of conductors will not affect the other; or

(C) A second fan capable of accomplishing ventilation reversal shall be available for use in the event of failure of the main fan;

(iii) Provide rapid air reversal that allows persons underground time to exit in fresh air by the second escapeway or find a place of refuge; and

(iv) Be done according to predetermined conditions and procedures.

(3) *Evacuation.* If used as an alternative, effective evacuation shall be demonstrated by actual evacuation of all persons underground to the surface in ten minutes or less through routes that will not expose persons to heat, smoke, or toxic fumes in the event of a fire.

(b) If the destruction of any bulkhead on an inactive level would allow fire contaminants to reach an escapeway, that bulkhead shall be constructed and maintained to provide at least the same protection as required for control doors under Table C–3.

TABLE C–3.—CONTROL DOOR CONSTRUCTION

Location	Minimum required construction
At least 50 feet from: timbered areas, exposed combustible rock, and any other combustible material [1].	Control door that meets the requirements for a ventilation door in conformance with 30 CFR 57.5031.
Within 50 feet but no closer than 20 feet of: timbered areas, exposed combustible rock, or other combustible material [1]. Within 20 feet of: any timbered areas or combustible rock, provided that the timber and combustible rock within the 20 foot distance are coated with one inch of shotcrete, one half-inch of gunite, or other material with equivalent fire protection characteristics and no other combustible material [1] is within that distance.	Control door that serves as a barrier to the effects of fire and air leakage. The control door shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.
Within 20 feet of: timbered areas, exposed combustible rock, or other combustible material [1].	Control door that serves as a barrier to fire, the effects of fire, and air-leakage. The door shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood grain of one layer shall be perpendicular to the wood grain of the other layer. The wood construction shall be covered on all sides and edges with no less than twenty-four gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Roll-down steel doors with a fire-resistance rating of 1½ hours or greater, but without an insulation core, are acceptable if an automatic sprinkler or deluge system is installed that provides even coverage of the door on both sides.

[1] In this table, "combustible material" does not refer to installed wiring or track support.

§ 57.4761 Underground shops.

To confine or prevent the spread of toxic gases from a fire originating in an underground shop where maintenance work is routinely done on mobile equipment, one of the following measures shall be taken: use of control doors or bulkheads, routing of the mine shop air directly to an exhaust system, reversal of mechanical ventilation, or use of an automatic fire suppression system in conjunction with an alternate escape route. The alternative used shall at all times provide at least the same degree of safety as control doors or bulkheads.

(a) *Control doors or bulkheads.* If used as an alternative, control doors or bulkheads shall meet the following requirements:

(1) Each control door or bulkhead shall be constructed to serve as a barrier to fire, the effects of fire, and air leakage at each opening to the shop.

(2) Each control door shall be—

(i) Constructed so that, once closed, it will not reopen as a result of a differential in air pressure;

(ii) Constructed so that it can be opened from either side by one person or be provided with a personnel door that can be opened from either side;

(iii) Clear of obstructions; and

(iv) Provided with a means of remote or automatic closure unless a person specifically designated to close the door in the event of a fire can reach the door within three minutes.

(3) If located 20 feet or more from exposed timber or other combustible material, the control doors or bulkheads shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.

(4) If located less than 20 feet from exposed timber or other combustibles, the control door or bulkhead shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood-grain of one layer shall be perpendicular to the wood-grain of the other layer. The wood construction shall be covered on all sides and edges with no less than 24-gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Roll-down steel doors with a fire-resistance rating of 1½ hours or greater, but without an insulation core, are acceptable provided that an automatic sprinkler or deluge system is installed that provides even coverage of the door on both sides.

(b) *Routing air to exhaust system.* If used as an alternative, routing the mine shop exhaust air directly to an exhaust system shall be done so that no person would be exposed to toxic gases in the event of a shop fire.

(c) *Mechanical ventilation reversal.* If used as an alternative, reversal of mechanical ventilation shall—

(1) Be accomplished by a main fan. If the main fan is located underground—

(i) The cable or conductors supplying power to the fan shall be routed through areas free of fire hazards;

(ii) The main fan shall be equipped with a second, independent power cable or set of conductors from the surface. The power cable or conductors shall be located so that an underground fire disrupting power in one cable or set of conductors will not affect the other; or

(iii) A second fan capable of accomplishing ventilation reversal shall be available for use in the event of failure of the main fan;

(2) Provide rapid air reversal that allows persons underground time to exit in fresh air by the second escapeway or find a place of refuge; and

(3) Be done according to predetermined conditions and procedures.

(d) *Automatic fire suppression system and escape route.* If used as an alternative, the automatic fire suppression system and alternate escape route shall meet the following requirements:

(1) The suppression system shall be—

(i) Located in the shop area;

(ii) The appropriate size and type for the particular fire hazards involved; and

(iii) Inspected at weekly intervals and properly maintained.

(2) The escape route shall bypass the shop area so that the route will not be affected by a fire in the shop area.

Appendix I for Subpart C—National Consensus Standards

Mine operators seeking further information in the area of fire prevention and control may consult the following national consensus standards.

MSHA standard	National consensus standard
§§ 57.4200, 57.4201, 57.4261, and 57.4262.	NFPA No. 10—Portable Fire Extinguisher. NFPA No. 11—Low Expansion Foam and Combined Agent Systems. NFPA No. 11A—High Expansion Foam Systems. NFPA No. 12—Carbon Dioxide Extinguishing Systems. NFPA No. 12A—Halon 1301 Extinguishing Systems. NFPA No. 13—Water Sprinkler Systems. NFPA No. 14—Standpipe and Hose Systems. NFPA No. 15—Water Spray Fixed Systems. NFPA No. 16—Foam Water Spray Systems. NFPA No. 17—Dry-Chemical Extinguishing Systems. NFPA No. 121—Mobile Surface Mining Equipment. NFPA No. 291—Testing and Marking Hydrants. NFPA No. 1962—Care, Use, and Maintenance of Fire Hose, Connections, and Nozzles.
§ 57.4202	NFPA No. 14—Standpipe and Hose Systems. NFPA No. 291—Testing and Marking Hydrants.
§ 57.4203	NFPA No. 10—Portable Fire Extinguishers.
§ 57.4230	NFPA No. 10—Portable Fire Extinguishers. NFPA No. 121—Mobile Surface Mining Equipment.
§ 57.4260	NFPA No. 10—Portable Fire Extinguishers.
§ 57.4261	NFPA No. 14—Standpipe and Hose Systems.
§ 57.4533	NFPA Fire Protection Handbook.
§ 57.4560	ASTM E-162—Surface Flammability of Materials Using a Radiant Heat Energy Source.

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January 29, 1985

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57
Recodification of Safety and Health Standards for Metal and Nonmetal Mines; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Recodification of Safety and Health Standards for Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule recodifies the existing safety and health standards for metal and nonmetal mines in Title 30 of the Code of Federal Regulations (CFR). The recodification renumbers and combines the existing standards in 30 CFR Parts 55 and 56 into a single Part 56 which will apply to all surface metal and nonmetal mines. Part 57 continues to apply to metal and nonmetal underground mines only. This recodification will reduce duplicate standards and establish a comprehensive numbering system which conforms to that recommended by the Office of the Federal Register. In addition, this document corrects certain omissions in the July 1, 1984 edition of Title 30, CFR.

EFFECTIVE DATE: April 15, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980, the Mine Safety and Health Administration (MSHA) published an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register (45 FR 19267) announcing a comprehensive review of metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. In a subsequent ANPRM published on November 20, 1981 (46 FR 57253), MSHA announced selection of eight sections of standards for priority review. Among the goals of this review, the ANPRM listed consolidation of duplicate standards. Beyond this organizational change, MSHA stated that the review project was intended to delete unnecessary standards, update existing provisions to address technological change, and reduce unnecessary reporting and recordkeeping requirements.

At the beginning of the standards review project, MSHA considered consolidating 30 CFR Parts 55, 56, and 57 into a single Part 58 with the goal of eliminating several hundred identical standards in the Code of Federal Regulations. However, numerous commenters representing surface mining operations requested that MSHA retain a clear separation of standards for surface mines and underground mines. In response to their concerns, the Agency is combining 30 CFR Parts 55 and 56 into a revised Part 56 for metal and nonmetal surface mines. Previously, Part 55 applied to metal and nonmetal open pit mines, and Part 56 applied to sand, gravel, and crushed stone operations. However, the standards appearing in Part 55 were identical to those appearing in Part 56. Thus, all surface mines, whether previously covered by Part 55 or Part 56, will have the same substantive requirements under revised Part 56. Under the recodification, the standards in Part 57 continue to apply to metal and nonmetal underground mines including related surface operations. The purpose and scope statement for each part (§§ 56.1 and 57.1) reflect the types of operations addressed by the standards in the respective parts.

This recodification is promulgated in accordance with section 553(b)(A) of the Administrative Procedure Act which exempts rules of agency organization, procedure, or practice from the statute's notice and comment requirements. This rulemaking is therefore exempted since it does not alter any existing substantive rights, interests, obligations, or responsibilities of any affected party. The recodification eliminates numerous duplicate standards. In addition, it establishes a new format for MSHA's metal and nonmetal standards which conforms to that recommended by the Office of the Federal Register.

Before recodification, the numerical designation of MSHA's metal and nonmetal health and safety standards used hyphenated numbers which are not compatible with the Federal Register's electronic coding system. As a convenience to the mining community, each standard has been given a short descriptive heading which also appears in a table of contents at the beginning of each part.

Under this recodification, all defined terms in 30 CFR Parts 55/56/57.2 have been placed in Subpart A. However, the standards for which the review has been completed will have their own definitions self-contained within each subpart.

This recodification is being done at this time to facilitate the placement of the completed Subpart C (formerly known as section .4) fire prevention and control standards. That section is the first of the priority sections under review to be promulgated as a final rule. The fire prevention and control standards are published as a final rule elsewhere in this issue of the Federal Register and appear in the recodification. That final rule includes the full explanatory text and preamble to the fire standards along with the complete text of the rule.

While no substantive changes were made to the recodified standards, a few editorial changes do appear. Substantive and additional editorial changes will occur as each group of related standards undergoes a comprehensive review. Full notice and comment procedure will be observed during this process in accordance with section 101 of the the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173 as amended by Pub. L. 95-164) (30 U.S.C. 811).

The word "mandatory" that preceded each standard has been removed. It is no longer necessary to retain the term before each standard because all of MSHA's standards now impose mandatory requirements.

This notice also corrects two omissions in the July 1, 1984 edition of Title 30, CFR Standards 55.6-57 and 56.6-194 were promulgated as final rules on July 31, 1969 (34 FR 12503). They appear in this recodification as 56.6057 (containers for capped fuses and electric detonators) and 56.6194 (grounding restrictions for pneumatic loading equipment), respectively. In addition, standards 56.8-1, 56.8-4, and 56.10-5 are corrected to read as promulgated on August 17, 1979 (44 FR 48490) with the word "shall." They appear as 56.7801(jet drills), 56.7804 (refueling rotary jet piercing equipment) and 56.10005 (track cable connectors for aerial tramways).

Because the wording of §§ 57.14-45 and 57.14-55 is identical, the recodification combines these two standards into a single standard with general application, § 57.14045 (ventilation and shielding for welding).

For the convenience of the mining community, the following redesignation table cross-references the old and new numbers:

REDESIGNATION TABLE

Old No.	New No.
55/56.1	56.1
55/56.2	56.2
55/56.3-1	56.3001
55/56.3-2	56.3002
55/56.3-3	56.3003
55/56.3-4	56.3004
55/56.3-5	56.3005
55/56.3-6	56.3006
55/56.3-7 [Reserved]	(1)
55/56.3-8	56.3008
55/56.3-9	56.3009
55/56.3-10 and 55/56.3-11 [Reserved]	(1)
55/56.3-12	56.3012
55/56.3-13 through 55/56.3-49 [Reserved]	(1)
55/56.3-50	56.3050
55/56.3-51	56.3051
55/56.3-52 [Reserved]	(1)
55/56.3-53	56.3053
55/56.3-54	56.3054

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.3-55	56.3055
55/56.3-56	56.3056
55/56.3-57	56.3057
55/56.4-6 [Reserved]	(1)
55/56.4-17 [Reserved]	(1)
55/56.4-30 through 55/56.4-32 [Reserved]	(1)
55/56.4-36 through 55/56.4-38 [Reserved]	(1)
55/56.4-39C through 55/56.4-39Z [Reserved]	(1)
55/56.4-42 through 55/56.4-46 [Reserved]	(1)
55/56.4-49 [Reserved]	(1)
55/56.5-1	56.5001
55/56.5-2	56.5002
55/56.5-3	56.5003
55/56.5-4 [Reserved]	(1)
55/56.5-5	56.5005
55/56.5-6	56.5006
55/56.5-7 through 55/56.5-9 [Reserved]	(1)
55/56.5-10	56.5010
55/56.5-11 through 55/56.5-49 [Reserved]	(1)
55/56.5-50	56.5050
55/56.6 Introductory text	56.6000
55/56.6-1	56.6001
55/56.6-2	56.6002
55/56.6-3 and 55/56.6-4 [Reserved]	(1)
55/56.6-5	56.6005
55/56.6-7	56.6007
55/56.6-8	56.6008
55/56.6-9 and 55/56.6-10 [Reserved]	(1)
55/56.6-11	56.6011
55/56.6-12	56.6012
55/56.6-13 through 55/56.6-19 [Reserved]	(1)
55/56.6-20	56.6020
55/56.6-21 through 55/56.6-39 [Reserved]	(1)
55/56.6-40	56.6040
55/56.6-41	56.6041
55/56.6-42	56.6042
55/56.6-43	56.6043
55/56.6-44	56.6044
55/56.6-45	56.6045
55/56.6-46	56.6046
55/56.6-47	56.6047
55/56.6-48	56.6048
55/56.6-49 [Reserved]	(1)
55/56.6-50	56.6050
55/56.6-51	56.6051
55/56.6-52 [Reserved]	(1)
55/56.6-53	56.6053
55/56.6-54	56.6054
55/56.6-55 [Reserved]	(1)
55/56.6-56	56.6056
55/56.6-57	56.6057
55/56.6-58 through 55/56.6-64 [Reserved]	(1)
55/56.6-65	56.6065
55/56.6-66 through 55/56.6-89 [Reserved]	(1)
55/56.6-90	56.6090
55/56.6-91	56.6091
55/56.6-92	56.6092
55/56.6-93	56.6093
55/56.6-94	56.6094
55/56.6-95 [Reserved]	(1)
55/56.6-96	56.6096
55/56.6-97	56.6097
55/56.6-98	56.6098
55/56.6-99	56.6099
55/56.6-100	56.6100
55/56.6-101	56.6101
55/56.6-102	56.6102
55/56.6-103	56.6103
55/56.6-104	56.6104
55/56.6-105	56.6105
55/56.6-106	56.6106
55/56.6-107	56.6107
55/56.6-108	56.6108
55/56.6-109	56.6109
55/56.6-110	56.6110
55/56.6-111	56.6111
55/56.6-112	56.6112
55/56.6-113	56.6113
55/56.6-114	56.6114
55/56.6-115	56.6115
55/56.6-116	56.6116
55/56.6-117	56.6117
55/56.6-118	56.6118
55/56.6-119	56.6119
55/56.6-120	56.6120
55/56.6-121	56.6121
55/56.6-122	56.6122
55/56.6-123	56.6123
55/56.6-124	56.6124
55/56.6-125	56.6125
55/56.6-126	56.6126
55/56.6-127	56.6127

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.6-128	56.6128
55/56.6-129	56.6129
55/56.6-130	56.6130
55/56.6-131	56.6131
55/56.6-132	56.6132
55/56.6-133	56.6133
55/56.6-134	56.6134
55/56.6-135	56.6135
55/56.6-136	56.6136
55/56.6-137	56.6137
55/56.6-138	56.6138
55/56.6-139	56.6139
55/56.6-140	56.6140
55/56.6-141 [Reserved]	(1)
55/56.6-142	56.6142
55/56.6-143 through 55/56.6-158 [Reserved]	(1)
55/56.6-159	56.6159
55/56.6-160	56.6160
55/56.6-161	56.6161
55/56.6-162	56.6162
55/56.6-163	56.6163
55/56.6-164	56.6164
55/56.6-165 through 55/56.6-167 [Reserved]	(1)
55/56.6-168	56.6168
55/56.6-169 through 55/56.6-168 [Reserved]	(1)
Introductory text following undesignated heading "Sensitized Ammonium Nitrate Blasting Agents"	56.6001
55/56.6-190 through 55/56.6-192 [Reserved]	(1)
55/56.6-193	56.6193
55/56.6-194	56.6194
55/56.6-195	56.6195
55/56.6-196 and 55/56.6-197 [Reserved]	(1)
55/56.6-198	56.6198
55/56.6-199 [Reserved]	(1)
55/56.6-200	56.6200
55/56.6-201 through 55/56.6-249 [Reserved]	(1)
55/56.6-250	56.6250
55/56.7-1 [Reserved]	(1)
55/56.7-2	56.7002
55/56.7-3	56.7003
55/56.7-4	56.7004
55/56.7-5	56.7005
55/56.7-6 through 55/56.7-7 [Reserved]	(1)
55/56.7-8	56.7006
55/56.7-9	56.7009
55/56.7-10	56.7010
55/56.7-11	56.7011
55/56.7-12	56.7012
55/56.7-13	56.7013
55/56.7-14 through 55/56.7-17 [Reserved]	(1)
55/56.7-18	56.7018
55/56.7-19 through 55/56.7-49 [Reserved]	(1)
55/56.7-50	56.7050
55/56.7-51	56.7051
55/56.7-52	56.7052
55/56.7-53	56.7053
55/56.7-54 through 55/56.7-100 [Reserved]	(1)
55/56.8-1	56.7801
55/56.8-2	56.7802
55/56.8-3	56.7803
55/56.8-4	56.7804
55/56.8-5	56.7805
55/56.8-6	56.7806
55/56.8-7	56.7807
55/56.9-1	56.9001
55/56.9-2	56.9002
55/56.9-3	56.9003
55/56.9-4 [Reserved]	(1)
55/56.9-5	56.9005
55/56.9-6	56.9006
55/56.9-7	56.9007
55/56.9-8 [Reserved]	(1)
55/56.9-9	56.9009
55/56.9-10	56.9010
55/56.9-11	56.9011
55/56.9-12	56.9012
55/56.9-13	56.9013
55/56.9-14	56.9014
55/56.9-15	56.9015
55/56.9-16	56.9016
55/56.9-17	56.9017
55/56.9-18 [Reserved]	(1)
55/56.9-19	56.9019
55/56.9-20	56.9020
55/56.9-21 [Reserved]	(1)
55/56.9-22	56.9022
55/56.9-23	56.9023
55/56.9-24	56.9024
55/56.9-25	56.9025
55/56.9-26	56.9026
55/56.9-27	56.9027

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.9-28	56.9028
55/56.9-29 [Reserved]	(1)
55/56.9-30	56.9030
55/56.9-31	56.9031
55/56.9-32	56.9032
55/56.9-33 [Reserved]	(1)
55/56.9-34	56.9034
55/56.9-35	56.9035
55/56.9-36	56.9036
55/56.9-37	56.9037
55/56.9-38 [Reserved]	(1)
55/56.9-39	56.9039
55/56.9-40	56.9040
55/56.9-41	56.9041
55/56.9-42	56.9042
55/56.9-43 and 55/56.9-44 [Reserved]	(1)
55/56.9-45	56.9045
55/56.9-46	56.9046
55/56.9-47	56.9047
55/56.9-48	56.9048
55/56.9-49	56.9049
55/56.9-50	56.9050
55/56.9-51	56.9051
55/56.9-52	56.9052
55/56.9-53	56.9053
55/56.9-54	56.9054
55/56.9-55	56.9055
55/56.9-56	56.9056
55/56.9-57	56.9057
55/56.9-58	56.9058
55/56.9-59	56.9059
55/56.9-60	56.9060
55/56.9-61	56.9061
55/56.9-62	56.9062
55/56.9-63	56.9063
55/56.9-64	56.9064
55/56.9-65	56.9065
55/56.9-66	56.9066
55/56.9-67	56.9067
55/56.9-68	56.9068
55/56.9-69	56.9069
55/56.9-70	56.9070
55/56.9-71	56.9071
55/56.9-72	56.9072
55/56.9-73	56.9073
55/56.9-74	56.9074
55/56.9-75 through 55/56.9-82 [Reserved]	(1)
55/56.9-83	56.9083
55/56.9-84 [Reserved]	(1)
55/56.9-85	56.9085
55/56.9-86 [Reserved]	(1)
55/56.9-87	56.9087
55/56.9-88	56.9088
55/56.10-1	56.10001
55/56.10-2	56.10002
55/56.10-3	56.10003
55/56.10-4	56.10004
55/56.10-5	56.10005
55/56.10-6	56.10006
55/56.10-7	56.10007
55/56.10-8	56.10008
55/56.10-9	56.10009
55/56.10-10	56.10010
55/56.11-1	56.11001
55/56.11-2	56.11002
55/56.11-3	56.11003
55/56.11-4	56.11004
55/56.11-5	56.11005
55/56.11-6	56.11006
55/56.11-7	56.11007
55/56.11-8 [Reserved]	(1)
55/56.11-9	56.11009
55/56.11-10	56.11010
55/56.11-11	56.11011
55/56.11-12	56.11012
55/56.11-13	56.11013
55/56.11-14	56.11014
55/56.11-15 [Reserved]	(1)
55/56.11-16	56.11016
55/56.11-17	56.11017
55/56.11-18 through 55/56.11-24 [Reserved]	(1)
55/56.11-25	56.11025
55/56.11-26	56.11026
55/56.11-27	56.11027
55/56.12-1	56.12001
55/56.12-2	56.12002
55/56.12-3	56.12003
55/56.12-4	56.12004
55/56.12-5	56.12005
55/56.12-6	56.12006
55/56.12-7	56.12007
55/56.12-8	56.12008

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.12-9 [Reserved]	(1)
55/56.12-10	56.12010
55/56.12-11	56.12011
55/56.12-12	56.12012
55/56.12-13	56.12013
55/56.12-14	56.12014
55/56.12-15 [Reserved]	(1)
55/56.12-16	56.12016
55/56.12-17	56.12017
55/56.12-18	56.12018
55/56.12-19	56.12019
55/56.12-20	56.12020
55/56.12-21	56.12021
55/56.12-22	56.12022
55/56.12-23	56.12023
55/56.12-24 [Reserved]	(1)
55/56.12-25	56.12025
55/56.12-26	56.12026
55/56.12-27	56.12027
55/56.12-28	56.12028
55/56.12-29 [Reserved]	(1)
55/56.12-30	56.12030
55/56.12-31 [Reserved]	(1)
55/56.12-32	56.12032
55/56.12-33	56.12033
55/56.12-34	56.12034
55/56.12-35	56.12035
55/56.12-36	56.12036
55/56.12-37	56.12037
55/56.12-38	56.12038
55/56.12-39	56.12039
55/56.12-40	56.12040
55/56.12-41	56.12041
55/56.12-42	56.12042
55/56.12-43 and 55/56.12-44 [Reserved]	(1)
55/56.12-45	56.12045
55/56.12-46 [Reserved]	(1)
55/56.12-47	56.12047
55/56.12-48	56.12048
55/56.12-49 [Reserved]	(1)
55/56.12-50	56.12050
55/56.12-51 and 55/56.12-52 [Reserved]	(1)
55/56.12-53	56.12053
55/56.12-54 through 55/56.12-64 [Reserved]	(1)
55/56.12-65	56.12065
55/56.12-66	56.12066
55/56.12-67	56.12067
55/56.12-68	56.12068
55/56.12-69	56.12069
55/56.12-70 [Reserved]	(1)
55/56.12-71	56.12071
55/56.13-1	56.13001
55/56.13-2 through 55/56.13-9 [Reserved]	(1)
55/56.13-10	56.13010
55/56.13-11	56.13011
55/56.13-12	56.13012
55/56.13-13 through 55/56.13-14 [Reserved]	(1)
55/56.13-15	56.13015
55/56.13-16 [Reserved]	(1)
55/56.13-17	56.13017
55/56.13-18 [Reserved]	(1)
55/56.13-19	56.13019
55/56.13-20	56.13020
55/56.13-21	56.13021
55/56.13-22 through 55/56.13-29 [Reserved]	(1)
55/56.13-30	56.13030
55/56.13-31 through 55/56.13-34 [Reserved]	(1)
55/56.14-1	56.14001
55/56.14-2	56.14002
55/56.14-3	56.14003
55/56.14-4 and 55/56.14-5 [Reserved]	(1)
55/56.14-6	56.14006
55/56.14-7	56.14007
55/56.14-8	56.14008
55/56.14-9	56.14009
55/56.14-10	56.14010
55/56.14-11	56.14011
55/56.14-12 [Reserved]	(1)
55/56.14-13	56.14013
55/56.14-14	56.14014
55/56.14-15 through 55/56.14-24 [Reserved]	(1)
55/56.14-25 [Reserved]	(1)
55/56.14-26	56.14026
55/56.14-27	56.14027
55/56.14-28 [Reserved]	(1)
55/56.14-29	56.14029
55/56.14-30	56.14030
55/56.14-31	56.14031
55/56.14-32	56.14032
55/56.14-33	56.14033
55/56.14-34	56.14034
55/56.14-35	56.14035

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.14-36	56.14036
55/56.14-37 through 55/56.14-44 [Reserved]	(1)
55/56.14-45	56.14045
55/56.15-1	56.15001
55/56.15-2	56.15002
55/56.15-3	56.15003
55/56.15-4	56.15004
55/56.15-5	56.15005
55/56.15-6	56.15006
55/56.15-7	56.15007
55/56.15-8 through 55/56.15-19 [Reserved]	(1)
55/56.15-20	56.15020
55/56.16-1	56.16001
55/56.16-2	56.16002
55/56.16-3	56.16003
55/56.16-4	56.16004
55/56.16-5	56.16005
55/56.16-6	56.16006
55/56.16-7	56.16007
55/56.16-8 [Reserved]	(1)
55/56.16-9	56.16009
55/56.16-10	56.16010
55/56.16-11	56.16011
55/56.16-12	56.16012
55/56.16-13	56.16013
55/56.16-14	56.16014
55/56.16-15	56.16015
55/56.16-16	56.16016
55/56.17-1	56.17001
55/56.18-1 [Reserved]	(1)
55/56.18-2	56.18002
55/56.18-3 through 18-5 [Reserved]	(1)
55/56.18-6	56.18006
55/56.18-7 and 55/56.18-8 [Reserved]	(1)
55/56.18-9	56.18009
55/56.18-10	56.18010
55/56.18-11 [Reserved]	(1)
55/56.18-12	56.18012
55/56.18-13	56.18013
55/56.18-14	56.18014
55/56.18-15 through 55/56.18-19 [Reserved]	(1)
55/56.18-20	56.18020
55/56.19 introductory text	56.19000
55/56.19-1	56.19001
55/56.19-2	56.19002
55/56.19-3	56.19003
55/56.19-4	56.19004
55/56.19-5	56.19005
55/56.19-6	56.19006
55/56.19-7	56.19007
55/56.19-8	56.19008
55/56.19-9	56.19009
55/56.19-10	56.19010
55/56.19-11	56.19011
55/56.19-12	56.19012
55/56.19-13	56.19013
55/56.19-14	56.19014
55/56.19-17	56.19017
55/56.19-18	56.19018
55/56.19-30	56.19030
55/56.19-35	56.19035
55/56.19-36	56.19036
55/56.19-37	56.19037
55/56.19-38	56.19038
55/56.19-45	56.19045
55/56.19-49	56.19049
55/56.19-50	56.19050
55/56.19-54	56.19054
55/56.19-55	56.19055
55/56.19-56	56.19056
55/56.19-57	56.19057
55/56.19-58	56.19058
55/56.19-61	56.19061
55/56.19-62	56.19062
55/56.19-63	56.19063
55/56.19-65	56.19065
55/56.19-66	56.19066
55/56.19-67	56.19067
55/56.19-68	56.19068
55/56.19-69	56.19069
55/56.19-70	56.19070
55/56.19-71	56.19071
55/56.19-72	56.19072
55/56.19-73	56.19073
55/56.19-74	56.19074
55/56.19-75	56.19075
55/56.19-76	56.19076
55/56.19-77	56.19077
55/56.19-78	56.19078
55/56.19-79	56.19079
55/56.19-80	56.19080
55/56.19-81	56.19081

REDESIGNATION TABLE—Continued

Old No.	New No.
55/56.19-83	56.19083
55/56.19-90	56.19090
55/56.19-91	56.19091
55/56.19-92	56.19092
55/56.19-93	56.19093
55/56.19-94	56.19094
55/56.19-95	56.19095
55/56.19-96	56.19096
55/56.19-100	56.19100
55/56.19-101	56.19101
55/56.19-102	56.19102
55/56.19-103	56.19103
55/56.19-104	56.19104
55/56.19-105	56.19105
55/56.19-106	56.19106
55/56.19-107	56.19107
55/56.19-108	56.19108
55/56.19-109	56.19109
55/56.19-110	56.19110
55/56.19-111	56.19111
55/56.19-120	56.19120
55/56.19-121	56.19121
55/56.19-122	56.19122
55/56.19-129	56.19129
55/56.19-130	56.19130
55/56.19-131	56.19131
55/56.19-132	56.19132
55/56.19-133	56.19133
55/56.19-134	56.19134
55/56.19-135	56.19135
55/56.19a-20	56.19001
55/56.19a-21	56.19021
55/56.19a-22	56.19022
55/56.19a-23	56.19023
55/56.19a-24	56.19024
55/56.19a-25	56.19025
55/56.19a-26	56.19026
55/56.19a-27	56.19027
55/56.19a-28	56.19028
55/56.20-1	56.20001
55/56.20-2	56.20002
55/56.20-3	56.20003
55/56.20-4 [Reserved]	(1)
55/56.20-5	56.20005
55/56.20-6 and 55/56.20-7 [Reserved]	(1)
55/56.20-8	56.20008
55/56.20-9	56.20009
55/56.20-10	56.20010
55/56.20-11	56.20011
55/56.20-12	56.20012
55/56.20-13	56.20013
55/56.20-14	56.20014
56/56.26-1	56.1000
56.4000	56.4000
56.4011	56.4011
56.4100	56.4100
56.4101	56.4101
56.4102	56.4102
56.4103	56.4103
56.4104	56.4104
56.4130	56.4130
56.4200	56.4200
56.4201	56.4201
56.4202	56.4202
56.4203	56.4203
56.4230	56.4230
56.4330	56.4330
56.4331	56.4331
56.4400	56.4400
56.4401	56.4401
56.4402	56.4402
56.4430	56.4430
56.4500	56.4500
56.4501	56.4501
56.4502	56.4502
56.4503	56.4503
56.4530	56.4530
56.4531	56.4531
56.4600	56.4600
56.4601	56.4601
56.4602	56.4602
56.4603	56.4603
56.4604	56.4604
57.1	57.1
57.2	57.2
57.3-1	57.3001
57.3-2	57.3002
57.3-3	57.3003
57.3-4	57.3004
57.3-5	57.3005
57.3-6	57.3006
56/57.3-7 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.3-8	57.3008
57.3-9	57.3009
57.3-10 and 57.3-11 [Reserved]	(1)
57.3-12	57.3012
57.3-13 through 57.3-19 [Reserved]	(1)
57.3-20	57.3020
57.3-21 [Reserved]	(1)
57.3-22	57.3022
57.3-23 through 57.3-25 [Reserved]	(1)
57.3-26	57.3026
57.3-27 and 57.3-28 [Reserved]	(1)
57.3-29	57.3029
57.3-30 and 57.3-31 [Reserved]	(1)
57.3-33	57.3033
57.3-34 [Reserved]	(1)
57.3-35	57.3035
57.3-36 through 57.3-49 [Reserved]	(1)
57.3-50	57.3050
57.3-51	57.3051
57.3-52 [Reserved]	(1)
57.3-53	57.3053
57.3-54	57.3054
57.3-55	57.3055
57.3-56	57.3056
57.3-57	57.3057
57.3-58	57.3058
57.4-8 [Reserved]	(1)
57.4-17 [Reserved]	(1)
57.4-30 through 57.4-32 [Reserved]	(1)
57.4-36 through 57.4-38 [Reserved]	(1)
57.4-39C through 57.4-39Z [Reserved]	(1)
57.4-44 [Reserved]	(1)
57.4-49 [Reserved]	(1)
57.4-59 and 57.4-60 [Reserved]	(1)
57.4-64 [Reserved]	(1)
57.4-65 [Reserved]	(1)
57.4-67 through 57.4-71 [Reserved]	(1)
57.4-79 through 57.4-84 [Reserved]	(1)
57.5-1	57.5001
57.5-2	57.5002
57.5-3	57.5003
57.5-4 [Reserved]	(1)
57.5-5	57.5005
57.5-6	57.5006
57.5-7 through 57.5-9 [Reserved]	(1)
57.5-10	57.5010
57.5-11 through 57.5-14 [Reserved]	(1)
57.5-15	57.5015
57.5-16	57.5016
57.5-17 [Reserved]	(1)
57.5-18A [Reserved]	(1)
57.5-18C [Reserved]	(1)
57.5-18D	57.8518
57.5-18E [Reserved]	(1)
57.5-18F	57.8519
57.5-18G through 57.5-18Z [Reserved]	(1)
57.5-19A through 57.5-19Z [Reserved]	(1)
57.5-20	57.8520
57.5-21 [Reserved]	(1)
57.5-23 and 57.5-24 [Reserved]	(1)
57.5-25	57.8525
57.5-26 [Reserved]	(1)
57.5-27	57.8527
57.5-28	57.8528
57.5-29	57.8529
57.5-30 [Reserved]	(1)
57.5-31	57.8531
57.5-32	57.8532
57.5-33 [Reserved]	(1)
57.5-34	57.8534
57.5-35A	57.8535
57.5-35B through 57.5-35Z [Reserved]	(1)
57.5-36 [Reserved]	(1)
57.5-37	57.5037
57.5-38	57.5038
57.5-39	57.5039
57.5-40	57.5040
57.5-41	57.5041
57.5-42	57.5042
57.5-43 [Reserved]	(1)
57.5-44	57.5044
57.5-45	57.5045
57.5-46	57.5046
57.5-47	57.5047
57.5-48 and 57.5-49 [Reserved]	(1)
57.5-50	57.5050
57.6 Introductory text	57.6000
57.6-1	57.6001
57.6-2	57.6002
57.6-3 and 57.6-4 [Reserved]	(1)
57.6-5	57.6005
57.6-6 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.6-7	57.6007
57.6-8	57.6008
57.6-9 and 57.6-10 [Reserved]	(1)
57.6-11	57.6011
57.6-12	57.6012
57.6-13 through 57.6-19 [Reserved]	(1)
57.6-20	57.6020
57.6-21 through 57.6-24 [Reserved]	(1)
57.6-25 through 57.6-26 [Reserved]	(1)
57.6-27	57.6027
57.6-28 [Reserved]	(1)
57.6-29	57.6029
57.6-30	57.6030
57.6-31 through 57.6-39 [Reserved]	(1)
57.6-40	57.6040
57.6-41	57.6041
57.6-42	57.6042
57.6-43	57.6043
57.6-44	57.6044
57.6-45	57.6045
57.6-46	57.6046
57.6-47	57.6047
57.6-48	57.6048
57.6-49 [Reserved]	(1)
57.6-50	57.6050
57.6-51	57.6051
57.6-52 [Reserved]	(1)
57.6-53	57.6053
57.6-54	57.6054
57.6-55 [Reserved]	(1)
57.6-56	57.6056
57.6-57	57.6057
57.6-58 through 57.6-64 [Reserved]	(1)
57.6-65	57.6065
57.6-66 through 57.6-74 [Reserved]	(1)
57.6-75	57.6075
57.6-76	57.6076
57.6-77	57.6077
57.6-78 through 57.6-89 [Reserved]	(1)
57.6-90	57.6090
57.6-91	57.6091
57.6-92	57.6092
57.6-93	57.6093
57.6-94	57.6094
57.6-95 [Reserved]	(1)
57.6-96	57.6096
57.6-97	57.6097
57.6-98	57.6098
57.6-99	57.6099
57.6-100	57.6100
57.6-101	57.6101
57.6-102	57.6102
57.6-103	57.6103
57.6-104	57.6104
57.6-105	57.6105
57.6-106	57.6106
57.6-107	57.6107
57.6-108	57.6108
57.6-109	57.6109
57.6-110	57.6110
57.6-111	57.6111
57.6-112	57.6112
57.6-113	57.6113
57.6-114	57.6114
57.6-115	57.6115
57.6-116	57.6116
57.6-117	57.6117
57.6-118	57.6118
57.6-119	57.6119
57.6-120	57.6120
57.6-121	57.6121
57.6-122	57.6122
57.6-123	57.6123
57.6-124	57.6124
57.6-125	57.6125
57.6-126	57.6126
57.6-127	57.6127
57.6-128	57.6128
57.6-129	57.6129
57.6-130	57.6130
57.6-131	57.6131
57.6-132	57.6132
57.6-133	57.6133
57.6-134	57.6134
57.6-135	57.6135
57.6-136	57.6136
57.6-137	57.6137
57.6-138	57.6138
57.6-139	57.6139
57.6-140	57.6140
57.6-141	57.6141
57.6-142	57.6142

REDESIGNATION TABLE—Continued

Old No.	New No.
57.6-143 through 57.6-158 [Reserved]	(1)
57.6-159	57.6159
57.6-160	57.6160
57.6-161	57.6161
57.6-162	57.6162
57.6-163	57.6163
57.6-164	57.6164
57.6-165 through 57.6-167 [Reserved]	(1)
57.6-168	57.6168
57.6-169 through 57.6-174 [Reserved]	(1)
57.6-175	57.6175
57.6-176 [Reserved]	(1)
57.6-177	57.6177
57.6-178 through 57.6-181 [Reserved]	(1)
57.6-182	57.6182
57.6-183 through 57.6-189 [Reserved]	(1)
Introductory text following undesignated heading "Sensitized Ammonium Nitrate Blasting Agents"	57.6001
57.6-190 through 57.6-192 [Reserved]	(1)
57.6-193	57.6193
57.6-194	57.6194
57.6-195	57.6195
57.6-196 and 57.6-197 [Reserved]	(1)
57.6-198	57.6198
57.6-199 [Reserved]	(1)
57.6-200	57.6200
57.6-201 through 57.6-219 [Reserved]	(1)
57.6-220	57.6220
57.6-221 through 57.6-249 [Reserved]	(1)
57.6-250	57.6250
57.7-1 [Reserved]	(1)
57.7-2	57.7002
57.7-3	57.7003
57.7-4	57.7004
57.7-5	57.7005
57.7-6 through 57.7-7 [Reserved]	(1)
57.7-8	57.7008
57.7-9	57.7009
57.7-10	57.7010
57.7-11	57.7011
57.7-12	57.7012
57.7-13	57.7013
57.7-14 through 57.7-17 [Reserved]	(1)
57.7-18	57.7018
57.7-19 through 57.7-24 [Reserved]	(1)
57.7-25 through 57.7-27 [Reserved]	(1)
57.7-28	57.7028
57.7-29 through 57.7-31 [Reserved]	(1)
57.7-32	57.7032
57.7-33 through 57.7-49 [Reserved]	(1)
57.7-50	57.7050
57.7-51	57.7051
57.7-52	57.7052
57.7-53	57.7053
57.7-54	57.7054
57.7-55 through 57.7-100 [Reserved]	(1)
57.8-1	57.7801
57.8-2	57.7802
57.8-3	57.7803
57.8-4	57.7804
57.8-5	57.7805
57.8-6	57.7806
57.8-7	57.7807
57.9-1	57.9001
57.9-2	57.9002
57.9-3	57.9003
57.9-4 [Reserved]	(1)
57.9-5	57.9005
57.9-6	57.9006
57.9-7	57.9007
57.9-8 [Reserved]	(1)
57.9-9	57.9009
57.9-10	57.9010
57.9-11	57.9011
57.9-12	57.9012
57.9-13	57.9013
57.9-14	57.9014
57.9-15	57.9015
57.9-16	57.9016
57.9-17	57.9017
57.9-18 [Reserved]	(1)
57.9-19	57.9019
57.9-20	57.9020
57.9-21 [Reserved]	(1)
57.9-22	57.9022
57.9-23	57.9023
57.9-24	57.9024
57.9-25	57.9025
57.9-26	57.9026
57.9-27	57.9027
57.9-28	57.9028

REDESIGNATION TABLE—Continued

Old No.	New No.
57.9-29 [Reserved]	(1)
57.9-30	57.9030
57.9-31	57.9031
57.9-32	57.9032
57.9-33 [Reserved]	(1)
57.9-34	57.9034
57.9-35	57.9035
57.9-36	57.9036
57.9-37	57.9037
57.9-38 [Reserved]	(1)
57.9-39	57.9039
57.9-40	57.9040
57.9-41	57.9041
57.9-42	57.9042
57.9-43 and 57.9-44 [Reserved]	(1)
57.9-45	57.9045
57.9-46	57.9046
57.9-47	57.9047
57.9-48	57.9048
57.9-49	57.9049
57.9-50	57.9050
57.9-51	57.9051
57.9-52	57.9052
57.9-53	57.9053
57.9-54	57.9054
57.9-55	57.9055
57.9-56	57.9056
57.9-57	57.9057
57.9-58	57.9058
57.9-59	57.9059
57.9-60	57.9060
57.9-61	57.9061
57.9-62	57.9062
57.9-63	57.9063
57.9-64	57.9064
57.9-65	57.9065
57.9-66	57.9066
57.9-67	57.9067
57.9-68	57.9068
57.9-69	57.9069
57.9-70	57.9070
57.9-71	57.9071
57.9-72	57.9072
57.9-73	57.9073
57.9-74	57.9074
57.9-75 through 57.9-80 [Reserved]	(1)
57.9-81 and 57.9-82 [Reserved]	(1)
57.9-83	57.9083
57.9-84 [Reserved]	(1)
57.9-85	57.9085
57.9-86 [Reserved]	(1)
57.9-87	57.9087
57.9-88	57.9088
57.9-89 through 57.9-94 [Reserved]	(1)
57.9-95 [Reserved]	(1)
57.9-96	57.9096
57.9-97	57.9097
57.9-98	57.9098
57.9-99	57.9099
57.9-100 and 57.9-101 [Reserved]	(1)
57.9-102	57.9102
57.9-103	57.9103
57.9-104	57.9104
57.9-105	57.9105
57.9-106	57.9106
57.9-107	57.9107
57.9-108 and 57.9-109 [Reserved]	(1)
57.9-110	57.9110
57.9-111	57.9111
57.9-112	57.9112
57.9-113	57.9113
57.9-114	57.9114
57.9-115	57.9115
57.9-116	57.9116
57.10-1	57.10001
57.10-2	57.10002
57.10-3	57.10003
57.10-4	57.10004
57.10-5	57.10005
57.10-6	57.10006
57.10-7	57.10007
57.10-8	57.10008
57.10-9	57.10009
57.10-10	57.10010
57.11-1	57.11001
57.11-2	57.11002
57.11-3	57.11003
57.11-4	57.11004
57.11-5	57.11005
57.11-6	57.11006
57.11-7	57.11007
57.11-8 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.11-9	57.11009
57.11-10	57.11010
57.11-11	57.11011
57.11-12	57.11012
57.11-13	57.11013
57.11-14	57.11014
57.11-15 [Reserved]	(1)
57.11-16	57.11016
57.11-17	57.11017
57.11-18 through 57.11-24 [Reserved]	(1)
57.11-25	57.11025
57.11-26	57.11026
57.11-27	57.11027
57.11-28 through 57.11-34 [Reserved]	(1)
57.11-35 [Reserved]	(1)
57.11-36	57.11036
57.11-37	57.11037
57.11-38	57.11038
57.11-39 [Reserved]	(1)
57.11-40	57.11040
57.11-41	57.11041
57.11-42 through 57.11-49 [Reserved]	(1)
57.11-50	57.11050
57.11-51	57.11051
57.11-52	57.11052
57.11-53	57.11053
57.11-54	57.11054
57.11-55	57.11055
57.11-56	57.11056
57.11-57 [Reserved]	(1)
57.11-58	57.11058
57.11-59	57.11059
57.12-1	57.12001
57.12-2	57.12002
57.12-3	57.12003
57.12-4	57.12004
57.12-5	57.12005
57.12-6	57.12006
57.12-7	57.12007
57.12-8	57.12008
57.12-9 [Reserved]	(1)
57.12-10	57.12010
57.12-11	57.12011
57.12-12	57.12012
57.12-13	57.12013
57.12-14	57.12014
57.12-15 [Reserved]	(1)
57.12-16	57.12016
57.12-17	57.12017
57.12-18	57.12018
57.12-19	57.12019
57.12-20	57.12020
57.12-21	57.12021
57.12-22	57.12022
57.12-23	57.12023
57.12-24 [Reserved]	(1)
57.12-25	57.12025
57.12-26	57.12026
57.12-27	57.12027
57.12-28	57.12028
57.12-29 [Reserved]	(1)
57.12-30	57.12030
57.12-31 [Reserved]	(1)
57.12-32	57.12032
57.12-33	57.12033
57.12-34	57.12034
57.12-35	57.12035
57.12-36	57.12036
57.12-37	57.12037
57.12-38	57.12038
57.12-39	57.12039
57.12-40	57.12040
57.12-41	57.12041
57.12-42	57.12042
57.12-43 and 57.12-44 [Reserved]	(1)
57.12-45	57.12045
57.12-46 [Reserved]	(1)
57.12-47	57.12047
57.12-48	57.12048
57.12-49 [Reserved]	(1)
57.12-50	57.12050
57.12-51 and 57.12-52 [Reserved]	(1)
57.12-53	57.12053
57.12-54 through 57.12-64 [Reserved]	(1)
57.12-65	57.12065
57.12-66	57.12066
57.12-67	57.12067
57.12-68	57.12068
57.12-69	57.12069
57.12-70 [Reserved]	(1)
57.12-71	57.12071
57.12-72 through 57.12-79 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.12-80	57.12080
57.12-81	57.12081
57.12-82	57.12082
57.12-83	57.12083
57.12-84	57.12084
57.12-85	57.12085
57.12-86	57.12086
57.12-87 [Reserved]	(1)
57.12-88	57.12088
57.13-1	57.13001
57.13-2 through 57.13-9 [Reserved]	(1)
57.13-10	57.13010
57.13-11	57.13011
57.13-12	57.13012
57.13-13 through 57.13-14 [Reserved]	(1)
57.13-15	57.13015
57.13-16 [Reserved]	(1)
57.13-17	57.13017
57.13-18 [Reserved]	(1)
57.13-19	57.13019
57.13-20	57.13020
57.13-21	57.13021
57.13-22 through 57.13-29 [Reserved]	(1)
57.13-30	57.13030
57.13-31 through 57.13-34 [Reserved]	(1)
57.14-1	57.14001
57.14-2	57.14002
57.14-3	57.14003
57.14-4 and 57.14-5 [Reserved]	(1)
57.14-6	57.14006
57.14-7	57.14007
57.14-8	57.14008
57.14-9	57.14009
57.14-10	57.14010
57.14-11	57.14011
57.14-12 [Reserved]	(1)
57.14-13	57.14013
57.14-14	57.14014
57.14-15 through 57.14-24 [Reserved]	(1)
57.14-25 [Reserved]	(1)
57.14-26	57.14026
57.14-27	57.14027
57.14-28 [Reserved]	(1)
57.14-29	57.14029
57.14-30	57.14030
57.14-31	57.14031
57.14-32	57.14032
57.14-33	57.14033
57.14-34	57.14034
57.14-35	57.14035
57.14-36	57.14036
57.14-37 through 57.14-44 [Reserved]	(1)
57.45	57.14045
57.14-46 through 5714-54 [Reserved]	(1)
57.14-55	57.14045
57.15-1	57.15001
57.15-2	57.15002
57.15-3	57.15003
57.15-4	57.15004
57.15-5	57.15005
57.15-6	57.15006
57.15-7	57.15007
57.-15-8 through 57.15-19 [Reserved]	(1)
57.15-20	57.15020
57.15-21 through 15-29 [Reserved]	(1)
57.15-30	57.15030
57.15-31	57.15031
57.16-1	57.16001
57.16-2	57.16002
57.16-3	57.16003
57.16-4	57.16004
57.16-5	57.16005
57.16-6	57.16006
57.16-7	57.16007
57.16-8 [Reserved]	(1)
57.16-9	57.16009
57.16-10	57.16010
57.16-11	57.16011
57.16-12	57.16012
57.16-13	57.16013
57.16-14	57.16014
57.16-15	57.16015
57.16-16	57.16016
57.16-17	57.16017
57.16-18 through 57.16-34 [Reserved]	(1)
57.16-35 [Reserved]	(1)
57.17-1	57.17001
57.17-2 through 17-9 [Reserved]	(1)
57.17-10	57.17010
57.18-1 [Reserved]	(1)
57.18-2	57.18002
57.18-3 through 18-5 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.18-6	57.18006
57.18-7 and 57.18-8 [Reserved]	(1)
57.18-9	57.18009
57.18-10	57.18010
57.18-11 [Reserved]	(1)
57.18-12	57.18012
57.18-13	57.18013
57.18-14	57.18014
57.18-15 through 57.18-19 [Reserved]	(1)
57.18-20	57.18020
57.18-21 through 57.18-24 [Reserved]	(1)
57.18-25	57.18025
57.18-26 and 57.18-27 [Reserved]	(1)
57.18-28	57.18028
57.19 Introductory text	57.19000
57.19-1	57.19001
57.19-2	57.19002
57.19-3	57.19003
57.19-4	57.19004
57.19-5	57.19005
57.19-6	57.19006
57.19-7	57.19007
57.19-8	57.19008
57.19-9	57.19009
57.19-10	57.19010
57.19-11	57.19011
57.19-12	57.19012
57.19-13	57.19013
57.19-14	57.19014
57.19-17	57.19017
57.19-18	57.19018
57.19-30	57.19030
57.19-35	57.19035
57.19-36	57.19036
57.19-37	57.19037
57.19-38	57.19038
57.19-45	57.19045
57.19-49	57.19049
57.19-50	57.19050
57.19-54	57.19054
57.19-55	57.19055
57.19-56	57.19056
57.19-57	57.19057
57.19-58	57.19058
57.19-61	57.19061
57.19-62	57.19062
57.19-63	57.19063
57.19-65	57.19065
57.19-66	57.19066
57.19-67	57.19067
57.19-68	57.19068
57.19-69	57.19069
57.19-70	57.19070
57.19-71	57.19071
57.19-72	57.19072
57.19-73	57.19073
57.19-74	57.19074
57.19-75	57.19075
57.19-76	57.19076
57.19-77	57.19077
57.19-78	57.19078
57.19-79	57.19079
57.19-80	57.19080
57.19-81	57.19081
57.19-83	57.19083
57.19-90	57.19090
57.19-91	57.19091
57.19-92	57.19092
57.19-93	57.19093
57.19-94	57.19094
57.19-95	57.19095
57.19-96	57.19096
57.19-100	57.19100
57.19-101	57.19101
57.19-102	57.19102
57.19-103	57.19103
57.19-104	57.19104
57.19-105	57.19105
57.19-106	57.19106
57.19-107	57.19107
57.19-108	57.19108
57.19-109	57.19109
57.19-110	57.19110
57.19-111	57.19111
57.19-120	57.19120
57.19-121	57.19121
57.19-122	57.19122
57.19-129	57.19129
57.19-130	57.19130
57.19-131	57.19131
57.19-132	57.19132
57.19-133	57.19133

REDESIGNATION TABLE—Continued

Old No.	New No.
57.19-134	57.19134
57.19-135	57.19135
57.19a-19	57.19019
57.19a-20	57.19001
57.19a-21	57.19021
57.19a-22	57.19022
57.19a-23	57.19023
57.19a-24	57.19024
57.19a-25	57.19025
57.19a-26	57.19026
57.19a-27	57.19027
57.19a-28	57.19028
57.20-1	57.20001
57.20-2	57.20002
57.20-3	57.20003
57.20-4 [Reserved]	(1)
57.20-5	57.20005
57.20-6 and 57.20-7 [Reserved]	(1)
57.20-8	57.20008
57.20-9	57.20009
57.20-10	57.20010
57.20-11	57.20011
57.20-12	57.20012
57.20-13	57.20013
57.20-14	57.20014
57.20-15 through 57.20-19 [Reserved]	(1)
57.20-20	57.20020
57.20-21	57.20021
57.20-22 through 57.20-29 [Reserved]	(1)
57.20-30 [Reserved]	(1)
57.20-31	57.20031
57.20-32	57.20032
57.21 Introductory text	57.21000
57.21-1	57.21001
57.21-2	57.21002
57.21-3 through 57.21.9 [Reserved]	(1)
57.21-10	57.21010
57.21-11	57.21011
57.21-12	57.21012
57.21-13	57.21013
57.21-14 through 57.21-19 [Reserved]	(1)
57.21-20	57.21020
57.21-21	57.21021
57.21-22	57.21022
57.21-23	57.21023
57.21-24	57.21024
57.21-25	57.21025
57.21-26 [Reserved]	(1)
57.21-27	57.21027
57.21-28	57.21028
57.21-29	57.21029
57.21-30	57.21030
57.21-31	57.21031
57.21-32 [Reserved]	(1)
57.21-33	57.21033
57.21-34	57.21034
57.21-35	57.21035
57.21-36	57.21036
57.21-37 [Reserved]	(1)
57.21-38	57.20138
57.21-39	57.21039
57.21-40	57.21040
57.21-41	57.21041
57.21-42	57.21042
57.21-43	57.21043
57.21-44	57.21044
57.21-45	57.21045
57.21-46	57.21046
57.21-47 [Reserved]	(1)
57.21-48	57.21048
57.21-49	57.21049
57.21-50	57.21050
57.21-51	57.21051
57.21-52	57.21052
57.21-53	57.21053
57.21-54 [Reserved]	(1)
57.21-55	57.21055
57.21-56	57.21056
57.21-57	57.21057
57.21-58	57.21058
57.21-59	57.21059
57.21-60 [Reserved]	57.21060
57.21-61	57.21051
57.21-62	57.21062
57.21-63 [Reserved]	(1)
57.21-64	57.21064
57.21-65	57.21065
57.21-66	57.21066
57.21-67	57.21067
57.21-68	57.21068
57.21-69	57.21069
57.21-70 through 57.21-74 [Reserved]	(1)

REDESIGNATION TABLE—Continued

Old No.	New No.
57.21-75 [Reserved]	(1)
57.21-76	57.21076
57.21-77	57.21077
57.21-78	57.21078
57.21-79	57.21079
57.21-80	57.21080
57.21-81 [Reserved]	(1)
57.21-82 through 57.21-89 [Reserved]	(1)
57.21-90	57.21090
57.21-91 through 21-94 [Reserved]	(1)
57.21-95	57.21095
57.21-96	57.20196
57.21-97	57.21097
57.21-98	57.21098
57.21-99	57.21099
57.21-100	57.21100
57.21-101	57.21101
57.26-1	57.1000
57.4000	57.4000
57.4011	57.4011
57.4057	57.4057
57.4100	57.4100
57.4101	57.4101
57.4102	57.4102
57.4103	57.4103
57.4104	57.4104
57.4130	57.4130
57.4131	57.4131
57.4160	57.4160
57.4161	57.4161
57.4200	57.4200
57.4201	57.4201
57.4202	57.4202
57.4203	57.4203
57.4230	57.4230
57.4260	57.4260
57.4261	57.4261
57.4262	57.4262
57.4263	57.4263
57.4330	57.4330
57.4331	57.4331
57.4360	57.4360
57.4361	57.4361
57.4362	57.4362
57.4363	57.4363
57.4400	57.4400
57.4401	57.4401
57.4402	57.4402
57.4430	57.4430
57.4431	57.4431
57.4460	57.4460
57.4461	57.4461
57.4462	57.4462
57.4463	57.4463
57.4500	57.4500
57.4501	57.4501
57.4502	57.4502
57.4503	57.4503
57.4504	57.4504
57.4505	57.4505
57.4530	57.4530
57.4531	57.4531
57.4532	57.4532
57.4533	57.4533
57.4560	57.4560
57.4561	57.4561
57.4600	57.4600
57.4601	57.4601
57.4602	57.4602
57.4603	57.4603
57.4604	57.4604
57.4660	57.4660
57.4760	57.4760
57.4761	57.4761

[1] Remove.

OMB control numbers follow each recordkeeping or reporting provision that has been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 30 CFR Parts 56 and 57

Mine safety and health.

Dated: December 18, 1984.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

The standards in Parts 55, 56, and 57, Chapter I, Subchapter N, Title 30 of the Code of Federal Regulations are revised and redesignated as follows:

1. Parts 55 and 56 are redesignated as Part 56 and revised to read as follows:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

Subpart A—General

Sec.

Subpart B—Ground Control

Subpart C—Fire Prevention and Control

Subpart D—Air Quality and Physical Agents

Subpart E—Explosives

Authority: Secs. 301(a), 301(b)(2), 301(c)(3) and 302(a) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1317-1319 (30 U.S.C. 961(a), (b)(2), (c)(3) (Supp. I, 1977)), and 29 U.S.C. 557a (Supp. I, 1977); sec. 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164, 83 Stat. 803 (30 U.S.C. 957 (1976 ed.)); sec. 6 of the Federal Metal and Nonmetallic Mine Safety Act (repealed 1977), Pub. L. 89-577, 80 Stat. 774 (30 U.S.C. 725 (1976 ed.)), (repealed sec. 306(a), Pub. L. 95-164, 91 Stat. 1322, but see sec. 301(b)(1), Pub. L. 95-164, 91 Stat. 1317 (30 U.S.C. 961(b)(1) (Supp. I, 1977)), Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.), unless otherwise noted.

Subpart A—General

§ 56.1 Purpose and scope.

This Part 56 sets forth mandatory safety and health standards for each surface metal or nonmetal mine, including open pit mines, subject to the Federal Mine Safety and Health Act of 1977. The purpose of these standards is the protection of life, the promotion of health and safety, and the prevention of accidents.

§ 56.2 Definitions.

The following definitions apply in this part, except in any subpart preceded by a separate set of definitions:

"American Table of Distances" means the current edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives.

"Approved" means tested and accepted for a specific purpose by a nationally recognized agency.

"Authorized person" means a person approved or assigned by mine management to perform a specific type of duty or duties or to be at a specific location or locations in the mine.

"Barricaded" means obstructed to prevent the passage of persons, vehicles, or flying materials.

"Berm" means a pile or mound of material capable of restraining a vehicle.

"Blasting agent" means any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114a (44 FR 31182, May 31, 1979) which is incorporated by reference. This document is available for inspection at each Metal and Nonmetal Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, D.C. 20402.

"Blasting area" means the area near blasting operations in which concussion or flying material can reasonably be expected to cause injury.

"Blasting cap" means a detonator which is initiated by a safety fuse.

"Blasting circuit" means the electrical circuit used to fire one or more electric blasting caps.

"Blasting switch" means a switch used to connect a power source to a blasting circuit.

"Booster" means any unit of explosive or blasting agent used for the purpose of perpetuating or intensifying an initial detonation.

"Capped fuse" means a length of safety fuse to which a blasting cap has been attached.

"Capped primer" means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator.

"Circuit breaker" means a device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent setting without injury to itself when properly applied within its rating.

"Combustible" means capable of being ignited and consumed by fire.

"Company official" means a member of the company supervisory or technical staff.

"Competent person" means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

"Conductor" means a material, usually in the form of a wire, cable, or bus bar, capable of carrying an electric current.

"Delay connector" means a non-electric short interval delay device for use in delaying blasts which are initiated by detonating cord.

"Detonating cord" means a flexible cord containing a solid core of high explosives.

"Detonator" means any device containing a detonating charge that is used to initiate an explosive and includes but is not limited to blasting caps, electric blasting caps and non-electric instantaneous or delay blasting caps.

"Distribution box" means a portable apparatus with an enclosure through which an electric circuit is carried to one or more cables from a single incoming feed line, each cable circuit being connected through individual overcurrent protective devices.

"Electric blasting cap" means a detonator designed for and capable of being initiated by means of an electric current.

"Electrical grounding" means to connect with the ground to make the earth part of the circuit.

"Employee" means a person who works for wages or salary in the service of an employer.

"Employer" means a person or organization which hires one or more persons to work for wages or salary.

"Explosive" means any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88 and 173.100 which are incorporated by reference. Title 49 CFR is available for inspection at each Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, D.C. 20402.

"Face or bank" means that part of any mine where excavating is progressing or was last done.

"Flammable" means capable of being easily ignited and of burning rapidly.

"Flash point" means the minimum temperature at which sufficient vapor is released by a liquid or solid to form a flammable vapor-air mixture at atmospheric pressure.

"Highway" means any public street, public alley, or public road.

"High potential" means more than 650 volts.

"Hoist" means a power driven windlass or drum used for raising ore, rock, or other material from a mine, and for lowering or raising persons and material.

"Igniter cord" means a fuse, cordlike in appearance, which burns progressively along its length with an external flame at the zone of burning, and is used for lighting a series of safety fuses in the desired sequence.

"Insulated" means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected. Otherwise, it is, within the purpose of this definition, uninsulated. Insulating covering is one means for making the conductor insulated.

"Insulation" means a dielectric substance offering a high resistance to the passage of current and to a disruptive discharge through the substance.

"Lay" means the distance parallel to the axis of the rope in which a strand makes one complete turn about the axis of the rope.

"Low potential" means 650 volts or less.

"Magazine" means a facility for the storage of explosives, blasting agents, or detonators.

"Major electrical installation" means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power.

"Mantrip" means a trip on which persons are transported to and from a work area.

"Mill" includes any ore mill, sampling works, concentrator, and any crushing, grinding, or screening plant used at, and in connection with, an excavation or mine.

"Misfire" means the complete or partial failure of a blasting charge to explode as planned.

"Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

"Non-electric delay blasting cap" means a detonator with an integral delay element and capable of being initiated by miniaturized detonating cord.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined.

"Overload" means that current which will cause an excessive or dangerous temperature in the conductor or conductor insulation.

"Permissible" means a machine, material, apparatus, or device that has been investigated, tested, and approved by the Bureau of Mines or the Mine Safety and Health Administration and maintained in permissible condition.

"Potable water" means water which shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located or by the Environmental Protection Agency in 40 CFR Part 141, pages 169–182 revised as of July 1, 1977. Where no such requirements are applicable, the drinking water provided shall conform with the Public Health Service Drinking Water Standards, 42 CFR Part 72, Subpart J, pages 527–533, revised as of October 1, 1976. Publications to which references are made in this definition are hereby made a part hereof. These incorporated publications are available for inspection at each Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.

"Powder chest" means a substantial, nonconductive portable container equipped with a lid and used at blasting sites for explosives other than blasting agents.

"Primer" means a unit, package, or cartridge of explosives used to initate other explosives or blasting agents, and which contains a detonator.

"Reverse-current protection" means a method or device used on direct-current circuits or equipment to prevent the flow of current in the reverse direction.

"Roll protection" means a framework, safety canopy or similar protection for the operator when equipment overturns.

"Safety can" means an approved container, of not over five gallons capacity, having a spring-closing lid and spout cover.

"Safety fuse" means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps or a black powder charge.

"Safety switch" means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area.

"Scaling" means removal of insecure material from a face or high-wall.

"Secondary safety connection" means a second connection between a conveyance and rope, intended to prevent the conveyance from running away or falling in the event the primary connection fails.

"Shaft" means a vertical or inclined shaft, a slope, incline or winze.

"Short circuit" means an abnormal connection of relatively low resistance, whether made accidentally or intentionally, between two points of different potential in a circuit.

"Slurry" (as applied to blasting). See "Water gel."

"Stray current" means that portion of a total electric current that flows through paths other than the intended circuit.

"Substantial construction" means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage, to which it will be subjected.

"Suitable" means that which fits, and has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

"Travelway" means a passage, walk or way regularly used and designated for persons to go from one place to another.

"Trip light" means a light displayed on the opposite end of a train from the locomotive or engine.

"Water gel" or "Slurry" (as applied to blasting) means an explosive or blasting agent containing substantial portions of water.

"Wet drilling" means the continuous application of water through the central hole of hollow drill steel to the bottom of the drill hole.

"Working place" means any place in or about a mine where work is being performed.

Procedures

§ 56.1000 Notification of commencement of operations and closing of mines.

The owner, operator, or person in charge of any metal and nonmetal mine shall notify the nearest Mine Safety and Health Administration and Metal and Nonmetal Mine Safety and Health Subdistrict Office before starting operations, of the approximate or actual date mine operation will commence. The notification shall include the mine name, location, the company name, mailing address, person in charge, and whether operations will be continuous or intermittent.

When any mine is closed, the person in charge shall notify the nearest subdistrict office as provided above and indicate whether the closure is temporary or permanent.

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Subpart B—Ground Control

§ 56.3001 Wall, bank, and slope stability.

Standards for the safe control of pit walls, including the overall slope of the pit wall, shall be established and followed by the operator. Such standards shall be consistent with prudent engineering design, the nature of the ground and the kind of material and mineral mined, and the ensuring of safe working conditions according to the degree of slope. Mining methods shall be selected which will ensure wall and bank stability, including benching as necessary to obtain a safe overall slope.

§ 56.3002 Loose material around pit and quarry walls.

Loose, unconsolidated material shall be stripped for a safe distance, but in no case less than 10 feet, from the top of pit or quarry walls, and the loose, unconsolidated material shall be sloped to the angle of repose.

§ 56.3003 Bench width and height.

To insure safe operation, the width and height of benches shall be governed by the type of equipment to be used and the operation to be performed.

§ 56.3004 Scaling.

Safe means for scaling pit-banks shall be provided. Hazardous banks shall be scaled before other work is performed in the hazardous bank area.

§ 56.3005 Hazardous ground conditions.

Persons shall not work near or under dangerous banks. Overhanging banks shall be taken down immediately and other unsafe ground conditions shall be corrected promptly, or the areas shall be barricaded and posted.

§ 56.3006 Scaling location.

Persons shall approach from above loose rock and areas to be scaled and shall scale from a safe location.

§ 56.3008 Examination of ground conditions by supervisor or competent person.

The supervisor, or a competent person designated by him, shall examine working areas and faces for unsafe conditions at least at the beginning of each shift and after blasting. Any unsafe condition found shall be corrected before any further work is performed at the immediate area or face at which the unsafe condition exists.

§ 56.3009 Examination of ground conditions by workers.

Persons shall examine their working places before starting work and frequently thereafter, and any unsafe condition shall be corrected.

§ 56.3012 Work between equipment and pit wall or bank.

Persons shall not work between equipment and the pit wall or bank where the equipment may hinder escape from falls or slides of the bank.

§ 56.3050 Secondary breakage.

Material, other than hanging material, to be broken by secondary drilling and blasting, or by any other method shall be positioned or blocked to prevent hazardous movement before persons commence breaking operations. Persons who perform those operations shall work from a location where, if movement of material occurs, those persons will not be endangered.

§ 56.3051 Scaling tools.

Where manual scaling may be required at a work place, a scaling bar of sufficient length to place the user out of danger of falling material shall be provided. The scaling bar shall be blunt on the end held by the user. Picks or other short tools shall not be used for scaling when their use places the user in danger of falling material.

§ 56.3053 Rock bolt anchorage tests.

When rock bolts are used as a means of ground support, anchorage test procedures shall be established and tests shall be conducted to determine the anchorage capacity of rock-bolt installations. Test results shall be in writing and made available to the Secretary or his duly authorized representative.

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§ 56.3054 Rock bolt torque tests.

Rock bolts used as a means of ground support and which require torquing shall be torqued to a value within the range determined from information obtained by tests in the strata in which the rock-bolt assembly is used. In no case shall the applied torque cause a bolt tension that would exceed the yield point or anchorage capacity of the rock-bolt assembly being used.

§ 56.3055 Torque test requirements.

When installing point-anchor rock bolts—

(a) A torque test shall be conducted on at least every fourth installed bolt;

(b) Torque testing shall be conducted immediately after bolt installation;

(c) If the recommended torque has not been achieved, the equipment used to install the bolt shall be adjusted and the next bolt installed shall then be tested; and (d) If the recommended torque has not been achieved on the majority of bolts installed in a working place through equipment adjustment, supplemental support equivalent to longer roof bolts with adequate anchorage, steel or wood sets, or cribs shall be installed.

§ 56.3056 Rock bolt hole diameter.

Rock bolt hole drill bits shall be easily identifiable by sight or feel and diameters shall be within a tolerance of ±0.030 inches of the manufacturer's recommended hole diameter for the anchor used.

§ 56.3057 Rock bolt washers.

If used in rock-bolt assemblies to reduce friction between the bolt head and the bearing plate, washers shall—

(a) Have hardness in the range of 35–45 HRC (Hardness Rockwell C Scale);

(b) Conform to the shape of the bolt head and bearing plate; and

(c) Have sufficient strength to withstand loads up to the yield point of the rock bolt.

Subpart C—Fire Prevention and Control

§ 56.4000 Definitions.

The following definitions apply in this subpart. *Combustible liquids.* Liquids having a flash point at or above 100 °F (37.8 °C). They are divided into the following classes:

Class II liquids—those having flash points at or above 100 °F (37.8 °) and below 140 °F (60 °C).

Class IIIA liquids—those having flash points at or above 140 °F (60 °C) and below 200 °F (93.4 °C).

Class IIIB liquids—those having flash points at or above 200 °F (93.4 °C).

Combustible material. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Fire resistance rating. The time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flammable gas. A gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid. A liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds

per square inch (absolute) at 100 °F (37.8 °C), and is know as a Class I liquid.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Safety can. A container of not over five gallons capacity that is designed to safely relieve internal pressure when exposed to heat and has a spring-closing lid and spout cover.

Storage tank. A container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

§ 56.4011 Abandoned electric circuits.

Abandoned electric circuits shall be deenergized and isolated so that they cannot become energized inadvertently.

Prohibitions/Precautions/Housekeeping

§ 56.4100 Smoking and use of open flames.

No person shall smoke or use an open flame where flammable or combustible liquids, including greases, or flammable gases are—

(a) Used or transported in a manner that could create a fire hazard; or

(b) Stored or handled.

§ 56.4101 Warning signs.

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

§ 56.4102 Spillage and leakage.

Flammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard.

§ 56.4103 Fueling internal combustion engines.

Internal combustion engines shall be switched off before refueling if the fuel tanks are integral parts of the equipment. This standard does not apply to diesel-powered equipment.

§ 56.4104 Combustible waste.

(a) Waste materials, including liquids, shall not accumulate in quantities that could create a fire hazard.

(b) Until disposed of properly, waste or rags containing flammable or combustible liquids that could create a fire hazard shall be placed in covered metal containers or other equivalent containers with flame containment characteristics.

§ 56.4130 Electric substations and liquid storage facilities.

(a) If a hazard to persons could be created, no combustible materials shall be stored or allowed to accumulate within 25 feet of the following:

(1) Electric substations.

(2) Unburied, flammable or combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of flammable or combustible liquids.

(b) The area within the 25-foot perimeter shall be kept free of dry vegetation.

Firefighting Equipment

§ 56.4200 General requirements.

(a) For fighting fires that could endanger persons, each mine shall have—

(1) Onsite firefighting equipment for fighting fires in their early stages; and

(2) Onsite firefighting equipment for fighting fires beyond their early stages, or the mine shall have made prior arrangements with a local fire department to fight such fires.

(b) Onsite firefighting equipment shall be—

(1) Of the type, size, and quantity that can extinguish fires of any class which could occur as a result of the hazards present; and

(2) Strategically located, readily accessible, plainly marked, and maintained in fire-ready condition.

§ 56.4201 Inspection.

(a) Firefighting equipment shall be inspected according to the following schedules:

(1) Fire extinguishers shall be inspected visually at least once a month to determine that they are fully charged and operable.

(2) At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose, nozzle, and vessel to determine that the fire extinguishers will operate effectively.

(3) Fire extinguishers shall be hydrostatically tested according to Table C-1 or a schedule based on the manufacturer's specifications to determine the integrity of extinguishing agent vessels.

(4) Water pipes, valves, outlets, hydrants, and hoses that are part of the mine's firefighting system shall be visually inspected at least once every three months for damage or deterioration and use-tested at least once every twelve months to determine that they remain functional.

(5) Fire suppression systems shall be inspected at least once every twelve months. An inspection schedule based on the manufacturer's specifications or the equivalent shall be established for individual components of a system and followed to determine that the system remains functional. Surface fire suppression systems are exempt from these inspection requirements if the systems are used solely for the protection of property and no persons would be affected by a fire.

(b) At the completion of each inspection or test required by this standard, the person making the inspection or test shall certify that the inspection or test has been made and the date on which it was made. Certifications of hydrostatic testing shall be retained until the fire extinguisher is retested or permanently removed from service. Other certifications shall be retained for one year.

TABLE C-1—HYDROSTATIC TEST INTERVALS FOR FIRE EXTINGUISHERS

Extinguisher type	Test interval (years)
Soda Acid	5
Cartridge-Operated Water and/or Antifreeze	5
Stored-Pressure Water and/or Antifreeze	5
Wetting Agent	5
Foam	5
AFFF (Aqueous Film Forming Foam)	5
Loaded Stream	5
Dry-Chemical with Stainless Steel Shells	5
Carbon Dioxide	5
Dry-Chemical, Stored Pressure, with Mild Steel Shells, Brazed Brass Shells, or Aluminum Shells	12
Dry-Chemical, Cartridge or Cylinder Operated, with Mild Steel Shells	12
Bromotrifluoromethane—Halon 1301	12
Bromochlorodifluoromethane—Halon 1211	12
Dry-Powder, Cartridge or Cylinder-Operated, with Mild Steel Shells[1]	12

[1] Except for stainless steel and steel used for compressed gas cylinders, all other steel shells are defined as "mild steel" shells.

§ 56.4202 Fire hydrants.

If fire hydrants are part of the mine's firefighting system, the hydrants shall be provided with—

(a) Uniform fittings or readily available adapters for onsite firefighting equipment;

(b) Readily available wrenches or keys to open the valves; and

(c) Readily available adapters capable of connecting hydrant fittings to the hose equipment of any firefighting organization relied upon by the mine.

§ 56.4203 Extinguisher recharging or replacement.

Fire extinguishers shall be recharged or replaced with a fully charged extinguisher promptly after any discharge.

§ 56.4230 Self-propelled equipment.

(a)(1) Whenever a fire or its effects could impede escape from self-propelled equipment, a fire extinguisher shall be on the equipment.

(2) Whenever a fire or its effects would not impede escape from the equipment but could affect the escape of other persons in the area, a fire extinguisher shall be on the equipment or within 100 feet of the equipment.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. Fire extinguishers or manual actuators for the suppression system shall be located to permit their use by persons whose escape could be impeded by fire.

Firefighting Procedures/Alarms/Drills

§ 56.4330 Firefighting, evacuation, and rescue procedures.

(a) Mine operators shall establish emergency firefighting, evacuation, and rescue procedures. These procedures shall be coordinated in advance with available firefighting organizations.

(b) Fire alarm procedures or systems shall be established to pomptly warn every person who could be endangered by a fire.

(c) Fire alarm systems shall be maintained in operable condition.

§ 56.4331 Firefighting drills.

Emergency firefighting drills shall be held at least once every six months for persons assigned firefighting responsibilities by the mine operator.

Flammable and Combustible Liquids and Gases

§ 56.4400 Use restrictions.

(a) Flammable liquids shall not be used for cleaning.

(b) Solvents shall not be used near an open flame or other ignition source, near any source of heat, or in an atmosphere that can elevate the temperature of the solvent above the flash point.

§ 56.4401 Storage tank foundations.

Fixed, unburied, flammable or combustible liquid storage tanks shall be securely mounted on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused by tanks settling.

§ 56.4402 Safety can use.

Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

§ 56.4430 Storage facilities.

(a) Storage tanks for flammable or combustible liquids shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Isolated or separated from ignition sources to prevent fire or explosion; and

(4) Vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class I, II, or IIIA liquids shall be isolated or separated from ignition sources. These pressure relief requirements do not apply to tanks used for storage of Class IIIB liquids that are larger than 12,000 gallons in capacity.

(b) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner that prevents leakage.

(c) Fixed, unburied tanks located where escaping liquid could present a hazard to persons shall be provided with—

(1) Containment for the entire capacity of the largest tank; or

(2) Drainage of a remote impoundment area that does not endanger persons. However, storage of only Class IIIB liquids does not require containment or drainage to remote impoundment.

Installation/Construction/Maintenance

§ 56.4500 Heat sources.

Heat sources capable of producing combustion shall be separated from combustible materials if a fire hazard could be created.

§ 56.4501 Fuel lines.

Fuel lines shall be equipped with valves capable of stopping the flow of fuel at the source and shall be located and maintained to minimize fire hazards. This standard does not apply to fuel lines on self-propelled equipment.

§ 56.4502 Battery-charging stations.

(a) Battery-charging stations shall be ventilated with a sufficient volume of air to prevent the accumulation of hydrogen gas.

(b) Smoking, use of open flames, or other activities that could create an ignition source shall be prohibited at the battery charging station during battery charging.

(c) Readily visible signs prohibiting smoking or open flames shall be posted at battery-charging stations during battery charging.

§ 56.4503 Conveyor belt slippage.

Belt conveyors within confined areas where evacuation would be restricted in the event of a fire resulting from belt-slippage shall be equipped with a detection system capable of automatically stopping the drive pulley. A person shall attend the belt at the drive pulley when it is necessary to operate the conveyor while temporarily bypassing the automatic function.

§ 56.4530 Exits.

Buildings or structures in which persons work shall have a sufficient number of exits to permit prompt escape in case of fire.

§ 56.4531 Flammable or combustible liquid storage buildings or rooms.

(a) Storage buildings or storage rooms in which flammable or combustible liquids, including grease, are stored and that are within 100 feet of any person's work station shall be ventilated with a sufficient volume of air to prevent the accumulation of flammable vapors.

(b) In addition, the buildings or rooms shall be—

(1) Constructed to meet a fire resistance rating of at least one hour; or

(2) Equipped with an automatic fire suppression system; or

(3) Equipped with an early warning fire detection device that will alert any person who could be endangered by a fire, provided that no person's work station is in the building.

(c) Flammable or combustible liquids in use for day-to-day maintenance and operational activities are not considered in storage under this standard.

Welding/Cutting/Compressed Gases

§ 56.4600 Extinguishing equipment.

(a) When welding, cutting, soldering, thawing, or bending—

(1) With an electric arc or with an open flame where an electrically conductive extinguishing agent could create an electrical hazard, a multipurpose dry-chemical fire extinguisher or other extinguisher with

at least a 2-A:10-B:C rating shall be at the worksite.

(2) With an open flame in an area where no electrical hazard exists, a multipurpose dry-chemical fire extinguisher or equivalent fire extinguishing equipment for the class of fire hazard present shall be at the worksite.

(b) Use of halogenated fire extinguishing agents to meet the requirements of this standard shall be limited to Halon 1211 ($CBrClF_2$) and Halon 1301 ($CBrF_3$). When these agents are used in confined or unventilated areas, precautions based on the manufacturer's use instructions shall be taken so that the gases produced by thermal decompostion of the agents are not inhaled.

§ 56.4601 Oxygen cylinder storage.

Oxygen cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease.

§ 56.4602 Gages and regulators.

Gages and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

§ 56.4603 Closure of valves.

To prevent accidental release of gases from hoses and torches attached to oxygen and acetylene cylinders or to manifold systems, cylinder or manifold system valves shall be closed when—

(a) The cylinders are moved;

(b) The torch and hoses are left unattended; or

(c) The task or series of tasks is completed.

§ 56.4604 Preparation of pipelines or containers.

Before welding, cutting, or applying heat with an open flame to pipelines or containers that have contained flammable or combustible liquids, flammable gases, or explosive solids, the pipelines or containers shall be—

(a) Drained, ventilated, and thoroughly cleaned of any residue;

(b) Vented to prevent pressure build-up during the application of heat; and

(c)(1) Filled with an inert gas or water, where compatible; or

(2) Determined to be free of flammable gases by a flammable gas detection device prior to and at frequent intervals during the application of heat.

Appendix I for Subpart C—National Consensus Standards

Mine operators seeking further information in the area of fire prevention and control may consult the following national consensus standards.

MSHA standard	National consensus standard
§§ 56.4200, 56.4201.	NFPA No. 10—Portable Fire Extinguisher. NFPA No. 11—Low Expansion Foam and Combined Agent Systems. NFPA No. 11A—High Expansion Foam Systems. NFPA No. 12—Carbon Dioxide Extinguishing Systems. NFPA No. 12A—Halon 1301 Extinguishing Systems. NFPA No. 13—Water Sprinkler Systems. NFPA No. 14—Standpipe and Hose Systems. NFPA No. 15—Water Spray Fixed Systems. NFPA No. 16—Foam Water Spray Systems. NFPA No. 17—Dry-Chemical Extinguishing Systems. NFPA No. 121—Mobile Surface Mining Equipment. NFPA No. 291—Testing and Marketing Hydrants. NFPA No. 1962—Care, Use, and Maintenance of Fire Hose, Connections, and Nozzles.
§ 56.4202	NFPA No. 14—Standpipe and Hose Systems. NFPA No. 291—Testing and Marketing Hydrants.
§ 56.4203	NFPA No. 10—Portable Fire Extinguishers.
§ 56.4230	NFPA No. 10—Portable Fire Extinguishers. NFPA No. 121—Mobile Surface Mining Equipment.

Subpart D—Air Quality and Physical Agents

Air Quality

§ 56.5001 Exposure limits for airborne contaminants.

Except as permitted by § 56.5005—

(a) Except as provided in paragraph (b), the exposure to airborne contaminants shall not exceed, on the basis of a time weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the 1973 edition of the Conference's publication, entitled "TLV's Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1973," pages 1 through 54, which are hereby incorporated by reference and made a part hereof. This publication may be obtained from the American Conference of Governmental industrial Hygienists by writing to the Secretary-Treasurer, P.O Box 1937, Cincinnati, Ohio 45201, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration. Excursions above the listed thresholds shall not be of a greater magnitude than is characterized as permissible by the Conference.

(b) The 8-hour time weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 2 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 400-450 magnification (4 millimeter objective) phase contrast illumination. No employees shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers longer than 5 micrometers, per milliliter of air, as determined by the membrane filter method over a minimum sampling time of 15 minutes. "Asbestos" is a generic term for a number of hydrated silicates that, when crushed or processed, separate into flexible fibers made up of fibrils. Although there are many asbestos minerals, the term "asbestos" as used herein is limited to the following minerals: chrysotile, amosite, crocidolite, anthophylite asbestos, tremolite asbestos, and actinolite asbestos.

(c) Employees shall be withdrawn from areas where there is present an airborne contaminant given a "C" designation by the Conference and the concentration exceeds the threshold limit value listed for that contaminant.

§ 56.5002 Exposure monitoring.

Dust, gas, mist, and fume surveys shall be conducted as frequently as necessary to determine the adequacy of control measures.

§ 56.5003 Drill dust control.

Holes shall be collared and drilled wet, or other efficient dust control measures shall be used when drilling non-water-soluble material. Efficient dust control measures shall be used when drilling water-soluble materials.

§ 56.5005 Control of exposure to airborne contaminants.

Control of employee exposure to harmful airborne contaminants shall be, insofar as feasible, by prevention of contamination, removal by exhaust ventilation, or by dilution with uncontaminated air. However, where accepted, engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment. Whenever respiratory protective equipment is used a program for selection, maintenance, training, fitting, supervision, cleaning, and use shall meet the following miminum requirements:

(a) Mine Safety and Health Administration approved respirators which are applicable and suitable for the purpose intended shall be furnished, and employees shall use the protective equipment in accordance with training and instruction.

(b) A respirator program consistent with the requirements of ANSI Z88.2–1969, published by the American National Standards Institute and entitled "American National Standards Practices for Respiratory Protection ANSI Z88.2–1969," approved August 11, 1969, which is hereby incorporated by reference and made a part hereof. This publication may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration.

(c) When respiratory protection is used in atmospheres immediately harmful to life, the presence of at least one other person with backup equipment and rescue capability shall be required in the event of failure of the respiratory equipment.

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§ 56.5006 Restricted use of chemicals.

The following chemical substances shall not be used or stored except by competent persons under laboratory conditions approved by a nationally recognized agency acceptable to the Secretary.

(a) Carbon tetrachloride.
(b) Phenol.
(c) 4-Nitrobiphenyl.
(d) Alpha-naphthylamine.
(e) 4,4-Methylene Bis (2-chloroaniline).
(f) Methyl-chloromethyl ether.
(g) 3,3 Dichlorobenzidine.
(h) Bis (chloromethyl) ether.
(i) Beta-napthylamine.
(j) Benzidine.
(k) 4-Aminodiphenyl.
(l) Ethyleneimine.
(m) Beta-propiolactone.
(n) 2-Acetylaminofluorene.
(o) 4-Dimethylaminobenzene, and
(p) N-Nitrosodimethylamine.

§ 56.5010 Abrasive blasting.

Silica sand, or other materials containing more than 1 percent free silica, shall not be used as an abrasive substance in abrasive blasting cleaning operations without requiring full-flow respiratory protection, or equivalent, to all exposed persons.

Physical Agents

§ 56.5050 Exposure limits for noise.

(a) No employee shall be permitted an exposure to noise in excess of that specified in the table below. Noise level measurements shall be made using a sound level meter meeting specifications for type 2 meters contained in American National Standards Institute (ANSI) Standard S1.4–1971, "General Purpose Sound Level Meters," approved April 27, 1971, which is hereby incorporated by reference and made a part hereof, or by a dosimeter with similar accuracy. This publication may be obtained from the American National Standards Institute, Inc. 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration.

PERMISSIBLE NOISE EXPOSURES

Duration per day, hours of exposure	Sound level dBA, slow response
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
½	110
¼ or less	115

No exposure shall exceed 115 dBA. Impact or impulsive noises shall not exceed 140 dB, peak sound pressure level.

Note.—When the daily noise exposure is composed of two or more periods of noise exposure at different levels, their combined effect shall be considered rather than the individual effect on each.

If the sum

$(C_1/T_1)+(C_2/T_2)+\ldots(C_n/T_n)$

exceeds unity, then the mixed exposure shall be considered to exceed the permissible exposure. C_n indicates the total time of exposure at a specified noise level, and T_n indicates the total time of exposure permitted at that level. Interpolation between tabulated values may be determined by the following formula:

$\text{Log } T=6.322-0.0602\ SL$

Where T is the time in hours and SL is the sound level in dBA.

(b) When employees' exposure exceeds that listed in the above table, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce exposure to within permissible levels, personal protection equipment shall be provided and used to reduce sound levels to within the levels of the table.

Subpart E—Explosives

§ 56.6000 Application.

The term "explosives" as used in this subpart includes blasting agents. The standards in this subpart in which the term "explosives" appears are applicable to blasting agents (as well as to other explosives) unless blasting agents are expressly excluded.

Storage

§ 56.6001 Detonators and explosives.

Detonators and explosives other than blasting agents shall be stored in magazines.

§ 56.6002 Separation of detonators from explosives.

Detonators shall not be stored in the same magazine with explosives.

§ 56.6005 Areas around storage facilities.

Areas surrounding magazines and facilities for the storage of blasting agents shall be kept clear of rubbish, brush, dry grass, or trees (other than live trees 10 or more feet tall), for a distance not less than 25 feet in all directions, and other unnecessary combustible materials for a distance of not less than 50 feet.

§ 56.6007 Precautionary practices.

Explosives, detonators, and related materials such as safety fuse and detonating cord shall be—

(a) Stored in a manner to facilitate use of oldest stocks first;

(b) Stored according to brand and grade in such a manner as to facilitate identification;

(c) Stored with their top sides up; and

(d) Stacked in a stable manner but not more than eight feet high.

§ 56.6008 Separation of ANFO blasting agents from other explosives products.

Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

§ 56.6011 Containers.

Containers of explosives, blasting agents, and detonators shall be closed while being stored.

§ 56.6012 Repair of storage facilities.

Prior to interior repair of facilities for storage of explosives, including blasting agents, all materials stored within the

facility shall be removed and the interior cleaned. Prior to the exterior repair of such facilities, all materials stored within the facility shall be removed if there exists a possibility that such repairs may produce a spark or flame. The explosives removed from storage facilities to be repaired shall be placed either in other storage facilities appropriate for the storage of such materials under this subpart or a safe distance from the facilities under repair where they shall be properly guarded and protected until the repairs have been completed and the materials have been returned to storage within the facilities.

§ 56.6020 Magazine requirements.

Magazines shall be—

(a) Located in accordance with the current American Table of Distances for storage of explosives;

(b) Detached structures located away from powerlines, fuel storage areas, and other possible sources of fire;

(c) Constructed substantially of noncombustible material or covered with fire-resistant material;

(d) Reasonably bullet resistant;

(e) Electrically bonded and grounded if constructed of metal;

(f) Made of nonsparking materials on the inside, including floors;

(g) Provided with adequate and effectively screened ventilation openings near the floor and ceiling;

(h) Kept locked securely when unattended;

(i) Posted with suitable danger signs so located that a bullet passing through the face of a sign will not strike the magazine;

(j) Used exclusively for storage of explosives or detonators and kept free of all extraneous materials;

(k) Kept clean and dry in the interior, and in good repair; and

(l) Unheated, unless heated in a manner that does not create a fire or explosion hazard. Electrical heating devices shall not be used inside a magazine.

Transportation

§ 56.6040 Separation of explosive material.

Explosives and detonators shall be transported in separate vehicles unless separated by 4 inches of hardwood or the equivalent.

§ 56.6041 Haulage by trolley locomotive.

When explosives and detonators are hauled by trolley locomotive, covered, electrically-insulated cars shall be used.

§ 56.6042 Fire protection.

Self-propelled vehicles used to transport explosives or detonators shall be equipped with suitable fire extinguishers.

§ 56.6043 Warning signs.

Vehicles containing explosives or detonators shall be posted with proper warning signs.

§ 56.6044 Parking precautions.

When vehicles containing explosives or detonators are parked, the brakes shall be set, the motive power shut off, and the vehicle shall be blocked securely against rolling.

§ 56.6045 Repair of transport vehicles.

Vehicles containing explosives or detonators shall not be taken to a repair garage or shop for any purpose.

§ 56.6046 Maintenance and operation of transport vehicles.

Vehicles containing explosives or detonators shall be maintained in good condition and shall be operated at a safe speed and in accordance with all safe operating practices.

§ 56.6047 Vehicle construction.

Vehicles used to transport explosives, other than blasting agents, shall have substantially contructed bodies, no sparking metal exposed in the cargo space, and shall be equipped with suitable sides and tail gates; explosives shall not be piled higher than the side or end enclosures.

§ 56.6048 Delivery.

Explosives and blasting agents shall be transported without undue delay, and over routes and at times that expose a minimum number of persons.

§ 56.6050 Materials in cargo space.

Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured, nonsparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

§ 56.6051 Transport on locomotives.

Explosives or detonators shall not be transported on locomotives.

§ 56.6053 Riding prohibitions.

Only the necessary attendants shall ride on or in vehicles containing explosives or detonators.

§ 56.6054 Transport on mantrips.

Explosives or detonators shall not be transported on mantrips.

§ 56.6056 Containers for delivery.

Substantial nonconductive containers shall be used to carry explosives to blasting sites.

§ 56.6057 Containers for capped fuses and electric detonators.

Nonconductive containers with tight-fitting covers shall be used to transport or carry capped fuses and electric detonators to blasting sites.

§ 56.6065 Vehicle attendance.

Vehicles containing detonators or explosives, other than blasting agents, shall not be left unattended except in blasting areas where loading or charging is in progress.

Use

§ 56.6090 Experience of users and handlers.

Persons who use or handle explosive or detonators shall be experienced persons who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced persons.

§ 56.6091 Supervision of blasting operations.

Blasting operations shall be under the direct control of authorized persons.

§ 56.6092 Damaged or deteriorated explosives or blasting agents.

Damaged or deteriorated explosives and blasting agents shall be destroyed in a safe manner under the instructions of the explosives or blasting agent manufacturer or its designated agent.

§ 56.6093 Blasthole obstructions.

Boreholes shall be cleared of obstructions before charging.

§ 56.6094 Blasthole charging.

Holes to be blasted shall be charged as near to blasting time as practical and such holes shall be blasted as soon as possible after charging has been completed. In no case shall the time elapsing between the completion of charging to the time of blasting exceed 72 hours unless prior approval has been obtained from the Mine Safety and Health Administration.

§ 56.6096 Separation of explosives from detonators.

Explosives shall be kept separated from detonators until charging is started.

§ 56.6097 Primers.

Primers shall be made up only at the time of use and as close to the blasting area as conditions allow.

§ 56.6098 Primer and detonating cord preparation.

(a) Primers containing a detonator shall be prepared with the detonator contained securely and completely within the explosive charge or within a suitable tunnel or cap well.

(b) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in intimate contact with the explosive charge.

§ 56.6099 Implements for punching cartridges.

Only wooden or other nonsparking implements shall be used to punch holes in an explosive cartridge.

§ 56.6100 Tamping poles.

Tamping poles shall be of wood or other material acceptable to the Mine Safety and Health Administration. Couplers of tamping poles shall be of nonsparking materials.

§ 56.6101 Tamping precautions.

Tamping shall not be done directly on a primer.

§ 56.6102 Unused explosives and detonators.

Unused explosives and detonators shall be moved to a safe location as soon as charging operations are completed.

§ 56.6103 Blast site security.

Areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged against unauthorized entry.

§ 56.6104 Misfire waiting period for safety fuse.

When safety fuse has been used, persons shall not return to misfired holes for at least 30 minutes.

§ 56.6105 Misfire waiting period for electric blasting caps.

When electric blasting caps have been used, persons shall not return to misfired holes for at least 15 minutes.

§ 56.6106 Examination of faces and muck piles.

Faces and muck piles shall be examined by a competent person for undetonated explosives or blasting agents and any undetonated explosives or blasting agents found shall be disposed of safely.

§ 56.6107 Drilling.

Holes shall not be drilled where there is danger of intersecting a charged or misfired hole.

§ 56.6108 Fuse and igniter storage.

Fuse and igniters shall be stored in a cool, dry place away from oils or grease.

§ 56.6109 Damaged initiating material.

Safety fuse, igniter cord, and detonating cord shall not be used if they have been kinked, bent sharply, or otherwise damaged.

§ 56.6110 Preparation of fuse.

Fuses shall be cut and capped in safe, dry locations posted with "No Smoking" signs.

§ 56.6111 Preparation of blasting caps.

Blasting caps shall be crimped to fuses only with implements designed for that specific purpose.

§ 56.6112 Safety fuse—burning rate.

The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all persons concerned with blasting.

§ 56.6113 Safety fuse—minimum burning time.

When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the following table for a particular size round:

Number of holes in a round	Minimum burning time, minutes
1	2
2-5	2½
6-10	3½
11-15	5

In no case shall any 40-second-per-foot safety fuse less than 36 inches long or any 30-second-per-foot safety fuse less than 48 inches long be used.

§ 56.6114 Fuse lighting restrictions.

At least two persons shall be present when lighting fuses, and no person shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, igniter cord and connectors or electric blasting shall be used.

§ 56.6115 Detonating cords.

All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunklines.

§ 56.6116 Fuse lighting devices.

Fuse shall be ignited with hot-wire lighters, lead spitters, igniter cord, or other such devices designed for this purpose. Carbide lights shall not be used to light fuses.

§ 56.6117 Fuse ignition—charge placement.

Fuse shall not be ignited before the primer and the entire charge are securely in place.

§ 56.6118 Safety fuse—timing.

When using safety fuse, where fly rock might damage unlit or burning fuses, timing shall be such that all fuses are burning within the holes before any hole detonates.

§ 56.6119 Compatibility of electric detonators.

Electric detonators of different brands shall not be used in the same round.

§ 56.6120 Shunting.

Except when being tested with a blasting galvanometer—

(a) Electric detonators shall be kept shunted until they are being connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until they are being connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 56.6121 Circuit testing.

When blasting electrically, a blasting galvanometer, or other instrument that is specifically designed for testing blasting circuits, shall be used to test—

(a) In surface operations:

(1) Continuity of each electric blasting cap in the borehole prior to the addition of stemming.

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(3) Continunity of blasting lines prior to the connection of electric blasting cap series.

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations:

(1) Continuity of each electric blasting cap series.

(2) Continuity of blasting lines prior to the connection of electric blasting caps.

§ 56.6122 Blasting line requirements.

Permanent blasting lines shall be properly supported, insulated, and kept in good repair.

§ 56.6123 Extraneous electricity—loading practices.

When electric detonators are used, charging shall be stopped immediately when the presence of static electricity or stray currents is detected; the condition shall be remedied before charging is resumed.

§ 56.6124 Precautions during storms.

When electric detonators are used, charging shall be suspended in surface mining, shaft sinking, and tunneling and persons withdrawn to a safe location upon the approach of an electrical storm.

§ 56.6125 Branch circuits.

If branch circuits are used when blasts are fired from power circuits, safety switches located at safe distances from the blast areas shall be provided in addition to the main blasting switch.

§ 56.6126 Deenergizing circuits near blasting caps.

Electric power distribution circuits shall be deenergized within 50 feet of boreholes containing electric blasting caps which can be initiated by conventional power sources or extraneous electricity except that such circuits need not be deenergized between 25 and 50 feet of such boreholes when stray current tests, conducted as frequently as necessary, measure a maximum stray current less than 0.05 ampere through a one-ohm resistor measured at the location of the electric blasting cap.

§ 56.6127 Positive separation of blasting circuits from power source.

Blasting switches shall be locked in the open position, except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

§ 56.6128 Control of firing device.

The key or other control to an electrical firing device shall be entrusted only to the person designated to fire the round or rounds.

§ 56.6129 Grounding restrictions.

Electric circuits from the blasting switches to the blast area shall not be grounded.

§ 56.6130 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 56.6131 Firing devices.

Power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits used.

§ 56.6132 Delay connectors.

Delay connectors shall be treated and handled with the same safety precautions as detonators.

§ 56.6133 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds by incorporating an arcing control device in the blasting circuit or by interrupting the circuit with an explosive charge attached to one or both lead lines and initiated by a zero-delay electric blasting cap.

§ 56.6134 Use of nonsparkling implements to open containers.

Tools used for opening metal or nailed wooden containers of explosives or detonators shall be of nonsparking materials.

§ 56.6135 Collaring in bootlegs.

Holes shall not be collared in bootlegs.

§ 56.6136 Black powder restrictions.

Black powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

§ 56.6137 Black powder handling precautions.

In the use of black blasting powder—

(a) Containers shall not be opened in, or within 50 feet of, any magazine; within any building in which a fuel-fired or exposed-element electric heater is in operation; where electrical or incandescent-particle sparks could result in powder ignition; or within 50 feet of any open flame;

(b) Granular powder shall be transferred from containers only by pouring;

(c) Spills of granular powder shall be cleaned up promptly with nonsparking equipment: contaminated powder shall be put into a container of water and its content disposed of promptly after the granules have disintegrated, or the spill area shall be flushed with a copious amount of water to completely disintegrate the granules;

(d) Containers of powder shall be kept securely closed at all times other than when the powder is being transferred from or into a container;

(e) Containers of powder transported by vehicles shall be in a wholly enclosed cargo space;

(f) Misfires shall be disposed of by: (1) washing the stemming and powder charge from the borehole, and (2) removal and disposal of the initiator as a damaged explosive; and

(g) Boreholes of shots that fire but fail to break or fail to break properly shall not be recharged for at least 12 hours.

§ 56.6138 Hot holes.

Explosives or blasting agents shall not be loaded into drilled or sprung holes that could result in premature detonation from heat.

§ 56.6139 Reentry to blasting areas.

Blasting areas shall not be reentered after firing until concentrations of smoke, dust, and fumes have been reduced to safe limits as required in, and determined by, standards 56.5001 and 56.5002, respectively.

§ 56.6140 Extraneous electricity—blasting circuits and electric blasting caps.

Blasting circuits and electric blasting caps (which are capable of being initiated by conventional power sources) shall be protected from sources of extraneous electricity.

§ 56.6142 Drill stem loading.

Explosives or blasting agents shall not be loaded into boreholes through or with either drill stem equipment or other devices which could be extracted while containing explosives or blasting agents. The use of loading hose, collar sleeves or collar pipes is permitted.

(Sec. 101, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811), and sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3))

§ 56.6159 Powder chests.

Powder chests shall be—

(a) Substantially constructed of nonsparking material on the inside;

(b) Posted with suitable warning signs;

(c) Located out of the blast area and out of the line of blasts;

(d) Emptied and their contents returned to the main magazine at the end of each shift unless the powder chest is located within the area continually attended by employees during shift changes;

(e) Separate for detonators and explosives unless separated by 4 inches of hardwood or the equivalent; and

(f) Kept locked when unattended.

§ 56.6160 Protection of personnel at blast site.

Ample warning shall be given before blasts are fired. All persons shall be cleared and removed from the blasting area unless suitable blasting shelters are provided to protect persons endangered by concussion or flyrock from blasting.

§ 56.6161 Burning charges.

If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one shall return to the hole until the danger has passed, but in no case within 1 hour.

§ 56.6162 Isolation of blasting circuits.

Lead wires and blasting lines shall not be strung across power conductors, pipelines, railroad tracks, or within 20

feet of bare powerlines. They shall be protected from sources of static or other electrical contact.

§ 56.6163 Detonating cord blasting.

The double-trunkline or loop system shall be used in detonating-cord blasting.

§ 56.6164 Trunklines.

Trunklines, in multiple-row blasts, shall make one or more complete loops, with crossties between loops at intervals of not over 200 feet.

§ 56.6168 Handling of misfires.

Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in that blasting area.

Sensitized Ammonium Nitrate Blasting Agents

§ 56.6193 Static electricity.

Where pneumatic loading is employed, before any type of blasting operation using blasting agents is put into effect, an evaluation of the potential hazard of static electricity shall be made. Adequate steps, including the grounding and bonding of the conductive parts of pneumatic loading equipment, shall be taken to eliminate the hazard of static electricity before blasting agent use is commenced.

§ 56.6194 Grounding prohibitions.

Pneumatic loading equipment shall not be grounded to waterlines, air lines, rails, or the permanent electrical grounding systems.

§ 56.6195 Conductivity of hoses.

Hoses used in connection with pneumatic loading machines shall be of the semiconductive type, having a total resistance low enough to permit the dissipation of static electricity and high enough to limit the flow of stray electric currents to a safe level. Wire-countered hose shall not be used because of the potential hazard from stray electric currents.

§ 56.6198 Hole liners.

Plastic tubes shall not be used as hole liners if blasting agents are loaded pneumatically into holes containing an electric detonator.

§ 56.6200 Transport and unloading.

Vehicles used to transport blasting agents shall have substantially constructed bodies, no zinc or copper exposed in the cargo space and shall be freely vented. Blasting agents shall not be piled higher than the side or end enclosures of open-body vehicles. If an enclosed screw conveyor is used to discharge blasting agents from the vehicle, the conveyor shall be protected against excessive internal pressure and excessive frictional heat.

Miscellaneous

§ 56.6250 Smoking and open flames.

Smoking and open flames, except for the use of suitable devices for igniting safety fuse or the use of approved heating devices, shall not be permitted within 50 feet as measured by the line of sight of explosives, blasting agents, or detonators or within 25 feet when out of line of sight and separated by permanent noncombustible barriers in underground active workings.

Subpart F—Drilling and Rotary Jet Piercing

Drilling

§ 56.7002 Equipment defects.

Equipment defects affecting safety shall be corrected before the equipment is used.

§ 56.7003 Drill area inspection.

The drilling area shall be inspected for hazards before starting the drilling operations.

§ 56.7004 Drill mast.

Persons shall not be on a mast while the drill-bit is in operation unless they are provided with a safe platform from which to work and they are required to use safety belts to avoid falling.

§ 56.7005 Augers and drill stems.

Drill crews and others shall stay clear of augers or drill stems that are in motion. Persons shall not pass under or step over a moving stem or auger.

§ 56.7008 Moving the drill.

When a drill is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast placed in a safe position.

§ 56.7009 Drill helpers.

If a drill helper assists the drill operator during movement of a drill to a new location, the helper shall be in sight of, or in communication with, the operator at all times.

§ 56.7010 Power failures.

In the event of power failure, drill controls shall be placed in the neutral position until power is restored.

§ 56.7011 Straightening crossed cables.

The drill stem shall be resting on the bottom of the hole or on the platform with the stem secured to the mast before attempts are made to straighten a crossed cable on a reel.

§ 56.7012 Tending drills in operation.

While in operation, drills shall be attended at all times.

§ 56.7013 Covering or guarding drill holes.

Drill holes large enough to constitute a hazard shall be covered or guarded.

§ 56.7018 Hand clearance.

Persons shall not hold the drill steel while collaring holes, or rest their hands on the chuck or centralizer while drilling.

§ 56.7050 Tool and drill steel racks.

Receptacles or racks shall be provided for drill steel and tools stored or carried on drills.

§ 56.7051 Loose objects on the mast or drill platform.

To prevent injury to personnel, tools and other objects shall not be left loose on the mast or drill platform.

§ 56.7052 Drilling positions.

Persons shall not drill from—

(a) Positions which hinder their access to the control levers;

(b) Insecure footing or insecure staging; or

(c) Atop equipment not suitable for drilling.

§ 56.7053 Moving hand-held drills.

Before hand-held drills are moved from one working area to another, air shall be turned off and bled from the hose.

Rotary Jet Piercing

§ 56.7801 Jet drills.

Jet piercing drills shall be provided with—

(a) A system to pressurize the equipment operator's cab, when a cab is provided; and

(b) A protective cover over the oxygen flow indicator.

§ 56.7802 Oxygen hose lines.

Safety chains or other suitable locking devices shall be provided across connections to and between high pressure oxygen hose lines of 1-inch inside diameter or larger.

§ 56.7803 Lighting the burner.

A suitable means of protection shall be provided for the employee when lighting the burner.

§ 56.7804 Refueling.

When rotary jet piercing equipment requires refueling at locations other than fueling stations, a system for fueling without spillage shall be provided.

§ 56.7805 Smoking and open flames.

Persons shall not smoke and open flames shall not be used in the vicinity of the oxygen storage and supply lines. Signs warning against smoking and open flames shall be posted in these areas.

§ 56.7806 Oxygen intake coupling.

The oxygen intake coupling on jet-piercing drills shall be constructed so that only the oxygen hose can be coupled to it.

§ 56.7807 Flushing the combustion chamber.

The combustion chamber of a jet drill stem which has been sitting unoperated in a drill hole shall be flushed with a suitable solvent after the stem is pulled up.

Subpart G—[Reserved]

Subpart H—Loading, Hauling, and Dumping

§ 56.9001 Self-propelled equipment inspection.

Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by the mine operator. The records shall be maintained at the mine or nearest mine office for at least 6 months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his duly authorized representative.

[Approved by the Office of Management and Budget under OMB control number 1219-0089]

§ 56.9002 Safety defects.

Equipment defects affecting safety shall be corrected before the equipment is used.

§ 56.9003 Mobile equipment brakes.

Powered mobile equipment shall be provided with adequate brakes.

§ 56.9005 Warning prior to starting or moving equipment.

Operators shall be certain, by signal or other means, that all persons are clear before starting or moving equipment.

§ 56.9006 Conveyor start-up warning.

When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible or visual warning system shall be installed and operated to warn persons that the conveyor will be started.

§ 56.9007 Unguarded conveyors with walkways.

Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length.

§ 56.9009 Train warnings.

Operators shall sound warning before starting trains and when trains approach crossings, other trains on adjacent tracks, persons, and any place where vision is obscured.

§ 56.9010 Operators' cabs.

Equipment operators' cabs shall not be equipped, altered, or otherwise modified in a manner which impairs operating visibility.

§ 56.9011 Cab windows.

Cab windows shall be of safety glass or equivalent, in good condition and shall be kept clean.

§ 56.9012 Extraneous material in cabs.

Cabs of mobile equipment shall be kept free of extraneous materials.

§ 56.9013 Incline conveyors—backstops or brakes.

Adequate backstops or brakes shall be installed on inclined-conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel would be caused.

§ 56.9014 Transporting persons on conveyors.

No person shall be permitted to ride a power-driven chain, belt, or bucket conveyor, unless the belt is specifically designed for the transportation of persons.

§ 56.9015 Slusher backlash guards and securing.

Unless the operator is otherwise protected, slushers in excess of 10 horsepower shall be provided with backlash guards. All slushers shall be equipped with rollers, and drum covers, and anchored securely before slushing operations are started.

§ 56.9016 Design, installation, and maintenance of rail trackage.

Roadbeds, rails, joints, switches, frogs, and other trackage elements on railroads subject to the control of the operator shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage.

§ 56.9017 Operating speeds.

Equipment operating speeds shall be consistent with conditions of roadways, grades, clearance, visibility, traffic, and the type of equipment used.

§ 56.9019 Track guardrails, lead rails, and frogs.

Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

§ 56.9020 Protection against moving or runaway rail equipment.

Postive-acting stopblocks, derail devices, track skates, or other adequate means shall be installed wherever necessary to protect persons from runaway or moving railroad equipment.

§ 56.9022 Berms or guards.

Berms or guards shall be provided on the outer bank of elevated roadways.

§ 56.9023 Control of trackless haulage equipment.

Trackless haulage equipment shall be operated under power control at all times.

§ 56.9024 Control of mobile equipment.

Mobile equipment operators shall have full control of the equipment while it is in motion.

§ 56.9025 Movement of dippers, buckets, loading booms, or suspended loads.

Dippers, buckets, loading booms, or heavy suspended loads shall not be swung over the cabs of haulage vehicles until the drivers are out of the cabs and in safe locations, unless the trucks are designed specifically to protect the drivers from falling material.

§ 56.9026 Air valves for pneumatic equipment.

A quick-close type air valve shall be provided on each piece of pneumatic-powered loading, hauling, and dumping equipment. The valve shall be closed except when the equipment is being operated.

§ 56.9027 Notification to the equipment operator.

When an operator is present, persons shall notify him before getting on or off equipment.

§ 56.9028 Switch throws.

Switch throws shall be installed so as to provide adequate clearance for switchmen.

§ 56.9030 Suspended loads.

Persons shall not work or pass under the buckets or booms of loaders in operation.

§ 56.9031 Securing equipment during travel.

When traveling between work areas, the equipment shall be secured in the travel position.

§ 56.9032 Securing movable parts.

Dippers, buckets, scraper blades, and similar movable parts shall be secured or lowered to the ground when not in use.

§ 56.9034 Minimizing spillage.

Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

§ 56.9035 Movement of independently operating rail equipment.

Movement of two or more pieces of rail equipment operating independently on the same track shall be suitably controlled for safe operation.

§ 56.9036 Parking procedures for electrically-powered mobile equipment.

Electrically-powered mobile equipment shall not be left unattended unless the master switch is in the off position, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken against rolling.

§ 56.9037 Parking procedures for mobile equipment.

Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall be either blocked or turned into a bank or rib; and the bucket or blade lowered to the ground to prevent movement.

§ 56.9039 Getting on or off moving equipment.

Persons shall not get on or off moving equipment, except that trainmen may get on or off of slowly moving trains.

§ 56.9040 Transporting persons—prohibitions.

Persons shall not be transported—

(a) In or on dippers, forks, clamshells, beds of trucks unless special provisions are made for their safety, or buckets except shaft buckets;

(b) On top of loaded haulage equipment;

(c) Outside of the cabs and beds of mobile equipment, except trains;

(d) Between cars of trains; or

(e) In conveyances equipped with unloading devices unless means are provided to prevent accidental starting of the unloading mechanism.

§ 56.9041 Riding trains or locomotives.

Only authorized persons shall be permitted to ride on trains or locomotives and they shall ride in a safe position.

§ 56.9042 Rocker-bottom and bottom-dump railcars.

Rocker-bottom or bottom-dump railcars shall be equipped with locking devices.

§ 56.9045 Loading and securing equipment for haulage.

Equipment which is to be hauled shall be loaded and protected so as to prevent sliding or spillage.

§ 56.9046 Backpoling.

Backpoling of trolleys shall be avoided wherever possible; but when necessary, backpoling shall be done only at slow speeds.

§ 56.9047 Securing parked railcars.

Parked railcars, unless held effectively by brakes, shall be blocked securely.

§ 56.9048 Brakes on railcars.

Railroad cars with braking systems, when in use, shall be equipped with effective brake shoes.

§ 56.9049 Oversize-load warning.

When in the dark or under conditions of limited visibility, all vehicles carrying loads which project beyond the sides or more than four feet beyond the rear of the vehicles shall display a warning light at the end of the projection; or in the light, a warning flag not less than 12 inches square shall be displayed at the end of the projection.

§ 56.9050 Clearance on adjacent tracks.

Railcars shall not be left on side tracks unless ample clearance is provided for traffic on adjacent tracks.

§ 56.9051 Travel precautions around railcars.

Persons shall not go over, under, or between cars unless the train is stopped and the motorman has been notified and the notice acknowledged.

§ 56.9052 Brakeman signals.

Inability of a motorman to clearly recognize his brakeman's signals when the train is under the direction of the brakeman shall be construed by the motorman as a stop signal.

§ 56.9053 Removal of hazards to moving equipment.

Water, debris or spilled material which create hazards to moving equipment shall be removed.

§ 56.9054 Restraining devices at dumping locations.

Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel and overturning at dumping locations.

§ 56.9055 Dumping near unstable ground.

Where there is evidence that the ground at a dumping place may fail to support the weight of a vehicle, loads shall be dumped back from the edge of the bank.

§ 56.9056 Track dead ends.

Where necessary, bumper blocks or the equivalent shall be provided at track dead ends.

§ 56.9057 Anchoring stationary sizing devices.

Grizzlies, grates, and other stationary sizing devices shall be anchored securely.

§ 56.9058 Truck spotters.

If truck spotters are used, they shall be well in the clear while trucks are backing into dumping positions and dumping; lights shall be used at night to direct trucks.

§ 56.9059 Rail crossings.

Public and permanent railroad crossings shall be posted with warning signs or signals, or shall be guarded when trains are passing and shall be planked or otherwise filled between the rails.

§ 56.9060 Restricted overhead clearance.

Where overhead clearance is restricted, warning devices shall be installed and the restricted area shall be conspicuously marked.

§ 56.9061 Trimming of stockpile and muckpile faces.

Stockpile and muckpile faces shall be trimmed to prevent hazards to personnel.

§ 56.9062 Loading large rocks.

Rocks too large to be handled safely shall be broken before loading.

§ 56.9063 Construction of ramps and dumping facilities.

Ramps and dumping facilities shall—

(a) Be of substantial construction; and

(b) Have suitable width, clearance, and headroom to accommodate the equipment using the facilities.

§ 56.9064 Chute design.

Chute-loading installations shall be designed so that the persons pulling chutes are not required to be in a hazardous position while loading cars.

§ 56.9065 Coupling or uncoupling railcars.

Cars shall not be coupled, or uncoupled, manually from the inside of curves unless the railroad and cars are

so designed to eliminate any hazard from manual coupling.

§ 56.9066 Movement of rail equipment on adjacent tracks.

When a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used.

§ 56.9067 Transporting persons—overcrowding.

Facilities used to transport persons to and from work areas shall not be overcrowded.

§ 56.9068 Warning devices for parked equipment.

Lights, flares, or other warning devices shall be posted when parked equipment creates a hazard to vehicular traffic.

§ 56.9069 Tire repair and inflation.

Tires shall be deflated before repairs on them are started and adequate means shall be provided to prevent wheel locking rims from creating a hazard during tire inflation.

§ 56.9070 Precautions for towing.

A tow bar of substantial construction or other suitable means of control shall be used to tow heavy equipment. A substantial safety chain or wire rope shall be used in conjunction with any primary rigging.

§ 56.9071 Traffic rules.

Traffic rules including speed, signals, and warning signs shall be standardized at each mine and posted.

§ 56.9072 Freeing hangups.

Persons attempting to free hangups shall be experienced persons who understand the hazards involved.

§ 56.9073 Tagging defective equipment.

Defective equipment, removed from service as unsafe to operate, shall be tagged to prohibit further use until repairs are completed.

§ 56.9074 Dust Control.

Dust shall be suitably controlled at muck piles, material transfer points, crushers, and on haulage roads where hazards to personnel may be created as a result of impaired visibility.

§ 56.9083 Rail equipment clearance.

Where possible, at least 30 inches continuous clearance from the farthest projection of moving railroad equipment shall be provided on at least one side of the tracks; all places where it is not possible to provide 30-inch clearance shall be marked conspicuously.

§ 56.9085 Tools, materials, and equipment in mantrips.

Tools, materials, and equipment shall not be transported with persons in vehicles, railcars, and other conveyances unless means have been provided to make such transportation safe.

§ 56.9087 Audible warning devices and back-up alarms.

Heavy duty mobile equipment shall be provided with audible warning devices. When the operator of such equipment has an obstructed view to the rear, the equipment shall have either an automatic reverse signal alarm which is audible above the surrounding noise level or an observer to signal when it is safe to back up.

§ 56.9088 Roll-over protective structures (ROPS) and seat belts.

(a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and non-metal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) roll-over protective structures (ROPS) in accordance with the requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968; revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386 approved March 1968; and, in accordance with paragraphs (b), (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of this standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earthmoving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE standards or recommended practices:

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for

Prime Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired Front End Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; or

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—SAE J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of the standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation; or MSHA coal mine regulations of the U.S. Department of Labor; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving," 1591 (i) and 1596 (Register 70, No. 40—10–3–70); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—2–5–72); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding," 5243 (Register 69, No. 10—3–8–69), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Safety Requirements, EM–385–1–1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mine Safety and Health Administration, U.S. Department of Labor: Section 77.403a, Part 77, Title 30, Code of Federal Regulations, Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the **Federal Register** (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S. Department of Labor: Sections 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the **Federal Register** (37 FR 27585–27590), and republished in the **Federal Register** (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a registered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

(4) For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a registered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a part hereof. The incorporated publications are available at each Metal and Nonmetal Mine Safety and Health Subdistrict Office, MSHA. State of California safety orders are available from the State of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers, Safety-General Safety Requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

Subpart I—Aerial Tramways

§ 56.10001 Filling buckets.

Buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

§ 56.10002 Inspection and maintenance.

Inspection and maintenance of carriers (including loading and unloading mechanisms), ropes and supports, and brakes shall be performed by competent persons according to the recommendations of the manufacturer.

§ 56.10003 Correction of defects.

Any hazardous defects shall be corrected before the equipment is used.

§ 56.10004 Brakes.

Positive-action-type brakes and devices which apply the brakes automatically in the event of a power failure shall be provided on aerial tramways.

§ 56.10005 Track cable connections.

Track cable connections shall not obstruct the passage of carriage wheels.

§ 56.10006 Tower guards.

Towers shall be suitably protected from swaying buckets.

§ 56.10007 Falling object protection.

Guard nets or other suitable protection shall be provided where tramways pass over roadways, walkways, or buildings.

§ 56.10008 Riding tramways.

Persons other than maintenance persons shall not ride aerial tramways unless the following features are provided:

(a) Two independent brakes, each capable of holding the maximum load;

(b) Direct communication between terminals;

(c) Power drives with emergency power available in case of primary power failure; and

(d) Buckets equipped with positive locks to prevent accidental tripping or dumping.

§ 56.10009 Riding loaded buckets.

Persons shall not ride loaded buckets.

§ 56.10010 Starting precautions.

Where possible, aerial tramways shall not be started until the operator has ascertained that everyone is in the clear.

Subpart J—Travelways

§ 56.11001 Safe access.

Safe means of access shall be provided and maintained to all working places.

§ 56.11002 Handrails and toeboards.

Crossovers, elevated walkways, elevated ramps, and stairways shall be of substantial construction provided with handrails, and maintained in good condition. Where necessary, toeboards shall be provided.

§ 56.11003 Construction and maintenance of ladders.

Ladders shall be of substantial construction and maintained in good condition.

§ 56.11004 Portable rigid ladders.

Portable rigid ladders shall be provided with suitable bases and placed securely when used.

§ 56.11005 Fixed ladder anchorage and toe clearance.

Fixed ladders shall be anchored securely and installed to provide at least 3 inches of toe clearance.

§ 56.11006 Fixed ladder landings.

Fixed ladders shall project at least 3 feet above landings, or subtantial handholds shall be provided above the landings.

§ 56.11007 Wooden components of ladders.

Wooden components of ladders shall not be painted except with a transparent finish.

§ 56.11009 Walkways along conveyors.

Walkways with outboard railings shall be provided wherever persons are required to walk alongside elevated conveyor belts. Inclined railed walkways shall be nonskid or provided with cleats.

§ 56.11010 Stairstep clearance.

Vertical clearance above stair steps shall be a minimum of seven feet, or suitable warning signs or similar devices shall be provided to indicate an impaired clearance.

§ 56.11011 Use of ladders.

Persons using ladders shall face the ladders and have both hands free for climbing and descending.

§ 56.11012 Protection for openings around travelways.

Openings above, below, or near travelways through which persons or materials may fall shall be protected by railings, barriers, or covers. Where it is impractical to install such protective devices, adequate warning signals shall be installed.

§ 56.11013 Conveyor crossovers.

Crossovers shall be provided where it is necessary to cross conveyors.

§ 56.11014 Crossing moving conveyors.

Moving conveyors shall be crossed only at designated crossover points.

§ 56.11016 Snow and ice on walkways and travelways.

Regularly used walkways and travelways shall be sanded, salted, or cleared of snow and ice as soon as practicable.

§ 56.11017 Inclined fixed ladders.

Fixed ladders shall not incline backwards.

§ 56.11025 Railed landings, backguards, and other protection for fixed ladders.

Fixed ladders, except on mobile equipment, shall be offset and have substantial railed landings at least every 30 feet unless backguards or equivalent protection, such as safety belts and safety lines, are provided.

§ 56.11026 Protection for inclined fixed ladders.

Fixed ladders 70 degrees to 90 degrees from the horizontal and 30 feet or more in length shall have backguards, cages or equivalent protection, starting at a point not more than seven feet from the bottom of the ladders.

§ 56.11027 Scaffolds and working platforms.

Scaffolds and working platforms shall be of substantial construction and provided with handrails and maintained in good condition. Floor boards shall be laid properly and the scaffolds and working platforms shall not be overloaded. Working platforms shall be provided with toeboards when necessary.

Subpart K—Electricity

§ 56.12001 Circuit overload protection.

Circuits shall be protected against excessive overload by fuses or circuit breakers of the correct type and capacity.

§ 56.12002 Controls and switches.

Electric equipment and circuits shall be provided with switches or other controls. Such switches or controls shall be of approved design and construction and shall be properly installed.

§ 56.12003 Trailing cable overload protection.

Individual overload protection or short circuit protection shall be provided for the trailing cables of mobile equipment.

§ 56.12004 Electrical conductors.

Electrical conductors shall be of a sufficient size and current-carrying capacity to ensure that a rise in temperature resulting from normal operations will not damage the insulating materials. Electrical conductors exposed to mechanical damage shall be protected.

§ 56.12005 Protection of power conductors from mobile equipment.

Mobile equipment shall not run over power conductors, nor shall loads be dragged over power conductors, unless the conductors are properly bridged or protected.

§ 56.12006 Distribution boxes.

Distribution boxes shall be provided with a disconnecting device for each branch circuit. Such disconnecting devices shall be equipped or designed in such a manner that it can be determined by visual observation when such a device is open and that the circuit is deenergized, the distribution box shall be labeled to show which circuit each device controls.

§ 56.12007 Junction box connection procedures.

Trailing cable and power-cable connections to junction boxes shall not be made or broken under load.

§ 56.12008 Insulation and fittings for power wires and cables.

Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments. Cables shall enter metal frames of motors, splice boxes, and electrical

compartments only through proper fittings. When insulated wires, other than cables, pass through metal frames, the holes shall be substantially bushed with insulated bushings.

§ 56.12010 Isolation or insulation of communication conductors.

Telephone and low-potential signal wire shall be protected, by isolation or suitable insulation, or both, from contacting energized power conductors or any other power source.

§ 56.12011 High-potential electrical conductors.

High-potential electrical conductors shall be covered, insulated, or placed to prevent contact with low potential conductors.

§ 56.12012 Bare signal wires.

The potential on bare signal wires accessible to contact by persons shall not exceed 48 volts.

§ 56.12013 Splices and repairs of power cables.

Permanent splices and repairs made in power cables, including the ground conductor where provided, shall be—

(a) Mechanically strong with electrical conductivity as near as possible to that of the original;

(b) Insulated to a degree at least equal to that of the original, and sealed to exclude moisture; and

(c) Provided with damage protection as near as possible to that of the original, including good bonding to the outer jacket.

§ 56.12014 Handling energized power cables.

Power cables energized to potentials in excess of 150 volts, phase-to-ground, shall not be moved with equipment unless sleds or slings, insulated from such equipment, are used. When such energized cables are moved manually, insulated hooks, tongs, ropes, or slings shall be used unless suitable protection for persons is provided by other means. This does not prohibit pulling or dragging of cable by the equipment it powers when the cable is physically attached to the equipment by suitable mechanical devices, and the cable is insulated from the equipment in conformance with other standards in this part.

§ 56.12016 Work on electrically-powered equipment.

Electrically powered equipment shall be deenergized before mechanical work is done on such equipment. Power switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Suitable warning notices shall be posted at the power switch and signed by the individuals who are to do the work. Such locks or preventive devices shall be removed only by the persons who installed them or by authorized personnel.

§ 56.12017 Work on power circuits.

Power circuits shall be deenergized before work is done on such circuits unless hot-line tools are used. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the power circuits from being energized without the knowledge of the individuals working on them. Such locks, signs, or preventative devices shall be removed only by the the person who installed them or by authorized personnel.

§ 56.12018 Identification of power switches.

Principal power switches shall be labeled to show which units they control, unless identification can be made readily by location.

§ 56.12019 Access to stationary electrical equipment or switchgear.

Where access is necessary, suitable clearance shall be provided at stationary electrical equipment or switchgear.

§ 56.12020 Protection of persons at switchgear.

Dry wooden platforms, insulating mats, or other electrically nonconductive material shall be kept in place at all switchboards and power-control switches where shock hazards exist. However, metal plates on which a person normally would stand and which are kept at the same potential as the grounded, metal, non-current-carrying parts of the power switches to be operated may be used.

§ 56.12021 Danger signs.

Suitable danger signs shall be posted at all major electrical installations.

§ 56.12022 Authorized persons at major electrical installations.

Areas containing major electrical installations shall be entered only by authorized persons.

§ 56.12023 Guarding electrical connections and resistor grids.

Electrical connections and resistor grids that are difficult or impractical to insulate shall be guarded, unless protection is provided by location.

§ 56.12025 Grounding circuit enclosures.

All metal enclosing or encasing electrical circuits shall be grounded or provided with equivalent protection. This requirement does not apply to battery-operated equipment.

§ 56.12026 Grounding transformer and switchgear enclosures.

Metal fencing and metal buildings enclosing transformers and switchgear shall be grounded.

§ 56.12027 Grounding mobile equipment.

Frame grounding or equivalent protection shall be provided for mobile equipment powered through trailing cables.

§ 56.12028 Testing grounding systems.

Continuity and resistance of grounding systems shall be tested immediately after installation, repair, and modification; and annually thereafter. A record of the resistance measured during the most recent tests shall be made available on a request by the Secretary or his duly authorized representative.

§ 56.12030 Correction of dangerous conditions.

When a potentially dangerous condition is found it shall be corrected before equipment or wiring is energized.

§ 56.12032 Inspection and cover plates.

Inspection and cover plates on electrical equipment and junction boxes shall be kept in place at all times except during testing or repairs.

§ 56.12033 Hand-held electric tools.

Hand-held electric tools shall not be operated at high potential voltages.

§ 56.12034 Guarding around lights.

Portable extension lights, and other lights that by their location present a shock or burn hazard, shall be guarded.

§ 56.12035 Weatherproof lamp sockets.

Lamp sockets shall be of a weatherproof type where they are exposed to weather or wet conditions that may interfere with illumination or create a shock hazard.

§ 56.12036 Fuse removal or replacement.

Fuses shall not be removed or replaced by hand in an energized circuit, and they shall not otherwise be removed or replaced in an energized circuit unless equipment and techniques especially designed to prevent electrical shock are provided and used for such purpose.

§ 56.12037 Fuses in high-potential circuits.

Fuse tongs or hot line tools shall be used when fuses are removed or replaced in high-potential circuits.

§ 56.12038 Attachment of trailing cables.

Trailing cables shall be attached to machines in a suitable manner to protect the cable from damage and to prevent strain on the electrical connections.

§ 56.12039 Protection of surplus trailing cables.

Surplus trailing cables to shovels, cranes and similar equipment shall be—

(a) Stored in cable boats;

(b) Stored on reels mounted on the equipment; or

(c) Otherwise protected from mechanical damage.

§ 56.12040 Installation of operating controls.

Operating controls shall be installed so that they can be operated without danger of contact with energized conductors.

§ 56.12041 Design of switches and starting boxes.

Switches and starting boxes shall be of safe design and capacity.

§ 56.12042 Track bonding.

Both rails shall be bonded or welded at every joint and rails shall be crossbonded at least every 200 feet if the track serves as the return trolley circuit. When rails are moved, replaced, or broken bonds are discovered, they shall be rebonded within three working shifts.

§ 56.12045 Overhead powerlines.

Overhead high-potential powerlines shall be installed as specified by the National Electrical Code.

§ 56.12047 Guy wires.

Guy wires of poles supporting high-voltage transmission lines shall meet the requirements for grounding or insulator protection of the National Electrical Safety Code, Part 2, entitled "Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines" (also referred to as National Bureau of Standards Handbook 81, November 1, 1961) and Supplement 2 thereof issued March 1968, which are hereby incorporated by reference and made a part hereof. These publications and documents may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration.

§ 56.12048 Communication conductors on power poles.

Telegraph, telephone, or signal wires shall not be installed on the same crossarm with power conductors. When carried on poles supporting powerlines, they shall be installed as specified by the National Electrical Code.

§ 56.12050 Installation of trolley wires.

Trolley wires shall be installed at least seven feet above rails where height permits, and aligned and supported to suitably control sway and sag.

§ 56.12053 Circuits powered from trolley wires.

Ground wires for lighting circuits powered from trolley wires shall be connected securely to the ground-return circuit.

§ 56.12065 Short circuit and lightning protection.

Powerlines, including trolley wires, and telephone circuits shall be protected against short circuits and lightning.

§ 56.12066 Guarding trolley wires and bare powerlines.

Where metallic tools or equipment can come in contact with trolley wires or bare powerlines, the lines shall be guarded or deenergized.

§ 56.12067 Installation of transformers.

Transformers shall be totally enclosed, or shall be placed at least 8 feet above the ground, or installed in a transformer house, or surrounded by a substantial fence at least 6 feet high and at least 3 feet from any energized parts, casings, or wiring.

§ 56.12068 Locking transformer enclosures.

Transformer enclosures shall be kept locked against unauthorized entry.

§ 56.12069 Lightning protection for telephone wires and ungrounded conductors.

Each ungrounded power conductor or telephone wire that leads underground and is directly exposed to lightning shall be equipped with suitable lightning arrestors of approved type within 100 feet of the point where the circuit enters the mine. Lightning arrestors shall be connected to a low resistance grounding medium on the surface and shall be separated from neutral grounds by a distance of not less than 25 feet.

§ 56.12071 Movement or operation of equipment near high-voltage power lines.

When equipment must be moved or operated near energized high-voltage powerlines (other than trolley lines) and the clearance is less than 10 feet, the lines shall be deenergized or other precautionary measures shall be taken.

Subpart L—Compressed Air and Boilers

§ 56.13001 General requirements for boilers and pressure vessels.

All boilers and pressure vessels shall be constructed, installed, and maintained in accordance with the standards and specifications of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

§ 56.13010 Reciprocating-type air compressors.

(a) Reciprocating-type air compressors rated over 10 horsepower shall be equipped with automatic temperature-actuated shutoff mechanisms which shall be set or adjusted to the compressor when the normal operating temperature is exceeded by more than 25 percent.

(b) However, this standard does not apply to reciprocating-type air compressors rated over 10 horsepower if equipped with fusible plugs that were installed in the compressor discharge lines before November 15, 1979, and designed to melt at temperatures at least 50 degrees below the flash point of the compressors' lubricating oil.

§ 56.13011 Air receiver tanks.

Air receiver tanks shall be equipped with one or more automatic pressure-relief valves. The total relieving capacity of the relief valves shall prevent pressure from exceeding the maximum allowable working pressure in a receiver tank by not more than 10 percent. Air receiver tanks also shall be equipped with indicating pressure gages which accurately measure the pressure within the air receiver tanks.

§ 56.13012 Compressor air intakes.

Compressor air intakes shall be installed to ensure that only clean, uncontaminated air enters the compressors.

§ 56.13015 Inspection of compressed-air receivers and other unfired pressure vessels.

(a) Compressed-air receivers and other unfired pressure vessels shall be inspected by inspectors holding a valid National Board Commission and in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1979. This code is incorporated by reference and made a part of this standard. It may be examined at any Metal and Nonmetal

Mine Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the publisher, the National Board of Boiler and Pressure Vessel Inspector, 1055 Crupper Avenue, Columbus, Ohio 43229.

(b) Records of inspections shall be kept in accordance with requirements of the National Board Inspection Code, and the records shall be made available to the Secretary or his authorized representative.

§ 56.13017 Compressor discharge pipes.

Compressor discharge pipes where carbon build-up may occur shall be cleaned periodically as recommended by the manufacturer, but no less frequently than once every two years.

§ 56.13019 Pressure system repairs.

Repairs involving the pressure system of compressors, receivers, or compressed-air-powered equipment shall not be attempted until the pressure has been bled off.

§ 56.13020 Use of compressed air.

At no time shall compressed air be directed toward a person. When compressed air is used, all necessary precautions shall be taken to protect persons from injury.

§ 56.13021 High-pressure hose connections.

Except where automatic shutoff valves are used, safety chains or other suitable locking devices shall be used at connections to machines of high-pressure hose lines of ¾-inch inside diameter or larger, and between high-pressure hose lines of ¾-inch inside diameter or larger, where a connection failure would create a hazard.

§ 56.13030 Boilers.

(a) Fired pressure vessels (boilers) shall be equipped with water level gauges, pressure gauges, automatic pressure-relief valves, blowdown piping, and other safety devices approved by the American Society of Mechanical Engineers to protect against hazards from overpressure, flameouts, fuel interruptions and low water level, all as required by the appropriate sections, chapters and appendices listed in paragraphs (b) (1) and (2) of this section.

(b) These gauges, devices and piping shall be designed, installed, operated, maintained, repaired, altered, inspected, and tested by inspectors holding a valid National Board Commission and in accordance with the following listed sections, chapters and appendices:

(1) The ASME Boiler and Pressure Vessel Code, 1977, Published by the American Society of Mechanical Engineers.

Section and Title
I Power Boilers.
II Material Specifications—Part A—Ferrous.
II Material Specifications—Part B—Non-ferrous.
II Material Specifications—Part C—Welding Rods, Electrodes, and Filler Metals.
IV Heating Boilers
V Nondestructive Examination
VI Recommended Rules for Care and Operation of Heating Boilers
VII Recommended Rules for Care of Power Boilers

(2) The National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1979, published by the National Board of Boiler and Pressure Vessel Inspectors.

Chapter and Title
I Glossary of Terms
II Inspection of Boilers and Pressure Vessels
III Repairs and Alterations to Boiler and Pressure Vessels by Welding
IV Shop Inspection of Boilers and Pressure Vessels
V Inservice Inspection of Pressure Vessels by Authorized Owner-User Inspection Agencies

Appendix and Title
A Safety and Safety Relief Valves
B Non-ASME Code Boilers and Pressure Vessels
C Storage of Mild Steel Covered Arc Welding Electrodes
D–R National Board "R" (Repair) Symbol Stamp
D–VR National Board "VR" (Repair of Safety and Safety Relief Valve) Symbol Stamp
D–VR1 Certificate of Authorization for Repair Symbol Stamp for Safety and Safety Relief Valves
D–VR2 Outline of Basic Elements of Written Quality Control System for Repairers of ASME Safety and Safety Relief Valves
D–VR3 Nameplate Stamping for "VR"
E Owner-user Inspection Agencies
F Inspection Forms

(c) Records of inspections and repairs shall be kept in accordance with the requirements of the ASME Boiler and Pressure Vessel Code and the National Board Inspection Code. The records shall be made available to the Secretary or his authorized representative.

(d) Sections of the ASME Boiler and Pressure Vessel Code, 1977, listed in paragraph (b)(1) of this section, and chapters and appendices of the National Board Inspection Code, 1979, listed in paragraph (b)(2) of this section, are incorporated by reference and made a part of this standard. These publications may be obtained from the publishers, the American Society of Mechanical Engineers, 345 East Forty-seventh Street, New York, N.Y. 10017, and the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. The publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

Subpart M—Machinery and Equipment

Guards

§ 56.14001 Moving machine parts.

Gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons, shall be guarded.

§ 56.14002 Guarding overhead belts.

Overhead belts shall be guarded if the whipping action from a broken belt would be hazardous to persons below.

§ 56.14003 Conveyors.

Guards at conveyor-drive, conveyor-head, and conveyor-tail pulleys shall extend a distance sufficient to prevent a person from accidentally reaching behind the guard and becoming caught between the belt and the pulley.

§ 56.14006 Placement of guards during machinery operation.

Except when testing the machinery, guards shall be securely in place while machinery is being operated.

§ 56.14007 Construction and maintenance.

Guards shall be of substantial construction and properly maintained.

§ 56.14008 Stationary grinding machines.

Stationary grinding machines other than special bit grinders shall be equipped with—

(a) Peripheral hoods (less than 90° throat openings) capable of withstanding the force of a bursting wheel;

(b) Adjustable tool rests set as close as practical to the wheel; and

(c) Safety washers.

§ 56.14009 Grinding wheels.

Grinding wheels shall be operated within the specifications of the manufacturer of the wheel.

§ 56.14010 Hand-held power tools.

Hand-held power tools, other than rock drills; shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

§ 56.14011 Flying or falling objects.

Guards, shields, or other suitable protection shall be provided in areas where flying or falling materials present a hazard to personnel.

§ 56.14013 Falling object protection.

Fork-lift trucks, front-end loaders, and bulldozers shall be provided with substantial canopies when necessary to protect the operator.

§ 56.14014 Eye protection with grinding wheels.

Face shields or goggles, in good condition, shall be worn when operating a grinding wheel.

Methods and Procedures

§ 56.14026 Removal of unsafe equipment or machinery.

Unsafe equipment or machinery shall be removed from service immediately.

§ 56.14027 Machinery and equipment operators.

Operation of machinery or equipment shall be assigned only to competent persons.

§ 56.14029 Machinery repairs and maintenance.

Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments.

§ 56.14030 Blocking equipment in raised position.

Persons shall not work on or from a piece of mobile equipment in a raised position until it has been blocked in place securely. This does not preclude the use of equipment specifically designed as elevated mobile work platforms.

§ 56.14031 Shifting drive belts.

Drive belts shall not be shifted while in motion unless the machines are provided with mechanical shifters.

§ 56.14032 Guiding and hand feeding chains, ropes, and belts.

Belts, chains, and ropes shall not be guided onto power-driven moving pulleys, sprockets, or drums with the hands except on slow-moving equipment especially designed for hand feeding.

§ 56.14033 Manual cleaning of conveyor pulleys.

Pulleys of conveyors shall not be cleaned manually while the conveyor is in motion.

§ 56.14034 Applying belt dressing.

Belt dressing shall not be applied manually while belts are in motion unless an aerosol-type dressing is used.

§ 56.14035 Machinery lubrication.

Machinery shall not be lubricated while in motion where a hazard exists, unless equipped with extended fittings or cups.

§ 56.14036 Use of tools and equipment.

Tools and equipment shall not be used beyond the design capacity intended by the manufacturer, where such use may create a hazard to personnel.

§ 56.14045 Ventilation and shielding for welding.

Welding operations shall be shielded and well ventilated.

Subpart N—Personal Protection

§ 56.15001 First-aid materials.

Adequate first-aid materials, including stretchers and blankets, shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled, or used.

§ 56.15002 Hard hats.

All persons shall wear suitable hard hats when in or around a mine or plant where falling objects may create a hazard.

§ 56.15003 Protective footwear.

All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

§ 56.15004 Eye protection.

All persons shall wear safety glasses, goggles, or face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

§ 56.15005 Safety belts and lines.

Safety belts and lines shall be worn when persons work where there is danger of falling; a second person shall tend the lifeline when bins, tanks, or other dangerous areas are entered.

§ 56.15006 Protective equipment and clothing for hazards and irritants.

Special protective equipment and special protective clothing shall be provided, maintained in a sanitary and reliable condition and used whenever hazards of process or environment, chemical hazards, radiological hazards, or mechanical irritants are encountered in a manner capable of causing injury or impairment.

§ 56.15007 Protective equipment or clothing for welding, cutting, or working with molten metal.

Protective clothing or equipment and face shields, or goggles shall be worn when welding, cutting, or working with molten metal.

§ 56.15020 Life jackets and belts.

Life jackets or belts shall be worn where there is danger from falling into water.

Subpart O—Materials Storage and Handling

§ 56.16001 Stacking and storage of materials.

Supplies shall not be stacked or stored in a manner which creates tripping or fall-of-material hazards.

§ 56.16002 Bins, hoppers, silos, tanks, and surge piles.

(a) Bins, hoppers, silos, tanks, and surge piles, where loose unconsolidated materials are stored, handled or transferred shall be—

(1) Equipped with mechanical devices or other effective means of handling materials so that during normal operations persons are not required to enter or work where they are exposed to entrapment by the caving or sliding of materials; and

(2) Equipped with supply and discharge operating controls. The controls shall be located so that spills or overruns will not endanger persons.

(b) Where persons are required to move around or over any facility listed in this standard, suitable walkways or passageways shall be provided.

(c) Where persons are required to enter any facility listed in this standard for maintenance or inspection purposes, ladders, platforms, or staging shall be provided. No person shall enter the facility until the supply and discharge of materials have ceased and the supply and discharge equipment is locked out. Persons entering the facility shall wear a safety belt or harness equipped with a lifeline suitably fastened. A second person, similarly equipped, shall be stationed near where the lifeline is fastened and shall constantly adjust it or keep it tight as needed, with minimum slack.

§ 56.16003 Storage of hazardous materials.

Materials that can create hazards if accidentally liberated from their containers shall be stored in a manner that minimizes the dangers.

§ 56.16004 Containers for hazardous materials.

Hazardous materials shall be stored in containers of a type approved for such use by recognized agencies; such containers shall be labeled appropriately.

§ 56.16005 Securing gas cylinders.

Compressed and liquid gas cylinders shall be secured in a safe manner.

§ 56.16006 Protection of gas cylinder valves.

Valves on compressed gas cylinders shall be protected by covers when being transported or stored, and by a safe location when the cylinders are in use.

§ 56.16007 Taglines, hitches, and slings.

(a) Taglines shall be attached to loads that may require steadying or guidance while suspended.

(b) Hitches and slings used to hoist materials shall be suitable for the particular material handled.

§ 56.16009 Suspended loads.

Persons shall stay clear of suspended loads.

§ 56.16010 Dropping materials from overhead.

To protect personnel, material shall not be dropped from an overhead elevation until the drop area is first cleared of personnel and the area is then either guarded or a suitable warning is given.

§ 56.16011 Riding hoisted loads or on the hoist hook.

Persons shall not ride on loads being moved by cranes or derricks, nor shall they ride the hoisting hooks unless such method eliminates a greater hazard.

§ 56.16012 Storage of incompatible substances.

Chemical substances, including concentrated acids and alkalies, shall be stored to prevent inadvertent contact with each other or with other substances, where such contact could cause a violent reaction or the liberation of harmful fumes or gases.

§ 56.16013 Working with molten metal.

Suitable warning shall be given before molten metal is poured and before a container of molten metal is moved.

§ 56.16014 Operator-carrying overhead cranes.

Operator-carrying overhead cranes shall be provided with—

(a) Bumpers at each end of each rail;

(b) Automatic switches to halt uptravel of the blocks before they strike the hoist;

(c) Effective audible warning signals within easy reach of the operator; and

(d) A means to lock out the disconnect switch.

§ 56.16015 Work or travel on overhead crane bridges.

No person shall work from or travel on the bridge of an overhead crane unless the bridge is provided with substantial footwalks with toeboards and railings the length of the bridge.

§ 56.16016 Lift trucks.

Fork and other similar types of lift trucks shall be operated with the—

(a) Upright tilted back to steady and secure the load;

(b) Load in the upgrade position when ascending or descending grades in excess of 10 percent;

(c) Load not raised or lowered enroute except for minor adjustments; and

(d) Load-engaging device downgrade when traveling unloaded on all grades.

Subpart P—Illumination

§ 56.17001 Illumination of surface working areas.

Illumination sufficient to provide safe working conditions shall be provided in and on all surface structures, paths, walkways, stairways, switch panels, loading and dumping sites, and work areas.

Subpart Q—Safety Programs

§ 56.18002 Examination of working places.

(a) A competent person designated by the operator shall examine each working place at least once each shift for conditions which may adversely affect safety or health. The operator shall promptly initiate appropriate action to correct such conditions.

(b) A record that such examinations were conducted shall be kept by the operator for a period of one year, and shall be made available for review by the Secretary or his authorized representative.

(c) In addition, conditions that may present an imminent danger which are noted by the person conducting the examination shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected (except persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977) until the danger is abated.

§ 56.18006 New employees.

New employees shall be indoctrinated in safety rules and safe work procedures.

§ 56.18009 Designation of person in charge.

When persons are working at the mine, a competent person designated by the mine operator shall be in attendance to take charge in case of an emergency.

§ 56.18010 First aid training.

Selected supervisors shall be trained in first aid. First aid training shall be made available to all interested employees.

§ 56.18012 Emergency telephone numbers.

Emergency telephone numbers shall be posted at appropriate telephones.

§ 56.18013 Emergency communications system.

A suitable communication system shall be provided at the mine to obtain assistance in the event of an emergency.

§ 56.18014 Emergency medical assistance and transportation.

Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons.

§ 56.18020 Working alone.

No employee shall be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

Subpart R—Personnel Hoisting

§ 56.19000 Application.

(a) The hoisting standards in this subpart apply to those hoists and appurtenances used for hoising persons. However, where persons may be endangered by hoists and appurtenances used solely for handling ore, rock, and materials, the appropriate standards should be applied.

(b) Standards 56.19021 through 56.19028 apply to wire ropes in service used to hoist persons with an incline hoist on the surface.

(c) Emergency hoisting facilities should conform to the extent possible to safety requirements for other hoists, and should be adequate to remove the persons from the mine with a minimum of delay.

Hoists

§ 56.19001 Rated capacities.

Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used.

§ 56.19002 Anchoring.

Hoists shall be anchored securely.

§ 56.19003 Driving mechanism connections.

Belt, rope, or chains shall not be used to connect driving mechanisms to man hoists.

§ 56.19004 Brakes.

Any hoist used to hoist persons shall be equipped with a brake or brakes which shall be capable of holding its fully loaded cage, skip, or bucket at any point in the shaft.

§ 56.19005 Locking mechanism for clutch.

The operating mechanism of the clutch of every man-hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake to prevent accidental withdrawal of the clutch.

§ 56.19006 Automatic hoist braking devices.

Automatic hoists shall be provided with devices that automatically apply the brakes in the event of power failure.

§ 56.19007 Overtravel and overspeed devices.

All man hoists shall be provided with devices to prevent overtravel. When utilized in shafts exceeding 100 feet in depth, such hoists shall also be provided with overspeed devices.

§ 56.19008 Friction hoist synchronizing mechanisms.

Where creep or slip may alter the effective position of safety devices, friction hoists shall be equipped with synchronizing mechanisms that recalibrate the overtravel devices and position indicators.

§ 56.19009 Position indicator.

An accurate and reliable indicator of the position of the cage, skip, bucket, or cars in the shaft shall be provided.

§ 56.19010 Location of hoist controls.

Hoist controls shall be placed or housed so that the noise from machinery or other sources will not prevent hoistmen from hearing signals.

§ 56.19011 Drum flanges.

Flanges on drums shall extend radially a minimum of 4 inches or three rope diameters beyond the last wrap, whichever is the lesser.

§ 56.19012 Grooved drums.

Where grooved drums are used, the grooves shall be of suitable size and pitch for the ropes used.

§ 56.19013 Diesel- and other fuel-injection-powered hoists.

Where any diesel or similar fuel-injection engine is used to power a hoist, the engine shall be equipped with a damper or other cutoff in its air intake system. The control handle shall be clearly labeled to indicate that its intended function is for emergency stopping only.

§ 56.19014 Friction hoist overtravel protection.

In a friction hoist installation, tapered guides or other approved devices shall be installed above and below the limits of regular travel of the conveyance and arranged to prevent overtravel in the event of failure of other devices.

§ 56.19017 Emergency braking for electric hoists.

Each electric hoist shall be equipped with a manually-operable switch that will initiate emergency braking action to bring the conveyance and the counterbalance safely to rest. This switch shall be located within reach of the hoistman in case the manual controls of the hoist fail.

§ 56.19018 Overtravel by-pass switches.

When an overtravel by-pass switch is installed, the switch shall function so as to allow the conveyance to be moved through the overtravel position when the switch is held in the close position by the hoistman. The overtravel by-pass switch shall return automatically to the open position when released by the hoistman.

Wire Ropes

Authority: Sec. 101, Federal Mine Safety and Health Act of 1977; Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

§ 56.19021 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0–0.001L)
For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0–0.0005L)
For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight of Rope × 7.0

§ 56.19022 Initial measurement.

After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements average to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 56.19023 Examinations.

(a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this section.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this section is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

[Approved by the Office of Management and Budget under OMB control number 1219-0034]

§ 56.19024 Retirement criteria.

Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand.

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length.

(c) A loss of more than one-third of the original diameter of the outer wires.

(d) Rope deterioriation from corrosion.

(e) Distortion of the rope structure.

(f) Heat damage from any source.

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement.

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

§ 56.19025 Load end attachments.

(a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(c) Load end attachment methods using splices are prohibited.

§ 56.19026 Drum end attachment.

(a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

§ 56.19027 End attachment retermination.

Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

§ 56.19028 End attachment replacement.

Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

§ 56.19030 Safety device attachments.

Safety device attachments to hoist ropes shall be selected, installed, and maintained according to manufacturers' specifications to minimize internal corrosion and weakening of the hoist rope.

Headframes and Sheaves

§ 56.19035 Headframe design.

All headframes shall be constructed with suitable design considerations to allow for all dead loads, live loads, and wind loads.

§ 56.19036 Headframe height.

Headframes shall be high enough to provide clearance for overtravel and safe stopping of the conveyance.

§ 56.19037 Fleet angles.

Fleet angles on hoists installed after November 15, 1979, shall not be greater than one and one-half degrees for smooth drums or two degrees for grooved drums.

§ 56.19038 Platforms around elevated head sheaves.

Platforms with toeboards and handrails shall be provided around elevated head sheaves.

Conveyances

§ 56.19045 Metal bonnets.

Man cages and skips used for hoisting or lowering employees or other persons in any vertical shaft or any incline-shaft with an angle of inclination of forty-five degrees from the horizontal, shall be covered with a metal bonnet.

§ 56.19049 Hoisting persons in buckets.

Buckets shall not be used to hoist persons except during shaft sinking operations, inspection, maintenance, and repairs.

§ 56.19050 Bucket requirements.

Buckets used to hoist persons during vertical shaft sinking operations shall—

(a) Be securely attached to a crosshead when traveling in either direction between the lower and upper crosshead parking locations;

(b) Have overhead protection when the shaft depth exceeds 50 feet;

(c) Have sufficient depth or a suitably designed platform to transport persons safely in a standing position; and

(d) Have devices to prevent accidental dumping where the bucket is supported by a bail attached to its lower half.

§ 56.19054 Rope guides.

Where rope guides are used in shafts other than in shaft sinking operations, the rope guides shall be a type of lock coil construction.

Hoisting Procedures

§ 56.19055 Availability of hoist operator for manual hoists.

When a manually operated hoist is used, a qualified hoistman shall remain within hearing of the telephone or signal device at all times while any person is underground.

§ 56.19056 Availability of hoist operator for automatic hoists.

When automatic hoisting is used, a competent operator of the hoist shall be readily available at or near the hoisting device while any person is underground.

§ 56.19057 Hoist operator's physical fitness.

No person shall operate a hoist unless within the preceding 12 months he has had a medical examination by a qualified, licensed physician who shall certify his fitness to perform this duty. Such certification shall be available at the mine.

§ 56.19058 Experienced hoist operators.

Only experienced hoistmen shall operate the hoist except in cases of emergency and in the training of new hoistmen.

§ 56.19061 Maximum hoisting speeds.

The safe speed for hoisting persons shall be determined for each shaft, and this speed shall not be exceeded. Persons should not be hoisted at a speed faster than 2,500 feet per minute, except in an emergency.

§ 56.19062 Maximum acceleration and deceleration.

Maximum normal operating acceleration and deceleration shall not exceed 6 feet per second per second. During emergency braking, the

deceleration shall not exceed 16 feet per second per second.

§ 56.19063 Persons allowed in hoist room.

Only authorized persons shall be in hoist rooms.

§ 56.19065 Lowering conveyances by the brakes.

Conveyances shall not be lowered by the brakes alone except during emergencies.

§ 56.19066 Maximum riders in a conveyance.

In shafts inclined over 45 degrees, the operator shall determine and post in the conveyance or at each shaft station the maximum number of persons permitted to ride in a hoisting conveyance at any one time. Each person shall be provided a minimum of 1.5 square feet of floor space.

§ 56.19067 Trips during shift changes.

During shift changes, an authorized person shall be in charge of each trip in which persons are hoisted.

§ 56.19068 Orderly conduct in conveyances.

Persons shall enter, ride, and leave conveyances in an ordinary manner.

§ 56.19069 Entering and leaving conveyances.

Persons shall not enter or leave conveyances which are in motion or after a signal to move the conveyance has been given to the hoistman.

§ 56.19070 Closing cage doors or gates.

Cage doors or gates shall be closed while persons are being hoisted; they shall not be opened until the cage has come to a stop.

§ 56.19071 Riding in skips or buckets.

Persons shall not ride in skips or buckets with muck, supplies, materials, or tools other than small hand tools.

§ 56.19072 Skips and cages in same compartment.

When combinations of cages and skips are used in the same compartment, the cages shall be enclosed to protect personnel from flying material and the hoist speed reduced to man-speed as defined in standard 56.19061, but not to exceed 1,000 feet per minute. Muck shall not be hoisted with personnel during shift changes.

§ 56.19073 Hoisting during shift changes.

Rock or supplies shall not be hoisted in the same shaft as persons during shift changes, unless the compartments and dumping bins are partitioned to prevent spillage into the cage compartment.

§ 56.19074 Riding the bail, rim, bonnet, or crosshead.

Persons shall not ride the bail, rim, bonnet, or crosshead of any shaft conveyance except when necessary for inspection and maintenance, and then only when suitable protection for persons is provided.

§ 56.19075 Use of open hooks.

Open hooks shall not be used to hoist buckets or other conveyances.

§ 56.19076 Maximum speeds for hoisting persons in buckets.

When persons are hoisted in buckets, speeds shall not exceed 500 feet per minute and shall not exceed 200 feet per minute when within 100 feet of the intended station.

§ 56.19077 Lowering buckets.

Buckets shall be stopped about 15 feet from the shaft bottom to await a signal from one of the crew on the bottom for further lowering.

§ 56.19078 Hoisting buckets from the shaft bottom.

All buckets shall be stopped after being raised about 3 feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at a minimum speed. the signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, The signaling devices shall be attended until the crosshead has been engaged.

§ 56.19079 Blocking mine cars.

Where mine cars are hoisted by cage or skip, means for blocking cars shall be provided at all landings and also on the cage.

§ 56.19080 Hoisting tools, timbers, and other materials.

When tools, timbers, or other materials are being lowered or raised in a shaft by means of a bucket, skip, or cage, they shall be secured or so placed that they will not strike the sides of the shaft.

§ 56.19081 Conveyances not in use.

When conveyances controlled by a hoist operator are not in use, they shall be released and the conveyances shall be raised or lowered a suitable distance to prevent persons from boarding or loading the conveyances.

§ 56.19083 Overtravel backout device.

A manually operated device shall be installed on each electric hoist that will allow the conveyance or counterbalance to be removed from an over-travel position. Such device shall not release the brake, or brakes, holding the overtravelled conveyance or counterbalance until sufficient drive motor torque has been developed to assure movement of the conveyance or counterbalance in the correct direction only.

Signaling

§ 56.19090 Dual signaling systems.

There shall be at least two effective approved methods of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

§ 56.19091 Signaling instructions to hoist operator.

Hoist operators shall accept hoisting instructions only by the regular signaling system unless it is out of order. In such an event, and during other emergencies, the hoist operator shall accept instructions to direct movement of the conveyances only from authorized persons.

§ 56.19092 Signaling from conveyances.

A method shall be provided to signal the hoist operator from cages or other conveyances at any point in the shaft.

§ 56.19093 Standard signal code.

A standard code of hoisting signals shall be adopted and used at each mine. The movement of a shaft conveyance on a "one bell" signal is prohibited.

§ 56.19094 Posting signal code.

A legible signal code shall be posted prominently in the hoist house within easy view of the hoistman, and at each place where signals are given or received.

§ 56.19095 Location of signal devices.

Hoisting signal devices shall be positioned within easy reach of persons on the shaft bottom or constantly attended by a person stationed on the lower deck of the sinking platform.

§ 56.19096 Familiarity with signal code.

Any person responsible for receiving or giving signals for cages, skips, and mantrips when persons or materials are being transported shall be familiar with the posted signaling code.

Shafts

§ 56.19100 Shaft landing gates.

Shaft landings shall be equipped with substantial safety gates so constructed that materials will not go through or under them; gates shall be closed except when loading or unloading shaft conveyances.

§ 56.19101 Stopblocks and derail switches.

Positive stopblocks or a derail switch shall be installed on all tracks leading to a shaft collar or landing.

§ 56.19102 Shaft guides.

A means shall be provided to guide the movement of a shaft conveyance.

§ 56.19103 Dumping facilities and loading pockets.

Dumping facilities and loading pockets shall be constructed so as to minimize spillage into the shaft.

§ 56.19104 Clearance at shaft stations.

Suitable clearance at shaft stations shall be provided to allow safe movement of persons, equipment, and materials.

§ 56.19105 Landings with more than one shaft entrance.

A safe means of passage around open shaft compartments shall be provided on landings with more than one entrance to the shaft.

§ 56.19106 Shaft sets.

Shaft sets shall be kept in good repair and clean of hazardous material.

§ 56.19107 Precautions for work in compartment affected by hoisting operation.

Hoistmen shall be informed when persons are working in a compartment affected by that hoisting operation and a "Men Working in Shaft" sign shall be posted at the hoist.

§ 56.19108 Posting warning signs during shaft work.

When persons are working in a shaft "Men Working in Shaft" signs shall be posted at all devices controlling hoisting operations that may endanger such persons.

§ 56.19109 Shaft inspection and repair.

Shaft inspection and repair work in vertical shafts shall be performed from substantial platforms equipped with bonnets or equivalent overhead protection.

§ 56.19110 Overhead protection for shaft deepening work.

A substantial bulkhead or equivalent protection shall be provided above persons at work deepening a shaft.

§ 56.19111 Shaft-sinking ladders.

Substantial fixed ladders shall be provided from the collar to as near the shaft bottom as practical during shaft-sinking operations, or an escape hoist powered by an emergency power source shall be provided. When persons are on the shaft bottom, a chain ladder, wire rope ladder, or other extension ladders shall be used from the fixed ladder or lower limit of the escape hoist to the shaft bottom.

Inspection and Maintenance

§ 56.19120 Procedures for inspection, testing, and maintenance.

A systematic procedure of inspection, testing, and maintenance of shafts and hoisting equipment shall be developed and followed. If it is found or suspected that any part is not functioning properly, the hoist shall not be used until the malfunction has been located and repaired or adjustments have been made.

§ 56.19121 Recordkeeping.

At the time of completion, the person performing inspections, tests, and maintenance of hoisting equipment required in standard 56.19120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

(Sec. 101, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

§ 56.19122 Replacement parts.

Parts used to repair hoists shall have properties that will ensure the proper and safe function of the hoist.

§ 56.19129 Examinations and tests at beginning of shift.

Hoistmen shall examine their hoists and shall test overtravel, deadman controls, position indicators, and braking mechanisms at the beginning of each shift.

§ 56.19130 Conveyance shaft test.

Before hoisting persons and to assure that the hoisting compartments are clear of obstructions, empty hoist conveyances shall be operated at least one round trip after—

(a) Any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

(b) Any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

(c) Blasting in or near the shaft that might restrict or obstruct conveyance clearance; or

(d) Remaining idle for one shift or longer.

§ 56.19131 Hoist conveyance connections.

Hoist conveyance connections shall be inspected at least once during any 24-hour period that the conveyance is used for hoisting persons.

§ 56.19132 Safety catches.

(a) A performance drop test of hoist conveyance safety catches shall be made at the time of installation, or prior to installation, in a mockup of the actual installation. The test shall be certified to in writing by the manufacturer or by a registered professional engineer performing the test.

(b) After installation and before use, and at the beginning of any seven day period during which the conveyance is to be used, the conveyance shall be suitably rested and the hoist rope slackened to test for the unrestricted functioning of the safety catches and their activating mechanisms.

(c) The safety catches shall be inspected by a competent person at the beginning of any 24-hour period that the conveyance is to be used.

§ 56.19133 Shaft.

Shafts that have not been inspected within the past 7 days shall not be used until an inspection has been conducted by a competent person.

§56.19134 Sheaves.

Sheaves in operating shafts shall be inspected weekly and kept properly lubricated.

§ 56.19135 Rollers in inclined shafts.

Rollers used in operating inclined shafts shall be lubricated, properly aligned, and kept in good repair.

Subpart S—Miscellaneous

§ 56.20001 Intoxicating beverages and narcotics.

Intoxicating beverages and narcotics shall not be permitted or used in or around mines. Persons under the influence of alcohol or narcotics shall not be permitted on the job.

§ 56.20002 Potable water.

(a) An adequate supply of potable drinking water shall be provided at all active working areas.

(b) The common drinking cup and containers from which drinking water must be dipped or poured are prohibited.

(c) Where single service cups are supplied, a sanitary container for unused cups and a receptable for used cups shall be provided.

(d) When water is cooled by ice, the ice shall either be of potable water or shall not come in contact with the water.

(e) Potable water outlets shall be posted.

(f) Potable water systems shall be constructed to prevent backflow or backsiphonage of non-potable water.

§ 56.20003 Housekeeping.

At all mining operations—

(a) Workplaces, passageways, storerooms, and service rooms shall be kept clean and orderly;

(b) The floor of every workplace shall be maintained in a clean and, so far as possible, dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places shall be provided where practicable; and

(c) Every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards, as practicable.

§ 56.20005 Carbon tetrachloride.

Carbon tetrachloride shall not be used.

§ 56.20008 Toilet facilities.

(a) Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

(b) The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

§ 56.20009 Tests for explosive dusts.

Dusts suspected of being explosive shall be tested for explosibility. If tests prove positive, appropriate control measures shall be taken.

§ 56.20010 Retaining dams.

If failure of a water or silt retaining dam will create a hazard, it shall be of substantial construction and inspected at regular intervals.

§ 56.20011 Barricades and warning signs.

Areas where health or safety hazards exist that are not immediately obvious to employees shall be barricaded, or warning signs shall be posted at all approaches. Warning signs shall be readily visible, legible, and display the nature of the hazard and any protective action required.

§ 56.20012 Labeling of toxic materials.

Toxic materials used in conjunction with or discarded from mining or milling of a product shall be plainly marked or labeled so as to positively identify the nature of the hazard and the protective action required.

§ 56.20013 Waste receptacles.

Receptacles with covers shall be provided at suitable locations and used for the disposal of waste food and associated materials. They shall be emptied frequently and shall be maintained in a clean and sanitary condition.

§ 56.20014 Prohibited areas for food and beverages.

No person shall be allowed to consume or store food or beverages in a toilet room or in any area exposed to a toxic material.

2. Part 57 is revised to read as follows:

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

Subpart A—General

Sec.
57.1 Purpose and scope.
57.2 Definitions.

Procedures

57.1000 Notification of commencement of operations and closing of mines.

Subpart B—Ground Control

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57.3001 Wall, bank, and slope stability.
57.3002 Loose material around pit and quarry walls.
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57.3004 Scaling.
57.3005 Hazardous ground conditions.
57.3006 Scaling location.
57.3008 Examination of ground conditions by supervisor or competent person.
57.3009 Examination of ground conditions by workers.
57.3012 Work between equipment and pit wall or bank.

Underground Only

57.3020 Ground support use.
57.3022 Examination of ground conditions and ground control practices.
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Surface and Underground

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57.4604 Preparation of pipelines or containers.

Authority: Secs. 301(a), 301(b)(2), 301(c)(3) and 302(a) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95–164, 91 Stat. 1317–1319 (30 U.S.C. 961(a), (b)(2), (c)(3) (Supp. I, 1977)), and 29 U.S.C. 557a (Supp. I, 1977); sec. 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, as amended by Pub. L. 95–164, 83 Stat. 803 (30 U.S.C. 957 (1976 ed.)); sec. 6 of the Federal Metal and Nonmetallic Mine Safety Act (repealed 1977), Pub. L. 89–577, 80 Stat. 774 (30 U.S.C. 725 (1976 ed.)), (repealed sec. 306(a), Pub. L. 95–164, 91 Stat. 1322, but see sec. 301(b)(1), Pub. L. 95–164, 91 Stat. 1317 (30 U.S.C. 961(b)(1) (Supp. I, 1977)), Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.), unless otherwise noted.

Subpart A—General

§ 57.1 Purpose and scope.

This Part 57 sets forth mandatory safety and health standards for each underground metal or nonmetal mine, including related surface operations, subject to the Federal Mine Safety and Health Act of 1977. The purpose of these standards is the protection of life, the

promotion of health and safety, and the prevention of accidents.

§ 57.2 Definitions.

The following definitions apply in this part, except in any subpart preceded by a separate set of definitions:

"Abandoned mine" means all work has stopped on the mine premises and an office with a responsible person in charge is no longer maintained at the mine.

"Abandoned workings" means deserted mine areas in which further work is not intended.

"Active workings" means areas at, in, or around a mine or plant where men work or travel.

"American Table of Distances" means the current edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives.

"Approved" means tested and accepted for a specific purpose by a nationally recognized agency.

"Authorized person" means a person approved or assigned by mine management to perform a specific type of duty or duties or to be at a specific location or locations in the mine.

"Auxiliary fan" means a fan used to a deliver air to working place off the main airstream; generally used with ventilation tubing.

"Barricaded" means obstructed to prevent the passage of persons, vehicles, or flying materials.

"Berm" means a pile or mound of material capable of restraining a vehicle.

"Blasting agent" means any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114(a) (44 FR 31182, May 31, 1979) which is incorporated by reference. This document is available for inspection at each Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, D.C. 20402.

"Blasting area" means the area near blasting operations in which concussion or flying material can reasonably be expected to cause injury.

"Blasting cap" means a detonator which is initiated by a safety fuse.

"Blasting circuit" means the electrical circuit used to fire one or more electric blasting caps.

"Blasting switch" means a switch used to connect a power source to a blasting circuit.

"Booster fan" means a fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.

"Booster" means any unit of explosive or blasting agent used for the purpose of perpetuating or intensifying an initial detonation.

"Capped fuse" means a length of safety fuse to which a blasting cap has been attached.

"Capped primer" means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator.

"Circuit breaker" means a device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent setting without injury to itself when properly applied within its rating.

"Combustible" means capable of being ignited and consumed by fire.

"Company official" means a member of the company supervisory or technical staff.

"Competent person" means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

"Conductor" means a material, usually in the form of a wire, cable, or bus bar, capable of carrying an electric current.

"Delay connector" means a nonelectric short interval delay device for use in delaying blasts which are initiated by detonating cord.

"Detonating cord" means a flexible cord containing a solid core of high explosives.

"Detonator" means any device containing a detonating charge that is used to initiate an explosive and includes but is not limited to blasting caps, electric blasting caps and nonelectric instantaneous or delay blasting caps.

"Distribution box" means a portable apparatus with an enclosure through which an electric circuit is carried to one or more cables from a single incoming feed line; each cable circuit being connected through individual overcurrent protective devices.

"Electric blasting cap" means a detonator designed for and capable of being initiated by means of an electric current.

"Electrical grounding" means to connect with the ground to make the earth part of the circuit.

"Employee" means a person who works for wages or salary in the service of an employer.

"Employer" means a person or organization which hires one or more persons to work for wages or salary.

"Escapeway" means a passageway by which persons may leave a mine.

"Explosive" means any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88 and 173.100 which are incorporated by reference. Title 49 CFR is available for inspection at each Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, D.C. 20402.

"Face or bank" means that part of any mine where excavating is progressing or was last done.

"Fire door" means an openable closure for a passageway, shaft, or other mine opening to serve as barrier to fire, the effects of fire, and air leakage. A fire door shall be constructed of materials and assembled so as to be equivalent to a door having a fire resistance rating of 1½ hours or greater, and on exposure to fire on one side for 30 minutes, the temperature on the unexposed side shall not exceed 250°F, as determined by a nationally recognized testing agency in accordance with "Standard Method of Fire Tests of Door Assemblies", National Fire Protection Association (NFPA) Code No. 252. 1972, or equivalent. The framework assembly of a fire door and the surrounding bulkhead, if any, shall be at least equivalent to the fire door in fire and air-leakage resistance, and in physical strength. NFPA Code No. 252 is hereby incorporated by reference and made a part hereof. This publication may be examined in any Metal and Nonmetal Mine Health and Safety Subdistrict Office, Mine Safety and Health Administration, or may be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

"Flammable" means capable of being easily ignited and of burning rapidly.

"Flash point" means the minimum temperature at which sufficient vapor is released by a liquid or solid to form a flammable vapor-air mixture at atmospheric pressure.

"Highway" means any public street, public alley or public road.

"High potential" means more than 650 volts.

"Hoist" means a power driven windlass or drum used for raising ore, rock, or other material from a mine, and for lowering or raising persons and material.

"Igniter cord" means a fuse, cordlike in appearance, which burns progressively along its length with an external flame at the zone of burning, and is used for lighting a series of safety fuses in the desired sequence.

"Insulated" means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected. Otherwise, it is, within the purpose of this definition, uninsulated. Insulating covering is one means for making the conductor insulated.

"Insulation" means a dielectric substance offering a high resistance to the passage of current and to a disruptive discharge through the substance.

"Lay" means the distance parallel to the axis of the rope in which a strand makes one complete turn about the axis of the rope

"Low potential" means 650 volts or less.

"Magazine" means a facility for the storage of explosives, blasting agents, or detonators.

"Main fan" means a fan that controls the entire airflow of the mine, or the airflow of one of the major air circuits.

"Major electrical installation" means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power.

"Mantrip" means a trip on which persons are transported to and from a work area.

"Mill" includes any ore mill, sampling works, concentrator, and any crushing, grinding, or screening plant used at, and in connection with, an excavation or mine.

"Mine opening" means any opening or entrance from the surface into a mine.

"Misfire" means the complete or partial failure of a blasting charge to explode as planned.

"Multipurpose dry-chemical fire extinguisher" means a listed or approved multipurpose dry-chemical fire extinguisher having a minimum rating of 2-A:10-B:C, by Underwriters Laboratories, Inc., and containing a minimum of 4.5 pounds of dry-chemical agent.

"Non-electric delay blasting cap" means a detonator with an integral delay element and capable of being initiated by miniaturized detonating cord.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined.

"Overload" means that current which will cause an excessive or dangerous temperature in the conductor or conductor insulation.

"Permissible" means a machine, material, apparatus, or device which has been investigated, tested, and approved by the Bureau of Mines or the Mine Safety and Health Administration, and is maintained in permissible condition.

"Potable water" means water which shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located or by the Environmental Protection Agency in 40 CFR Part 141, pages 169–182 revised as of July 1, 1977. Where no such requirements are applicable, the drinking water provided shall conform with the Public Health Service Drinking Water Standards, 42 CFR Part 72, Subpart J, pages 527–533, revised as of October 1, 1976. Publications to which references are made in this definition are hereby made a part hereof. These incorporated publications are available for inspection at each Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.

"Powder chest" means a substantial, nonconductive portable container equipped with a lid and used at blasting sites for explosives other than blasting agents.

"Primer" means a unit, package, or cartridge of explosives used to initiate other explosives or blasting agents, and which contains a detonator.

"Reverse-current protection" means a method or device used on direct-current circuits or equipment to prevent the flow of current in a reverse direction.

"Roll protection" means a framework, safety canopy or similar protection for the operator when equipment overturns.

"Safety can" means an approved container, of not over 5 gallons capacity, having a spring-closing lid and spout cover.

"Safety fuse" means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps or a black powder charge.

"Safety switch" means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area.

"Scaling" means removal of insecure material from a face or highwall.

"Secondary safety connection" means a second connection between a conveyance and rope, intended to prevent the conveyance from running away or falling in the event the primary connection fails.

"Shaft" means a vertical or inclined shaft, a slope, incline, or winze.

"Short circuit" means an abnormal connection of relatively low resistance, whether made accidentally or intentionally, between two points of difference potential in a circuit.

"Slurry" (as applied to blasting). See "Water gel."

"Stray current" means that portion of a total electric current that flows through paths other than the intended circuit.

"Substantial construction" means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage to which it will be subjected.

"Suitable" means that which fits, and has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

"Travelway" means a passage, walk or way regularly used and designated for persons to go from one place to another.

"Trip light" means a light displayed on the opposite end of a train from the locomotive or engine.

"Water gel" or "Slurry" (as applied to blasting) means an explosive or blasting agent containing substantial portions of water.

"Wet drilling" means the continuous application of water through the central hole of hollow drill steel to the bottom of the drill hole.

"Working level" (WL) means any combination of the short-lived radon daughters in one liter of air that will result in ultimate emission of 1.3×10^5 MeV (million electron volts) of potential alpha energy, and exposure to these radon daughters over a period of time is expressed in terms of "working level months" (WLM). Inhalation of air containing a radon daughter concentration of 1 WL for 173 hours results in an exposure of 1 WLM."

"Working place" means any place in or about a mine where work is being performed.

Procedures

§ 57.1000 Notification of commencement of operations and closing of mines.

The owner, operator, or person in charge of any metal and nonmetal mine shall notify the nearest Mine Safety and Health Administration Metal and Nonmental Mine Safety and Health Subdistrict Office before starting operations, of the approximate or actual date mine operation will commence. The notification shall include the mine name, location, the company name, mailing address, person in charge, and whether operations will be continuous or intermittent. When any mine is closed, the person in charge shall notify the

nearest subdistrict office as provided above and indicate whether the closure is temporary or permanent.

(Approved by the Office of Management and Budget under OMB control number 1219-0092)

Subpart B—Ground Control

Surface Only

§ 57.3001 Wall, bank, and slope stability.

Standards for the safe control of pit walls, including the overall slope of the pit wall, shall be established and followed by the operator. Such standards shall be consistent with prudent engineering design, the nature of the ground and the kind of material and mineral mined, and the ensuring of safe working conditions according to the degree of slope. Mining methods shall be selected which will ensure wall and bank stability, including benching as necessary to obtain a safe overall slope.

§ 57.3002 Loose material around pit and quarry walls.

Loose, unconsolidated materials shall be stripped for a safe distance, but in no case less than 10 feet, from the top of pit or quarry walls, and the loose, unconsolidated material shall be sloped to the angle of repose.

§ 57.3003 Bench width and height.

To ensure safe operation, the width and height of benches shall be governed by the type of equipment to be used and the operation to be performed.

§ 57.3004 Scaling.

Safe means for scaling pit-banks shall be provided. Hazardous banks shall be scaled before other work is performed in the hazardous bank area.

§ 57.3005 Hazardous ground conditions.

Persons shall not work near or under dangerous banks. Overhanging banks shall be taken down immediately and other unsafe ground conditions shall be corrected promptly, or the areas shall be barricaded and posted.

§ 57.3006 Scaling location.

Persons shall approach from above loose rock and areas to be scaled and shall scale from a safe location.

§ 57.3008 Examination of ground conditions by supervisor or competent person.

The supervisor, or a competent person designated by him, shall examine working areas and faces for unsafe conditions at least at the beginning of each shift and after blasting. Any unsafe condition found shall be corrected before any further work is performed at the immediate area or face at which the unsafe condition exists.

§ 57.3009 Examination of ground conditions by workers.

Persons shall examine their working places before starting work and frequently thereafter, and any unsafe condition shall be corrected.

§ 57.3012 Work between equipment and pit wall or bank.

Persons shall not work between equipment and the pit wall or bank where the equipment may hinder escape from falls or slides of the bank.

Underground Only

§ 57.3020 Ground support use.

Ground support shall be used if the operating experience of the mine, or any particular area of the mine, indicates that it is required. If it is required, support, including timbering, rock bolting, or other methods shall be consistent with the nature of the ground and the mining method used.

§ 57.3022 Examination of ground conditions and ground control practices.

Miners shall examine and test the back, face, and rib of their working places at the beginning of each shift and frequently thereafter. Supervisors shall examine the ground conditions during daily visits to insure that proper testing and ground control practices are being followed. Loose ground shall be taken down or adequately supported before any other work is done. Ground conditions along haulageways and travelways shall be examined periodically and scaled or supported as necessary.

§ 57.3026 Timbering.

Timbers used for support of ground in active workings shall be set, blocked, or blocked and wedged so that a tight fit is achieved. Damaged, loosened, or dislodged timbers which create a hazardous condition shall be promptly repaired or replaced.

§ 57.3029 Shaft support.

Shaft pillars or other support systems shall have sufficient strength to support operating shafts.

§ 57.3033 Torquing tools.

Calibrated torque meters or torque wrenches shall be available at mines where rock bolts are used for ground control. Periodic tests shall be made to determine the torque meter or torque wrench accuracy. Periodic testing of torque wrenches means when repaired or at least annually, and whenever a torque wrench is suspected of being inaccurate or damaged.

§ 57.3035 Rock bursts.

Operators of mines that have experienced rock bursts within the mine shall develop a comprehensive rock burst detection plan applicable to current conditions in that mine within 90 days after promulgation of this standard or, thereafter, within 90 days after a rock burst has been experienced. This plan shall be updated from time to time as conditions and available technology warrant. This comprehensive rock burst detection plan shall be available to the Secretary or his duly authorized representative, and to mine employees.

Surface and Underground

§ 57.3050 Secondary breakage.

Material, other than hanging material, to be broken by secondary drilling and blasting, or by any other method shall be positioned or blocked to prevent hazardous movement before persons commence breaking operations. Persons who perform those operations shall work from a location where, if movement of material occurs, those persons will not be endangered.

§ 57.3051 Scaling tools.

Where manual scaling may be required at a work place, a scaling bar of sufficient length to place the user out of danger of falling material shall be provided. The scaling bar shall be blunt on the end held by the user. Picks or other short tools shall not be used for scaling when their use places the user in danger of falling material.

§ 57.3053 Rock bolt anchorage tests.

When rock bolts are used as a means of ground support, anchorage test procedures shall be established and tests shall be conducted to determine the anchorage capacity of rock-bolt installations. Test results shall be in writing and made available to the Secretary or his duly authorized representative.

(Approved by the Office of Management and Budget under OMB control number 1219-0066)

§ 57.3054 Rock bolt torque tests.

Rock bolts used as a means of ground support and which require torquing shall be torqued to a value within the range determined from information obtained by tests in the strata in which the rock-bolt assembly is used. In no case shall the applied torque cause a bolt tension that would exceed the yield point or anchorage capacity of the rock-bolt assembly being used.

§ 57.3055 Torque test requirements.

When installing point-anchor rock bolts—

(a) A torque test shall be conducted on at least every fourth installed bolt;

(b) Torque testing shall be conducted immediately after bolt installation;

(c) If the recommended torque has not been achieved, the equipment used to install the bolt shall be adjusted and the next bolt installed shall then be tested; and

(d) If the recommended torque has not been achieved on the majority of bolts installed in a working place through equipment adjustment, supplemental support equivalent to longer roof bolts with adequate anchorage, steel or wood sets, or cribs shall be installed.

§ 57.3056 Rock bolt hole diameter.

Rock bolt hole drill bits shall be easily identifiable by sight or feel and diameters shall be within a tolerance of ±0.030 inches of the manufacturer's recommended hole diameter for the ancher used.

§ 57.3057 Rock bolt washers.

If used in rock-bolt assemblies to reduce friction between the bolt head and the bearing plate, washers shall—

(a) Have hardness in the range of 35–45 HRC (Hardness Rockwell C Scale);

(b) Conform to the shape of the bolt head and bearing plate; and

(c) Have sufficient strength to withstand loads up to the yield point of the rock bolt.

§ 57.3058 Rock bolting sequence.

When rock bolts are needed for ground support, they shall be installed as soon as praticable after an area is exposed.

Subpart C—Fire Prevention and Control

§ 57.4000 Definitions.

The following definitions apply in this subpart.

Booster fan. A fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.

Combustible liquids. Liquids having a flash point at or above 100 °F (37.8 °C). They are divided into the following classes:

Class II liquids—those having flash points at or above 100 °F (37.8 °C) and below 140 °F (60 °C).

Class IIIA liquids—those having flash points at or above 140 °F (60 °C) and below 200 °F (93.4 °C).

Class IIIB liquids—those having flash points at or above 200 °F (93.4 °C).

Combustible material. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Escapeway. A designated passageway by which persons can leave an underground mine.

Fire resistance rating. The time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flame spread rating. The numerical designation that indicates the extent flame will spread over the surface of a material during a specified period of time.

Flammable gas. A gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid. A liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 °F (37.8 °C), and is known as a Class I liquid.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Main fan. A fan that controls the entire airflow of an underground mine or the airflow of one of the major air circuits of the mine.

Mine opening. Any opening or entrance from the surface into an underground mine.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Safety can. A container of not over five gallons capacity that is designed to safely relieve internal pressure when exposed to heat and has a spring-closing lid and spout cover.

Storage tank. A container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

§ 57.4011 Abandoned electric circuits.

Abandoned electric circuits shall be deenergized and isolated so that they cannot become energized inadvertently.

§ 57.4057 Underground trailing cables.

Underground trailing cables shall be flame-resistant in accordance with 30 CFR 18.65.

Prohibitions/Precautions/Housekeeping

§ 57.4100 Smoking and use of open flames.

No person shall smoke or use an open flame where flammable or combustible liquids, including greases, or flammable gases are—

(a) Used or transported in a manner that could create a fire hazard; or

(b) Stored or handled.

§ 57.4101 Warning signs.

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

§ 57.4102 Spillage and leakage.

Flammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard.

§ 57.4103 Fueling internal combustion engines.

Internal combustion engines shall be switched off before refueling if the fuel tanks are integral parts of the equipment. This standard does not apply to diesel-powered equipment.

§ 57.4104 Combustible waste.

(a) Waste materials, including liquids, shall not accumulate in quantities that could create a fire hazard.

(b) Waste or rags containing flammable or combustible liquids that could create a fire hazard shall be placed in the following containers until disposed of properly:

(1) Underground—covered metal containers.

(2) On the surface—covered metal containers or equivalent containers with flame containment characteristics.

§ 57.4130 Surface electric substations and liquid storage facilities.

The requirements of this standard apply to surface areas only.

(a) If a hazard to persons could be created, no combustible materials shall be stored or allowed to accumulate within 25 feet of the following:

(1) Electric substations.

(2) Unburied, flammable or combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of flammable or combustible liquids.

(b) The area within the 25-foot perimeter shall be kept free of dry vegetation.

§ 57.4131 Surface fan installations and mine openings.

(a) On the surface, no more than one day's supply of combustible materials shall be stored within 100 feet of mine openings or within 100 feet of fan installations used for underground ventilation.

(b) the one-day supply shall be kept at least 25 feet away from any mine opening except during transit into the mine.

(c) Dry vegetation shall not be permitted within 25 feet of mine openings.

§ 57.4160 Underground electric substations and liquid storage facilities.

The requirements of this standard apply to underground areas only.

(a) Areas within 25 feet of the following shall be free of combustible materials:

(1) Electric substations.

(2) Unburied, combustible liquid storage tanks.

(3) Any group of containers used for storage of more than 60 gallons of combustible liquids.

(b) This standard does not apply to installed wiring or timber that is coated with at least one inch of shotcrete, one-half inch of gunite, or other noncombustible materials with equivalent fire protection characteristics.

§ 57.4161 Use of fire underground.

Fires shall not be lit underground, except for open-flame torches. Torches shall be attended at all times while lit.

Firefighting Equipment

§ 57.4200 General requirements.

(a) For fighting fires that could endanger persons, each mine shall have—

(1) Onsite firefighting equipment for fighting fires in their early stages; and

(2) Onsite firefighting equipment for fighting fires beyond their early stages, or the mine shall have made prior arrangements with a local fire department to fight such fires.

(b) Onsite firefighting equipment shall be—

(1) Of the type, size, and quantity that can extinguish fires of any class which would occur as a result of the hazards present; and

(2) Strategically located, readily accessible, plainly marked, and maintained in fire-ready condition.

§ 57.4201 Inspection.

(a) Firefighting equipment shall be inspected according to the following schedules:

(1) Fire extinguishers shall be inspected visually at least once a month to determine that they are fully charged and operable.

(2) At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose, nozzle, and vessel to determine that the fire extinguishers will operate effectively.

(3) Fire extinguishers shall be hydrostatically tested according to Table C–1 or a schedule based on the manufacturer's specifications to determine the integrity of extinguishing agent vessels.

(4) Water pipes, valves, outlets, hydrants, and hoses that are part of the mine's firefighting system shall be visually inspected at least once every three months for damage or deterioration and use-tested at least once every twelve months to determine that they remain functional.

(5) Fire suppression systems shall be inspected at least once every twelve months. An inspection schedule based on the manufacturer's specifications or the equivalent shall be established for individual components of a system and followed to determine that the system remains functional. Surface fire suppression systems are exempt from these inspection requirements if the systems are used solely for the protection of property and no persons would be affected by a fire.

(b) At the completion of each inspection or test required by this standard, the person making the inspection or test shall certify that the inspection or test has been made and the date on which it was made. Certifications of hydrostatic testing shall be retained until the fire extinguisher is retested or permanently removed from service. Other certifications shall be retained for one year.

TABLE C–1—HYDROSTATIC TEST INTERVALS FOR FIRE EXTINGUISHERS

Extinguisher type	Test interval (years)
Soda Acid	5
Cartridge-Operated Water and/or Antifreeze	5
Stored-Pressure Water and/or Antifreeze	5
Wetting Agent	5
Foam	5
AFFF (Aqueous Film Forming Foam)	5
Loaded Stream	5
Dry-Chemical with Stainless Steel Shells	5
Carbon Dioxide	5
Dry-Chemical, Stored Pressure, with Mild Steel Shells, Brazed Brass Shells, or Aluminum Shells	12
Dry-Chemical, Cartridge or Cylinder Operated, with Mild Steel Shells	12
Bromotrifluoromethane-Halon 1301	12
Bromochlorodifluoromethane-Halon 1211	12
Dry-Powder, Cartridge or Cylinder-Operated, with Mild Steel Shells [1]	12

[1] Except for stainless steel and steel used for compressed gas cylinders, all other steel shells are defined as "mild steel" shells.

§ 57.4202 Fire hydrants.

If fire hydrants are part of the mine's firefighting system, the hydrants shall be provided with—

(a) Uniform fittings or readily available adapters for onsite firefighting equipment;

(b) Readily available wrenches or keys to open the valves; and

(c) Readily available adapters capable of connecting hydrant fittings to the hose equipment of any firefighting organization relied upon by the mine.

§ 57.4203 Extinguisher recharging or replacement.

Fire extinguishers shall be recharged or replaced with a fully charged extinguisher promptly after any discharge.

§ 57.4230 Surface self-propelled equipment.

(a)(1) Whenever a fire or its effects could impede escape from self-propelled equipment, a fire extinguisher shall be on the equipment.

(2) Whenever a fire or its effects would not impede escape from the equipment but could affect the escape of other persons in the area, a fire extinguisher shall be on the equipment or within 100 feet of the equipment.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. Fire extinguishers or manual actuators for the suppression system shall be located to permit their use by persons whose escape could be impeded by fire.

§ 57.4260 Underground self-propelled equipment.

(a) Whenever self-propelled equipment is used underground, a fire extinguisher shall be on the equipment. This standard does not apply to compressed-air powered equipment without inherent fire hazards.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually actuated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. The fire extinguishers or the manual actuator for the suppression system shall be readily accessible to the equipment operator.

§ 57.4261 Shaft-station waterlines.

Waterline outlets that are located at underground shaft stations and are part of the mine's fire protection system shall have at least one fitting located for, and capable of, immediate connection to firefighting equipment.

§ 57.4262 Underground transformer stations, combustible liquid storage and dispensing areas, pump rooms, compressor rooms, and hoist rooms.

Transformer stations, storage and dispensing areas for combustible liquids, pump rooms, compressor rooms, and hoist rooms shall be provided with fire protection of a type, size, and quantity that can extinguish fires of any class in their early stages which could occur as a result of the hazards present.

§ 57.4263 Underground belt conveyors.

Fire protection shall be provided at the head, tail, drive, and take-up pulleys of underground belt conveyors. Provisions shall be made for extinguishing fires along the beltline. Fire protection shall be of a type, size, and quantity that can extinguish fires of any class in their early stages which could occur as a result of the fire hazards present.

Firefighting Procedures/Alarms/Drills

§ 57.4330 Surface firefighting, evacuation, and rescue procedures.

(a) Mine operators shall establish emergency firefighting, evacuation, and rescue procedures for the surface portions of their operations. These procedures shall be coordinated in advance with available firefighting organizations.

(b) Fire alarm procedures or systems shall be established to promptly warn every person who could be endangered by a fire.

(c) Fire alarm systems shall be maintained in operable condition.

§ 57.4331 Surface firefighting drills.

Emergency firefighting drills shall be held at least once every six months for persons assigned surface firefighting responsibilities by the mine operator.

§ 57.4360 Underground alarm systems.

(a) Fire alarm systems capable of promptly warning every person underground, except as provided in paragraph (b), shall be provided and maintained in operating condition.

(b) If persons are assigned to work areas beyond the warning capabilities of the system, provisions shall be made to alert them in a manner to provide for their safe evacuation in the event of a fire.

§ 57.4361 Underground evacuation drills.

(a) At least once every six months, mine evacuation drills shall be held to assess the ability of all persons underground to reach the surface or other designated points of safety within the time limits of the self-rescue devices that would be used during an actual emergency.

(b) The evacuation drills shall—

(1) Be held for each shift at some time other than a shift change and involve all persons underground;

(2) Involve activation of the fire alarm system; and

(3) Include evacuation of all persons from their work areas to the surface or to designated central evacuation points.

(c) At the completion of each drill, the mine operator shall certify the date and the time the evacuation began and ended. Certifications shall be retained for at least one year after each drill.

§ 57.4362 Underground rescue and firefighting operations.

Following evacuation of a mine in a fire emergency, only persons wearing and trained in the use of mine rescue apparatus shall participate in rescue and firefighting operations in advance of the fresh air base.

§ 57.4363 Underground evacuation instruction.

(a) At least once every twelve months, all persons who work underground shall be instructed in the escape and evacuation plans and procedures and fire warning signals in effect at the mine.

(b) Whenever a change is made in escape and evacuation plans and procedures for any area of the mine, all persons affected shall be instructed in the new plans or procedures.

(c) Whenever persons are assigned to work in areas other than their regularly assigned areas, they shall be instructed about the escapeway for that area at the time of such assignment. However, persons who normally work in more than one area of the mine shall be instructed at least once every twelve months about the location of escapeways for all areas of the mine in which they normally work or travel.

(d) At the completion of any instruction given under this standard, the mine operator shall certify the date that the instruction was given. Certifications shall be retained for at least one year.

Flammable and Combustible Liquids and Gases

§ 57.4400 Use restrictions.

(a) Flammable liquids shall not be used for cleaning.

(b) Solvents shall not be used near an open flame or other ignition source, near any source of heat, or in an atmosphere that can elevate the temperature of the solvent above the flash point.

§ 57.4401 Storage tank foundations.

Fixed, unburied, flammable or combustible liquid storage tanks shall be securely mounted on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused by tanks settling.

§ 57.4402 Safety can use.

Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

§ 57.4430 Surface storage facilities.

The requirements of this standard apply to surface areas only.

(a) Storage tanks for flammable or combustible liquids shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Isolated or separated from ignition sources to prevent fire or explosion; and

(4) Vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class I, II, or IIIA liquids shall be isolated or separated from ignition sources. These pressure relief requirements do not apply to tanks used for storage of Class IIIB liquids that are larger than 12,000 gallons in capacity.

(b) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner that prevents leakage.

(c) Fixed, unburied tanks located where escaping liquid could present a hazard to persons shall be provided with—

(1) Containment for the entire capacity of the largest tank; or

(2) Drainage to a remote impoundment area that does not endanger persons. However, storage of only Class IIIB liquids does not require containment or drainage to remote impoundment.

§ 57.4431 Surface storage restrictions.

(a) On the surface, no unburied flammable or combustible liquids or flammable gases shall be stored within 100 feet of the following:

(1) Mine openings or structures attached to mine openings.

(2) Fan installations for underground ventilation.

(3) Hoist houses.

(b) Under this standard, the following may be present in the hoist house in quantities necessary for the day-to-day maintenance of the hoist machinery.

(1) Flammable liquids in safety cans or in other containers placed in tightly closed cabinets. The safety cans and cabinets shall be kept away from any heat source, and each cabinet shall be labeled "flammables."

(2) Combustible liquids in closed containers. The cointainers shall be kept away from any heat source and the hoist operator's work station.

§ 57.4460 Storage of flammable liquids underground.

(a) Flammable liquids shall not be stored underground, except—

(1) Small quantities stored in tightly closed cabinets away from any heat source. The small quantities shall be stored in safety cans or in non-glass containers of a capacity equal to or less than a safety can. Each cabinet shall be labeled "flammables."

(2) Acetylene and liquefied protroleum gases stored in containers designed for that specific purpose.

(b) Gasoline shall not be stored underground in any quantity.

§ 57.4461 Gasoline use restrictions underground.

If gasoline is used underground to power internal combustion engines—

(a) The mine shall be nongassy and shall have multiple horizontal or inclined roadways from the surface large enough to accommodate vehicular traffic;

(b) All roadways and other openings shall connect with another opening every 100 feet by a passage large enough to accommodate any vehicle in the mine or alternate routes shall provide equivalent escape capabilities; and

(c) No roadway or other opening shall be supported or lined with wood or other combustible materials.

§ 57.4462 Storage of combustible liquids underground.

The requirements of this standard apply to underground areas only.

(a) Combustible liquids, including oil or grease, shall be stored in non-glass containers or storage tanks. The containers or storage tanks shall be—

(1) Capable of withstanding working pressures and stresses and compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Located in areas free of combustible materials or in areas where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible material with equivalent fire protection characteristics; and

(4) Separated from explosives or blasting agents, shaft stations, and ignition sources including electric equipment that could create sufficient heat or sparks to pose a fire hazard. Separation shall be sufficient to prevent the occurrence or minimize the spread of fire.

(b) Storage tanks shall be vented or otherwise constructed to prevent development of pressure or vacuum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class II or IIIA liquids shall be isolated or separated from ignition sources.

(c) At permanent storage areas for combustible liquids, means shall be provided for confinement or removal of the contents of the largest storage tank in the event of tank rupture.

(d) All piping, valves, and fittings shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner which prevents leakage.

§ 57.4463 Liquefied petroleum gas use underground.

Use of liquefied petroleum gases underground shall be limited to maintenance work.

Installation/Construction/Maintenance

§ 57.4500 Heat sources.

Heat sources capable of producing combustion shall be separated from combustible materials if a fire hazard could be created.

§ 57.4501 Fuel lines.

Fuel lines shall be equipped with valves capable of stopping the flow of fuel at the source and shall be located and maintained to minimize fire hazards. This standard does not apply to fuel lines on self-propelled equipment.

§ 57.4502 Battery-charging stations.

(a) Battery-charging stations shall be ventilated with a sufficient volume of air to prevent the accumulation of hydrogen gas.

(b) Smoking, use of open flames, or other activities that could create an ignition source shall be prohibited at the battery charging station during battery charging.

(c) Readily visible signs prohibiting smoking or open flames shall be posted at battery-charging stations during battery charging.

§ 57.4503 Conveyor belt slippage.

(a) Surface belt conveyors within confined areas where evacuation would be restricted in the event of a fire resulting from belt-slippage shall be equipped with a detection system capable of automatically stopping the drive pulley.

(b) Underground belt conveyors shall be equipped with a detection system capable of automatically stopping the drive pulley if slippage could cause ignition of the belt.

(c) A person shall attend the belt at the drive pulley when it is necessary to operate the conveyor while temporarily bypassing the automatic function.

§ 57.4504 Fan installations.

(a) Fan houses, fan bulkheads for main and booster fans, and air ducts connecting main fans to underground openings shall be constructed of noncombustible materials.

(b) Areas within 25 feet of main fans or booster fans shall be free of combustible materials, except installed wiring, ground and track support, headframes, and direct-fired heaters. Other timber shall be coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible materials.

§ 57.4505 Fuel lines to underground areas.

Fuel lines into underground storage or dispensing areas shall be drained at the completion of each transfer of fuel unless the following requirements are met:

(a) The valve at the supply source shall be kept closed when fuel is not being transferred.

(b) The fuel line shall be—

(1) Capable of withstanding working pressures and stresses;

(2) Located to prevent damage; and

(3) Located in areas free of combustible materials or in areas where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other

noncombustible material with equivalent fire protection characteristics.

(c) Provisions shall be made for control or containment of the entire volume of the fuel line so that leakage will not create a fire hazard.

§ 57.4530 Exits for surface buildings and structures.

Surface buildings or structures in which persons work shall have a sufficient number of exits to permit prompt escape in case of fire.

§ 57.4531 Surface flammable or combustible liquid storage buildings or rooms.

(a) Surface storage buildings or storage rooms in which flammable or combustible liquids, including grease, are stored and that are within 100 feet of any person's work station shall be ventilated with a sufficient volume of air to prevent the accumulation of flammable vapors.

(b) In addition, the buildings or rooms shall be—

(1) Constructed to meet a fire resistance rating of at least one hour; or

(2) Equipped with an automatic fire supression system; or

(3) Equipped with an early warning fire detection device that will alert any person who could be endangered by a fire, provided that no person's work station is in the building.

(c) Flammable or combustible liquids in use for day-to-day maintenance and operational activities are not considered in storage under this standard.

§ 57.4532 Blacksmith shops.

Blacksmith shops located on the surface shall be—

(a) At least 100 feet from fan installations used for intake air and mine openings;

(b) Equipped with exhaust vents over the forge and ventilated to prevent the accumulation of the products of combustion; and

(c) Inspected for smoldering fires at the end of each shift.

§ 57.4533 Mine opening vicinity.

Surface buildings or other similar structures within 100 feet of mine openings used for intake air or within 100 feet of mine openings that are designated escapeways in exhaust air shall be—

(a) Constructed of noncombustible materials; or

(b) Constructed to meet a fire resistance rating of no less than one hour; or

(c) Provided with an automatic fire suppression system; or

(d) Covered on all combustible interior and exterior structural surfaces with noncombustible material or limited combustible material, such as five-eighth inch, type "X" gypsum wallboard.

§ 57.4560 Mine entrances.

For at least 200 feet inside the mine portal or collar, timber used for ground support in intake openings and in exhaust openings that are designated as escapeways under Subpart J, "Travelways and Escapeways," shall be—

(a) Provided with a fire suppression system, other than fire extinguishers and water hoses, capable of controlling a fire in its early stages; or

(b) Covered with shotcrete, gunite, or other material with equivalent fire protection characteristics; or

(c) Coated with fire-retardant paint or other material to reduce its flame spread rating to 25 or less and maintained in that condition.

§ 57.4561 Stationary diesel equipment underground.

Stationary diesel equipment underground shall be—

(a) Supported on a noncombustible base; and

(b) Provided with a thermal sensor that automatically stops the engine if overheating occurs.

Welding/Cutting/Compressed Gases

§ 57.4600 Extinguishing equipment.

(a) When welding, cutting, soldering, thawing, or bending—

(1) With an electric arc or with an open flame where an electrically conductive extinguishing agent could create an electrical hazard, a multipurpose dry-chemical fire extinguisher or other extinguisher with at least a 2–A:10–B:C rating shall be at the worksite.

(2) With an open flame in an area where no electrical hazard exists, a multipurpose dry-chemical fire extinguisher or equivalent fire extinguishing equipment for the class of fire hazard present shall be at the worksite.

(b) Use of halogenated fire extinguishing agents to meet the requirements of this standard shall be limited to Halon 1211 ($CBrClF_2$) and Halon 1301 ($CBrF_3$). When these agents are used in confined or unventilated areas, precautions based on the manufacturer's use instructions shall be taken so that the gases produced by thermal decomposition of the agents are not inhaled.

§ 57.4601 Oxygen cylinder storage.

Oxygen cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease.

§ 57.4602 Gages and regulators.

Gages and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

§ 57.4603 Closure of valves.

To prevent accidental release of gases from hoses and torches attached to oxygen and acetylene cylinders or to manifold systems, cylinder or manifold system valves shall be closed when—

(a) The cylinders are moved;

(b) The torch and hoses are left unattended; or

(c) The task or series of tasks is completed.

§ 57.4604 Preparation of pipelines or containers.

Before welding, cutting, or applying heat with an open flame to pipelines or containers that have contained flammable or combustible liquids, flammable gases, or explosive solids, the pipelines or containers shall be—

(a) Drained, ventilated, and thoroughly cleaned of any residue;

(b) Vented to prevent pressure build-up during the application of heat; and

(c)(1) Filled with an inert gas or water, where compatible; or

(2) Determined to be free of flammable gases by a flammable gas detection device prior to and at frequent intervals during the application of heat.

§ 57.4660 Work in shafts, raises, or winzes and other activities involving hazard areas.

During performance of an activity underground described in Table C–2 or when falling sparks or hot metal from work performed in a shaft, raise, or winze could pose a fire hazard—

(a) A multipurpose dry-chemical fire extinguisher shall be at the worksite to supplement the fire extinguishing equipment required by § 57.4600; and

(b) At least one of the following actions shall be taken:

(1) Wet down the area before and after the operation, taking precaution against any hazard of electrical shock.

(2) Isolate any combustible material with noncombustible material.

(3) Shield the activity so that hot metal and sparks cannot cause a fire.

(4) Provide a second person to watch for and extinguish any fire.

TABLE C-2

Activity	Distance	Fire hazard
Welding or cutting with an electric arc or open flame Using an open flame to bend or heat materials Thawing pipes electrically, except with heat tape	Within 35 feet of—	More than 1 gallon of combustible liquid, unless in a closed, metal container. More than 50 pounds of non-fire-retardant wood. More than 10 pounds of combustible plastics.
Soldering or thawing with an open flame	Within 10 feet of—	Materials in a shaft, raise, or winze that could be ignited by hot metal or sparks.

(5) Cover or bulkhead the opening immediately below and adjacent to the activity with noncombustible material to prevent sparks or hot metal from falling down the shaft, raise, or winze. This alternative applies only to activities involving a shaft, raise, or winze.

(c) The affected area shall be inspected during the first hour after the operation is completed. Additional inspections shall be made or other fire prevention measures shall be taken if a fire hazard continues to exist.

Ventilation Control Measures

§ 57.4760 Shaft mines.

(a) Shaft mines shall be provided with at least one of the following means to control the spread of fire, smoke, and toxic gases underground in the event of a fire: control doors, reversal of mechanical ventilaton, or effective evacuation procedures. Under this standard, "shaft mine" means a mine in which any designated escapeway includes a mechanical hoisting device or a ladder ascent.

(1) *Control doors.* If used as an alternative, control doors shall be—

(i) Installed at or near shaft stations of intake shafts and any shaft designated as an escapeway under § 57.11053 or at other locations that provide equivalent protection;

(ii) Constructed and maintained according to Table C-3;

(iii) Provided with a means of remote closure at landings of timbered intake shafts unless a person specifically designated to close each door in the event of a fire can reach the door within three minutes;

(iv) Closed or opened only according to predetermined conditions and procedures;

(v) Constructed so that once closed they will not reopen as a result of a differential in air pressure;

(vi) Constructed so that they can be opened from either side by one person, or be provided with a personnel door that can be opened from either side; and

(vii) Clear of obstructions.

(2) *Mechanical ventilation reversal.* If used as an alternative, reversal of mechanical ventilation shall—

(i) Provide at all times at least the same degree of protection to persons underground as would be afforded by the installation of control doors;

(ii) Be accomplished by a main fan. If the main fan is located underground—

(A) The cable or conductors supplying power to the fan shall be routed through areas free of fire hazards; or

(B) The main fan shall be equipped with a second, independent power cable or set of conductors from the surface. The power cable or conductors shall be located so that an underground fire disrupting power in one cable or set of conductors will not affect the other; or

(C) A second fan capable of accomplishing ventilation reversal shall be available for use in the event of failure of the main fan;

(iii) Provide rapid air reversal that allows persons underground time to exit in fresh air by the second escapeway or find a place or refuge; and

(iv) Be done according to predetermined conditions and procedures.

(3) *Evacuation.* If used as an alternative, effective evacuation shall be demonstrated by actual evacuation of all persons underground to the surface in ten minutes or less through routes that will not expose persons to heat, smoke, or toxic fumes in the event of a fire.

(b) If the destruction of any bulkhead on an inactive level would allow fire contaminants to reach an escapeway, that bulkhead shall be constructed and maintained to provide at least the same protection as required for control doors under Table C-3.

TABLE C-3—CONTROL DOOR CONSTRUCTION

Location	Minimum required construction
At least 50 feet from: timbered areas, exposed combustible rock, and any other combustible material [1]	Control door that meets the requirements for a ventilation door in conformance with 30 CFR 57.5031.
Within 50 feet but no closer than 20 feet of: timbered areas, exposed combustible rock, or other combustible material [1] Within 20 feet of: any timbered areas or combustible rock, provided that the timber and combustible rock within the 20 foot distance are coated with one inch of shotcrete, one-half inch of gunite, or other material with equivalent fire protection characteristics and no other combustible material [1] is within that distance	Control door that serves as a barrier to the effects of fire and air leakage. The control door shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.
Within 20 feet of: timbered areas, exposed combustible rock, or other combustible material [1]	Control door that serves as a barrier to fire, the effects of fire, and air-leakage. The door shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood grain of one layer shall be perpendicular to the wood grain of the other layer. The wood construction shall be covered on all sides and edges with no less than twenty-four gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Roll-down steel doors with a fire-resistance rating of 1½ hours or greater, but without an insulation core, are acceptable if an automatic sprinkler or deluge system is installed that provides even coverage of the door on both sides.

[1] In this table, "combustible material" does not refer to installed wiring or track support.

§ 57.4761 Underground shops.

To confine or prevent the spread of toxic gases from a fire originating in an underground shop where maintenance work is routinely done on mobile equipment, one of the following measures shall be taken: use of control doors or bulkheads, routing of the mine shop air directly to an exhaust system, reversal of mechanical ventilation, or use of an automatic fire suppression system in conjunction with an alternate escape route. The alternative used shall at all times provide at least the same degree of safety as control doors or bulkheads.

(a) *Control doors or bulkheads.* If used as an alternative, control doors or bulkheads shall meet the following requirements:

(1) Each control door or bulkhead shall be constructed to serve as a barrier to fire, the effects of fire, and air leakage at each opening to the shop.

(2) Each control door shall be—

(i) Constructed so that, once closed, it will not reopen as a result of a differential in air pressure;

(ii) Constructed so that it can be opened from either side by one person or be provided with a personnel door that can be opened from either side;

(iii) Clear of obstructions; and

(iv) Provided with a means of remote or automatic closure unless a person specifically designated to close the door in the event of a fire can reach the door within three minutes.

(3) If located 20 feet or more from exposed timber or other combustible material, the control doors or bulkheads shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.

(4) If located less than 20 feet from exposed timber or other combustibles, the control door or bulkhead shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood-grain of one layer shall be perpendicular to the wood-grain of the other layer. The wood construction shall be covered on all sides and edges with no less than 24-gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Roll-down steel doors with a fire-resistance rating of 1½ hours or greater, but without an insulation core, are acceptable provided that an automatic sprinkler or deluge system is installed that provides even coverage of the door on both sides.

(b) *Routing air to exhaust system.* If used as an alternative, routing the mine shop exhaust air directly to an exhaust system shall be done so that no person would be exposed to toxic gases in the event of a shop fire.

(c) *Mechanical ventilation reversal.* If used as an alternative, reversal of mechanical ventilation shall—

(1) Be accomplished by a main fan. If the main fan is located underground—

(i) The cable or conductors supplying power to the fan shall be routed through areas free of fire hazards; or

(ii) The main fan shall be equipped with a second, independent power cable or set of conductors from the surface. The power cable or conductors shall be located so that an underground fire disrupting power in one cable or set of conductors will not affect the other; or

(iii) A second fan capable of accomplishing ventilation reversal shall be available for use in the event of failure of the main fan;

(2) Provide rapid air reversal that allows persons underground time to exit in fresh air by the second escapeway or find a place of refuge; and

(3) Be done according to predetermined conditions and procedures.

(d) *Automatic fire suppression system and escape route.* If used as an alternative, the automatic fire suppression system and alternate escape route shall meet the following requirements:

(1) The suppression system shall be—

(i) Located in the shop area;

(ii) The appropriate size and type for the particular fire hazards involved; and

(iii) Inspected at weekly intervals and properly maintained.

(2) The escape route shall bypasss the shop area so that the route will not be affected by a fire in the shop area.

Appendix I for Subpart C—National Consensus Standards

Mine operators seeking further information in the area of fire prevention and control may consult the following national consensus standards.

MSHA standard	National consensus standard
§§ 57.4200, 57.4201, 57.4261, and 57.4262	NFPA No. 10—Portable Fire Extinguisher. NFPA No. 11—Low Expansion Foam and Combined Agent Systems. NFPA No. 11A—High Expansion Foam Systems. NFPA No. 12—Carbon Dioxide Extinguishing Systems. NFPA No. 12A—Halon 1301 Extinguishing Systems. NFPA No. 13—Water Sprinkler Systems. NFPA No. 14—Standpipe and Hose Systems. NFPA No. 15—Water Spray Fixed Systems. NFPA No. 16—Foam Water Spray Systems. NFPA No. 17—Dry-Chemical Extinguishing Systems. NFPA No. 121—Mobile Surface Mining Equipment. NFPA No. 291—Testing and Marking Hydrants. NFPA No. 1962—Care, Use, and Maintenance of Fire Hose, Connections, and Nozzles.
§ 57.4202	NFPA No. 14—Standpipe and Hose Systems. NFPA No. 291—Testing and Marking Hydrants.
§ 57.4203	NFPA No. 10—Portable Fire Extinguishers.
§ 57.4230	NFPA No. 10—Portable Fire Extinguishers. NFPA No. 121—Mobile Surface Mining Equipment.
§ 57.4260	NFPA No. 10—Portable Fire Extinguishers.
§ 57.4261	NFPA No. 14—Standpipe and Hose Systems.
§ 57.4533	NFPA Fire Protection Handbook.
§ 57.4560	ASTM E-162—Surface Flammability of Materials Using a Radiant Heat Energy Source.

Subpart D—Air Quality, Radiation, and Physical Agents

Air Quality—Surface and Underground

§ 57.5001 Exposure limits for airborne contaminants.

Except as permitted by § 57.5005—

(a) Except as provided in paragraph (b), the exposure to airborne contaminants shall not exceed, on the basis of a time weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists, as set forth and explained in the 1973 edition of the Conference's publication, entitled "TLV's Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1973," pages 1 through 54, which are hereby incorporated by reference and made a part hereof. This publication may be obtained from the American Conference of Governmental Industrial Hygienists by writing to the Secretary-Treasurer, P.O. Box 1937, Cincinnati, Ohio 45201, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration. Excursions above the listed thresholds shall not be of a greater magnitude than is characterized as permissible by the Conference.

(b) The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 2 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 400-450 magnification (4 millimeter objective) phase contrast illumination. No employees shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers longer than 5 micrometers, per milliliter of air, as determined by the membrane filter methods over a minimum sampling time of 15 minutes. "Asbestos" is a generic term for a number of hydrated silicates that, when crushed or processed, separate into flexible fibers made up of fibrils. Although there are many asbestos minerals, the term "asbestos" as used herein is limited to the following minerals: chrysotile, amosite, crocidolite, anthophylite asbestos, tremolite asbestos, and actinolite asbestos.

(c) Employees shall be withdrawn from areas where there is present an airborne contaminant given a "C" designation by the Conference and the concentration exceeds the threshold limit value listed for that contaminant.

§ 57.5002 Exposure monitoring.

Dust, gas, mist, and fume surveys shall be conducted as frequently as necessary to determine the adequacy of control measures.

§ 57.5003 Drill dust control.

Holes shall be collared and drilled wet, or other efficient dust control measures shall be used when drilling non-water-soluble material. Efficient dust-control measures shall be used when drilling water-soluble materials

§ 57.5005 Control of exposure to airborne contaminants.

Control of employee exposure to harmful airborne contaminants shall be, insofar as feasible, by prevention of contamination, removal by exhaust ventilation, or by dilution with uncontaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment. Whenever respiratory protective equipment is used a program for selection, maintenance, training, fitting, supervision, cleaning, and use shall meet the following minimum requirements:

(a) Mine Safety and Health Administration approved respirators which are applicable and suitable for the purpose intended shall be furnished, and employees shall use the protective equipment in accordance with training and instruction.

(b) A respirator program consistent with the requirements of ANSI Z88.2–1969, published by the American National Standards Institute and entitled "American National Standards Practices for Respiratory Protection ANSI Z88.2–1969," approved August 11, 1969, which is hereby incorporated by reference and made a part hereof. This publication may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration.

(c) When respiratory protection is used in atmospheres immediately harmful to life, the presence of at least one other person with backup equipment and rescue capability shall be required in the event of failure of the respiratory equipment.

(Approved by the Office of Management and Budget under OMB control number 1219–0048)

§ 57.5006 Restricted use of chemicals.

The following chemical substances shall not be used or stored except by competent persons under laboratory conditions approved by a nationally recognized agency acceptable to the Secretary.

(a) Carbon tetrachloride,
(b) Phenol,
(c) 4-Nitrobiphenyl,
(d) Alpha-naphthylamine,
(e) 4,4-Methylene Bis (2-chloroaniline),
(f) Methyl-chloromethyl ether,
(g) 3,3 Dichlorobenzidine,
(h) Bis (chloromethyl) ether,
(i) Beta-napthylamine,
(j) Benzidine,
(k) 4-Aminodiphenyl,
(l) Ethyleneimine,
(m) Beta-propiolactone,
(n) 2-Acetylaminofluorene,
(o) 4-Dimethylaminobenzene, and
(p) N-Nitrosodimethylamine.

Air Quality—Surface Only

§ 57.5010 Abrasive blasting.

Silica sand, or other materials containing more than 1 percent free silica, shall not be used as an abrasive substance in abrasive blasting cleaning operations without requiring full-flow respiratory protection, or equivalent, to all exposed persons.

Air Quality—Underground Only

§57.5015 Oxygen deficiency.

Air in all active workings shall contain at least 19.5 volume percent oxygen.

§ 57.5016 Abrasive blasting.

Silica sand, or other materials containing more than 1 percent free silica, shall not be used as an abrasive substance in abrasive blasting cleaning operations.

Radiation—Underground Only

§ 57.5037 Radon daughter exposure monitoring.

(a) In all mines at least one sample shall be taken in exhaust mine air by a competent person to determine if concentrations of radon daughters are present. Sampling shall be done using suggested equipment and procedures described in section 14.3 of ANSI N13.8–1973, entitled "American National Standard Radiation Protection in Uranium Mines," approved July 18, 1973, pages 13–15, by the American National Standards Institute, Inc., which is incorporated by reference and made a part of the standard or equivalent procedures and equipment acceptable to the Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration. This publication may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, or may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. The mine operator may request that the required exhaust mine air sampling be done by the Mine Safety and Health Administration. If concentrations of radon daughters in excess of 0.1 WL are found in an exhaust air sample, thereafter—

(1) Where uranium is mined—radon daughter concentrations representative of worker's breathing zone shall be determined at least every two weeks at random times in all active working areas such as stopes, drift headings, travelways, haulageways, shops, stations, lunch rooms, magazines, and any other place or location where persons work, travel, or congregate. However, if concentrations of radon daughters are found in excess of 0.3 WL in an active working area, radon daughter concentrations thereafter shall be determined weekly in that working area until such time as the weekly determinations in that area have been 0.3 WL or less for 5 consecutive weeks.

(2) Where uranium is not mined—when radon daughter concentrations between 0.1 and 0.3 WL are found in an active working area, radon daughter concentration measurements representative of worker's breathing zone shall be determined at least every 3 months at random times until such time as the radon daughter concentrations in that area are below 0.1 WL, and annually thereafter. If concentrations of radon daughters are found in excess of 0.3 WL in an active working area radon daughter concentrations thereafter shall be determined at least weekly in that working area until such time as the weekly determinations in that area have been 0.3 WL or less for 5 consecutive weeks.

(b) If concentrations of radon daughters less than 0.1 WL are found in an exhaust mine air sample, thereafter;

(1) Where uranium is mined—at least one sample shall be taken in the exhaust mine air monthly.

(2) Where uranium is not mined—no further exhaust mine air sampling is required.

(c) The sample date, locations, and results obtained under (a) and (b) above shall be recorded and retained at the mine site or nearest mine office for at least two (2) years and shall be made available for inspection by the Secretary or his authorized representative.

(Approved by the Office of Management and Budget under OMB control number 1219–0003)

§ 57.5038 Annual exposure limits.

No person shall be permitted to receive an exposure in excess of 4 WLM in any calendar year.

§ 57.5039 Maximum permissible concentration.

Except as provided by standard § 57.5005, persons shall not be exposed to air containing concentrations of radon daughters exceeding 1.0 WL in active workings.

§57.5040 Exposure records.

(a) The operator shall calculate and record complete individual exposures to concentrations of radon daughters as follows:

(1) Where uranium is mined—the complete individual exposures of all mine personnel working underground shall be calculated and recorded. These records shall include the individual's time in each active working area such as stopes, drift headings, travelways, haulageways, shops, stations, lunch rooms, magazines and any other place or location where persons work, travel or congregate, and the concentration of airborne radon daughters for each active working area.

(2) Where uranium is not mined—the complete individual exposure of all mine personnel working in active working areas with radon daughter concentrations in excess of 0.3 WL shall be calculated and recorded. These records shall include the individual's time in each active working area and the concentrations of airborne radon daughters for each active working area. The operator may discontinue calculating and recording the individual exposures of any personnel assigned to work in active working areas where radon daughter concentrations have been reduced to 0.3 WL or less for 5 consecutive weeks provided that such exposure calculation and recordation shall not be discontinued with respect to any person who has accumulated more exposure than 1/12 (one-twelfth) of a WLM times the number of months for which exposures have been calculated and recorded in the calendar year in which the exposure calculation and recordation is proposed to be discontinued.

(B) The operator shall maintain the form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9), or equivalent forms that are acceptable to the Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, on which there shall be recorded the specific information required by the form with respect to each person's time-weighted current and cumulative exposure to concentrations of radon daughters.

(1) The form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9), shall consist of an original of each form for the operator's records which shall be available for examination by the Secretary or his authorized representative.

(2) On or before February 15 of each calendar year, or within 45 days after the shutdown of mining operations for the calendar year, each mine operator shall submit to the Mine Safety and Health Administration a copy of the "Record of Individual Exposure to Radon Daughters" (Form 4000–9), or acceptable equivalent form, showing the data required by the form for all personnel for whom calculation and recording of exposure was required during the previous calendar year.

(3) Errors detected by the operator shall be corrected on any forms kept by the operator and a corrected copy of any forms submitted to the Mine Safety and Health Administration shall be submitted to the Mine Safety and Health Administration within 60 days of detection and shall identify the errors and indicate the date the corrections are made.

(4) The operator's records of individual exposure to concentrations of radon daughters and copies of "Record of Individual Exposure to Radon Daughters" (Form 4000–9) or acceptable equivalent form or true legible facsimiles thereof (microfilm or other), shall be retained at the mine or nearest mine office for a period as specified in paragraph 9.8, ANSI N13.8–1973, or shall be submitted to the Mine Safety and Health Administration. These records, if retained by the operator, shall be open for inspection by the Secretary of Labor, his authorized representative, and authorized representatives of the official mine inspection agency of the State in which the mine is located. Paragraph 9.8, ANSI N13.8–1973, is incorporated by reference and made a part of this standard. ANSI N13.8–1973 may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the American National Standards Institute, Inc., at 1430 Broadway, New York, New York 10018.

(5) Upon written request from a person who is a subject of these records, a statement of the year-to-date and cumulative exposure applicable to that person shall be provided to the person or to whomever such person designates.

(6) The blank form entitled "Record of Individual Exposure to Radon Daughters" (Form 4000–9) may be obtained on request from any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.

Note.—To calculate an individual's exposure to WLM for a given period of time, multiply the total exposure time (hours to the nearest half-hour) in an active working area by the average concentration of airborne radon daughters for the applicable active working area (average working level calculated to the nearest hundredth working level) and divide the product by the constant 173 hours per month.

An average airborne radon daughter concentration for a designated active working area shall be determined by averaging all sampling results for that working area during the time that persons are present. Any sample taken by Federal or State mine inspectors, which represents exposure to miners and reported to the operator within three days of being taken, shall be included in the average concentration; except that if the mine operator samples simultaneously with the inspector, he may use his own sample results.

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§ 57.5041 Smoking prohibition.

Smoking shall be prohibited in all areas of a mine where exposure records are required to be kept in compliance with standard 57.5040.

§ 57.5042 Revised exposure levels.

If levels of permissible exposures to concentrations of radon daughters different from those prescribed in 57.5038 are recommended by the Environmental Protection Agency and approved by the President, no employee shall be permitted to receive exposures in excess of those levels after the effective dates established by the Agency.

§ 57.5044 Respirators.

The wearing of respirators approved for protection against radon daughters shall be required in environments exceeding 1.0 WL and respirator use shall be in compliance with standard 57.5005.

§ 57.5045 Posting of inactive workings.

Inactive workings in which radon daughter concentrations are above 1.0 WL, shall be posted against unauthorized entry and designated by signs indicating them as areas in which approved respirators shall be worn.

§ 57.5046 Protection against radon gas.

Where radon daughter concentrations exceed 10 WL, respirator protection against radon gas shall be provided in addition to protection against radon daughters. Protection against radon gas shall be provided by supplied air devices or by face masks containing absorbent material capable of removing both the radon and its daughters.

§ 57.5047 Gamma radiation surveys.

(a) Gamma radiation surveys shall be conducted annually in all underground mines where radioactive ores are mined.

(b) Surveys shall be in accordance with American National Standards (ANSI) Standard N13.8–1973, entitled "Radiation Protection in Uranium Mines", section 14.1 page 12, which is hereby incorporated by reference and made a part hereof. This publication may be examined in any Metal and Nonmetal Mine Safety and Health Subdistrict Office, Mine Safety and Health Administration, or may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

(c) Where average gamma radiation measurements are in excess of 2.0 milliroentgens per hour in the working place, gamma radiation dosimeters shall be provided for all persons affected, and records of cumulative individual gamma radiation exposure shall be kept.

(d) Annual individual gamma radiation exposure shall not exceed 5 Rems.

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Physical Agents—Surface and Underground

§ 57.5050 Exposure limits for noise.

(a) No employee shall be permitted an exposure to noise in excess of that specified in the table below. Noise level measurements shall be made using a sound level meter meeting specifications for type 2 meters contained in American National Standards Institute (ANSI) Standard S1.4–1971, "General Purpose Sound Level Meters," approved April 27, 1971, which is hereby incorporated by reference and made a part hereof, or by a dosimeter with similar accuracy. This publication may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Health and Safety District or Subdistrict Office of the Mine Safety and Health Administration.

PERMISSIBLE NOISE EXPOSURES

Duration per day, hours of exposure	Sound level dBA, slow response
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
½	110
¼ or less	115

No exposure shall exceed 115 dBA. Impact or impulsive noises shall not exceed 140 dB, peak sound pressure level.

Note.—When the daily exposure is composed of two or more periods of noise exposure at different levels, their combined effect shall be considered rather than the individual effect of each.

If the sum

$$(C_1/T_1)+(C_2/T_2)+\ldots(C_n/T_n)$$

exceeds unity, then the mixed exposure shall be considered to exceed the permissible exposure. C_n indicates the total time of exposure at a specified noise level, and T_n indicates the total time of exposure permitted at that level. Interpolation between tabulated values may be determined by the following formula:

$$\log T = 6.322 - 0.0602\,SL$$

Where T is the time in hours and SL is the sound level in dBA.

(b) When employees' exposure exceeds that listed in the above table, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce exposure to within permissible levels, personal protection equipment shall be provided and used to reduce sound levels to within the levels of the table.

Subpart E—Explosives

§ 57.6000 Application.

The term "explosives" as used in this subpart includes blasting agents. The standards in this subpart in which the term "explosives" appears are applicable to blasting agents (as well as to other explosives) unless blasting agents are expressly excluded.

Storage—Surface and Underground

§ 57.6001 Detonators and explosives.

Detonators and explosives other than blasting agents shall be stored in magazines.

§ 57.6002 Separation of detonators from explosives.

Detonators shall not be stored in the same magazine with explosives.

§ 57.6005 Areas around storage facilities.

Areas surrounding magazines and facilities for the storage of blasting agents shall be kept clear of rubbish, brush, dry grass, or trees (other than live trees 10 or more feet tall), for a distance not less than 25 feet in all directions, and other unnecessary combustible materials for a distance of not less than 50 feet.

§ 57.6007 Precautionary practices.

Explosives, detonators, and related materials such as safety fuse and detonating cord shall be—

(a) Stored in a manner to facilitate use of oldest stocks first;

(b) Stored according to brand and grade in such a manner as to facilitate identification;

(c) Stored with their top sides up; and

(d) Stacked in a stable manner but not more than eight (8) feet high.

§ 57.6008 Separation of ANFO blasting agents from other explosives products.

Ammonium nitrate-fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

§ 57.6011 Containers.

Containers of explosives, blasting agents, and detonators shall be closed while being stored.

§ 57.6012 Repair of storage facilities.

Prior to interior repair of facilities for storage of explosives, including blasting agents, all materials stored within the facility shall be removed and the interior cleaned. Prior to the exterior repair of such facilities, all materials stored within the facility shall be removed, if there exists a possibility that such repairs may produce a spark or flame. The explosives removed from storage facilities to be repaired shall be placed either in other storage facilities appropriate for the storage of such materials under this subpart or a safe distance from the facilities under repair where they shall be properly guarded and protected until the repairs have been completed and the materials have been returned to storage within the facilities.

Storage—Surface Only

§ 57.6020 Magazine requirements.

Magazines shall be—

(a) Located in accordance with the current American Table of Distances for storage of explosives;

(b) Detached structures located away from powerlines, fuel storage areas, and other possible sources of fire;

(c) Constructed substantially of noncombustible material or covered with fire-resistant material;

(d) Reasonably bullet resistant;

(e) Electrically bonded and grounded if constructed of metal;

(f) Made of nonsparking material on the inside, including floors;

(g) Provided with adequate and effectively screened ventilation openings near the floor and ceiling;

(h) Kept locked securely when unattended;

(i) Posted with suitable danger signs so located that a bullet passing through the face of a sign will not strike the magazine;

(j) Used exclusively for storage of explosives or detonators and kept free of all extraneous materials;

(k) Kept clean and dry in the interior, and in good repair; and

(l) Unheated, unless heated in a manner that does not create a fire or explosion hazard. Electrical heating devices shall not be used inside a magazine.

Storage—Underground Only

§ 57.6027 Box-type distribution magazines.

Box-type underground-distribution storage magazines used to store explosives or detonators near working faces shall be constructed with only nonsparking material inside and equipped with covers or doors and shall be located out of the line of blasts.

§ 57.6029 Labeling of magazines.

Secondary underground and box-type underground magazines shall be labeled suitably.

§ 57.6030 Detonator magazines.

Detonator-storage magazines shall be of the same construction as explosives-storage magazines and shall be separated by at least 25 feet from explosives-storage magazines.

Transportation—Surface and Underground

§ 57.6040. Separation of explosive material.

Explosives and detonators shall be transported in separate vehicles unless separated by 4 inches of hard wood or the equivalent.

§ 57.6041 Haulage by trolley locomotive.

When explosives and detonators are hauled by trolley locomotive, covered, electrically-insulated cars shall be used.

§ 57.6042 Fire protection.

Self-propelled vehicles used to transport explosives or detonators shall be equipped with suitable fire extinguishers.

§ 57.6043 Warning signs.

Vehicles containing explosives or detonators shall be posted with proper warning signs.

§ 57.6044 Parking precautions.

When vehicles containing explosives or detonators are parked, the brakes shall be set, the motive power shut off, and the vehicle shall be blocked securely against rolling.

§ 57.6045 Repair of transport vehicles.

Vehicles containing explosives or detonators shall not be taken to a repair garage or shop for any purpose.

§ 57.6046 Maintenance and operation of transport vehicles.

Vehicles containing explosives or detonators shall be maintained in good condition and shall be operated at a safe speed and in accordance with all safe operating practices.

§ 57.6047 Vehicle construction.

Vehicles used to transport explosives, other than blasting agents, shall have substantially constructed bodies, no sparking metal exposed in the cargo space, and shall be equipped with suitable sides and tail gates; explosives shall not be piled higher than the side or end enclosures.

§ 57.6048 Delivery.

Explosives and blasting agents shall be transported without undue delay, and over routes and at times that expose a minimum number of persons.

§ 57.6050 Materials in cargo space.

Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except for safety fuse and except for properly secured nonsparking equipment used expressly in the handling of such explosives, detonating cord or detonators.

§ 57.6051 Transport on locomotives.

Explosives or detonators shall not be transported on locomotives.

§ 57.6053 Riding prohibitions.

Only the necessary attendants shall ride on or in vehicles containing explosives or detonators.

§ 57.6054 Transport on mantrips.

Explosives or detonators shall not be transported on mantrips.

§ 57.6056 Containers for delivery.

Substantial nonconductive containers shall be used to carry explosives to blasting sites.

§ 57.6057 Containers for capped fuses and electric detonators.

Nonconductive containers with tight-fitting covers shall be used to transport or carry capped fuses and electric detonators to blasting sites.

Transportation—Surface Only

§ 57.6065 Vehicle attendance.

Vehicles containing detonators or explosives, other than blasting agents, shall not be left unattended except in blasting areas where loading or charging is in progress.

Transportation—Underground Only

§ 57.6075 Notification to hoist operators.

Persons assigned to and responsible for hoisting shall be notified whenever explosives or detonators are being transported in a shaft conveyance.

§ 57.6076 Hoisting in adjacent shafts.

Hoisting in adjacent shaft compartments shall be stopped when explosives or detonators are being handled.

§ 57.6077 Vehicle attendance.

Vehicles shall be attended, whenever practical and possible, while loaded with explosives or detonators.

Use—Surface and Underground

§ 57.6090 Experience of users and handlers.

Persons who use or handle explosives or detonators shall be experienced persons who understand the hazards involved; trainees shall do such work only under the supervision of and in the immediate presence of experienced persons.

§ 57.6091 Supervision of blasting operations.

Blasting operations shall be under the direct control of authorized persons.

§ 57.6092 Damaged or deteriorated explosives or blasting agents.

Damaged or deteriorated explosives and blasting agents shall be destroyed in a safe manner under the instructions of the explosives or blasting agent manufacturer or its designated agent.

§ 57.6093 Blasthole obstructions.

Boreholes shall be cleared of obstructions before charging.

§ 57.6094 Blasthole charging.

Holes to be blasted shall be charged as near to blasting time as practical and such holes shall be blasted as soon as possible after charging has been completed. In no case shall the time elapsing between the completion of charging to the time of blasting exceed 72 hours unless prior approval has been obtained from the Mine Safety and Health Administration.

§ 57.6096 Separation of explosives from detonators.

Explosives shall be kept separated from detonators until charging is started.

§ 57.6097 Primers.

Primers shall be made up only at the time of use and as close to the blasting area as conditions allow.

§ 57.6098 Primer and detonating cord preparation.

(a) Primers containing a detonator shall be prepared with the detonator contained securely and completely within the explosive charge or within a suitable tunnel or cap well.

(b) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in intimate contact with the explosive charge.

§ 57.6099 Implements for punching cartridges.

Only wooden or other nonsparking implements shall be used to punch holes in an explosive cartridge.

§ 57.6100 Tamping poles.

Tamping poles shall be of wood or other material acceptable to the Mine Safety and Health Administration. Couplers of tamping poles shall be of nonsparking materials.

§ 57.6101 Tamping precautions.

Tamping shall not be done directly on a primer.

§ 57.6102 Unused explosives and detonators.

Unused explosives and detonators shall be moved to a safe location as soon as charging operations are completed.

§ 57.6103 Blast site security.

Areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged against unauthorized entry.

§ 57.6104 Misfire waiting period for safety fuse.

When safety fuse has been used, persons shall not return to misfired holes for at least 30 minutes.

§ 57.6105 Misfire waiting period for electric blasting caps.

When electric blasting caps have been used, persons shall not return to misfired holes for at least 15 minutes.

§ 57.6106 Examination of faces and muck piles.

Faces and muck piles shall be examined by a competent person for undetonated explosives or blasting agents and any undetonated explosives or blasting agents found shall be disposed of safely.

§ 57.6107 Drilling.

Holes shall not be drilled where there is a danger of intersecting a charged or misfired hole.

§ 57.6108 Fuse and igniter storage.

Fuse and igniters shall be stored in a cool, dry place away from oils or grease.

§ 57.6109 Damaged initiating material.

Safety fuse, igniter cord, and detonating cord shall not be used if they have been kinked, bent sharply, or otherwise damaged.

§ 57.6110 Preparation of fuse.

Fuses shall be cut and capped in safe, dry locations posted with "No Smoking" signs.

§ 57.6111 Preparation of blasting caps.

Blasting caps shall be crimped to fuses only with implements designed for that specific purpose.

§ 57.6112 Safety fuse—burning rate.

The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all persons concerned with blasting.

§ 57.6113 Safety fuse—minimum burning time.

When firing from 1 to 15 blastholes with safety fuse ignited individually using hand-held lighters, the fuses shall be of such lengths to provide the minimum burning time specified in the following table for a particular size round:

No. of holes in a round	Minimum burning time, minutes
1	2
2-5	2½
6-10	3½
11-15	5

In no case shall any 40-second-per-foot safety fuse less than 36 inches long or any 30-second-per-foot safety fuse less than 48 inches long be used.

§ 57.6114 Fuse lighting restrictions.

At least two persons shall be present when lighting fuses, and no person shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, igniter cord and connectors or electric blasting shall be used.

§ 57.6115 Detonating cords.

All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunklines.

§ 57.6116 Fuse lighting devices.

Fuse shall be ignited with hotwire lighters, lead spitters, igniter cord, or other such devices designed for this purpose. Carbide lights shall not be used to light fuses.

§ 57.6117 Fuse ignition—charge placement.

Fuse shall not be ignited before the primer and the entire charge are securely in place.

§ 57.6118 Safety fuse—timing.

When using safety fuse, where fly rock might damage unlit or burning fuses, timing shall be such that all fuses are burning within the holes before any hole detonates.

§ 57.6119 Compatibility of electric detonators.

Electric detonators of different brands shall not be used in the same round.

§ 57.6120 Shunting.

Except when being tested with a blasting galvanometer—

(a) Electric detonators shall be kept shunted until they are being connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until they are being connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 57.6121 Circuit testing.

When blasting electrically, a blasting galvanometer, or other instrument that is specifically designed for testing blasting circuits, shall be used to test—

(a) In surface operations:

(1) Continuity of each electric blasting cap in the borehole prior to the addition of stemming.

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(3) Continuity of blasting lines prior to the connection of electric blasting cap series.

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations:

(1) Continuity of each electric blasting cap series.

(2) Continuity of blasting lines prior to the connection of electric blasting caps.

§ 57.6122 Blasting line requirements.

Permanent blasting lines shall be properly supported, insulated, and kept in good repair.

§ 57.6123 Extraneous electricity—loading practices.

When electric detonators are used, charging shall be stopped immediately when the presence of static electricity or stray currents is detected; the condition shall be remedied before charging is resumed.

§ 57.6124 Precautions during storms.

When electric detonators are used, charging shall be suspended in surface mining, shaft sinking, and tunneling and persons withdrawn to a safe location upon the approach of an electrical storm.

§ 57.6125 Branch circuits.

If branch circuits are used when blasts are fired from power circuits, safety switches located at safe distances from the blast areas shall be provided in addition to the main blasting switch.

§ 57.6126 Deenergizing circuits near blasting caps.

Electric power distribution circuits shall be deenergized within 50 feet of boreholes containing electric blasting caps which can be initiated by conventional power sources or extraneous electricity except that such circuits need not be deenergized between 25 and 50 feet of such boreholes when stray current tests, conducted as frequently as necessary, measure a maximum stray current less than 0.05 ampere through a one-ohm resistor measured at the location of the electric blasting cap.

§ 57.6127 Positive separation of blasting circuits from power source.

Blasting switches shall be locked in the open position, except when closed to fire the blast. Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

§ 57.6128 Control of firing device.

The key or other control to an electrical firing device shall be entrusted only to the person designated to fire the round or rounds.

§ 57.6129 Grounding restrictions.

Electric circuits from the blasting switches to the blast area shall not be grounded.

§ 57.6130 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 57.6131 Firing devices.

Power sources shall be suitable for the number of electric detonators to be fired and for the type of circuits used.

§ 57.6132 Delay connectors.

Delay connectors shall be treated and handled with the same safety precautions as detonators.

§ 57.6133 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds by incorporating a control device in the blasting circuit or by interrupting the circuit with an explosive charge attached to one or both lead lines and initiated by a zero-delay electric blasting cap.

§ 57.6134 Use of nonsparking implements to open containers.

Tools used for opening metal or nailed wooden containers of explosives or detonators shall be of nonsparking materials.

§ 57.6135 Collaring in bootlegs.

Holes shall not be collared in bootlegs.

§ 57.6136 Black powder restriction.

Black powder shall not be used for blasting except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

§ 57.6137 Black powder handling precautions.

In the use of black blasting powder—

(a) Containers shall not be opened in, or within 50 feet of, any magazine; within any building in which a fuel-fired or exposed-element electric heater is in operation; where electrical or incandescent-particle sparks could result in powder ignition; or within 50 feet of any open flame;

(b) Granular powder shall be transferred from containers only by pouring;

(c) Spills of granular powder shall be cleaned up promptly with nonsparking equipment; contaminated powder shall be put into a container of water and its content disposed of promptly after the granules have distintegrated, or the spill area shall be flushed with a copious amount of water to completely distintegrate the granules;

(d) Containers of powder shall be kept securely closed at all times other than when the powder is being transferred from or into a container;

(e) Containers of powder transported by vehicles shall be in a wholly enclosed cargo space;

(f) Misfires shall be disposed of by: (1) Washing the stemming and powder charge from the borehole, and (2) removal and disposal of the initiator as a damaged explosive; and

(g) Boreholes of shots that fire but fail to break, or fail to break properly, shall not be recharged for at least 12 hours.

§ 57.6138 Hot holes.

Explosives or blasting agents shall not be loaded into drilled or sprung holes that could result in premature detonation from heat.

§ 57.6139 Reentry to blasting areas.

Blasting areas shall not be re-entered after firing until concentrations of smoke, dust, and fumes have been reduced to safe limits as required in, and determined by standards 57.5001 and 57.5002, respectively.

§57.6140 Extraneous electricity—blasting circuits and electric blasting caps.

Blasting circuits and electric blasting caps (which are capable of being initiated by conventional power sources) shall be protected from sources of extraneous electricity.

§ 57.6141 Secondary blasting.

In secondary blasting, if more than one shot is to be fired at one time in a blasting area, the shots shall be initiated from one source.

§ 57.6142 Drill stem loading.

Explosives or blasting agents shall not be loaded into bore-holes through or with either drill stem equipment or other devices which could be extracted while containing explosives or blasting agents. The use of loading hose, collar sleeves or collar pipes is permitted.

(Sec. 101, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 [30 U.S.C. 811], and Sec. 301(c)(3), Pub. L. 95-164, 91 Stat. 1317 [30 U.S.C. 961(c)(3)])

§ 57.6159 Powder chests.

Powder chests shall be—

(a) Substantially constructed of nonsparking material on the inside;

(b) Posted with suitable warning signs;

(c) Located out of the blast area and out of the line of blasts;

(d) Emptied and their contents returned to the main magazine at the end of each shift unless the powder chest is located within the area continually attended by employees during shift changes;

(e) Separate for detonators and explosives unless separated by 4 inches of hardwood or the equivalent; and

(f) Kept locked when unattended.

Use—Surface Only

§ 57.6160 Protection of personnel at blast site.

Ample warning shall be given before blasts are fired. All persons shall be cleared and removed from the blasting area unless suitable blasting shelters are provided to protect persons endangered by concussion or flyrock from blasting.

§ 57.6161 Burning charges.

If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one shall return to the hole until the danger has passed, but in no case within 1 hour.

§ 57.6162 Isolation of blasting circuits.

Lead wires and blasting lines shall not be strung across power conductors, pipelines, railroad tracks, or within 20 feet of bare powerlines. They shall be protected from sources of static or other electrical contact.

§ 57.6163 Detonating cord blasting.

The double-trunkline or loop system shall be used in detonating-cord blasting.

§ 57.6164 Trunklines.

Trunklines, in multiple-row blasts, shall make one or more complete loops, with crossties between loops at intervals of not over 200 feet.

§ 57.6168 Handling of misfires.

Misfires shall be reported to the proper supervisor and shall be disposed of safely before any other work is performed in that blasting area.

Use—Underground Only

§ 57.6175 Loading and blast site restrictions.

Ample warning shall be given before the blasts are fired. All persons shall be cleared and removed from areas endangered by the blast. Clear access to exits shall be provided for personnel firing the rounds.

§ 57.6177 Handling of misfires.

Misfires shall be reported to the proper supervisor. The blast area shall be dangered-off until misfired holes are disposed of. Where explosives other than black powder have been used, misfired holes shall be disposed of as soon as possible by one of the following methods:

(a) Washing the stemming and charge from the borehole with water;

(b) Reattempting to fire the holes if leg wires are exposed; or

(c) Inserting new primers after the stemming has been washed out.

§ 57.6182 Blasting in shafts or winzes.

Blasts in shafts or winzes shall be initiated from a safe location outside the shaft or winze.

Sensitized Ammonium Nitrate Blasting Agents—Surface and Underground

§ 57.6193 Static electricity.

Where pneumatic loading is employed, before any type of blasting operation using blasting agents is put into effect, an evaluation of the potential hazard of static electricity shall be made. Adequate steps, including the grounding and bonding of the conductive parts of pneumatic loading equipment, shall be taken to eliminate the hazard of static electricity before blasting agent use is commenced.

§ 57.6194 Grounding prohibitions.

Pneumatic loading equipment shall not be grounded to waterlines, air lines, rails, or the permanent electrical grounding systems.

§ 57.6195 Conductivity of hoses.

Hoses used in connection with pneumatic loading machines shall be of the semiconductive type, having a total resistance low enough to permit the dissipation of static electricity and high enough to limit the flow of stray electric currents to a safe level. Wire-countered hose shall not be used because of the potential hazard from stray electric currents.

§ 57.6198 Hole liners.

Plastic tubes shall not be used as hole liners if blasting agents are loaded pneumatically into holes containing an electric detonator.

§ 57.6200 Transport and unloading.

Vehicles used to transport blasting agents shall have substantially constructed bodies, no zinc or copper exposed in the cargo space and shall be freely vented. Blasting agents shall not be piled higher than the side or end enclosures of open-body vehicles. If an enclosed screw conveyor is used to discharge blasting agents from the vehicle the conveyor shall be protected against excessive internal pressure and excessive frictional heat.

Sensitized Ammonium Nitrate Blasting Agents—Underground Only

§ 57.6220 Mixing blasting agents.

Ammonium nitrate-fuel oil blasting agents shall not be mixed or otherwise "formulated" underground.

Miscellaneous—Surface and Underground

§ 57.6250 Smoking and open flames.

Smoking and open flames, except for the use of suitable devices for igniting safety fuse or the use of approved heating devices, shall not be permitted within 50 feet as measured by the line of sight of explosives, blasting agents, or detonators or within 25 feet when out of line of sight and separated by permanent noncombustible barriers in underground active workings.

Subpart F—Drilling and Rotary Jet Piercing

Drilling—Surface Only

§ 57.7002 Equipment defects.

Equipment defects affecting safety shall be corrected before the equipment is used.

§ 57.7003 Drill area inspection.

The drilling area shall be inspected for hazards before starting the drilling operations.

§ 57.7004 Drill mast.

Persons shall not be on a mast while the drill-bit is in operation unless they are provided with a safe platform from which to work and they are required to use safety belts to avoid falling.

§ 57.7005 Augers and drill stems.

Drill crews and other shall stay clear of augers or drill stems that are in motion. Persons shall not pass under or step over a moving stem or auger.

§ 57.7008 Moving the drill.

When a drill is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast placed in a safe position.

§ 57.7009 Drill helpers.

If a drill helper assists the drill operator during movement of a drill to a new location, the helper shall be in sight of, or in communication with, the operator at all times.

§ 57.7010 Power failures.

In the event of power failure, drill controls shall be placed in the neutral position until power is restored.

§ 57.7011 Straightening crossed cables.

The drill stem shall be resting on the bottom of the hole or on the platform with the stem secured to the mast before attempts are made to straighten a crossed cable on a reel.

§ 57.7012 Tending drills in operation.

While in operation, drills shall be attended at all times.

§ 57.7013 Covering or guarding drill holes.

Drill holes large enough to constitute a hazard shall be covered or guarded.

§ 57.7018 Hand clearance.

Persons shall not hold the drill steel while collaring holes, or rest their hands on the chuck or centralizer while drilling.

Drilling—Underground Only

§ 57.7028 Hand clearance.

Persons shall not rest their hands on the chuck or centralizer while drilling.

§ 57.7032 Anchoring.

Columns and the drills mounted on them shall be anchored firmly before and during drilling.

Drilling—Surface and Underground

§ 57.7050 Tool and drill steel racks.

Receptacles or racks shall be provided for drill steel and tools stored or carried on drills.

§ 57.7051 Loose objects on the mast or drill platform.

To prevent injury to personnel, tools and other objects shall not be left loose on the mast or drill platform.

§ 57.7052 Drilling positions.

Persons shall not drill from—

(a) Positions which hinder their access to the control levers;

(b) Insecure footing or insecure staging; or

(c) Atop equipment not suitable for drilling.

§ 57.7053 Moving hand-held drills.

Before hand-held drills are moved from one working area to another, air shall be turned off and bled from the hose.

§ 57.7054 Starting or moving drill equipment.

Drill operators shall not start or move drilling equipment unless all miners are in the clear.

Rotary Jet Piercing—Surface Only

§ 57.7801 Jet drills.

Jet piercing drills shall be provided with—

(a) A system to pressurize the equipment operator's cab, when a cab is provided; and

(b) A protective cover over the oxygen flow indicator.

§ 57.7802 Oxygen hose lines.

Safety chains or other suitable locking devices shall be provided across connections to and between high pressure oxygen hose lines of 1-inch inside diameter or larger.

§ 57.7803 Lighting the burner.

A suitable means of protection shall be provided for the employee when lighting the burner.

§ 57.7804 Refueling.

When rotary jet piercing equipment requires refueling at locations other than fueling stations, a system for fueling without spillage shall be provided.

§ 57.7805 Smoking and open flames.

Persons shall not smoke and open flames shall not be used in the vicinity of the oxygen storage and supply lines. Signs warning against smoking and open flames shall be posted in these areas.

§ 57.7806 Oxygen intake coupling.

The oxygen intake coupling on jet piercing drills shall be constructed so that only the oxygen hose can be coupled to it.

§ 57.7807 Flushing the combustion chamber.

The combustion chamber of a jet drill stem which has been sitting unoperated in a drill hole shall be flushed with a suitable solvent after the stem is pulled up.

Subpart G—Ventilation

Surface and Underground

§ 57.8518 Main and booster fans.

(a) All mine main and booster fans installed and used to ventilate the active workings of the mine shall be operated continuously while persons are underground in the active workings. However, this provision is not applicable during scheduled production-cycle shutdowns or planned or scheduled fan maintenance or fan adjustments where air quality is maintained in compliance with the applicable standards of Subpart D of this part and all persons underground in the affected areas are advised in advance of such scheduled or planned fan shutdowns, maintenance, or adjustments.

(b) In the event of main or booster fan failure due to a malfunction, accident, power failure, or other such unplanned or unscheduled event:

(1) The air quality in the affected active workings shall be tested at least within 2-hours of the discovery of the fan failure, and at least every 4-hours thereafter by a competent person for compliance with the requirements of the applicable standards of Subpart D of this part until normal ventilation is restored, or

(2) All persons, except those working on the fan, shall be withdrawn, the ventilation shall be restored to normal and the air quality in the affected active workings shall be tested by a competent person to assure that the air quality meets the requirements of the standards in Subpart D of this part, before any other persons are permitted to enter the affected active workings.

§ 57.8519 Underground main fan controls.

All underground main fans shall have controls placed at a suitable protected location remote from the fan and preferably on the surface.

Underground Only

§ 57.8520 Ventilation plan.

A plan of the mine ventilation system shall be set out by the operator in written form. Revisions of the system shall be noted and updated at least annually. The ventilation plan or revisions thereto shall be submitted to the District Manager for review and comments upon his written request. The plan shall, where applicable, contain the following:

(a) The mine name.

(b) The current mine map or schematic or series of mine maps or schematics of an appropriate scale, not greater than five hundred feet to the inch, showing—

(1) Direction and quantity of principal air flows;

(2) Locations of seals used to isolate abandoned workings;

(3) Locations of areas withdrawn from the ventilation system;

(4) Locations of all main, booster and auxiliary fans not shown in subsection (d) of this standard.

(5) Locations of air regulators and stoppings and ventilation doors not shown in subsection (d) of this standard;

(6) Locations of overcasts, undercasts and other airway crossover devices not shown in subsection (d) of this standard;

(7) Locations of known oil or gas wells;

(8) Locations of known underground mine openings adjacent to the mine;

(9) Locations of permanent underground shops, diesel fuel storage depots, oil fuel storage depots, hoist rooms, compressors, battery charging stations and explosive storage facilities. Permanent facilities are those intended to exist for one year or more; and

(10) Significant changes in the ventilation system projected for one year.

(c) Mine fan data for all active main and booster fans including manufacturer's name, type, size, fan speed, blade setting, approximate

pressure at present operating point, and motor brake horsepower rating.

(d) Diagrams, descriptions or sketches showing how ventilation is accomplished in each typical type of working place including the approximate quantity of air provided, and typical size and type of auxiliary fans used.

(e) The number and type of internal combustion engine units used underground, including make and model of unit, type of engine, make and model of engine, brake horsepower rating of engine, and approval number.

(Approved by the Office of Management and Budget under OMB control number 1219–0016)

§ 57.8525 Main fan maintenance.

Main fans shall be maintained according to either the manufacturer's recommendations or a written periodic schedule adopted by the operator which shall be available at the operation on request of the Secretary or his authorized representative.

(Approved by the Office of Management and Budget under OMB control number 1219–0012)

§ 57.8527 Oxygen-deficiency testing.

Flame safety lamps or other suitable devices shall be used to test for acute oxygen deficiency.

§ 57.8528 Unventilated areas.

Unventilated areas shall be sealed, or barricaded and posted against entry.

§ 57.8529 Auxiliary fan systems

When auxiliary fan systems are used, such systems shall minimize recirculation and be maintained to provide ventilation air that effectively sweeps the working places.

§ 57.8531 Construction and maintenance of ventilation doors.

Ventilation doors shall be—

(a) Substantially constructed;

(b) Covered with fire-retardant material, if constructed of wood;

(c) Maintained in good condition;

(d) Self-closing, if manually operated; and

(e) Equipped with audible or visual warning devices, if mechanically operated.

§ 57.8532 Opening and closing ventilation doors.

When ventilation control doors are opened as a part of the normal mining cycle, they shall be closed as soon as possible to re-establish normal ventilation to working places.

§ 57.8534 Shutdown or failure of auxiliary fans.

(a) Auxiliary fans installed and used to ventilate the active workings of the mine shall be operated continuously while persons are underground in the active workings, *except* for scheduled production-cycle shutdowns or planned or scheduled fan maintenance or fan adjustments where air quality is maintained in compliance with the applicable standards of Subpart D of this part, and all persons underground in the affected areas are advised in advance of such scheduled or planned fan shutdowns, maintenance, or adjustments.

(b) In the event of auxiliary fan failure due to malfunction, accident, power failure, or other such unplanned or unscheduled event:

(1) The air quality in the affected active workings shall be tested at least within 2 hours of the discovery of the fan failure, and at least every 4 hours thereafter by a competent person for compliance with the requirements of the applicable standards of Subpart D of this part until normal ventilation is restored, or

(2) All persons, except those working on the fan, shall be withdrawn, the ventilation shall be restored to normal and the air quality in the affected active workings shall be tested by a competent person to assure that the air quality meets the requirements of the standards in Subpart D of this part, before any other persons are permitted to enter the affected active workings.

§ 57.8535 Seals.

Seals shall be provided with a means for checking the quality of air behind the seal and a means to prevent a water head from developing unless the seal is designed to impound water.

Subpart H—Loading, Hauling, and Dumping

Surface and Underground

§ 57.9001 Self-propelled equipment inspection.

Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by the mine operator. The records shall be maintained at the mine or nearest mine office for at least 6 months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his duly authorized representative.

(Approved by the Office of Management and Budget under OMB control number 1219–0089)

§ 57.9002 Safety defects.

Equipment defects affecting safety shall be corrected before the equipment is used.

§ 57.9003 Mobile equipment brakes.

Powered mobile equipment shall be provided with adequate brakes.

§ 57.9005 Warning prior to starting or moving equipment.

Operators shall be certain, by signal or other means, that all persons are clear before starting or moving equipment.

§ 57.9006 Conveyor start-up warning.

When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible or visible warning system shall be installed and operated to warn persons that the conveyor will be started.

§ 57.9007 Unguarded conveyors with walkways.

Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length.

§ 57.9009 Train warnings.

Operators shall sound warning before starting trains and when trains approach crossings, other trains on adjacent tracks, persons, and any place where vision is obscured.

§ 57.9010 Operators' cabs.

Equipment operators' cabs shall not be equipped, altered or otherwise modified in a manner which impairs operating visibility.

§ 57.9011 Cab windows.

Cab windows shall be of safety glass or equivalent, in good condition and shall be kept clean.

§ 57.9012 Extraneous material in cabs.

Cabs of mobile equipment shall be kept free of extraneous materials.

§ 57.9013 Incline conveyors—backstops or brakes.

Adequate backstops or brakes shall be installed on inclined-conveyor drive units to prevent conveyors from running in reverse if a hazard to personnel would be caused.

§ 57.9014 Transporting persons on conveyors.

No person shall be permitted to ride a power-driven chain, belt, or bucket conveyor, unless the belt is specifically designed for the transportation of persons.

§ 57.9015 Slusher backlash guards and securing.

Unless the operator is otherwise protected, slushers in excess of 10 horsespower shall be provided with backlash guards. All slushers shall be equipped with rollers, and drum covers, and anchored securely before slushing operations are started.

§ 57.9016 Design, installation, and maintenance of rail trackage.

Roadbeds, rails, joints, switches, frogs, and other trackage elements on railroads subject to the control of the operator shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage.

§ 57.9017 Operating speeds.

Equipment operating speeds shall be consistent with conditions of roadways, grades, clearance, visibility, traffic, and the type of equipment used.

§ 57.9019 Track guardrails, lead rails, and frogs.

Track guardrails, lead rails, and frogs shall be protected or blocked so as to prevent a person's foot from becoming wedged.

§ 57.9020 Protection against moving or runaway rail equipment.

Positive-acting stopblocks, derail devices, track skates, or other adequate means shall be installed wherever necessary to protect persons from runaway or moving railroad equipment.

§ 57.9022 Berms or guards.

Berms or guards shall be provided on the outer bank of elevated roadways.

§ 57.9023 Control of trackless haulage equipment.

Trackless haulage equipment shall be operated under power control at all times.

§ 57.9024 Control of mobile equipment.

Mobile equipment operators shall have full control of the equipment while it is in motion.

§ 57.9025 Movement of dippers, buckets, loading booms, or suspended loads.

Dippers, buckets, loading booms, or heavy suspended loads shall not be swung over the cabs of haulage vehicles until the drivers are out of the cabs and in safe locations, unless the trucks are designed specifically to protect the drivers from falling material.

§ 57.9026 Air valves for pneumatic equipment.

A quick-close type air valve shall be provided on each piece of pneumatic-powered loading, hauling, and dumping equipment. The valve shall be closed except when the equipment is being operated.

§ 57.9027 Notification to the equipment operator.

When an operator is present, persons shall notify him before getting on or off equipment.

§ 57.9028 Switch throws.

Switch throws shall be installed so as to provide adequate clearance for switchmen.

§ 57.9030 Suspended loads.

Persons shall not work or pass under the buckets or booms of loaders in operation.

§ 57.9031 Securing equipment during travel.

When traveling between work areas, the equipment shall be secured in the travel position.

§ 57.9032 Securing movable parts.

Dippers, buckets, scraper blades and similar movable parts shall be secured or lowered to the ground when not in use.

§ 57.9034 Minimizing spillage.

Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

§57.9035 Movement of independently operating rail equipment.

Movements of two or more pieces of rail equipment operating independently on the same track shall be suitably controlled for safe operation.

§ 57.9036 Parking procedures electrically-powered mobile equipment.

Electrically-powered mobile equipment shall not be left unattended unless the master switch is in the off position, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken against rolling.

§ 57.9037 Parking procedures for mobile equipment.

Mobile equipment shall not be left unattended unless the brakes are set. Mobile equipment with wheels or tracks, when parked on a grade, shall be either blocked or turned into a bank or rib; and the bucket or blade lowered to the ground to prevent movement.

§ 57.9039 Getting on or off moving equipment.

Persons shall not get on or off moving equipment, except that train-men may get on or off of slowly moving trains.

§ 57.9040 Transporting persons—prohibitions.

Persons shall not be transported—

(a) In or on dippers, forks, clamshells, beds of trucks unless special provisions are made for their safety, or buckets except shaft buckets;

(b) On top of loaded haulage equipment;

(c) Outside the cabs and beds of mobile equipment, except trains;

(d) Between cars of trains; or

(e) In conveyances equipped with unloading devices unless means are provided to prevent accidential starting of the unloading mechanism.

§ 57.9041 Riding trains or locomotives.

Only authorized persons shall be permitted to ride on trains or locomotives and they shall ride in a safe position.

§ 57.9042 Rocker-bottom and bottom-dump railcars.

Rocker-bottom or bottom-dump railcars shall be equipped with locking devices.

§ 57.9045 Loading and securing equipment for haulage.

Equipment which is to be hauled shall be loaded and protected so as to prevent sliding or spillage.

§ 57.9046 Backpoling.

Backpoling of trolleys shall be avoided wherever possible; but when necessary, backpoling shall be done only at slow speeds.

§ 57.9047 Securing parked railcars.

Parked railcars, unless held effectively by brakes, shall be blocked securely.

§ 57.9048 Brakes on railcars.

Railroad cars with braking systems, when in use, shall be equipped with effective brake shoes.

§ 57.9049 Oversize-load warning.

When in the dark or under conditions of limited visibility, all vehicles carrying loads which project beyond the sides or more than four feet beyond the rear of the vehicles shall display a warning light at the end of the projection; or in the light, a warning flag not less than 12 inches square shall be displayed at the end of the projection.

§ 57.9050 Clearance on adjacent tracks.

Railcars shall not be left on side tracks unless ample clearance is provided for traffic on adjacent tracks.

§ 57.9051 Travel precautions around railcars.

Persons shall not go over, under, or between cars unless the train is stopped and the motorman has been notified and the notice acknowledged.

§ 57.9052 Brakeman signals.

Inability of a motorman to clearly recognize his brakeman's signals, when the train is under the direction of the brakeman, shall be construed by the motorman as a stop signal.

§ 57.9053 Removal of hazards to moving equipment.

Water, debris, or spilled material which create hazards to moving equipment shall be removed.

§ 57.9054 Restraining devices at dumping locations.

Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel and overturning at dumping locations.

§ 57.9055 Dumping near unstable ground.

Where there is evidence that the ground at a dumping place may fail to support the weight of a vehicle, loads shall be dumped back from the edge of the bank.

§ 57.9056 Track dead ends.

Where necessary, bumper blocks or the equivalent shall be provided at track dead ends.

§ 57.9057 Anchoring stationary sizing devices.

Grizzlies, grates, and other stationary sizing devices shall be anchored securely.

§ 57.9058 Truck spotters.

If truck spotters are used, they shall be well in the clear while trucks are backing into dumping position and dumping; lights shall be used at night to direct trucks.

§ 57.9059 Rail crossings.

Public and permanent railroad crossings shall be posted with warning signs or signals, or shall be guarded when trains are passing and shall be planked or otherwise filled between the rails.

§ 57.9060 Restricted overhead clearance.

Where overhead clearance is restricted, warning devices shall be installed and the restricted area shall be conspicuously marked.

§ 57.9061 Trimming of stockpile and muckpile faces.

Stockpile and muckpile faces shall be trimmed to prevent hazards to personnel.

§ 57.9062 Loading large rocks.

Rocks too large to be handled safely shall be broken before loading.

§ 57.9063 Construction of ramps and dumping facilities.

Ramps and dumping facilities shall—

(a) Be of substantial construction; and

(b) Have suitable width, clearance, and headroom to accommodate the equipment using the facilities.

§ 57.9064 Chute design.

Chute-loading installations shall be designed so that the persons pulling chutes are not required to be in a hazardous position while loading cars.

§ 57.9065 Coupling or uncoupling railcars.

Cars shall not be coupled, or uncoupled, manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from manual coupling.

§ 57.9066 Movement of rail equipment on adjacent tracks.

When a locomotive on one track is used to move equipment on a different track, a suitable chain, cable, or drawbar shall be used.

§ 57.9067 Transporting persons—overcrowding.

Facilities used to transport persons to and from work areas shall not be overcrowded.

§ 57.9068 Warning devices for parked equipment.

Lights, flares, or other warning devices shall be posted when parked equipment creates a hazard to vehicular traffic.

§ 57.9069 Tire repair and inflation.

Tires shall be deflated before repairs on them are started and adequate means shall be provided to prevent wheel locking rims from creating a hazard during tire inflation.

§ 57.9070 Precautions for towing.

A tow bar of substantial construction or other suitable means of control shall be used to tow heavy equipment. A substantial safety chain or wire rope shall be used in conjunction with any primary rigging.

§ 57.9071 Traffic rules.

Traffic rules including speed, signals, and warning signs shall be standardized at each mine and posted.

§ 57.9072 Freeing hangups.

Persons attempting to free hangups shall be experienced persons who understand the hazards involved.

§ 57.9073 Tagging defective equipment.

Defective equipment, removed from service as unsafe to operate, shall be tagged to prohibit further use until repairs are completed.

§ 57.9074 Dust control.

Dust shall be suitably controlled at muck piles, material transfer points, crushers, and on haulage roads where hazards to personnel may be created as a result of impaired visibility.

Surface Only

§ 57.9083 Rail equipment clearance.

Where possible, at least 30 inches continuous clearance from the farthest projection of moving railroad equipment shall be provided on at least one side of the tracks; all places where it is not possible to provide 30-inch clearance shall be marked conspicuously.

§ 57.9085 Tools, materials, and equipment in mantrips.

Tools, materials, and equipment shall not be transported with persons in vehicles, railcars, and other conveyances unless means have been provided to make such transportation safe.

§ 57.9087 Audible warning devices and back-up alarms.

Heavy duty mobile equipment shall be provided with audible warning devices. When the operator of such equipment has an obstructed view to the rear, the equipment shall have either an automatic reverse signal alarm which is audible above the surrounding noise level or an observer to signal when it is safe to back up.

§ 57.9088 Roll-over protective structures (ROPS) and seat belts.

(a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and non-metal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) Roll-Over Protective Structures (ROPS) in accordance with the

requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386, approved March 1968; and, in accordance with paragraphs (b), (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of this standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earth-moving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE standards or recommended practices.

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for Prime Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired Front End Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; or

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—SAE J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation, or MSHA coal mine regulations of the U.S. Department of Labor; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) The State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving," 1591(i) and 1596 (Register 70, No. 40—October 3, 1970); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—Feburary 5, 1972); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding," 5243 (Register 69, No. 10—March 8, 1969), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Safety Requirements, EM–385–1–1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mine Safety and Health Administration, U.S. Department of Labor: Section 77.403a, Part 77, Title 30, Code of Federal Regulations—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the **Federal Register** (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S. Department of Labor: Sections 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the

Federal Register (37 FR 27585–27590), and published in the Federal Register (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a registered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's, name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a registered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a part hereof. The incorporated publications are available at each Metal and Nonmetal Mine Safety and Health Subdistrict Office, MSHA. State of California safety orders are available from the state of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers Safety-General Safety requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

Underground Only

§ 57.9096 Transporting tools and materials on locomotives.

Tools or materials, except properly located and secured rerailing devices, shall not be carried on top of locomotives. Tools or material shall not be carried in the cab if they would interfere with the operation of the locomotive.

§ 57.9097 Coupling or uncoupling of rail cars.

Trains shall be brought to a complete stop, then moved very slowly when coupling or uncoupling cars manually.

§ 57.9098 Makeshift couplings.

Makeshift couplings shall not be used.

§ 57.9099 Supplies, materials, and tools on mantrips.

Supplies, materials, and tools other than small handtools shall not be transported with persons in mantrip cars. Mantrips shall be operated independently of ore and supply trips.

§ 57.9102 Protection of slusher signalmen.

When a signalman is used during slushing operations he shall be positioned in a safe place.

§ 57.9103 Open draw holes.

Collars of open draw holes shall be kept free of muck and material.

§ 57.9104 Chute lip, ventilation door, and obstruction warnings.

Warning devices or conspicuous markings shall be installed where chute lips, ventilation doors, and obstructions create a hazard to persons on equipment.

§ 57.9105 Empty chute hazard.

To prevent rock from flying out when broken material is dumped into an empty chute—

(a) The chute shall be properly guarded prior to filling; or

(b) Sufficient material shall be left in the chute bottom.

§ 57.9106 Warning before chute-pulling.

Ample warning shall be given to persons who may be affected by the draw or otherwise exposed to danger from chute-pulling operations.

§ 57.9107 Working around draw holes.

Persons shall not stand on broken rock or ore over draw points if there is danger that the chute will be pulled. Suitable platforms or safety lines shall be provided when work must be done in such areas.

§ 57.9110 Provision for shelter holes.

Shelter holes shall be provided to ensure the safety of persons along haulageways where continuous clearance of at least 30 inches from the farthest projection of moving equipment on at least one side of the haulageway cannot be maintained.

§ 57.9111 Size and marking of shelter holes.

Shelter holes shall be a least 4-feet wide, marked conspicuously with lights or reflective signs or reflective tape or reflectors or luminous paint, provide a minimum of 40-inch clearance from the farthest projection of moving equipment, and shall not be used for storage of timber, tools, or other materials unless a 40-inch clearance is maintained.

§ 57.9112 Trip lights.

On rail haulage, trip lights shall be used on the rear of pulled trips and on the front of pushed trips.

§ 57.9113 Mantrip speeds.

Mantrips shall be operated at speeds consistent with the condition of tracks and equipment used.

§ 57.9114 Boarding and leaving mantrips.

Where mantrips are used, discharge and boarding points shall be designated. Persons shall not board or leave moving mantrip cars.

§ 57.9115 Mantrip trolley wire hazards.

Mantrips shall be covered if there is danger of passengers contacting the trolley wire.

§ 57.9116 Train movement during shift changes.

During shift changes the movement of rock or material trains shall be limited to areas where such trains could not present a hazard to persons coming on or going off shift.

Subpart I—Aerial Tramways

§ 57.10001 Filling buckets.

Buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

§ 57.10002 Inspection and maintenance.

Inspection and maintenance of carriers (including loading and unloading mechanisms), ropes and supports, and brakes shall be performed by competent persons according to the recommendations of the manufacturer.

§ 57.10003 Correction of defects.

Any hazardous defects shall be corrected before the equipment is used.

§ 57.10004 Brakes.

Positive-action-type brakes and devices which apply the brakes automatically in the event of a power failure shall be provided on aerial tramways.

§ 57.10005 Track cable connections.

Track cable connections shall not obstruct the passage of carriage wheels.

§ 57.10006 Tower guards.

Towers shall be suitably protected from swaying buckes.

§ 57.10007 Falling object protection.

Guard nets or other suitable protection shall be provided where tramways pass over roadways, walkways, or buildings.

§ 57.10008 Riding tramways.

Persons other than maintenance persons shall not ride aerial tramways unless the following features are provided.

(a) Two independent brakes, each capable of holding the maximum load;

(b) Direct communication between terminals;

(c) Power drives with emergency power available in case of primary power failure; and

(d) Buckets equipped with positive locks to prevent accidental tripping or dumping.

§ 57.10009 Riding loaded buckets.

Persons shall not ride loaded buckets.

§ 57.10010 Starting precautions.

Where possible, aerial tramways shall not be started until the operator has ascertained that everyone is in the clear.

Subpart J—Travelways and Escapeways

Travelways—Surface and Underground

§ 57.11001 Safe access.

Safe means of access shall be provided and maintained to all working places.

§ 57.11002 Handrails and toeboards.

Crossovers, elevated walkways, elevated ramps, and stairways shall be of substantial construction, provided with handrails, and maintained in good condition. Where necessary, toeboards shall be provided.

§ 57.11003 Construction and maintenance of ladders.

Ladders shall be of substantial construction and maintained in good condition.

§ 57.11004 Portable rigid ladders.

Portable rigid ladders shall be provided with suitable bases and placed securely when used.

§ 57.11005 Fixed ladder anchorage and toe clearance..

Fixed ladders shall be anchored securely and installed to provide at least 3 inches of toe clearance.

§ 57.11006 Fixed ladder landings.

Fixed ladders shall project at least 3 feet above landings, or substantial handholds shall be provided above the landings.

§ 57.11007 Wooden components of ladders.

Wooden components of ladders shall not be painted except with a transparent finish.

§ 57.11009 Walkways along conveyors.

Walkways with outboard railings shall be provided wherever persons are required to walk alongside elevated conveyor belts. Inclined railed walkways shall be nonskid or provided with cleats.

§ 57.11010 Stairstep clearance.

Vertical clearance above stair steps shall be a minimum of seven feet, or suitable warning signs or similar devices shall be provided to indicate an impaired clearance.

§ 57.11011 Use of ladders.

Persons using ladders shall face the ladders and have both hands free for climbing and descending.

§ 57.11012 Protection for openings around travelways.

Openings above, below, or near travelways through which persons or materials may fall shall be protected by railings, barriers, or covers. Where it is impractical to install such protective devices, adequate warning signals shall be installed.

§ 57.11013 Conveyor crossovers.

Crossovers shall be provided where it is necessary to cross conveyors.

§ 57.11014 Crossing moving conveyors.

Moving conveyors shall be crossed only at designated crossover points.

§ 57.11016 Snow and ice on walkways and travelways.

Regularly used walkways and travelways shall be sanded, salted, or cleared of snow and ice as soon as practicable.

§ 57.11017 Inclined fixed ladders.

Fixed ladders shall not incline backwards.

Travelways—Surface Only

§ 57.11025 Railed landings, backguards, and other protection for fixed ladders.

Fixed ladders, except on mobile equipment, shall be offset and have substantial railed landings at least every 30 feet unless backguards or equivalent protection such as safety belts and safety lines, are provided.

§ 57.11026 Protection for inclined fixed ladders.

Fixed ladders 70 degrees to 90 degrees from the horizontal and 30 feet or more in length shall have backguards, cages or equivalent protection, starting at a point not more than seven feet from the bottom of the ladders.

§ 57.11027 Scaffolds and working platforms.

Scaffolds and working platforms shall be of substantial construction and provided with handrails and maintained in good condition. Floorboards shall be laid properly and the scaffolds and working platform shall not be overloaded. Working platforms shall be provided with toeboards when necessary.

Travelways—Underground Only

§ 57.11036 Ladderway trap doors and guards.

Trap doors or adequate guarding shall be provided in ladderways at each level. Doors shall be kept operable.

§ 57.11037 Ladderway openings.

Ladderways constructed after November 15, 1979, shall have a minimum unobstructed cross-sectional opening of 24 inches by 24 inches measured from the face of the ladder.

§ 57.11038 Entering a manway.

Before entering a manway where persons may be working or traveling, a warning shall be given by the person entering the manway and acknowledged by any person present in the manway.

§ 57.11040 Inclined travelways.

Travelways steeper than 35 degrees from the horizontal shall be provided with ladders or stairways.

§ 57.11041 Landings for inclined ladderways.

Fixed ladders with an inclination of more than 70 degrees from the horizontal shall be offset with substantial landings at least every 30 feet or have landing gates at least every 30 feet.

Escapeways—Underground Only

§ 57.11050 Escapeways and refuges.

(a) Every mine shall have two or more separate, properly maintained escapeways to the surface from the lowest levels which are so positioned that damage to one shall not lessen the effectiveness of the others. A method of refuge shall be provided while a second opening to the surface is being developed. A second escapeway is recommended, but not required, during

the exploration or development of an ore body.

(b) In addition to separate escapeways, a method of refuge shall be provided for every employee who cannot reach the surface from his working place through at least two separate escapeways within a time limit of one hour when using the normal exit method. These refuges must be positioned so that the employee can reach one of them within 30 minutes from the time he leaves his workplace.

§ 57.11051 Escape routes.

Escape routes shall be—

(a) Inspected at regular intervals and maintained in safe, travelable condition; and

(b) Marked with conspicuous and easily read direction signs that clearly indicate the ways of escape.

§ 57.11052 Refuge areas.

Refuge areas shall be—

(a) Of fire-resistant construction, preferably in untimbered areas of the mine;

(b) Large enough to accommodate readily the normal number of persons in the particular area of the mine;

(c) Constructed so they can be made gastight; and

(d) Provided with compressed air lines, waterlines, suitable handtools, and stopping materials.

§ 57.11053 Escape and evacuation plans.

A specific escape and evacuation plan and revisions thereof suitable to the conditions and mining system of the mine and showing assigned responsibilities of all key personnel in the event of an emergency shall be developed by the operator and set out in written form. Within 45 calendar days after promulgation of this standard a copy of the plan and revisions thereof shall be available to the Secretary or his authorized representative. Also, copies of the plan and revisions thereof shall be posted at locations convenient to all persons on the surface and underground. Such a plan shall be updated as necessary and shall be reviewed jointly by the operator and the Secretary or his authorized representative at least once every six months from the date of the last review. The plan shall include—

(a) Mine maps or diagrams showing directions of principal air flow, location of escape routes and locations of existing telephones, primary fans, primary fan controls, fire doors, ventilation doors, and refuge chambers. Appropriate portions of such maps or diagrams shall be posted at all shaft stations and in underground shops, lunchrooms, and elsewhere in working areas where persons congregate;

(b) Procedures to show how the miners will be notified of emergency;

(c) An escape plan for each working area in the mine to include instructions showing how each working area should be evacuated. Each such plan shall be posted at appropriate shaft stations and elsewhere in working areas where persons congregate;

(d) A fire fighting plan;

(e) Surface procedure to follow in an emergency, including the notification of proper authorities, preparing rescue equipment, and other equipment which may be used in rescue and recovery operations; and

(f) A statement of the availability of emergency communication and transportation facilities, emergency power and ventilation and location of rescue personnel and equipment.

[Approved by the Office of Management and Budget under OMB control number 1219-0046]

§ 57.11054 Communication with refuge chambers.

Telephone or other voice communication shall be provided between the surface and refuge chambers and such systems shall be independent of the mine power supply.

§ 57.11055 Inclined escapeways.

Any portion of a designated escapeway which is inclined more than 30 degrees from the horizontal and that is more than 300 feet in vertical extent shall be provided with an emergency hoisting facility.

§ 57.11056 Emergency hoists.

The procedure for inspection, testing and maintenance required by standard 57.19120 shall be utilized at least every 30 days for hoists designated as emergency hoists in any evacuation plan.

§ 57.11058 Check-in, check-out system.

Each operator of an underground mine shall establish a check-in and check-out system which shall provide an accurate record of persons in the mine. These records shall be kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazards. Every person underground shall carry a positive means of being identified.

§ 57.11059 Respirable atmosphere for hoist operators underground.

For the protection of operators of hoists located underground which are part of the mine escape and evacuation plan required under standard 57.11053, the hoist operator shall be provided with a respirable atmosphere completely independent of the mine atmosphere. This independent ventilation system shall convert, without contamination, to an approved and properly maintained 2-hour self-contained breathing apparatus to provide a safe means of escape for the hoist operator after the hoisting duties have been completed as prescribed in the mine escape and evacuation plan for that hoist. The hoist operator's independent ventilation system shall be provided by one of the following methods:

(a) A suitable enclosure equipped with a positive pressure ventilation system which may be operated continuously or be capable of immediate activation from within the enclosure during an emergency evacuation. Air for the enclosure's ventilation system shall be provided in one of the following ways—

(1) Air coursed from the surface through a borehole into the hoist enclosure directly or through a metal pipeline from such borehole; or

(2) Air coursed from the surface through metal duct work into the hoist enclosure, although this duct work shall not be located in timber-supported active workings; or

(3) Air supplied by air compressors located on the surface and coursed through metal pipe into the hoist enclosure.

A back-up system shall be provided for a hoist enclosure ventilation system provided by either of the methods set forth in (a)(2) and (a)(3) above. This back-up system shall consist of compressed air stored in containers connected to the enclosure. This back-up system shall provide and maintain a respirable atmosphere in the enclosure for a period of time equal to at least twice the time necessary to complete the evacuation of all persons designated to use that hoist as prescribed in the mine escape and evacuation plan required under standard 57.11053; or

(b) An approved and properly maintained self-contained breathing apparatus system which shall consist of a mask connected to compressed air stored in containers adjacent to the hoist controls. The self-contained breathing system shall provide a minimum of 24 hours of respirable atmosphere to the hoist operator. In addition, the self-contained breathing system shall be capable of a quick connect with the approved 2-hour self-contained breathing apparatus above.

Subpart K—Electricity

Surface and Underground

§57.12001 Circuit overload protection.

Circuits shall be protected against excessive overloads by fuses or circuit breakers of the correct type and capacity.

§ 57.12002 Controls and switches.

Electric equipment and circuits shall be provided with switches or other controls. Such switches or controls shall be of approved design and construction and shall be properly installed.

§ 57.12003 Trailing cable overload protection.

Individual overload protection or short circuit protection shall be provided for the trailing cables of mobile equipment.

§ 57.12004 Electrical conductors.

Electrical conductors shall be of a sufficient size and current-carrying capacity to ensure that a rise in temperature resulting from normal operations will not damage the insulating materials. Electrical conductors exposed to mechanical damage shall be protected.

§ 57.12005 Protection of power conductors from mobile equipment.

Mobile equipment shall not run over power conductors, nor shall loads be dragged over power conductors, unless the conductors are properly bridged or protected.

§ 57.12006 Distribution boxes.

Distribution boxes shall be provided with a disconnecting device for each branch circuit. Such disconnecting devices shall be equipped or designed in such a manner that it can be determined by visual observation when such a device is open and that the circuit is deenergized, and the distribution box shall be labeled to show which circuit each device controls.

§ 57.12007 Junction box connection procedures.

Trailing cable and power-cable connections to junction boxes shall not be made or broken under load.

§ 57.12008 Insulation and fittings for power wires and cables.

Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments. Cables shall enter metal frames of motors, splice boxes, and electrical compartments only through proper fittings. When insulated wires, other than cables, pass through metal frames, the holes shall be substantially bushed with insulated bushings.

§ 57.12010 Isolation or insulation of communication conductors.

Telephone and low-potential signal wire shall be protected, by isolation or suitable insulation, or both, from contacting energized power conductors or any other power source.

§ 57.12011 High-potential electrical conductors.

High-potential electrical conductors shall be covered, insulated, or placed to prevent contact with low potential conductors.

§ 57.12012 Bare signal wires.

The potential on bare signal wires accessible to contact by persons shall not exceed 48 volts.

§ 57.12013 Splices and repairs of power cables.

Permanent splices and repairs made in power cables, including the ground conductor where provided, shall be—

(a) Mechanically strong with electrical conductivity as near as possible to that of the original;

(b) Insulated to a degree at least equal to that of the original, and sealed to exclude moisture; and,

(c) Provided with damage protection as near as possible to that of the original, including good bonding to the outer jacket.

§ 57.12014 Handling energized power cables.

Power cables energized to potentials in excess of 150 volts, phase-to-ground, shall not be moved with equipment unless sleds or slings, insulated from such equipment, are used. When such energized cables are moved manually, insulated hooks, tongs, ropes, or slings shall be used unless suitable protection for persons is provided by other means. This does not prohibit pulling or dragging of cable by the equipment it powers when the cable is physically attached to the equipment by suitable mechanical devices, and the cable is insulated from the equipment in conformance with other standards in this part.

§ 57.12016 Work on electrically-powered equipment.

Electrically powered equipment shall be deenergized before mechanical work is done on such equipment. Power switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Suitable warning notices shall be posted at the power switch and signed by the individuals who are to do the work. Such locks or preventive devices shall be removed only by the persons who installed them or by authorized personnel.

§ 57.12017 Work on power circuits.

Power circuits shall be deenergized before work is done on such circuits unless hot-line tools are used. Suitable warning signs shall be posted by the individuals who are to do the work. Switches shall be locked out or other measures taken which shall prevent the power circuits from being energized without the knowledge of the individuals working on them. Such locks, signs, or preventive devices shall be removed only by the person who installed them or by authorized personnel.

§ 57.12018 Identification of power switches.

Principal power switches shall be labeled to show which units they control, unless identification can be made readily by location.

§ 57.12019 Access to stationary electrical equipment or switchgear.

Where access is necessary, suitable clearance shall be provided at stationary electrical equipment or switchgear.

§ 57.12020 Protection of persons at switchgear.

Dry wooden platforms, insulating mats, or other electrically-nonconductive material shall be kept in place at all switchboards and power-control switches where shock hazards exist. However, metal plates on which a person normally would stand and which are kept at the same potential as the grounded, metal, non-current-carrying parts of the power switches to be operated may be used.

§ 57.12021 Danger signs.

Suitable danger signs shall be posted at all major electrical installations.

§ 57.12022 Authorized persons at major electrical installations.

Areas containing major electrical installations shall be entered only by authorized persons.

§ 57.12023 Guarding electrical connections and resistor grids.

Electrical connections and resistor grids that are difficult or impractical to insulate shall be guarded, unless protection is provided by location.

§ 57.12025 Grounding circuit enclosures.

All metal enclosing or encasing electrical circuits shall be grounded or

provided with equivalent protection. This requirement does not apply to battery-operated equipment.

§ 57.12026 Grounding transformer and switchgear enclosures.

Metal fencing and metal buildings enclosing transformers and switchgear shall be grounded.

§ 57.12027 Grounding mobile equipment.

Frame grounding or equivalent protection shall be provided for mobile equipment powered through trailing cables.

§ 57.12028 Testing grounding systems.

Continuity and resistance of grounding systems shall be tested immediately after installation, repair, and modification; and annually thereafter. A record of the resistance measured during the most recent test shall be made available on a request by the Secretary or his duly authorized representative.

§ 57.12030 Correction of dangerous conditions.

When a potentially dangerous condition is found it shall be corrected before equipment or wiring is energized.

§ 57.12032 Inspection and cover plates.

Inspection and cover plates on electrical equipment and junction boxes shall be kept in place at all times except during testing or repairs.

§ 57.12033 Hand-held electric tools.

Hand-held electric tools shall not be operated at high potential voltages.

§ 57.12034 Guarding around lights.

Portable extension lights, and other lights that by their location present a shock or burn hazard, shall be guarded.

§ 57.12035 Weatherproof lamp sockets.

Lamp sockets shall be of a weatherproof type where they are exposed to weather or wet conditions that may interfere with illumination or create a shock hazard.

§ 57.12036 Fuse removal or replacement.

Fuses shall not be removed or replaced by hand in an energized circuit, and they shall not otherwise be removed or replaced in an energized circuit unless equipment and techniques especially designed to prevent electrical shock are provided and used for such purpose.

§ 57.12037 Fuses in high-potential circuits.

Fuse tongs or hotline tools, shall be used when fuses are removed or replaced in high-potential circuits.

§ 57.12038 Attachment of trailing cables.

Trailing cables shall be attached to machines in a suitable manner to protect the cable from damage and to prevent strain on the electrical connections.

§ 57.12039 Protection of surplus trailing cables.

Surplus trailing cables to shovels, cranes and similar equipment shall be—

(a) Stored in cable boats;

(b) Stored on reels mounted on the equipment; or

(c) Otherwise protected from mechanical damage.

§ 57.12040 Installation of operating controls.

Operating controls shall be installed so that they can be operated without danger of contact with energized conductors.

§ 57.12041 Design of switches and starting boxes.

Switches and starting boxes shall be of safe design and capacity.

§ 57.12042 Track bonding.

Both rails shall be bonded or welded at every joint and rails shall be crossbonded at least every 200 feet if the track serves as the return trolley circuit. When rails are moved, replaced, or broken bonds are discovered, they shall be rebonded within three working shifts.

§ 57.12045 Overhead powerlines.

Overhead high-potential powerlines shall be installed as specified by the National Electrical Code.

§ 57.12047 Guy wires.

Guy wires of poles supporting high-voltage transmission lines shall meet the requirements for grounding or insulator protection of the National Electrical Safety Code, Part 2, entitled "Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines" (also referred to as National Bureau of Standards Handbook 81, Nov. 1, 1961), and Supplement 2 thereof issued March 1968, which are hereby incorporated by reference and made a part hereof. These publications and documents may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or may be examined in any Metal and Nonmetal Mine Safety and Health District or Subdistrict Office of the Mine Safety and Health Administration.

§ 57.12048 Communication conductors on power poles.

Telegraph, telephone, or signal wires shall not be installed on the same crossarm with power conductors. When carried on poles supporting powerlines, they shall be installed as specified by the National Electrical Code.

§ 57.12050 Installation of trolley wires.

Trolley wires shall be installed at least seven feet above rails where height permits, and aligned and supported to suitably control sway and sag.

§ 57.12053 Circuits powered from trolley wires.

Ground wires for lighting circuits powered from trolley wires shall be connected securely to the ground return circuit.

Surface Only

§ 57.12065 Short circuit and lightning protection.

Powerlines, including trolley wires, and telephone circuits shall be protected against short circuits and lightning.

§ 57.12066 Guarding trolley wires and bare powerlines.

Where metallic tools or equipment can come in contact with trolley wires or bare powerlines, the lines shall be guarded or deenergized.

§ 57.12067 Installation of transformers.

Transformers shall be totally enclosed, or shall be placed at least 8 feet above the ground, or installed in a transformer house, or surrounded by a substantial fence at least 6 feet high and at least 3 feet from any energized parts, casings, or wiring.

§ 57.12068 Locking transformer enclosures.

Transformer enclosures shall be kept locked against unauthorized entry.

§ 57.12069 Lightning protection for telephone wires and ungrounded conductors.

Each ungrounded conductor or telephone wire that leads underground and is directly exposed to lightning shall be equipped with suitable lightning arrestors of approved type within 100 feet of the point where the circuit enters the mine. Lightning arrestors shall be connected to a low resistence grounding medium on the surface and shall be separated from neutral grounds by a distance of not less than 25 feet.

§ 57.12071 Movement or operation of equipment near high-voltage power lines.

When equipment must be moved or operated near energized high-voltage powerlines (other than trolley lines) and the clearance is less than 10 feet, the lines shall be deenergized or other precautionary measures shall be taken.

Underground Only

§ 57.12080 Bare conductor guards.

Trolley wires and bare power conductors shall be guarded at mantrip loading and unloading points, and at shaft stations. Where such trolley wires and bare power conductors are less than 7 feet above the rail, they shall be guarded at all points where persons work or pass regularly beneath.

§ 57.12081 Bonding metal pipelines to ground return circuits.

All metallic pipelines, 1,000 feet or more in length running parallel to trolley tracks, that are used as a ground return circuit shall be bonded to the return circuit rail at the ends of the pipeline and at intervals not to exceed 500 feet.

§ 57.12082 Isolation of powerlines.

Powerlines shall be well separated or insulated from waterlines, telephone lines and air lines.

§ 57.12083 Support of power cables in shafts and boreholes.

Power cables in shafts and boreholes shall be fastened securely in such a manner as to prevent undue strain on the sheath, insulation, or conductors.

§ 57.12084 Branch circuit disconnecting devices.

Disconnecting switches that can be opened safely under load shall be provided underground at all branch circuits extending from primary power circuits near shafts, adits, levels and boreholes.

§ 57.12085 Transformer stations.

Transformer stations shall be enclosed to prevent persons from unintentionally or inadvertently contacting energized parts.

§ 57.12086 Location of trolley wire.

Trolley and trolley feeder wire shall be installed opposite the clearance side of haulageways. However, this standard does not apply where physical limitations would prevent the safe installation or use of such trolley and trolley feeder wire.

§ 57.12088 Splicing trailing cables.

No splice, except a vulcanized splice or its equivalent, shall be made in a trailing cable within 25 feet of the machine unless the machine is equipped with a cable reel or other power feed cable payout-retrieval system. However, a temporary splice may be made to move the equipment for repair.

Subpart L—Compressed Air and Boilers

§ 57.13001 General requirements for boilers and pressure vessels.

All boilers and pressure vessels shall be constructed, installed, and maintained in accordance with the standards and specifications of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

§ 57.13010 Reciprocating-type air compressors.

(a) Reciprocating-type air compressors rated over 10 horsepower shall be equipped with automatic temperature-actuated shutoff mechanisms which shall be set or adjusted to the compressor when the normal operating temperature is exceeded by more than 25 percent.

(b) However, this standard does not apply to reciprocating-type air compressors rated over 10 horsepower if equipped with fusible plugs that were installed in the compressor discharge lines before November 15, 1979, and designed to melt at temperatures at least 50 degrees below the flash point of the compressors' lubricating oil.

§ 57.13011 Air receiver tanks.

Air receiver tanks shall be equipped with one or more automatic pressure-relief valves. The total relieving capacity of the relief valves shall prevent pressure from exceeding the maximum allowable working pressure in a receiver tank by not more than 10 percent. Air receiver tanks also shall be equipped with indicating pressure gages which accurately measure the pressure within the air receiver tanks.

§ 57.13012 Compressor air intakes.

Compressor air intakes shall be installed to ensure that only clean, uncontaminated air enters the compressors.

§ 57.13015 Inspection of compressed-air receivers and other unfired pressure vessels.

(a) Compressed-air receivers and other unfired pressure vessels shall be inspected by inspectors holding a valid National Board Commission and in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1979. This code is incorporated by reference and made a part of this standard. It may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the publisher, the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

(b) Records of inspections shall be kept in accordance with requirements of the National Board Inspection Code, and the records shall be made available to the Secretary or his authorized representative.

§ 57.13017 Compressor discharge pipes.

Compressor discharge pipes where carbon build-up may occur shall be cleaned periodically as recommended by the manufacturer, but no less frequently than once every two years.

§ 57.13019 Pressure system repairs.

Repairs involving the pressure system of compressors, receivers, or compressed-air-powered equipment shall not be attempted until the pressure has been bled off.

§ 57.13020 Use of compressed air.

At no time shall compressed air be directed toward a person. When compressed air is used, all necessary precautions shall be taken to protect persons from injury.

§ 57.13021 High-pressure hose connections.

Except where automatic shutoff valves are used, safety chains or other suitable locking devices shall be used at connections to machines of high-pressure hose lines of ¾-inch inside diameter or larger, and between high-pressure hose lines of ¾-inch inside diameter or larger, where a connection failure would create a hazard.

§ 57.13030 Boilers.

(a) Fired pressure vessels (boilers) shall be equipped with water level gauges, pressure gauges, automatic pressure-relief valves, blowdown piping, and other safety devices approved by the American Society of Mechanical Engineers to protect against hazards from overpressure, flameouts, fuel interruptions and low water level, all as required by the appropriate sections, chapters and appendices listed in paragraphs (b) (1) and (2) of this section.

(b) These gauges, devices and piping shall be designed, installed, operated, maintained, repaired, altered, inspected, and tested by inspectors holding a valid National Board Commission and in accordance with the following listed sections, chapters and appendices:

(1) The ASME Boiler and Pressure Vessel Code, 1977, published by the American Society of Mechanical Engineers.

Section and Title

I Power Boilers
II Material Specifications—Part A—Ferrous
II Material Specifications—Part B—Nonferrous
II Material Specifications—Part C—Welding Rods, Electrodes, and Filler Metals
IV Heating Boilers
V Nondestructive Examination
VI Recommended Rules for Care and Operation of Heating Boilers
VII Recommended Rules for Care of Power Boilers

(2) The National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1979, published by the National Board of Boiler and Pressure Vessel Inspectors.

Chapter and Title

I Glossary of Terms
II Inspection of Boilers and Pressure Vessels
III Repairs and Alterations to Boiler and Pressure Vessels by Welding
IV Shop Inspection of Boilers and Pressure Vessels
V Inservice Inspection of Pressure Vessels by Authorized Owner-User Inspection Agencies

Appendix and Title

A Safety and Safety Relief Valves
B Non-ASME Code Boilers and Pressure Vessels
C Storage of Mild Steel Covered Arc Welding Electrodes
D-R National Board "R" (Repair) Symbol Stamp
D-VR National Board "VR" (Repair of Safety and Safety Relief Valve) Symbol Stamp
D-VR1 Certificate of Authorization for Repair Symbol Stamp for Safety and Safety Relief Valves
D-VR2 Outline of Basic Elements of Written Quality Control System for Repairers of ASME Safety and Safety Relief Valves
D-VR3 Nameplate Stamping for "VR"
E Owner-User Inspection Agencies
F Inspection Forms

(c) Records of inspections and repairs shall be kept in accordance with the requirements of the ASME Boiler and Pressure Vessel Code and the National Board Inspection Code. The records shall be made available to the Secretary or his authorized representative.

(d) Sections of the ASME Boiler and Pressure Vessel Code, 1977, listed in paragraph (b)(1) of this section, and chapters and appendices of the National Board Inspection Code, 1979, listed in paragraph (b)(2) of this section, are incorporated by reference and made a part of this standard. These publications may be obtained from the publishers, the American Society of Mechanical Engineers, 345 East Forty-seventh Street, New York, N.Y. 10017, and the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. The publication may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

Subpart M—Machinery and Equipment

Guards

§ 57.14001 Moving machine parts.

Gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons, shall be guarded.

§ 57.14002 Guarding overhead belts.

Overhead belts shall be guarded if the whipping action from a broken line would be hazardous to persons below.

§ 57.14003 Conveyors.

Guards at conveyor-drive, conveyor-head, and conveyor-tail pulleys shall extend a distance sufficient to prevent a person from accidentally reaching behind the guard and becoming caught between the belt and the pulley.

§ 57.14006 Placement of guards during machinery operation.

Except when testing the machinery, guards shall be securely in place while machinery is being operated.

§ 57.14007 Construction and maintenance.

Guards shall be of substantial construction and properly maintained.

§ 57.14008 Stationary grinding machines.

Stationary grinding machines other than special bit grinders shall be equipped with—

(a) Peripheral hoods (less than 90° throat openings) capable of withstanding the force of a bursting wheel;

(b) Adjustable tool rests set as close as practical to the wheel; and

(c) Safety washers.

§ 57.14009 Grinding wheels.

Grinding wheels shall be operated within the specifications of the manufacturer of the wheel.

§ 57.14010 Hand-held power tools.

Hand-held power tools, other than rock drills, shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

§ 57.14011 Flying or falling objects.

Guards, shields, or other suitable protection shall be provided in areas where flying or falling materials present a hazard to personnel.

§ 57.14013 Falling object protection.

Fork-lift trucks, front-end loaders, and bulldozers shall be provided with substantial canopies when necessary to protect the operator.

§ 57.14014 Eye protection with grinding wheels.

Face shields or goggles, in good condition, shall be worn when operating a grinding wheel.

Methods and Procedures

§ 57.14026 Removal of unsafe equipment or machinery.

Unsafe equipment or machinery shall be removed from service immediately.

§ 57.14027 Machinery and equipment operators.

Operation of machinery or equipment shall be assigned only to competent persons.

§ 57.14029 Machinery repairs and maintenance.

Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments.

§ 57.14030 Blocking equipment in raised position.

Persons shall not work on or from a piece of mobile equipment in a raised position until it has been blocked in place securely. This does not preclude the use of equipment specifically designed as elevated mobile work platforms.

§ 57.14031 Shifting drive belts.

Drive belts shall not be shifted while in motion unless the machines are provided with mechanical shifters.

§ 57.14032 Guiding and hand feeding chains, ropes, and belts.

Belts, chains, and ropes shall not be guided onto power-driven moving pulleys, sprockets, or drums with the hands except on slow moving equipment especially designed for hand feeding.

§ 57.14033 Manual cleaning of conveyor pulleys.

Pulleys of conveyors shall not be cleaned manually while the conveyor is in motion.

§ 57.14034 Applying belt dressing.

Belt dressing shall not be applied manually while belts are in motion unless an aerosol-type dressing is used.

§ 57.14035 Machinery lubrication.

Machinery shall not be lubricated while in motion where a hazard exists, unless equipped with extended fittings or cups.

§ 57.14036 Use of tools and equipment.

Tools and equipment shall not be used beyond the design capacity intended by the manufacturer, where such use may create a hazard to personnel.

§ 57.14045 Ventilation and shielding for welding.

Welding operations shall be shielded and well-ventilated.

Subpart N—Personal Protection

Surface and Underground

§ 57.15001 First aid materials.

Adequate first-aid materials, including stretchers and blankets shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled, or used.

§ 57.15002 Hard hats.

All persons shall wear suitable hard hats when in or around a mine or plant where falling objects may create a hazard.

§ 57.15003 Protective footwear.

All persons shall wear suitable protective footwear when in or around an area of a mine or plant where a hazard exists which could cause an injury to the feet.

§ 57.15004 Eye protection.

All persons shall wear safety glasses, goggles, or face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injury to unprotected eyes.

§ 57.15005 Safety belts and lines.

Safety belts and lines shall be worn when persons work where there is danger of falling; a second person shall tend the lifeline when bins, tanks, or other dangerous areas are entered.

§ 57.15006 Protective equipment and clothing for hazards and irritants.

Special protective equipment and special protective clothing shall be provided, maintained in a sanitary and reliable condition and used whenever hazards of process or environment, chemical hazards, radiological hazards, or mechancial irritants are encountered in a manner capable of causing injury or impairment.

§ 57.15007 Protective equipment or clothing for welding, cutting, or working with molten metal.

Protective clothing or equipment and face shields or goggles shall be worn when welding, cutting, or working with molten metal.

Surface Only

§ 57.15020 Life jackets and belts.

Life jackets or belts shall be worn where there is danger from falling into water.

Underground Only

§ 57.15030 Provisions and maintenance of self-rescue devices.

A 1-hour self-rescue device approved by the Mine Safety and Health Administration shall be made available by the operator to all personnel underground. Each operator shall maintain self-rescue devices in good condition.

§ 57.15031 Location of self-rescue devices.

(a) Except as provided in paragraph (b) and (c) of this section, self-rescue devices meeting the requirements of standard 57.15030 shall be worn or carried by all persons underground.

(b) Where the wearing or carrying of self-rescue devices meeting the requirements of standard 57.15030 is hazardous to a person, such self-rescue devices shall be located at a distance no greater than 25 feet from such person.

(c) Where a person works on or around mobile equipment, self-rescue devices may be placed in a readily accessible location on such equipment.

Subpart O—Materials Storage and Handling

§ 57.16001 Stacking and storage of materials.

Supplies shall not be stacked or stored in a manner which creates tripping or fall-of-material hazards.

§ 57.16002 Bins, hoppers, silos, tanks, and surge piles.

(a) Bins, hoppers, silos, tanks, and surge piles, where loose unconsolidated materials are stored, handled or transferred shall be—

(1) Equipped with mechanical devices or other effective means of handling materials so that during normal operations persons are not required to enter or work where they are exposed to entrapment by the caving or sliding of materials; and

(2) Equipped with supply and discharge operating controls. The controls shall be located so that spills or overruns will not endanger persons.

(b) Where persons are required to move around or over any facility listed in this standard, suitable walkways or passageways shall be provided.

(c) Where persons are required to enter any facility listed in this standard for maintenance or inspection purposes, ladders, platforms, or staging shall be provided. No person shall enter the facility until the supply and discharge of materials have ceased and the supply and discharge equipment is locked out. Persons entering the facility shall wear a safety belt or harness equipped with a lifeline suitably fastened. A second person, similarly equipped, shall be stationed near where the lifeline is fastened and shall constantly adjust it or keep it tight as needed, with minimum slack.

§ 57.16003 Storage of hazardous materials.

Materials that can create hazards if accidentally liberated from their containers shall be stored in a manner that minimizes the dangers.

§ 57.16004 Containers for hazardous materials.

Hazardous materials shall be stored in containers of a type approved for such use by recognized agencies; such containers shall be labeled appropriately.

§ 57.16005 Securing gas cylinders.

Compressed and liquid gas cylinders shall be secured in a safe manner.

§ 57.16006 Protection of gas cylinder valves.

Valves on compressed gas cylinders shall be protected by covers when being transported or stored, and by a safe location when the cylinders are in use.

§ 57.16007 Taglines, hitches, and slings.

(a) Taglines shall be attached to loads that may require steadying or guidance while suspended.

(b) Hitches and slings used to hoist materials shall be suitable for the particular material handled.

§ 57.16009 Suspended loads.

Persons shall stay clear of suspended loads.

§ 57.16010 Dropping materials from overhead.

To protect personnel, material shall not be dropped from an overhead elevation until the drop area is first cleared of personnel and the area is then either guarded or a suitable warning is given.

§ 57.16011 Riding hoisted loads or on the hoist hook.

Persons shall not ride on loads being moved by cranes or derricks, nor shall they ride the hoisting hooks unless such method eliminates a greater hazard.

§ 57.16012 Storage of incompatible substances.

Chemical substances, including concentrated acids and alkalies, shall be stored to prevent inadvertent contact with each other or with other substances, where such contact could cause a violent reaction or the liberation of harmful fumes or gases.

§ 57.16013 Working with molten metal.

Suitable warning shall be given before molten metal is poured and before a container of molten metal is moved.

§ 57.16014 Operator-carrying overhead cranes.

Operator-carrying overhead cranes shall be provided with—

(a) Bumpers at each end of each rail;

(b) Automatic switches to halt uptravel of the blocks before they strike the hoist;

(c) Effective audible warning signals within easy reach of the operator; and

(d) A means to lock out the disconnect switch.

§ 57.16015 Work or travel on overhead crane bridges.

No person shall work from or travel on the bridge of an overhead crane unless the bridge is provided with substantial footwalks with toeboards and railings the length of the bridge.

§ 57.16016 Lift trucks.

Fork and other similar types of lift trucks shall be operated with the—

(a) Upright tilted back to steady and secure the load;

(b) Load in the upgrade position when ascending or descending grades in excess of 10 percent;

(c) Load not raised or lowered enroute except for minor adjustments; and

(d) Load-engaging device downgrade when traveling unloaded on all grades.

§ 57.16017 Hoisting heavy equipment or material.

Where the stretching or contraction of a hoist rope could create a hazard, chairs or other suitable blocking shall be used to support conveyances at shaft landings before heavy equipment of material is loaded or unloaded.

Subpart P—Illumination

§ 57.17001 Illumination of surface working areas.

Illumination sufficient to provide safe working conditions shall be provided in and on all surface structures, paths, walkways, stairways, switch panels, loading and dumping sites, and working areas.

§ 57.17010 Electric lamps.

Individual electric lamps shall be carried for illumination by all persons underground.

Subpart Q—Safety Programs

Surface and Underground

§ 57.18002 Examination of working places.

(a) A competent person designated by the operator shall examine each working place at least once each shift for conditions which may adversely affect safety or health. The operator shall promptly initiate appropriate action to correct such conditions.

(b) A record that such examinations were conducted shall be kept by the operator for a period of one year, and shall be made available for review by the Secretary or his authorized representative.

(c) In addition, conditions that may present an imminent danger which are noted by the person conducting the examination shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected (except persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977) until the danger is abated.

§ 57.18006 New employees.

New employees shall be indoctrinated in safety rules and safe work procedures.

§ 57.18009 Designation of person in charge.

When persons are working at the mine, a competent person designated by the mine operator shall be in attendance to take charge in case of an emergency.

§ 57.18010 First aid training.

Selected supervisors shall be trained in first aid. First aid training shall be made available to all interested employees.

§ 57.18012 Emergency telephone numbers.

Emergency telephone numbers shall be posted at appropriate telephones.

§ 57.18013 Emergency communications system.

A suitable communication system shall be provided at the mine to obtain assistance in the event of an emergency.

§ 57.18014 Emergency medical assistance and transportation.

Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons.

Surface Only

§ 57.18020 Working alone.

No employee shall be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

Underground Only

§ 57.18025 Working alone.

No employee shall be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless his cries for help can be heard or he can be seen.

§ 57.18028 Mine emergency and self-rescuer training.

(a) On an annual basis, all persons who are required to go underground shall be instructed in the Mine Safety and Health Administration approved course contained in Bureau of Mines Instruction Guide 19, "Mine Emergency Training" (September 1972). The instruction shall be given by MSHA personnel or by persons who are certified by the District Manager of the area in which the mine is located.

(b) On an annual basis, all persons who go underground shall be instructed in the Mine Safety and Health Administration course contained in Bureau of Mines Instruction Guide 2, "MSA W–65 Self-Rescuer" (March 1972) or Bureau of Mines Instruction Guide 3, "Permissible Drager 810 Respirator for Self-Rescue" (March 1972). The instruction shall be given by MSHA personnel or by persons who are certified by the District Manager of the area in which the mine is located: provided, however, that if a Mine Safety and Health Administration instructor or a certified instructor is not immediately available such instruction of new employees in self-rescuers may be conducted by qualified company personnel who are not certified, but who have obtained provisional approval from the District Manager. Any person who has not had self-rescuer instruction within 12 months immediately preceding going underground shall be instructed in the use of self-rescuers before going underground.

(c) All instructional material, handouts, visual aids, and other such

teaching accessories used by the operator in the courses prescribed in paragraphs (a) and (b) shall be available for inspection by the Secretary or his authorized representative.

(d) Records of all instruction shall be kept at the mine site or nearest mine office at least 2 years from the date of instruction. Upon completion of such instruction, copies of the record shall be submitted to the District Manager.

(e) The Bureau of Mines instruction guides to which reference is made in items (a) and (b) of this standard are hereby incorporated by reference and made a part hereof. The incorporated instruction guides are available and shall be provided upon request made to any Metal and Nonmetal Mine Safety and Health Subdistrict Office.

Subpart R—Personnel Hoisting

§ 57.19000 Application.

(a) The hoisting standards in this subpart apply to those hoists and appurtenances used for hoisting persons. However, where persons may be endangered by hoists and appurtenances used solely for handling ore, rock, and materials, the appropriate standards should be applied.

(b) Standards 57.19021 through 57.19028 shall apply to wire ropes in service used to hoist—

(1) Persons in shafts and slopes underground;

(2) Persons with an incline hoist on the surface; or

(3) Loads in shaft or slope development when persons work below suspended loads.

(4) These standards do not apply to wire ropes used for elevators.

(c) Emergency hoisting facilities should conform to the extent possible to safety requirements for other hoists, and should be adequate to remove the persons from the mine with a minimum of delay.

Hoists

§ 57.19001 Rated capacities.

Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used.

§ 57.19002 Anchoring.

Hoists shall be anchored securely.

§ 57.19003 Driving mechanism connections.

Belt, rope, or chains shall not be used to connect driving mechanisms to man hoists.

§ 57.19004 Brakes.

Any hoist used to hoist persons shall be equipped with a brake or brakes which shall be capable of holding its fully loaded cage, skip, or bucket at any point in the shaft.

§ 57.19005 Locking mechanism for clutch.

The operating mechanism of the clutch of every man-hoist drum shall be provided with a locking mechanism, or interlocked electrically or mechanically with the brake to prevent accidental withdrawal of the clutch.

§ 57.19006 Automatic hoist braking devices.

Automatic hoists shall be provided with devices that automatically apply the brakes in the event of power failure.

§ 57.19007 Overtravel and overspeed devices.

All man hoists shall be provided with devices to prevent overtravel. When utilized in shafts exceeding 100 feet in depth, such hoists shall also be provided with overspeed devices.

§ 57.19008 Friction hoist synchronizing mechanisms.

Where creep or slip may alter the effective position of safety devices, friction hoists shall be equipped with synchronizing mechanisms that recalibrate the overtravel devices and position indicators.

§ 57.19009 Position indicator.

An accurate and reliable indicator of the position of the cage, skip, bucket, or cars in the shaft shall be provided.

§ 57.19010 Location of hoist controls.

Hoist controls shall be placed or housed so that the noise from machinery or other sources will not prevent hoistmen from hearing signals.

§ 57.19011 Drum flanges.

Flanges on drums shall extend radially a minimum of 4 inches or three rope diameters beyond the last wrap, whichever is the lesser.

§ 47.19012 Grooved drums.

Where grooved drums are used, the grooves shall be of suitable size and pitch for the ropes used.

§ 57.19013 Diesel- and other fuel-injection-powered hoists.

Where any diesel or similar fuel-injection engine is used to power a hoist, the engine shall be equipped with a damper or other cutoff in its air intake system. The control handle shall be clearly labeled to indicate that its intended function is for emergency stopping only.

§ 57.19014 Friction hoist overtravel protection.

In a friction hoist installation, tapered guides or other approved devices shall be installed above and below the limits of regular travel of the conveyance and arranged to prevent overtravel in the event of failure of other devices.

§ 57.19017 Emergency braking for electric hoists.

Each electric hoist shall be equipped with a manually-operable switch that will initiate emergency braking action to bring the conveyance and the counterbalance safely to rest. This switch shall be located within reach of the hoistman in case the manual controls of the hoist fail.

§ 57.19018 Overtravel by-pass switches.

When an overtravel by-pass switch is installed, the switch shall function so as to allow the conveyance to the moved through the overtravel position when the switch is held in the closed position by the hoistman. The overtravel by-pass switch shall return automatically to the open position when released by the hoistman.

Wire Ropes

Authority: Sec. 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

§ 57.19019 Guide ropes.

If guide ropes are used in shafts for personnel hoisting applications other than shaft development, the nominal strength (manufacturer's published catalog strength) of the guide rope at installation shall meet the minimum value calculated as follows: Minimum value = Static Load × 5.0.

§ 57.19021 Minimum rope strength.

At installation, the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting shall meet the minimum rope strength values obtained by the following formulas in which "L" equals the maximum suspended rope length in feet:

(a) *Winding drum ropes* (all constructions, including rotation resistant).

For rope lengths less than 3,000 feet:
Minimum Value = Static Load × (7.0 − 0.001L)
For rope lengths 3,000 feet or greater:
Minimum Value = Static Load × 4.0.

(b) *Friction drum ropes.*

For rope lengths less than 4,000 feet:
Minimum Value = Static Load × (7.0 − 0.0005L)
For rope lengths 4,000 feet or greater:
Minimum Value = Static Load × 5.0.

(c) *Tail ropes* (balance ropes).

Minimum Value = Weight or Rope × 7.0

§ 57.19022 Initial measurement.

After initial rope stretch but before visible wear occurs, the rope diameter of newly installed wire ropes shall be measured at least once in every third interval of active length and the measurements averaged to establish a baseline for subsequent measurements. A record of the measurements and the date shall be made by the person taking the measurements. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 57.19023 Examinations.

(a) At least once every fourteen calendar days, each wire rope in service shall be visually examined along its entire active length for visible structural damage, corrosion, and improper lubrication or dressing. In addition, visual examination for wear and broken wires shall be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition that results in a reduction of rope strength is present, the affected portion of the rope shall be examined on a daily basis.

(b) Before any person is hoisted with a newly installed wire rope or any wire rope that has not been examined in the previous fourteen calendar days, the wire rope shall be examined in accordance with paragraph (a) of this section.

(c) At least once every six months, nondestructive tests shall be conducted of the active length of the rope, or rope diameter measurements shall be made—

(1) Wherever wear is evident;

(2) Where the hoist rope rests on sheaves at regular stopping points;

(3) Where the hoist rope leaves the drum at regular stopping points; and

(4) At drum crossover and change-of-layer regions.

(d) At the completion of each examination required by paragraph (a) of this section, the person making the examination shall certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) of this section is present, the person conducting the examination shall make a record of the condition and the date. Certifications and records of examinations shall be retained for one year.

(e) The person making the measurements or nondestructive tests as required by paragraph (c) of this section shall record the measurements or test results and the date. This record shall be retained until the rope is retired from service.

(Approved by the Office of Management and Budget under OMB control number 1219-0034)

§ 57.19024 Retirement criteria.

Unless damage or deterioration is removed by cutoff, wire ropes shall be removed from service when any of the following conditions occurs:

(a) The number of broken wires within a rope lay length, excluding filler wires, exceeds either—

(1) Five percent of the total number of wires; or

(2) Fifteen percent of the total number of wires within any strand.

(b) On a regular lay rope, more than one broken wire in the valley between strands in one rope lay length.

(c) A loss of more than one-third of the original diameter of the outer wires.

(d) Rope deterioration from corrosion.

(e) Distortion of the rope structure.

(f) Heat damage from any source.

(g) Diameter reduction due to wear that exceeds six percent of the baseline diameter measurement.

(h) Loss of more than ten percent of rope strength as determined by nondestructive testing.

§ 57.19025 Load end attachments.

(a) Wire rope shall be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope.

(b) Except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer

(c) Load end attachment methods using splices are prohibited.

§ 57.19026 Drum end attachment.

(a) For drum end attachment, wire rope shall be attached—

(1) Securely by clips after making one full turn around the drum spoke;

(2) Securely by clips after making one full turn around the shaft, if the drum is fixed to the shaft; or

(3) By properly assembled anchor bolts, clamps, or wedges, provided that the attachment is a design feature of the hoist drum. Design feature means either the manufacturer's original design or a design approved by a registered professional engineer.

(b) A minimum of three full turns of wire rope shall be on the drum when the rope is extended to its maximum working length.

§ 57.19027 End attachment retermination.

Damaged or deteriorated wire rope shall be removed by cutoff and the rope reterminated where there is—

(a) More than one broken wire at an attachment;

(b) Improper installation of an attachment;

(c) Slippage at an attachment; or

(d) Evidence of deterioration from corrosion at an attachment.

§ 57.19028 End attachment replacement.

Wire rope attachments shall be replaced when cracked, deformed, or excessively worn.

§ 57.19030 Safety device attachments.

Safety device attachments to hoist ropes shall be selected, installed, and maintained according to manufacturers' specifications to minimize internal corrosion and weakening of the hoist rope.

Headframes and Sheaves

§ 57.19035 Headframe design.

All headframes shall be constructed with suitable design considerations to allow for all dead loads, live loads, and wind loads.

§ 57.19036 Headframe height.

Headframes shall be high enough to provide clearance for overtravel and safe stopping of the conveyance.

§ 57.19037 Fleet angles.

Fleet angles on hoists installed after November 15, 1979, shall not be greater than one and one-half degrees for smooth drums or two degrees for grooved drums.

§ 57.19038 Platforms around elevated head sheaves.

Platforms with toeboards and handrails shall be provided around elevated head sheaves.

Conveyances

§ 57.19045 Metal bonnets.

Man cages and skips used for hoisting or lowering employees or other persons in any vertical shaft or any incline shaft with an angle of inclination of forty-five degrees from the horizontal, shall be covered with a metal bonnet.

§ 57.19049 Hoisting persons in buckets.

Buckets shall not be used to hoist persons except during shaft sinking operations, inspection, maintenance, and repairs.

§ 57.19050 Bucket requirements.

Buckets used to hoist persons during vertical shaft sinking operations shall—

(a) Be securely attached to a crosshead when traveling in either direction between the lower and upper crosshead parking locations;

(b) Have overhead protection when the shaft depth exceeds 50 feet;

(c) Have sufficient depth or a suitably designed platform to transport persons safely in a standing position; and

(d) Have devices to prevent accidental dumping where the bucket is supported by a bail attached to its lower half.

§ 57.19054 Rope guides.

Where rope guides are used in shafts other than in shaft sinking operations, the rope guides shall be a type of lock coil construction.

Hoisting Procedures

§ 57.19055 Availability of hoist operator for manual hoists.

When a manually operated hoist is used, a qualified hoistman shall remain within hearing of the telephone or signal device at all times while any person is underground.

§ 57.19056 Availability of hoist operator for automatic hoists.

When automatic hoisting is used, a competent operator of the hoist shall be readily available at or near the hoisting device while any person is underground.

§ 57.19057 Hoist operator's physical fitness.

No person shall operate a hoist unless within the preceding 12 months he has had a medical examination by a qualified, licensed physician who shall certify his fitness to perform this duty. Such certification shall be available at the mine.

§ 57.19058 Experienced hoist operators.

Only experienced hoistmen shall operate the hoist except in cases of emergency and in the training of new hoistmen.

§ 57.19061 Maximum hoisting speeds.

The safe speed for hoisting persons shall be determined for each shaft, and this speed shall not be exceeded. Persons shall not be hoisted at a speed faster than 2,500 feet per minute, except in an emergency.

§ 57.19062 Maximum acceleration and deceleration.

Maximum normal operating acceleration and deceleration shall not exceed 6 feet per second per second. During emergency braking, the deceleration shall not exceed 16 feet per second per second.

§ 57.19063 Persons allowed in hoist room.

Only authorized persons shall be in hoist rooms.

§ 57.19065 Lowering conveyances by the brakes.

Conveyances shall not be lowered by the brakes alone except during emergencies.

§ 57.19066 Maximum riders in a conveyance.

In shafts inclined over 45 degrees, the operator shall determine and post in the conveyance or at each shaft station the maximum number of persons permitted to ride in a hoisting conveyance at any one time. Each person shall be provided a minimum of 1.5 square feet of floor space.

§ 57.19067 Trips during shift changes.

During shift changes, an authorized person shall be in charge of each trip in which persons are hoisted.

§ 57.19068 Orderly conduct in conveyances.

Persons shall enter, ride, and leave conveyances in an orderly manner.

§ 57.19069 Entering and leaving conveyances.

Persons shall not enter or leave conveyances which are in motion or after a signal to move the conveyance has been given to the hoistman.

§ 57.19070 Closing cage doors or gates.

Cage doors or gates shall be closed while persons are being hoisted; they shall not be opened until the cage has come to a stop.

§ 57.19071 Riding in skips or buckets.

Persons shall not ride in skips or buckets with muck, supplies, materials, or tools other than small hand tools.

§ 57.19072 Skips and cages in same compartment.

When combinations of cages and skips are used in the same compartment, the cages shall be enclosed to protect personnel from flying material and the hoist speed reduced to man-speed as defined in standard 57.19061, but not to exceed 1,000 feet per minute. Muck shall not be hoisted with personnel during shift changes.

§ 57.19073 Hoisting during shift changes.

Rock or supplies shall not be hoisted in the same shaft as persons during shift changes, unless the compartments and dumping bins are partitioned to prevent spillage into the cage compartment.

§ 57.19074 Riding the bail, rim, bonnet, or crosshead.

Persons shall not ride the bail, rim, bonnet, or crosshead of any shaft conveyance except when necessary for inspection and maintenance, and then only when suitable protection for persons is provided.

§ 57.19075 Use of open hooks.

Open hooks shall not be used to hoist buckets or other conveyances.

§ 57.19076 Maximum speeds for hoisting persons in buckets.

When persons are hoisted in buckets, speeds shall not exceed 500 feet per minute and shall not exceed 200 feet per minute when within 100 feet of the intended station.

§ 57.19077 Lowering buckets.

Buckets shall be stopped about 15 feet from the shaft bottom to await a signal from one of the crew on the bottom for further lowering.

§ 57.19078 Hoisting buckets from the shaft bottom.

All buckets shall be stopped after being raised about three feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at a minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

§ 57.19079 Blocking mine cars.

Where mine cars are hoisted by cage or skip, means for blocking cars shall be provided at all landings and also on the cage.

§ 57.19080 Hoisting tools, timbers, and other materials.

When tools, timbers, or other materials are being lowered or raised in a shaft by means of a bucket, skip, or cage, they shall be secured or so placed that they will not strike the sides of the shaft.

§ 57.19081 Conveyances not in use.

When conveyances controlled by a hoist operator are not in use, they shall be released and the conveyances shall be raised or lowered a suitable distance to prevent persons from boarding or loading the conveyances.

§ 57.19083 Overtravel backout device.

A manually operated device shall be installed on each electric hoist that will allow the conveyance or counterbalance

to be removed from an overtravel position. Such device shall not release the brake, or brakes, holding the overtravelled conveyance or counterbalance until sufficient drive motor torque has been developed to assure movement of the conveyance or counterbalance in the correct direction only.

Signaling

§ 57.19090 Dual signaling systems.

There shall be at least two effective approved methods of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

§ 57.19091 Signaling instructions to hoist operator.

Hoist operators shall accept hoisting instructions only by the regular signaling system unless it is out of order. In such an event, and during other emergencies, the hoist operator shall accept instructions to direct movement of the conveyances only from authorized persons.

§ 57.19092 Signaling from conveyances.

A method shall be provided to signal the hoist operator from cages or other conveyances at any point in the shaft.

§ 57.19093 Standard signal code.

A standard code of hoisting signals shall be adopted and used at each mine. The movement of a shaft conveyance on a "one bell" signal is prohibited.

§ 57.19094 Posting signal code.

A legible signal code shall be posted prominently in the hoist house within easy view of the hoistmen, and at each place where signals are given or received.

§ 57.19095 Location of signal devices.

Hoisting signal devices shall be positioned within easy reach of persons on the shaft bottom or constantly attended by a person stationed on the lower deck of the sinking platform.

§ 57.19096 Familiarity with signal code.

Any person reponsible for receiving or giving signals for cages, skips, and mantrips when persons or materials are being transported shall be familiar with the posted signaling code.

Shafts

§ 57.19100 Shaft landing gates.

Shaft landings shall be equipped with substantial safety gates so constructed that materials will not go through or under them; gates shall be closed except when loading or unloading shaft conveyances.

§ 57.19101 Stopblocks and derail switches.

Positive stopblocks or a derail switch shall be installed on all tracks leading to a shaft collar or landing.

§ 57.19102 Shaft guides.

A means shall be provided to guide the movement of a shaft conveyance.

§ 57.19103 Dumping facilities and loading pockets.

Dumping facilities and loading pockets shall be constructed so as to minimize spillage into the shaft.

§ 57.19104 Clearance at shaft stations.

Suitable clearance at shaft stations shall be provided to allow safe movement of persons, equipment and materials.

§ 57.19105 Landings with more than one shaft entrance.

A safe means of passage around open shaft compartments shall be provided on landings with more than one entrance to the shaft.

§ 57.19106 Shaft sets.

Shaft sets shall be kept in good repair and clean of hazardous material.

§ 57.19107 Precautions for work in compartment affected by hoisting operation.

Hoistmen shall be informed when persons are working in a compartment affected by that hoisting operation and a "Men Working in Shaft" sign shall be posted at the hoist.

§ 57.19108 Posting warning signs during shaft work.

When persons are working in a shaft "Men Working in Shaft" signs shall be posted at all devices controlling hoisting operations that may endanger such persons.

§ 57.19109 Shaft inspection and repair.

Shaft inspection and repair work in vertical shafts shall be performed from substantial platforms equipped with bonnets or equivalent overhead protection.

§ 57.19110 Overhead protection for shaft deepening work.

A substantial bulkhead or equivalent protection shall be provided above persons at work deepening a shaft.

§ 57.19111 Shaft-sinking ladders.

Substantial fixed ladders shall be provided from the collar to as near the shaft bottom as practical during shaft-sinking operations, or an escape hoist powered by an emergency power source shall be provided. When persons are on the shaft bottom, a chain ladder, wire rope ladder, or other extension ladders shall be used from the fixed ladder or lower limit of the escape hoist to the shaft bottom.

Inspection and Maintenance

§ 57.19120 Procedures for inspection, testing, and maintenance.

A systematic procedure of inspection, testing and maintenance of shaft and hoisting equipment shall be developed and followed. If it is found or suspected that any part is not functioning properly, the hoist shall not be used until the malfunction has been located and repaired or adjustments have been made.

§ 57.19121 Recordkeeping.

At the time of completion, the person performing inspections, tests, and maintenance of shafts and hoisting equipment required in standard 57.19120 shall certify, by signature and date, that they have been done. A record of any part that is not functioning properly shall be made and dated. Certifications and records shall be retained for one year.

(Approved by the Office of Management and Budget under OMB control number 1219–0034)

(Sec. 101, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811).

§ 57.19122 Replacement parts.

Parts used to repair hoists shall have properties that will ensure the proper and safe function of the hoist.

§ 57.19129 Examinations and tests at beginning of shift.

Hoistmen shall examine their hoists and shall test overtravel, deadman controls, position indicators, and braking mechanisms at the beginning of each shift.

§ 57.19130 Conveyance shaft test.

Before hoisting persons and to assure that the hoisting compartments are clear of obstructions, empty hoist conveyances shall be operated at least one round trip after—

(a) Any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

(b) Any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

(c) Blasting in or near the shaft that might restrict or obstruct conveyance clearance; or

(d) Remaining idle for one shift or longer.

§ 57.19131 Hoist conveyance connections.

Hoist conveyance connections shall be inspected at least once during any 24-hour period that the conveyance is used for hoisting persons.

§ 57.19132 Safety catches.

(a) A performance drop test of hoist conveyance safety catches shall be made at the time of installation, or prior to installation in a mockup of the actual installation. The test shall be certified to in writing by the manufacturer or by a registered professional engineer performing the test.

(b) After installation and before use, and at the beginning of any seven day period during which the conveyance is to be used, the conveyance shall be suitably rested and the hoist rope slackened to test for the unrestricted functioning of the safety catches and their activating mechanisms.

(c) The safety catches shall be inspected by a competent person at the beginning of any 24-hour period that the conveyance is to be used.

§ 57.19133 Shaft.

Shafts that have not been inspected within the past 7 days shall not be used until an inspection has been conducted by a competent person.

§ 57.19134 Sheaves.

Sheaves in operating shafts shall be inspected weekly and kept properly lubricated.

§ 57.19135 Rollers in inclined shafts.

Rollers used in operating inclined shafts shall be lubricated, properly aligned, and kept in good repair.

Subpart S—Miscellaneous

§ 57.20001 Intoxicating beverages and narcotics.

Intoxicating beverages and narcotics shall not be permitted or used in or around mines. Persons under the influence of alcohol or narcotics shall not be permitted on the job.

§ 57.20002 Potable water.

(a) An adequate supply of potable drinking water shall be provided at all active working areas.

(b) The common drinking cup and containers from which drinking water must be dipped or poured are prohibited.

(c) Where single service cups are supplied, a sanitary container for unused cups and a receptacle for used cups shall be provided.

(d) When water is cooled by ice, the ice shall either be of potable water or shall not come in contact with the water.

(e) Potable water outlets shall be posted.

(f) Potable water systems shall be constructed to prevent backflow or backsiphonage of non-potable water.

§ 57.20003 Housekeeping.

At all mining operations—

(a) Workplaces, passageways, storerooms, and service rooms shall be kept clean and orderly;

(b) The floor of every workplace shall be maintained in a clean and, so far as possible, dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places shall be provided where practicable; and

(c) Every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards, as practicable.

§ 57.20005 Carbon tetrachloride.

Carbon tetrachloride shall not be used.

§ 57.20008 Toilet facilities.

(a) Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel.

(b) The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet rooms will be occupied by no more than one person at a time and can be locked from the inside.

§ 57.20009 Tests for explosive dusts.

Dusts suspected of being explosive shall be tested for explosibility. If tests prove positive, appropriate control measures shall be taken.

§ 57.20010 Retaining dams.

If failure of a water or silt retaining dam will create a hazard, it shall be of substantial construction and inspected at regular intervals.

§ 57.20011 Barricades and warning signs.

Areas where health or safety hazards exist that are not immediately obvious to employees shall be barricaded, or warning signs shall be posted at all approaches. Warning signs shall be readily visible, legible, and display the nature of the hazard and any protective action required.

§ 57.20012 Labeling of toxic materials.

Toxic materials used in conjunction with or discarded from mining or milling of a product shall be plainly marked or labeled so as to positively identify the nature of the hazard and the protective action required.

§ 57.20013 Waste receptacles.

Receptacles with covers shall be provided at suitable locations and used for the disposal of waste food and associated materials. They shall be emptied frequently and shall be maintained in a clean and sanitary condition.

§ 57.20014 Prohibited areas for food and beverages.

No person shall be allowed to consume or store food or beverages in a toilet room or in any area exposed to a toxic material.

§ 57.20020 Unattended mine openings.

Access to unattended mine openings shall be restricted by gates or doors, or the openings shall be fenced and posted.

§ 57.20021 Abandoned mine openings.

Upon abandonment of a mine, the owner or operator shall effectively close or fence off all surface openings down which persons could fall or through which persons could enter. Upon or near all such safeguards, trespass warnings and appropriate danger notices shall be posted.

§ 57.20031 Blasting underground in hazardous areas.

In underground areas where dangerous accumulations of water, gas, mud, or fire atmosphere could be encountered, persons shall be removed to safe places before blasting.

§ 57.20032 Two-way communication equipment for underground operations.

Telephones or other two-way communication equipment with instructions for their use shall be provided for communication from underground operations to the surface.

Subpart T—Gassy Mines

§ 57.21000 Application.

Gassy mines shall be operated in accordance with all mandatory standards in this part. Such mines shall also be operated in accordance with the mandatory standards in this section. The standards in this subpart apply only to underground operations.

Mine Classification

§ 57.21001 Classification criteria.

A mine shall be deemed gassy, and thereafter operated as a gassy mine, if—

(a) The State in which the mine is located classifies the mine as gassy; or

(b) Flammable gas emanating from the orebody or the strata surrounding the orebody has been ignited in the mine; or

(c) A concentration of 0.25 percent or more, by air analysis, of flammable gas

emanating only from the orebody or the strata surrounding the orebody has been detected not less than 12 inches from the back, face, or ribs in any open workings; or

(d) The mine is connected to a gassy mine.

§ 57.21002 Classification during mine reclamation.

Flammable gases detected only while unwatering mines or flooded sections of mines or during other mine reclamation operations shall not be used to permanently classify a mine gassy. During such periods that any flammable gas is present in the mine, the affected areas of the mine shall be operated in accordance with appropriate standards in this subpart.

Fire Prevention and Control

§ 57.21010 Smoking.

Persons shall not smoke or carry smoking materials, matches, or lighters underground. The operator shall institute a reasonable program to ensure that persons entering the mine do not carry smoking materials, matches, or lighters.

§ 57.21011 Use of open flames.

Except when necessary for welding or cutting, open flames shall not be used in other than fresh air or in places where flammable gases are present or may enter the air current.

§ 57.21012 Testing for methane prior to welding, cutting, or soldering.

Immediately before and continuously during welding or cutting with an arc or open flame or soldering with an open flame, in other than fresh air, or in places where methane is present or may enter the air current, a competent person shall test for methane with a device approved by the Secretary for detecting methane.

§ 57.21013 Unsafe methane levels for welding, cutting, or soldering.

Welding or cutting with an arc or open flame or soldering with an open flame shall not be performed in atmospheres containing more than 1 percent of methane as determined by a device approved by the Secretary for detecting methane.

Ventilation

§ 57.21020 Main fan installation and construction.

Main fans shall be—

(a) Installed on the surface;

(b) Installed to permit prompt reversal of airflow;

(c) Powered electrically;

(d) Installed in noncombustible housing provided with noncombustible air ducts;

(e) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway. Such doors or weak-wall shall be in direct line with possible explosion forces; and

(f) Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground.

§ 57.21021 Main fan operation and inspection.

Main fans shall be—

(a) Operated continuously while persons are underground except when stopped or slowed down for fan maintenance and/or fan adjustments and related ventilation system adjustments and compliance is made with the provisions of mandatory standard 57.21024;

(b) Provided with pressure-recording gages which shall be examined daily for good operating condition. The charts of such gages shall be changed after completing one revolution; and

(c) Inspected daily and logs kept of such inspections and of fan maintenance. Charts and logs shall be retained for a minimum of one year. Such records and charts shall be available for inspection by the Secretary or his duly authorized representative.

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§ 57.21022 Separation of main intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes, or drifts, except that during shaft or slope development, vent tubing may be used in the same opening. Until a second opening to the surface can be provided, single shafts used for intake and return air shall be provided with a curtain wall or partition.

§ 57.21023 Separation of intake and return air in single shafts.

When single shafts are used for intake and return, the curtain wall or partition shall be constructed of reinforced concrete or equivalent and provided with pressure relief devices.

§ 57.21024 Failure of main fan.

(a) At mines where a single main fan is used and such fan stops, or at mines where multiple main fans are used and all such fans stop, the operator shall take the following immediate action:

(1) Withdraw all persons from the affected active workings.

(2) Deenergize the power in affected active workings.

(3) Withdraw all persons from the mine when a 1.0 percent concentration of methane in air is measured in any active working.

If ventilation has been interrupted for more than 15 minutes, all working places and active workings where methane may accumulate shall be examined by a competent person(s). The power shall not be restored or persons permitted to reenter the affected active workings until the competent person(s) has determined the methane concentration in such active workings is less than 1.0 percent.

(b) At mines where multiple main fans are used and one or more but not all fans stop, and air flow in intake and return air courses is maintained, the operator shall take the following immediate action:

(1) Monitor the air in all active workings for methane content.

(2) Withdraw all persons from, and deenergize the power in, all active workings when a 1.0 percent concentration of methane in the air is measured.

(3) Comply with all related standards in this subpart.

§ 57.21025 Failure of mine ventilation.

When there has been a failure of mine ventilation other than a failure of a main fan as described in standard 57.21024, the operator shall take the following immediate actions:

(a) Withdraw all persons from the affected active workings.

(b) Deenergize the power in affected active workings. The power shall not be restored or persons permitted to reenter the affected active workings until a competent person(s) has determined that the methane concentration in such active workings is less than 1.0 percent.

§ 57.21027 Reentry after shutdown of main fans.

When the main fan or fans have been shut down with all persons out of the mine, no person, other than those competent to examine the mine, or other authorized persons, shall go underground until the fans have been started and the mine is examined for methane and other hazards and declared safe.

§ 57.21028 Booster fan operation.

Booster fans shall be—

(a) Operated by permissible drive units maintained in permissible condition;

(b) Operated only in air containing less than 1.0 percent methane; and

(c) Kept in continuous operation when persons are in active workings of the mine affected by such fans.

§ 57.21029 Booster fan safety devices.

Booster fans shall be—

(a) Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground;

(b) Equipped with a device that automatically deenergizes the power in affected active workings should the fan system malfunction;

(c) Provided with air locks, the doors of which open automatically should the fan stop; and

(d) Equipped with two sets of controls capable of starting, stopping, and reversing the fans. One set of controls shall be located at the fans. A second set of controls shall be at another location remote from the fans.

§ 57.21030 Auxiliary fan requirements.

Auxiliary fans shall be of a permissible type, maintained in permissible condition, and so located and operated to avoid recirculation of air. Auxiliary fans shall not be used to ventilate any working place during the interruption of normal mine ventilation. If the auxiliary fan is stopped or fails, the electrical equipment in the affected area shall be stopped and the power disconnected at the power source until ventilation in the affected area is restored. Tests shall be made at the fan for methane before auxiliary fans are started. The air passing over or through auxiliary fan units shall not exceed 1.0 percent of methane.

§ 57.21031 Auxiliary fan inspection.

Auxiliary fans shall be inspected by competent persons at least twice each operating shift.

§ 57.21033 Minimum air flow in active areas.

The volume and velocity of the current of air coursed through all active areas shall be sufficient to dilute, render harmless, and carry away methane smoke, fumes, and dust.

§ 57.21034 Minimum air flow through last open crosscut and other ventilation openings near the face.

The quantity of air coursed through the last open crosscut in pairs or sets of entries, or through other ventilation openings nearest the face, shall be at least 6,000 cubic feet per minute, or 9,000 cubic feet per minute in longwall and continuous miner sections.

§ 57.21035 Weekly air flow measurements.

At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume of the intake and return of each split, and the volume through the last open crosscuts or other ventilation openings nearest the active faces. Records of such measurements shall be kept in a book on the surface.

(Approved by the Office of Management and Budget under OMB control number 1219-0031)

§ 57.21036 Battery-charging stations and transformer stations.

Permanently installed battery-charging stations and transformer stations in combustible areas shall be ventilated by separate splits of air conducted directly to return air courses. Permanently installed means stations that are intended to exist for one year or more.

§ 57.21038 Changes in ventilation.

Changes in ventilation that materially affect the main air current or any split thereof and may affect the safety of persons in the mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts and not restored until the effect of the change has been ascertained and the affected areas determined to be safe by a qualified person.

§ 57.21039 Actions at 1.0 percent methane.

If methane gas in excess of 1.0 percent is detected in the air not less than 12 inches from the back, face, or rib of an underground working place or places, adjustments shall be made in the ventilation immediately so that the concentration of methane gas in such air is reduced to 1.0 percent or less. While such changes or adjustments are underway and until they have been achieved, power to electric equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions shall be carried out under the direction of the operator or his agent so as not to endanger other areas of the mine.

§ 57.21040 Actions at 1.5 percent methane.

If 1.5 percent or higher concentration of methane gas is present in air returning from an underground working place or places, or is present in the air not less than 12 inches from the back, face, or rib of an underground working place, all persons other than those persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977 shall be withdrawn from the area of the mine endangered by such methane gas until the concentration of methane in such areas is reduced to 1.0 percent or less.

§ 57.21041 Air passing through unsealed abandoned areas.

Air that has passed by an opening of any unsealed abandoned area and contains 0.25 percent or more of methane shall be coursed directly to a return airway. Examinations of such air shall be conducted during the preshift examinations required by § 57.21059.

§ 57.21042 Air passing through abandoned panels or inaccessible or unsafe areas.

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

§ 57.21043 Abandoned areas.

Abandoned areas shall be sealed or ventilated; areas that are not sealed shall be barricaded and posted against unauthorized entry.

§ 57.21044 Seal construction.

Seals shall be of substantial construction. Exposed surfaces shall be made of fire-resistant material or, if the commodity mined is combustible, seals shall be made of incombustible material.

§ 57.21045 Provisions for sampling air behind seals.

One or more seals of every sealed area shall be fitted with a pipe and a valve or cap to permit sampling of the atmosphere and measurement of the pressure behind such seals.

§ 57.21046 Crosscut intervals.

Crosscuts shall be made at intervals not in excess of 100 feet between entries and between rooms.

§ 57.21048 Line brattice.

Line brattice or other suitable devices shall be installed from the last open crosscut to a point near the face to assure positive air flow to the face of every active underground working place, unless the Secretary or his authorized representative permits an exception to this requirement.

§ 57.21049 Brattice cloth flame-resistance.

Brattice cloth shall be of flame-resistant material.

§ 57.21050 Repair of damaged brattices.

Damaged brattices shall be repaired promptly.

§ 57.21051 Crosscuts before abandonment.

Crosscuts shall be provided where practicable at or within eighteen feet of the face of drifts, entries, and rooms before the workings are abandoned in any unsealed area of the mine. When crosscuts are not practicable, line brattice or other suitable means of ventilating shall be provided to the drifts, entries, or rooms.

§ 57.21052 Entries and rooms beyond the last open crosscut.

Entries or rooms shall not be started off entries beyond the last open crosscuts, except that room necks and entries not to exceed 18 feet in depth may be turned off entries beyond the last open crosscuts if such room necks or entries are kept free of accumulations of methane by use of line brattice or other adequate means.

§ 57.21053 Stoppings.

Stoppings in crosscuts between intake and return airways, on entries other than room entries, shall be built of solid, substantial material; exposed surfaces shall be made of fire-resistant material or, if the material mined is combustible, stoppings shall be made of incombustible material.

§ 57.21055 Air locks, overcasts, and undercasts.

The main ventilation shall be so arranged by means of air locks, overcasts, or undercasts that the passage of trips or persons does not cause interruptions of air currents. Where air locks are impracticable, single doors may be used if they are attended constantly while the areas of the mine affected by the doors are being worked, unless they are operated mechanically or are self-closing.

§ 57.21056 Ventilation of air locks.

Air locks shall be ventilated sufficiently to prevent accumulations of flammable gas inside the locks.

§ 57.21057 Air doors.

Doors which control the flow of air by being closed shall be kept closed, except when persons or equipment are passing through such doorways. Doors shall be plainly marked to indicate whether they shall be closed or open for ventilation control purposes.

§ 57.21058 Overcasts and undercast construction.

Overcasts and undercasts shall be—

(a) Constructed tightly of incombustible material;

(b) Of sufficient strength to withstand possible falls from the back; and

(c) Kept clear of obstruction.

§ 57.21059 Preshift examinations.

Preshift examinations shall be made of all working areas by qualified persons within 3 hours before any workers, other than the examiners, enter the mine.

§ 57.21061 Entry to dangerous areas.

Only qualified examiners and persons authorized to correct the dangerous conditions shall enter places or areas where danger signs are posted.

§ 57.21062 Danger signs.

Danger signs shall not be removed until the dangerous conditions have been corrected.

§ 57.21064 Permissible testing devices.

Each operator shall use permissible devices accepted by the Secretary of Labor for detecting flammable gases, oxygen deficiency, carbon monoxide, and other air contaminants. Such permissible devices shall be provided and maintained in serviceable and permissible condition. In the detection of flammable gases, a permissible flame safety lamp may be used only as a supplementary testing device.

§ 57.21065 Examination for hazardous conditions and testing for methane and carbon monoxide.

At intervals not greater than seven days, the mine foreman (or other competent person designated by the mine foreman) shall examine for hazardous conditions and for compliance with health and safety standards, and shall test for methane and carbon monoxide. The tests shall be made with approved devices at the following locations:

(a) In the return of each split where it enters the main return.

(b) Adjacent to retreat areas, if accessible.

(c) At seals.

(d) In the main return.

(e) In at least one entry of each intake and return airway.

(f) In idle workings.

(g) In unsealed abandoned workings, as conditions permit.

§ 57.21066 Hazardous condition reports.

The mine foreman or other designated official shall read and countersign promptly the reports of the required examinations made by competent persons. Where such reports disclose hazardous conditions, the affected employees shall be so informed and such conditions shall be corrected promptly. If such conditions create an imminent danger, the operator shall withdraw all persons from, or prevent, any person from entering, as the case may be, the area affected by such conditions, except those persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977 until such danger is abated. A responsible mine official at the next highest level of authority, if such level exists, shall also read and countersign at least weekly the required reports to ensure that proper inspections have been made and remedial action taken.

§ 57.21067 Mechanical ventilation.

All gassy mines shall be ventilated mechanically.

§ 57.21068 Air flow in intake and return courses.

Airflow shall be maintained in all intake and return air courses of a mine. When multiple main fans are used, such ventilation systems shall not develop neutral areas (areas without perceptible air movement).

§ 57.21069 Doors on main fans.

In mines ventilated by a combination of multiple blowing or multiple exhausting main fans, each main fan installation shall be equipped with noncombustible doors designed and positioned so that, in the event of failure of a main fan, these doors will automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which would come out of the mine, should an explosion occur.

Equipment

§ 57.21076 Diesel-powered equipment.

Diesel-powered equipment shall not be taken into or operated in places where methane exceeds 1.0 percent at any point not less than 12 inches from the back, face, or rib.

§ 57.21077 Trolley wires.

Trolley wires and trolley feeder wires shall be on intake air and shall not extend into the last open crosscut or other ventilation opening. Such wires

shall be kept at least 150 feet from pillar recovery workings.

§ 57.21078 Permissible equipment.

Only permissible equipment maintained in permissible condition shall be used beyond the last open crosscut or in places where dangerous quantities of flammable gases are present or may enter the air current.

§ 57.21079 Distribution boxes.

Only permissible distribution boxes shall be used in working places and other places where 1 percent or more of methane may be present or may enter the air current.

§ 57.21080 Methane monitors.

A methane monitoring device (methane monitor), approved by the Secretary of Labor, shall be installed and properly maintained on all continuous miners and longwall face equipment. The sensing unit of the methane monitor shall be positioned as close to the working face as practicable. When the concentration of methane is 1.0 percent or more, the monitor shall give a warning and deenergize the equipment automatically when the concentration reaches 1.5 percent. The methane monitor also shall de-energize such equipment automatically when the monitor is not functioning properly.

Illumination

§ 57.21090 Permissible electric lamps.

Only permissible electric lamps shall be used for portable illumination underground.

Explosives

§ 57.21095 Approval of explosives.

Explosives not designated as permissible by the Bureau of Mines or the Mine Safety and Health Administration shall not be used in any underground gassy mine until the Bureau of Mines and State Inspector of Mines have given written approval for each such specific explosive to be used.

§ 57.21096 Conditions of use.

The Mine Safety and Health Administration and the State Inspector of Mines, in granting approval referred to in standard 57.21095, shall provide the operator with a written list of conditions for using the specific explosives covered by the approval and adapted to the mining operation.

§ 57.21097 General requirements for blasting.

Blasts in gassy mines shall be initiated electrically, and multiple-shot blasts shall be initiated only with millisecond-delay detonators. Permissible blasting units of capacity suitable for the number of holes in a round to be blasted shall be used unless the round is fired from the surface when all persons are out of the mine.

§ 57.21098 Stemming boreholes.

Boreholes shall be stemmed as prescribed for the explosives used.

§ 57.21099 Examination for methane when blasting on shift.

When blasting on shift, examinations for methane shall be made immediately before firing each shot or round, and again before other work is performed. Examinations shall be made by competent persons with devices approved by the Secretary for detecting methane.

§ 57.21100 Methane limits for blasting.

Shots or rounds shall not be fired in places where 1.0 percent or more of methane is present at a point no less than 12 inches from the back, face, or rib. Tests to determine the presence of methane shall be made by a competent person with devices approved by the Secretary for detecting methane.

§ 57.21101 Firing shots and rounds.

Shots and rounds shall be fired by competent persons.

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Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 600, 606, 610, 620, 630, 640, and 660

Changes in Proper Names of Certain Biological Products; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600, 606, 610, 620, 630, 640, and 660

[Docket No. 80N-0053]

Changes in Proper Names of Certain Biological Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations by changing the proper names of certain biological products; updating all applicable regulations to reflect these new names; and updating, clarifying, and reorganizing certain regulations. The "proper name" of a product is the name that FDA requires that manufacturers use on the label of the product. FDA is taking these actions to reduce the length of a name, more accurately identify a product, or make the name more consistent with the name of the same product in the United States Pharmacopeia (U.S.P.) or in the United States Adopted Names (USAN).

EFFECTIVE DATE: January 29, 1986 for all affected products initially introduced or initially delivered for introduction into interstate commerce. See Supplementary Information for full discussion of proposed effective date.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Drugs and Biologics (HFN-368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 31, 1980 (45 FR 72404), FDA proposed to change the proper names of more than 50 biological products, including various blood, viral, and bacterial products, antivenins, and one category of allergenic extracts, and update applicable regulations in 21 CFR Parts 600 through 660 to reflect these new proposed proper names. (The term "proper name" is defined in 21 CFR 600.3(k).) Further, FDA proposed to reorganize and clarify 21 CFR 610.53(a) concerning the prescribed dating periods for licensed biological products. FDA also proposed to delete the names of 30 biological products in 21 CFR 610.53(a) that are no longer licensed and add the names of 11 biological products that are licensed now but are not listed in the regulations. FDA developed and issued these regulations in collaboration with the United States Adopted Names Council (USAN) to designate meaningful and distinctive nonproprietary names for these biological products. USAN is sponsored by the American Medical Association, the United States Pharmacopeial Convention, and the American Pharmaceutical Association.

FDA provided a public comment period of 60 days on the proposal. However, in response to a request from a manufacturer, FDA extended the comment period an additional 60 days **Federal Register** of December 9, 1980; 45 FR 81065).

FDA received 37 letters in response to the proposal and several of these letters contained more than one comment. Eight letters expressed approval of the amendments as proposed, eight other letters expressed approval of the amendments with some reservations, and the remaining letters contained general comments or suggestions of alternative names. Because certain comments objected to the proposed changes in proper names of one or more products or upon reconsideration, FDA advises that in the final rule about 30 percent of the proper names that FDA proposed to change were not changed. For more detailed information, see table I at the end of the preamble to this final rule. Summaries of all of the comments and FDA's responses follow:

1. One comment noted a discrepancy concerning the modifier to be used with the proposed proper name of each of several blood and blood products.

FDA agrees with the comment. In several instances in the proposal, FDA identified incorrectly a proposed proper name with a modifier as the proper name. Accordingly, in the final rule FDA is excluding any modifier from the proper name of a product. Examples follow:

Proper name	Proper name with modifier
Red blood cells	Red blood cells deglycerolized.
Red blood cells	Red blood cells frozen.
Whole blood	Whole blood cryoprecipitate removed.

2. Two comments suggested new names for five products but gave no reasons why these names should be used instead of the names that FDA proposed.

Name suggested by comments	Name proposed by FDA
Albumin 96 pct. pure	Albumin.
Albumin 83 pct. pure	Plasma protein fraction.
AHF lyophilized	Antihemophilic factor.
AHF cryoprecipitated	Cyroprecipitated AHF.
Factor VIII	Antihemophilic factor and cryoprecipitated AHF.

FDA disagrees with the comments. FDA believes that the names that were suggested offer no advantages over the names that FDA proposed. Accordingly, FDA is rejecting the suggested name changes above for these products. (See also FDA's response in paragraph 29.)

3. One comment stated that proposed § 600.13 concerning retention sample requirements is not accurate because § 600.13 lists some but not all of the products in proposed § 600.15. Section 600.15 specifies temperatures of products to be maintained during shipment.

FDA disagrees with the comment. Section 600.13 lists certain products and categories of products that are exempt from the retention sample requirements. Section 600.15 is unrelated to § 600.13. Section 600.15 specifies temperatures of products to be maintained during shipment. All products shown in § 600.15 should not be listed in § 600.13, because all of the products in § 600.15 are not exempt from the retention sample requirements.

4. One comment stated that proposed § 600.15(a) does not state whether freshly collected whole blood may be shipped before the blood has cooled to 10 °C or colder, as described in proposed § 640.6(b) in FDA's proposal of October 31, 1980 (45 FR 72422).

FDA agrees that proposed § 600.15(a) should be clarified. Accordingly, in the final rule FDA is amending § 600.15(a) to incorporate transit storage temperature requirements.

5. One comment on proposed § 600.15 stated that the name Red Blood Cells should not be identified with the phrase "(liquid product)", because the phrase could easily be mistaken for a proper name, a modifier, or a qualifier.

FDA disagrees with the comment. FDA believes that the phrase "(liquid product)" that is not capitalized and is placed in parentheses helps to clarify the form of the product that is affected by the requirement and the phrase is not part of the proper name of the product. Accordingly, FDA rejects this comment.

6. Two comments on proposed § 610.53(c) stated that the dating periods are incorrect for some products. One comment stated that the dating periods for antisera are unrealistic and wasteful.

FDA disagrees with the comments. The dating periods listed in proposed § 610.53 are minimum dating periods for the products. FDA notes, however, that there could be instances where even shorter dating periods may be necessary to maintain product safety or potency. Therefore, FDA considers the "minimum dating period" to be the dating period based on usage, clinical experience, or laboratory testing which initially may be assigned to a product before the

manufacturer completes extended shelf life stability studies. As an amendment to its product license, a manufacturer may submit stability data to the Director, Center for Drugs and Biologics, to support a dating period longer than the minimum dating period shown in § 610.53. Accordingly, in the final rule FDA is changing § 610.53(a) by inserting the word "minimum" in the first sentence.

7. FDA proposed in § 610.53 to delete the 10-year dating period for Albumin (Human) packaged in hermetically sealed metal containers. Two comments suggested that the 10-year dating period for Albumin (Human) packaged in hermetically sealed metal containers be retained, because the Department of Defense still uses the product packaged in this manner.

FDA agrees with the comments. Accordingly, in the final rule FDA is retaining the 10-year dating period for Albumin (Human) packaged in hermetically sealed metal containers.

8. One comment on proposed § 610.53(c) objected to the proposal to change the name of Allergenic Extracts, Alum Precipitated, to Allergenic Extracts Adsorbed, because the manufacturers' administrative and financial costs from revising all labels and labeling of alum precipitated allergenic extracts would well exceed any expected benefit from consistency in names with other adsorbed products.

FDA now believes that only minimal benefits would result from the proposed change in the name. Accordingly, in the final rule FDA is retaining the current proper names of these products.

9. Four comments on proposed § 610.53(c) concerned the proposed proper names of the antivenins and the proposed word change of "antivenin" to "antivenom." One comment suggested the name Antivenom Black Widow Spider as an alternative to the proposed name Antivenom Widow Spider, because the proposed name suggests that this antivenom may have a broader specificity than has been demonstrated. For a similar reason, another comment objected to the proposed name Antivenom Coral Snake and suggested retaining the name Antivenin (*Micrurus fulvius*) for this product. One comment suggested adding a comma after "Copperhead" in the proposed name Antivenom Rattlesnake, Copperhead and Moccasin. One comment suggested that the current name of all antivenins be retained and that the proposed name Antivenom Rattlesnake, Copperhead and Moccasin is incorrect, because no copperhead or moccasin venom is used in the manufacture of this product. Instead, the venom of a tropical American pit viper is used in the manufacture of this antiserum.

FDA recognizes that confusion may result from changing the names of antivenins to the common names that were proposed, particularly if the products were to be exported to another country where the common name may represent a different genus or species. Thus, FDA agrees with the comments that suggested that the current proper names be retained without change. Accordingly, upon reconsideration, FDA is retaining the current names listed in the biologics regulations for these products. In addition, FDA is retaining the word "antivenin" rather than the proposed word "antivenom."

10. One comment on proposed § 610.53(c) noted that four products (Granulocytes, Pheresis; Granulocytes, Pooled; Granulocytes Platelets Pheresis; and Recovered Plasma, Pooled) that were listed in the Guideline for the Uniform Labeling of Blood and Blood Components that FDA made available in the **Federal Register** of October 31, 1980 (45 FR 72416) were not included in proposed § 610.53. Another comment suggested changing the proper name Recovered Plasma to Source Plasma, Recovered.

FDA advises that the four products identified by the comment were not licensed at the time of the proposal and thus were not included in proposed § 610.53. The three granulocyte preparations and Recovered Plasma still are unlicensed. FDA believes that the proper name Recovered Plasma is widely accepted and understood by the blood banking community and, therefore, FDA rejects the suggested name change for that product.

11. One comment on proposed § 610.53(c) suggested reversing the order of the words in the names of all immune globulins so that they could be listed together.

FDA agrees in part and disagrees in part with the comment. FDA does not believe that it is necessary to change the names of all immune globulins to list them together in the regulations. However, FDA agrees that listing the immune globulins together will aid in locating these products in the dating period listings. Accordingly, in the final rule FDA is reorganizing § 610.53 so that all immune globulin products are listed together. Likewise, FDA is reorganizing § 610.53 so that all plasma products are listed together.

12. Two comments on proposed § 610.53(c) concerned the proposed proper name Rh_o(D) Immune Globulin. One comment suggested substituting the name Rh Immune Globulin, because the product is almost universally known as Rh Immune Globulin or RhoGam. One comment stated that the proposed proper name of this product should be D(Rh_o) Immune Globulin, for consistency with the nomenclature of Blood Grouping Sera.

FDA disagrees with the comments. FDA believes that the most important part of the product name, i.e., Rh_o(D), should appear first. FDA rejects the suggested name D(Rh_o) Immune Globulin because the product is used therapeutically to prevent Rh hemolytic disease. Accordingly, in the final rule FDA is continuing to use the § 610.53(c) the current proper name Rh_o(D) Immune Globulin (Human). (See also FDA's response in paragraph 29.)

13. One comment on proposed § 610.53(c) suggested that the name "Measles and Mumps Virus Vaccine, Live" be changed by deleting the comma, to be consistent with similar products and the nomenclature in the U.S.P.

FDA agrees with the comment. FDA proposed this change in the codified text of § 610.53(c) in the proposal of October 31, 1980, but FDA mistakenly omitted it from the name change amendments listed in the preamble to the proposal. Accordingly, in the final rule FDA is identifying the product as Measles and Mumps Virus Vaccine Live.

14. One comment recommended deleting Mumps Immune Globulin from proposed § 610.53(c), because action has been taken taken by FDA to revoke product licenses for this product.

FDA agrees with the comment. After FDA published the proposal in the **Federal Register**, FDA revoked the licenses of 12 products in addition to the 30 products FDA proposed be deleted. In a final rule published in the **Federal Register** of June 8, 1982 (47 FR 24696), FDA deleted the following six products from § 610.53: Adenovirus and Influenza Virus Vaccines Combined Aluminum Hydroxide Adsorbed, Adenovirus and Influenza Virus Vaccines Combined Aluminum Phosphate Adsorbed, Adenovirus Vaccine, Mumps Immune Globulin (Human), Rocky Mountain Spotted Fever Vaccine, and Typhus Vaccine. Accordingly, in this final rule FDA is deleting the following 35 products from § 610.53: Aggregated Radio-Iodinated (I^{131}) Albumin (Human), Anti-Human Chorionic Gonadotropic Serum, Cobra Venom Solution, Cobra Venom Solution with Silicic and Formic Acids, Diphtheria and Tetanus Toxoids, Diphtheria and Tetanus Toxoids and Pertussis and Poliomyelitis Vaccine Adsorbed, Diphtheria and Tetanus Toxoids and Pertussis Vaccine, Diphtheria and Tetanus Toxoids and

Pertussis Vaccine Adsorbed and Poliomyelitis Vaccine, Diphtheria and Tetanus Toxoids and Poliomyelitis Vaccine, Diphtheria Toxoid and Pertussis Vaccine, Diphtheria Toxoid and Pertussis Vaccine Adsorbed, Fibrinogen (Human), Fibrinogen with Antihemophilic Factor (Human), Gas Gangrene Polyvalent Antitoxin, Haemophilus Influenzae Typing Serum, Histamine Azoprotein, Leukocyte Typing Serum, Lymphogranuloma Venereum Antigen, Measles Immune Globulin (Human), Modified Plasma (Bovine), Mumps Vaccine, Poliomyelitis Vaccine Adsorbed, Polyvalent modified bacterial antigens with "No U.S. Standard of Potency," Pseudomonas Polysaccharide, Radio-Chromated (Cr^{51}) Serum Albumin (Human), Radio-Iodinated (I^{125}) Serum Albumin (Human), Radio-Iodinated (I^{131}) Serum Albumin (Human), Reagent Blood Group Specific Substances A and B, Russell Viper Venom, Schick Test Control, Staphylococcus Antitoxin, Staphylococcus Toxoid, Streptokinase-Streptodornase, Tetanus and Gas Gangrene Polyvalent Antitoxin, Trichinella Extract. Also, FDA proposed to codify existing dating periods for 11 licensed products which previously had not been listed in § 610.53. After publication of the proposed rule, FDA revoked the product license for 1 of the 11 products, Anticarcinoembryonic Antigen Serum, and has issued product licenses for 14 additional products. Accordingly, in the final rule FDA is identifying in § 610.53 dating periods for the following new products: Adenovirus Vaccine Live Oral Type 4; Adenovirus Vaccine Live Oral Type 7; Anti-Inhibitor Coagulant Complex; Asparaginase; Hepatitis B Immune Globulin (Human); Hepatitis B Vaccine; Immune Globulin Intravenous (Human); Lymphocyte Immune Globulin, Anti-Thymocyte Globulin (Equine); Meningococcal Polysaccharide Vaccine Group A; Meningococcal Polysaccharide Vaccine Group C; Meningococcal Polysaccharide Vaccine Groups A and C Combined; Meningococcal Polysaccharide Vaccine Groups A, C, Y, and W135 Combined; Pertussis Vaccine Adsorbed; Pneumococcal Vaccine Polyvalent; Rabies Immune Globulin (Human); Red Blood Cells Deglycerolized; Skin Test Antigens for Cellular Hypersensitivity; Source Leukocytes; Therapeutic Exchange Plasma; Thrombin Impregnated Pad; Varicella-Zoster Immune Globulin (Human).

15. One comment on proposed § 610.53(c) suggested that the storage temperature for Liquid Plasma be included in column D under both (a) and (b).

FDA agrees that this suggested change will clarify the regulations. Accordingly, in the final rule FDA is presenting the storage temperature for Liquid Plasma in column D under both (a) and (b).

16. One comment on proposed § 610.53(c) suggested that reversing the order of the words in the proposed names of some plasma and red blood cell products would allow the proper name and common name to be the same.

FDA agrees that reversing the order of the words in the proposed proper names of some plasma products will clarify the regulations. Accordingly, in the final rule FDA is changing the following proposed proper names to read as follows:

Proposed proper name	Proper name in final rule
Plasma fresh frozen	Fresh frozen plasma.
Plasma liquid	Liquid plasma.
Plasma platelet rich	Platelet rich plasma.

17. One comment on proposed § 610.53(c) stated that the information regarding dating periods for Plasma Protein Fraction in column D were confusing and suggested that the dating period regulations for this product be consistent with the dating period for Albumin.

FDA accepts the comment. In the final rule FDA is revising the information in the dating period regulations so that the requirements regarding manufacturer's storage temperature are consistent for Plasma Protein Fraction (Human) and Albumin (Human).

18. One comment on proposed § 610.53(c) suggested reversing the order of the names of anticoagulated products, e.g., ACD Red Blood Cells and CPD Whole Blood, because the name of the product is more important than the name of the anticoagulant.

FDA disagrees with the comment. FDA sees no advantage in having the name of the anticoagulant following the name of the product. In addition, for consistency with the terminology in the U.S.P., FDA believes that the name of the anticoagulant should precede the name of the product.

19. One comment on proposed § 610.53(c) stated that the hematocrit should be less than 80 percent for 35-day dating of CPDA–1 Red Blood Cells and questioned whether this information should be added to § 610.53.

FDA disagrees with the comment. FDA believes that it is inappropriate for hematocrit levels to be included in the dating period listing in § 610.53. Rather, a blood establishment should include this information in the blood establishment's standard operating procedures and in its product license application. FDA also advises that it currently is reviewing all blood regulations and evaluating hematocrit levels.

20. Two comments noted that no provision was made in proposed § 610.53(c) for Tuberculin, Old, on a multiple puncture device and also questioned why Tuberculin, Old, containing at least 50 percent glycerin was no longer identified.

FDA agrees that Tuberculin, Old, on a multiple puncture device should have been listed in § 610.53(c) and in the final rule FDA is including this product. FDA advises that Tuberculin, Old, containing at least 50 percent glycerin was excluded from proposed § 610.53(c) because the product is no longer manufactured under license.

21. One comment on proposed § 630.10 suggested deleting the comma in the proposed name Poliovirus Vaccine Live Oral, Trivalent, as well as the comma in each of the proposed names of the three monovalent vaccines.

FDA agrees with the comment. In the final rule FDA is deleting each of the commas. FDA notes, however, that only Poliovirus Vaccine Live Oral Trivalent is licensed for distribution. FDA has licensed and is releasing the three monovalent vaccines only for use in manufacturing the trivalent product.

22. One comment on proposed § 630.80 objected to the proposed name Measles-Smallpox Vaccine Live and suggested the name "Measles Live and Smallpox Vaccine" for two reasons: (1) the hyphen is unnecessary and should be replaced by the customary word "and"; and (2) the word "Live" should be placed after "Measles," not at the end of the proper name, to distinguish it from the inactivated form.

FDA agrees with the comment. Accordingly, in the final rule FDA is changing the proper name of the product to Measles Live and Smallpox Vaccine.

23. One comment on proposed § 640.(c) and (h) stated that the term "Heparinized" in the product name "Heparinized Whole Blood" should be changed to "Heparin," to be consistent with the practice of preceding the proper name with the name of the specific anticoagulant used.

FDA agrees with the comment. Accordingly, in the final rule FDA is changing the name of the product to Heparin Whole Blood.

24. One comment on proposed § 640.5(c) stated that Rh "typing" serum should not be changed to "grouping" serum because group refers to ABO and type refers to Rh and other factors.

FDA disagrees with this comment. FDA believes that Rh now is considered a group like ABO. FDA is not changing the regulation as suggested.

25. FDA received five comments on proposed §§ 640.6 and 640.7 concerning the proposed name Whole Blood Platelets and/or Cryoprecipitate Removed. One comment stated that Whole Blood, Modified, Platelets Removed, and Whole Blood, Modified, Cryoprecipitate Removed, should not be combined into one proposed name, because many physicians would not use the product for hemophiliacs if the label stated "Platelets and/or Cryoprecipitate Removed," when in fact only the Platelets had been removed. One comment stated that the name Whole Blood Platelets and/or Cryoprecipitate Removed is more cumbersome than Whole Blood (Human) Modified and suggested the names Blood, Platelets and/or Cryoprecipitate Poor; Whole Blood, Modified; Blood, Whole Blood, Modified; or Blood, Modified, as alternatives. One comment suggested inserting a comma or dash between Whole Blood and the component removed for clarification. One comment proposed two separate names—Platelets and Platelets Cryoprecipitate Removed—while another comment suggested two other separate names—Whole Blood Platelets Removed and Whole Blood Cryoprecipitated AHF Removed.

FDA agrees that the name Whole Blood Platelets and/or Cryoprecipitate Removed is cumbersome. FDA believes that it is important for physicians treating hemophiliacs to know if the Cryoprecipitate has been removed from the product. Further, FDA believes that it is unnecessary to indicate whether platelets have been removed because the blood would have to be very fresh for the platelets to be of value. Further, FDA does not believe that a comma or dash is necessary between the proper name and the modifier because the proper name and modifier appear on a different line on the label. FDA does not believe that the comment suggesting the names Platelets and Platelet Cryoprecipitate Removed should be adopted. The suggested names do not indicate that the product is whole blood that lacks platelets and cryoprecipitate. FDA has evaluated all alternative proper names and concludes that the proper name of the product should be Whole Blood Cryoprecipitate Removed. Accordingly, in the final rule FDA is changing the proper name in §§ 640.6 and 640.7 to Whole Blood Cryoprecipitate Removed.

26. One comment on proposed § 640.20 urged retention of the name Platelet Concentrate, because it is essential to differentiate this product from Whole Blood, Platelets and/or Cryoprecipitate Removed.

FDA disagrees with this comment. FDA believes that the name Platelet Concentrate does not identify the product more clearly than the proposed name Platelets and the comment misunderstood that the second product as Whole Blood from which Platelets or Cryoprecipitate or both have been removed. Accordingly, in the final rule FDA is adopting the name Platelets as proposed.

27. One comment on proposed § 640.34(d) stated that the term cubic milliliter should be cubic millimeter and that the phrase "250,000 platelets per cubic milliliter" should be "400,000 platelets per microliter."

FDA agrees in part and disagrees in part with the comment. FDA agrees that the term "cubic milliliter" is incorrect. Indeed, in the editorial revisions FDA published in the **Federal Register** of March 29, 1983 (48 FR 13052), the term "cubic milliliter" was corrected to read "microliter." FDA disagrees that the number of platelets should be increased from 250,000 to 400,000, because this action would result in wasting otherwise useful platelet preparations that could be used for treating pediatric patients.

28. Two comments on proposed § 640.50 objected to the proposed proper name Cryoprecipitated AHF. One comment stated that the abbreviation AHF is too subjective and uninformative and urged that the name Cryoprecipitated Antihemophilic Factor be retained. Another comment stated that it is misleading to call the product Cryoprecipitated AHF because it contains fibrinogen and von Willebrand factor in addition to Antihemophilic Factor. The comment suggested the name Cryoprecipitate be used, because the term is well recognized and widely used.

FDA disagrees with the comments. FDA believes that the proposed name Cryoprecipitated AHF is clear, informative, and in keeping with the principle of reducing the length of proper names wherever possible. FDA notes that the suggested proper name Cryoprecipitate is indeed uninformative and ambiguous. The term Cryoprecipitate can be used to identify any number of biological products and is, therefore, unacceptable. Accordingly, in the final rule FDA is retaining the proposed proper name Cryoprecipitated AHF in §§ 600.13, 600.15, 606.120, 610.11, 610.12, 610.53, 640.34, 640.50, 640.52, 640.53, 640.54, 640.55, and 640.56.

29. Five comments on proposed § 640.80 noted that the proposed proper name "Albumin" was inconsistent with the name "Albumin Human" in the current U.S.P. Two comments recommended retaining the word "Human" in the proper names of fractionation products, such as albumin, because blood products of animal origin are still available.

FDA agrees with these comments. Accordingly, in the final rule FDA is retaining the word "Human" in the proper names of the following products because similar blood products of animal origin are still available: Albumin (Human), Antihemophilic Factor (Human), Fibrinolysin (Human), Hepatitis B Immune Globulin (Human), Immune Globulin (Human), Pertussis Immune Globulin (Human), Plasma Protein Fraction (Human), Rabies Immune Globulin (Human), Rh_o(D) Immune Globulin (Human), Tetanus Immune Globulin (Human), Vaccinia Immune Globulin (Human).

30. Three comments on proposed § 660.28 concerned Blood Grouping Serum products. One comment stated that Anti-Colton^b is the synonym for Anti-Co^b. One comment noted that the synonym for Anti-CDE is Anti-Rh_o' ", not Anti-Rh_o' ". One comment noted the omission of the bars over the letters in Anti-c, Anti-e, Anti-k, and Anti-s and stated that the bar could be eliminated over the letter e but should be retained for each of the letters c, s, and k to differentiate the lower case letters from the upper case letters.

FDA agrees in part and disagrees in part with the comments. FDA has considered adding Anti-Colton^b to the table in § 660.28(d) as a synonym for Anti-Co^b, but now believes that confusion and typographical errors can be avoided by not listing each Blood Grouping Serum specificity in § 610.53. Instead, FDA is amending § 610.53 to state that all liquid Blood Grouping Serum products have a minimum dating period of 2 years, whereas all dried Blood Grouping Serum products have a minimum dating period of 5 years. The second and third comments deal with typographical errors that are corrected in this final rule. FDA notes that it has already eliminated the bar over the letter e in the biologics regulations (48 FR 13025; March 29, 1983).

31. Six comments concerned the proposed effective date of the final regulation (180 days after publication of the final regulation). The comments suggested changing the effective date to: 18 months (one comment); 1 year (one

comment); 1 year or varying effective dates for different products (one comment); 1 year or when supply of labels run out (one comment); and 2 years (two comments). One comment also suggested that FDA allow the use of "mixed" labeling (both new names and former names) before the effective date.

FDA essentially agrees with the suggestions of the comments regarding the need for a later effective date for the final rule. Accordingly, FDA is changing the effective date to January 29, 1986, which is 1 year after publication of this regulation. Also, FDA is allowing manufacturers to voluntarily begin use of labeling including the new proper name of a product along with labeling including the former proper name of the product, provided that such manufacturers alert their consignees or customers of any significant inconsistencies in the proper name of their products. Any product subject to this final rule that is initially introduced or initially delivered for introduction into interstate commerce on or after January 29, 1986 shall bear labeling including the new proper name of the product established herein.

Table I

For each product subject of a proposed change in proper name that was included in the proposal of October 31, 1980; FDA is listing below the current codified name, the proposed name, and the new proper name, if any, established herein.

Current codified name	Proposed name	Revised proper name (if any) and modifier (if applicable) under final rule
Blood Products		
Normal serum albumin (human)	Albumin	Albumin (human).
Antihemophilic factor (human)	Antihemophilic factor	No change in current codified name (see preamble paragraph 29)
Cryoprecipitated antihemophilic factor (human)	Cryoprecipitated AHF	Cryoprecipitated AHF.
Factor IX complex (human)	Factor IX complex	Factor IX complex.
Fibrinolysin (human)	Fibrinolysin	No change in current codified name (see preamble paragraph 29)
Immune serum globulin (human)	Immune globulin	Immune globulin (human).
Mumps immune globulin (human)	Mumps immune globulin	Product no longer licensed (see preamble paragraph 14).
Measles immune globulin (human)	Measles immune globulin	Do.
Pertussis immune globulin (human)	Pertussis immune globulin	No change in current codified name (see preamble paragraph 29)
Single donor plasma (human)	Plasma	Plasma.
Single donor plasma (human), fresh frozen	Plasma fresh frozen	Fresh frozen plasma.
Single donor plasma (human), liquid	Plasma liquid	Liquid plasma.
Single donor plasma (human), platelet rich	Plasma platelet rich	Platelet rich plasma.
Plasma protein fraction (human)	Plasma protein fraction	No change in current codified name (see preamble paragraph 29)
Platelet concentrate (human)	Platelets	Platelets.
Rabies immune globulin (human)	Rabies immune globulin	No change in current codified name (see preamble paragraph 29)
Reagent red blood cells (human)	Reagent red blood cells	Reagent red blood cells.
Red blood cells (human)	Red blood cells	Red blood cells.
Red blood cells (human), deglycerolized	Red blood cells deglycerolized	Red blood cells deglycerolized.
Red blood cells (human), frozen	Red blood cells frozen	Red blood cells frozen.
$Rh_o1(D)$ immune globulin (human)	$Rh_o(D)$ immune globulin	No change in current codfiad name (see preamble paragraph 29)
Source plasma (human)	Source plasma	Source plasma.
Source plasma (human), liquid	Source plasma liquid	Source plasma liquid.
Source plasma (human), pooled	Source plasma pooled	Source plasma pooled.
Source plasma (human), salvaged	Source plasma salvaged	Source plasma salvaged.
Tetanus immune globulin (human)	Tetanus immune globulin	No change in current codified name (see preamble paragraph 29)
Vaccinia immune globulin (human)	Vaccinia immune globulin	Do.
Whole blood (human)	Whole blood	Whole blood.
Whole blood (human), modified	Whole blood platelets and/or cryoprecipitate removed	Whole blood cryoprecipitate removed.
Viral Products		
Measles and mumps virus vaccine, live	Measles and mumps virus vaccine live	Measles and mumps virus vaccine live.
Measles virus vaccine, live attenuated	Measles virus vaccine live	Measles virus vaccine live.
Measles, mumps, and rubella virus vaccine, live	Measles, mumps and rubella virus vaccine live	Measles, mumps, and rubella virus vaccine live.
Measles and rubella virus vaccine, live	Measles and rubella virus vaccine live	Measles and rubella virus vaccine live.
Measles-smallpox vaccine, live	Measles-smallpox vaccine live	Measles live and smallpox vaccine.
Mumps virus vaccine live	Mumps virus vaccine live	Mumps virus vaccine live.
Poliovirus vaccine live, oral, trivalent	Poliovirus vaccine live oral, trivalent	Poliovirus vaccine live oral trivalent.
Poliovirus vaccine live, oral, type I	Poliovirus vaccine live oral, type I	Poliovirus vaccine live oral type I.
Poliovirus vaccine live, oral, type II	Poliovirus vaccine live oral, type II	Poliovirus vaccine live oral type II.
Poliovirus vaccine live, oral, type III	Poliovirus vaccine live oral, type III	Poliovirus vaccine live oral type III.
Poliomyelitis vaccine	Poliovirus vaccine inactivated	Poliovirus vaccine inactivated.
Rubella and mumps virus vaccine live	Rubella and mumps virus vaccine live	Rubella and mumps virus vaccine live.
Rubella virus vaccine, live	Rubella virus vaccine live	Rubella virus vaccine live.
Adenovirus and influenza virus vaccines combined aluminum phosphate adsorbed.	Adenovirus and influenza virus vaccines combined adsorbed.	Product no longer licensed (see preamble paragraph 14)
Bacterial Products		
Anthrax vaccine, adsorbed	Anthrax vaccine adsorbed	Anthrax vaccine adsorbed.
Diphtheria and tetanus toxoids and pertussis and poliomyelitis vaccines adsorbed.	Diphtheria and tetanus toxoids and pertussis and poliovirus vaccines inactivated, adsorbed.	Product no longer licensed (see preamble paragraph 14).
Diphtheria and tetanus toxoids and pertussis vaccine adsorbed and poliomyelitis vaccine.	Diphtheria and tetanus toxoids and pertussis vaccine adsorbed and poliovirus vaccine inactivated.	Product no longer licensed (see preamble paragraph 14).
Tetanus and diphtheria toxoids adsorbed (for adult use)	Tetanus and diphtheria toxoids adsorbed for adult use	Tetanus and diphtheria toxoids adsorbed for adult use.
Antivenins		
Antivenin (crotolidae) polyvalent	Antivenom rattlesnake, copper head and moccasin	No change in current codified name (see preamble paragraph 9)
Antivenin (lactrodectus mactans)	Antivenom widow spider	Do.
Antivenin (micrurus fulvius)	Antivenom coral snake	Do.
Allergenic Extracts		
Allergenic extracts, alum precipitated	Allergenic extracts adsorbed	No change in current codified name (see preamble paragraph 8)

Accordingly, FDA is updating any applicable regulations in Parts 600 through 660 to reflect the new proper names and is updating § 610.53(a) concerning minimum dating periods. Further, FDA is making minor clarifying changes in the regulations. One of these changes includes revising the terms "Reference Measles Immune Globulin" and "Reference Poliomyelitis Immune Globulin" found in § 640.104 concerning potency of immune serum globulins to read "Reference Immune Serum Globulin". The reference standard labeled "Reference Immune Serum Globulin" contains antibodies to both measles and polio.

The agency has determined under 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act of 1980

FDA is continuing unchanged any collection of information requirements, as defined in the Paperwork Reduction Act of 1980, in the various sections of the biologics regulations being amended by this final rule.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt. The economic impact of this rule has been assessed in accordance with Executive Order 12291. Based on the assessment, the agency concludes that the rule does not warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. The assessment done to make this determination in on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects in 21 CFR Parts 600, 606, 610, 620, 630, 640, and 660

Biologics; Blood, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 510, 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055–1056 as amended, 76 Stat. 794–795 as amended (21 U.S.C. 321, 351, 352, 360, 371)); the Public Health Service Act (secs. 351, 352, 353, 361, 58 Stat. 702–703 as amended, 81 Stat. 536 (42 U.S.C. 262, 263, 263a, 264)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. Part 600 is amended:

§ 600.13 [Amended]

a. In § 600.13 *Retention samples* by revising "Whole Blood (Human), Cryoprecipitated Antihemophilic Factor (Human), Platelet Concentrate (Human), Red Blood Cells (Human), Single Donor Plasma (Human), and Source Plasma (Human)," to read "Whole Blood, Cryoprecipitated AHF, Platelets, Red Blood Cells, Plasma, and Source Plasma".

b. In § 600.15 by revising paragraph (a) to read as follows:

§ 600.15 Temperatures during shipment.

* * * * *

(a) *Products.*

Product	Temperature
Cryoprecipitated AHF	– 18 °C or colder.
Measles and rubella virus vaccine live.	10 °C or colder.
Measles live and smallpox vaccine.	Do.
Measles, mumps, and rubella virus vaccine live.	Do.
Measles and mumps virus vaccine live.	Do.
Measles virus vaccine live	Do.
Mumps virus vaccine live	Do.
Fresh frozen plasma	– 18 °C or colder.
Liquid plasma	° to 10 °C.
plasma	– 18 °C or colder.
Platelet rich plasma	Between 1 and 10 °C if the label indicates storage between 1 and 6 °C, or all reasonable methods to maintain the temperature as close as possible to a range between 20 and 24 °C, if the label indicates storage between 20 and 24 °C.
Platelets	Between 1 and 10 °C if the label indicates storage between 1 and 6 °C, or all reasonable methods to maintain the temperature as close as possible to a range between 20 to 24 °C, if the label indicates storage between 20 and 24 °C.
Poliovirus vaccine live oral trivalent.	0 °C or colder.
Poliovirus vaccine live oral type I.	Do.
Poliovirus vaccine live oral type II.	Do.
Poliovirus vaccine live oral type III.	Do.
Red blood cells (liquid product).	Between 1 and 10 °C.
Red blood cells frozen	– 65 °C or colder.
Rubella and mumps virus vaccine live.	10 °C or colder.
Rubella virus vaccine live	Do.
Smallpox vaccine (liquid product).	0 °C or colder.
Source plasma	– 5 °C or colder.
Source plasma liquid	10 °C or colder.
Whole blood	Blood that is transported from the collecting facility to the processing facility shall be transported in an environment capable of continuously cooling the blood toward a temperature range of 1 ° to 10 °C, or at a temperature as close as possible to 20 ° to 24 °C for a period not to exceed 6 hours. Blood transported from the storage facility shall be placed in an appropriate environment to maintain a temperature range between 1 to 10 °C during shipment.
Yellow fever vaccine	0 °C or colder.

* * * * *

PART 606—CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS

2. Part 606 is amended:

a. By revising the part heading to read as set out above.

§ 606.120 [Amended]

b. In § 606.120 *Labeling* in paragraph (b)(2) by revising "Source Plasma (Human)" to read "Source Plasma" and in paragraph (b)(9) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF" and "Source Plasma (Human)" to read "Source Plasma".

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

3. Part 610 is amended:

§ 610.11 [Amended]

a. In § 610.11 *General safety* in paragraph (g) by revising "Whole Blood (Human)," "Red Blood Cells (Human)," "Cryoprecipitated Antihemophilic Factor (Human)," "Platelet Concentrate (Human)," and "Single Donor Plasma (Human)" to read "Whole Blood," "Red Blood Cells," "Cryoprecipitated AHF," "Platelets," and "Plasma", respectively.

§ 610.12 [Amended]

b. In § 610.12 *Sterility* in paragraph (g)(4) removing "Leukocyte Typing Serum" and by revising "Whole Blood (Human)," "Cryoprecipitated Antihemophilic Factor (Human)," "Platelet Concentrate (Human)," "Red Blood Cells (Human)," "Single Donor Plasma (Human)," and "Source Plasma (Human)," to read "Whole Blood," Cryoprecipitated AHF," "Platelets," "Red Blood Cells," "Plasma," and "Source Plasma", respectively, and in paragraph (g)(7) by removing, "and Fibrinogen (Human)" and by revising

"Normal Serum Albumin (Human)," to read "Albumin (Human) and".

§ 610.13 [Amended]

c. In § 610.13 *Purity* in paragraph (a)(2)(ii) by revising "Measles Virus Vaccine, Live, Attenuated; Measles-Smallpox Vaccine, Live; Rubella Virus Vaccine, Live;" to read "Measles Virus Vaccine Live, Measles Live and Smallpox Vaccine, Rubella Virus Vaccine Live,"; in paragraph (a)(2)(iii) by revising "Modified Plasma (Bovine); Thrombin; Fibrinogen; Streptokinase; and Streptokinase-Streptodornase;" to read "Thrombin and Streptokinase;" in the introductory text of paragraph (b) by revising "Cryoprecipitated Antihemophilic Factor (Human); Single Donor Plasma (Human); Source Plasma (Human);" to read "Cryoprecipitate; Plasma; Source Plasma;" in paragraph (b)(1)(i) by removing the phrase "and at least 30 milligrams for Fibrinogen (Human)"; and in paragraph (b)(1)(ii) by removing "Streptokinase-Streptodornase, Aggregated Radio-Iodinated (I^{131}) Albumin (Human), Radio-Chromated (Cr^{51}) Serum Albumin (Human), Radio-Iodinated (I^{125}) Serum Albumin (Human), and Radio-Iodinated (I^{131}) Serum Albumin (Human),".

§ 610.15 [Amended]

d. In § 610.15 *Constituent materials* in paragraph (a) by revising "Poliovirus Vaccine, Live, Oral" to read "Poliovirus Vaccine Live Oral".

§ 610.51 [Removed]

e. By removing § 610.51 *Periods of cold storage.*

§ 610.52 [Removed]

f. By removing § 610.52 *Dating period.*

g. By revising § 610.53, to read as follows:

§ 610.53 Dating periods for licensed biological products.

(a) *General.* The minimum dating periods in paragraph (c) of this section are based on data relating to usage, clinical experience, or laboratory tests that establish the reasonable period beyond which the product cannot be expected to yield its specific results and retain its safety, purity, and potency, provided the product is maintained at the recommended temperatures. The standards prescribed by the regulations in this subchapter are designed to ensure the continued safety, purity, and potency of the products and are based on the dating periods set forth in paragraph (c) of this section. Package labels for each product shall recommend storage at the stated temperatures.

(b) *When the dating period begins.* The dating period for a product shall begin on the date of manufacture, as prescribed in § 610.50. The dating period for a combination of two or more products shall be no longer than the dating period of the component with the shortest dating period.

(c) *Table of dating periods.* In using the table in this paragraph, a product in column A may be stored by the manufacturer at the prescribed temperature and length of time in either column B or C, plus the length of time in column D. The dating period in column D shall be applied from the day the product leaves the manufacturer's storage, provided the product has not exceeded its maximun storage period, as prescribed in column B or C. If a product is held in the manufacturer's storage beyond the period prescribed, the dating period for the product being distributed shall be reduced by a corresponding period.

Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
Adenovirus vaccine live oral	6 months	Not applicable	6 months.
Albumin (human)	3 years	do	(a) 5 years.
	do	do	(b) 3 years, provided labeling recommends storage at room temperature, no warmer than 37 °C.
	Not applicable	do	(c) 10 years, if in a hermetically sealed metal container and provided labeling recommends storage between 2 and 8 °C.
Allergenic extracts labeled "No U.S. Standard of Potency":			
1. With 50 percent or more glycerin	3 years	do	3 years.
2. With less than 50 percent glycerin	18 months	do	18 months.
3. Products for which cold storage conditions are inappropriate.	Not applicable	do	18 months (from date of manufacture), provided labeling recommends storage at 30 °C or colder.
4. Powders and tablets	do	do	5 years (from date of manufacture), provided labeling recommends storage at 30 °C or colder.
5. Freeze-dried products:			
a. Unreconstituted	do	do	4 years (from date of manufacture).
b. Reconstituted	do	do	18 months (cannot exceed 4-year unreconstituted dating period plus an additional 12 months).
Allergenic Extracts, alum precipitated labeled "No. U.S. Standard of Potency".	18 months	do	18 months.
Anthrax vaccine adsorbed	2 years	do	1 year.
Antibody to hepatitis B surface Antigen:			
1. Antibody to hepatitis B surface antigen	6 months	do	6 months.
2. Lyophilized coated red blood cells	do	do	Do.
3. Enzyme conjugated products	do	do	Do.
Iodinated (I^{125})	Not applicable	do	45 days (from date of manufacture).
Antihemophilic factor (human)	do	do	1 year (from date of manufacture).
Antihuman globulin liquid	do	do	2 years.
Anti-inhibitor coagulant complex			2 years at 4 °C ±2 °C.
Antirabies serum	1 year	2 years	2 years.
Antivenin (*crotalidae*) polyvalent	do	do	5 years with an initial 10 percent excess of potency, provided labeling recommends storage at 37 °C or colder.
Antivenin (*latrodectus mactans*)	do	do	5 years with an initial 10 percent excess of potency.
Antivenin (*Micrurus fulvius*)	do	do	5 years with an initial 10 percent excess of potency.
Asparaginase	Not applicable	do	18 months from the date of the last valid potency test.
BCG vaccine	1 year	Not applicable	6 months.

Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
Blood Grouping Serums:			
1. Liquid	Not applicable	Not applicable	2 years.
2. Dried	1 year	2 years	5 years.
Blood group substance AB	do	do	2 years.
Blood group substance A	do	do	Do.
Blood group substance B	do	do	Do.
Botulism antitoxin	do	do	5 years with an initial 20 percent excess of potency.
Cholera vaccine	do	Not applicable	18 months.
Coccidioidin	do	do	3 years.
Collagenase	Not applicable	do	4 years (from date of manufacture), provided labeling recommends storage at 37 °C or colder.
Cryoprecipitated AFH	do	do	12 months from the date of collection of source blood, provided labeling recommends storage at −18 °C or colder.
Diphtheria Antitoxin:			
1. Liquid	1 year	2 years	5 years with an initial 20 percent excess of potency.
2. Dried	do	do	5 years with an initial 10 percent excess of potency.
Diphtheria and tetanus toxoids and pertussis vaccine adsorbed	do	do	18 months.
Diphtheria and tetanus toxoids, absorbed	do	do	2 years.
Diphtheria toxin for schick test	do	do	1 year.
Diphtheria toxoid	do	do	2 years.
Diphtheria toxoid adsorbed	do	do	Do.
Diphtheria toxoid-schick test control	Not applicable	Not applicable	1 year.
Factor IX complex	do	do	1 year (from date of manufacture).
Fibrinolysin (human)	1 year	2 years	2 years.
Fibrinolysin and desoxyridonuclease combined (bovine)	do	do	3 years, provided labeling recommends storage at 30 °C or colder.
Fibrinolysin and desoxyribonuclease combined (bovine) with chloramphenicol	do	do	3 years, provided labeling recommends storage at 30 °C or colder.
Hepatitis B surface antigen:			
1. Unlyophilied coated red blood cells	Not applicable	do	14 days (from date of manufacture).
2. Iodinated (^{125}I) product	do	do	45 days (from date of manufcture).
3. Enzyme conjugated product	6 months	do	6 months
Histoplasmin	1year	do	2 years.
Immunoglobulins:			
1. Hepatitis B immune globulin (human)	Not applicable	do	1 year.
2. Immune globulin (human)	3 years	do	3 years.
3. Immune globulin intravenous (human)	1 year	do	1 year.
4. Lymphocyte immune globulin, anti-thymocyte globulin (equine).	Not applicable	Not applicable	2 years.
5. Pertussis immune globulin (human)	3 years	do	3 years from date the dried or frozen bulk product is placed in final solution.
6. Rabies immune globulin (Human)	1 year	do	1 year.
7. Rh_0(D) immune globulin (human)	6 months	do	6 months.
8. Tetanus immune globuline (human)	1 year	do	3 years with an initial 10 percent excess of potency.
9. Vaccinia immune globulin (human)	3 year	do	3 years.
10. Vari-cella-zoster immune globulin (human)	1 year	do	1 year.
Hepatitis B vaccine	2 years at 2 to 8 °C	Not applicable	3 years.
Influenza virus vaccine	1 year	do	18 months.
Limulus amebocyte lysate	Not applicable	Not applicable	18 months (from date of manufacture).
Measles, mumps, and rubella virus vaccine live	do	1 year (−20 °C or colder)	1 year.
Measles and mumps virus vaccine live	do	do	1 year.
Measles and rubella virus vaccine live	do	do	Do.
Measles live and smallpox vaccine	Not applicable	do	1 year (from date of manufacture).
Measles virus vaccine live	do	do	1 year.
Meningococcal polysaccharide vaccine group A:			
1. Final bulk powder	do	2 years (−20 °C or colder)	Not applicable.
2. Final container	Not applicable	3 years (−20 °C or colder)	2 years (−20 °C or colder).
Meningococcal polysaccharide vaccine group C:			
1. Final bulk powder	do	2 years (−20 °C or colder)	Not applicable.
2. Final container	do	3 years (−20 °C or colder)	2 years (−20 °C or colder).
Meningococcal polysaccharide vaccine groups A and C combined.	do	do	Do.
Meningococcal polysaccharide vaccine groups vaccine groups A, C, Y, and W135 combined.	do	do	do.
Mumps skin test antigen	1 year	do	18 months.
Mumps virus vaccine live	Not applicable	1 year (−20 °C or colder)	1 year.
Normal horse serum	1 year	2 years	5 years.
Pertussis vaccine	do	Not applicable	18 months.
Pertussis vaccine adsorbed	do	do	Do.
Plague vaccine	do	do	Do.
Plasma products:			
1. Fresh frozen plasma	Not applicable	do	1 year from date of collection of source blood (−18 °C or colder).
2. Liquid plasma	do	do	(a) 26 days from date of collection of source blood (between 1 and 6 °C). (b) 40 days from date of collection of source blood only when CPDA-1 solution is used as the anticoagulant (between 1 and 6 °C).
3. Plasma	do	do	5 years from date of collection of source blood (−18 °C or colder).
4. Platelet rich plasma	do	do	72 hours from time of collection of source blood, provided labeling recommends storage (20 to 24 °C or between 1 and 6 °C). 5 days if certain approved containers are used (20 to 24 °C).

Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
5. Source leukocytes	do	do	In lieu of expiration date, the collection date shall appear on the label.
6. Source plasma	do	do	10 years (at the recommended storage temperature stated on the label).
7. Therapeutic exchange plasma	do	do	10 years.
Plasma protein fraction (human)	1 year	do	(a) 5 years. (b) 3 years provided labeling recommends storage at room temperature, no warmer than 30 °C.
Platelets	Not applicable	do	72 hours from time of collection of source blood, provided labeling recommends storage at 20 to 24 °C or between 1 and 6 °C. 5 days if certain approved containers are used (20 to 24 °C).
Pneumococcal vaccine polyvalent:			
1. Final bulk powder	do	15 months after potency assay (−20 °C or colder).	Not applicable.
2. Final container	do	Not applicable	2 years (after date of manufacture).
Poliovirus vaccine inactivated	1 year	do	1 year.
Poliovirus vaccine live oral trivalent:			
1. Frozen	Not Applicable	1 year (−10 °C or colder)	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus vaccine live oral type I:			
1. Frozen	do	1 year (−10 °C or colder)	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus vaccine live oral type II:			
1 Frozen	do	1 year (−10 °C or colder)	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus vaccine live oral type III:			
1 Frozen	do	1 year (−10 °C or colder)	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Polyvalent bacterial antigens with "No U.S. Standard of Potency" liquid.	1 year	Not applicable	18 months.
Polyvalent bacterial vaccines with "No U.S. Standard of Potency" liquid.	do	do	Do.
Rabies Vaccine:			
1 Dried	do	2 years	Do.
2. Liquid	3 months	Not applicable	6 months.
Reagent red blood cells	Not applicable	do	35 days from earliest date of collection.
ACD red blood cells	do	do	(a) 21 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. (b) 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
CPD red blood cells	do	do	(a) 21 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. (b) 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
CPDA-1 red blood cells	do	do	(a) 35 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
Red blood cells deglycerolized	do	do	24 hours after removal from storage at −65 °C or colder, provided labeling recommends storage between 1 and 6 °C.
Red blood cells frozen	do	do	3 years from date of collection of source blood, provided labeling recommends storage at −65 °C or colder.
Rubella and mumps virus vaccine live	do	1 year (−20 °C or colder)	1 year.
Rubella virus vaccine live	do	°C.	Do.
Skin test antigens for cellular hypersensitivity	6 months	Not applicable	Do.

Product A	Manufacturer's storage period 1 to 5 °C (unless otherwise stated) B	Manufacturer's storage period 0 °C or colder (unless otherwise stated) C	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated) D
Smallpox Vaccine:			
1. Liquid	Not applicable	9 months (−10 °C or colder, if product is maintained as glycerinated or equivalent vaccine in bulk or final containers).	3 months, provided labeling recommends storage at 0 °C or colder.
2. Dried	6 months	Not applicable	18 months.
Streptokinase	do	2 years	Do.
Tetanus and diphtheria toxoids adsorbed for adult use	1 year	Not applicable	2 years.
Tetanus antitoxin:			
1. Liquid	do	2 years	5 years with an initial 20 percent excess of potency.
2. Dried	do	do	5 years with an initial 10 percent excess of potency.
Tetanus toxoid adsorbed	do	do	2 years.
Thrombin	do	do	3 years.
Thrombin impregnated pad	Not applicable	Not applicable	1 year, or 6 months at 20 to 24 °C.
Tuberculin:			
1. Purified protein derivative, diluted	6 months	do	1 year.
2. Old or purified protein derivative, dried on multiple puncture device:	1 year (not to exceed 30 °C; do not refrigerate).	do	2 years, provided labeling recommends storage at a temperature not to exceed 30 °C. Do not refrigerate.
3. Old on multiple puncture device	do	do	Do.
Typhoid vaccine	1 year	do	18 months.
ACD whole blood	Not applicable	do	21 days from date of collection, provided labeling recommends storage between 1 and 6 °C.
CPD whole blood	do	do	Do.
CPDA-1 whole blood	do	do	35 days from date of collection, provided labeling recommends storage between 1 and 6 °C.
Heparin whole blood	do	do	48 hours from date of collection, provided labeling recommends storage between 1 and 6 °C.
Yellow fever vaccine	do	1 year (−20 °C or colder)	1 year, provided labeling recommends storage at 5 °C or colder.

(d) *Exemptions.* Exemptions or modifications shall be made only upon written approval, in the form of an amendment of the product license, issued by the Director, Office of Biologics Research and Review (HFN-800), Center for Drugs and Biologics.

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

4. Part 620 is amended:

§ 620.4 [Amended]

a. In § 620.4 *Potency test* in paragraph (g) by revising "Poliomyelitis Vaccine" to read "Poliovirus Vaccine Inactivated".

Subpart C—[Amended]

b. By revising the heading of Subpart C to read "Subpart C—Anthrax Vaccine Adsorbed".

§ 620.20 [Amended]

c. In § 620.20 by revising the section heading to read "§ 620.20 *Anthrax Vaccine Adsorbed*" and in the text by revising "Anthrax Vaccine, Adsorbed" to read "Anthrax Vaccine Adsorbed".

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

5. Part 630 is amended:

Subpart A—[Reserved]

a. By revising the heading of Subpart A to read "Subpart A—Poliovirus Vaccine Inactivated".

§ 630.1 [Amended]

b. In § 630.1 by revising the section heading to read "§ 630.1 *Poliovirus Vaccine Inactivated*" and in the text of paragraphs (a) and (c) by revising "Poliomyelitis Vaccine" to read "Poliovirus Vaccine Inactivated".

§ 630.2 [Amended]

c. In § 630.2 by revising the section heading to read "*Poliovirus Vaccine Inactivated*" and in paragraph (e)((3) by revising "poliomyelitis vaccine" to read "Poliovirus Vaccine Inactivated".

§ 630.3 [Amended]

d. In § 630.3 *Potency test* in the introductory paragraph by revising "poliomyelitis vaccine" to read Poliovirus Vaccine Inactivated".

§ 630.4 [Amended]

e. In § 630.4 *Tests for safety* in paragraph (b)((1) by revising "poliomyelitis vaccine" to read "poliovirus vaccine" and in paragraph (e)(5)((ii) by revising "poliomyelitis" to read "poliovirus".

§ 630.6 [Amended]

f. In § 630.6 *Equivalent methods* in the text by revising "poliomyelitis vaccine" to read "Poliovirus Vaccine Inactivated".

Subpart B—[Amended]

g. By revising the heading of Subpart B to read "Subpart B—Poliovirus Vaccine Live Oral".

h. In § 630.10 in paragraphs (a) and (b)(2) by revising "Poliovirus Vaccine, Live, Oral" to read "Poliovirus Vaccine Live Oral" and by revising the section heading to read "*§ 630.10 Poliovirus Vaccine Live Oral.*"

* * * * *

§ 630.12 [Amended]

i. In § 630.12 *Animal source; quarantine; personnel* in paragraphs (a)(1) and (b) by revising "Poliovirus Vaccine, Live, Oral" to read "Poliovirus Vaccine Live Oral".

§ 630.13 [Amended]

j. In § 630.13 by revising the section heading to read "*§ 630.13 Manufacture of Poliovirus Vaccine Live Oral.*"

§ 630.18 [Amended]

k. In § 630.18 *Equivalent methods* in the text by revising "Poliovirus Vaccine, Live, Oral," to read "Poliovirus Vaccine Live Oral".

Subpart D—[Amended]

1. By revising the heading of Subpart D to read "Subpart D—Measles Virus Vaccine Live".

§ 630.30 [Amended]

m. In § 630.30 by revising the section heading to read "§ 630.30 *Measles Virus Vaccine Live*" and in paragraphs (a) and (b)(2) by revising "Measles Virus Vaccine, Live, Attenuated," to read "Measles Virus Vaccine Live".

§ 630.36 [Amended]

n. In § 630.36 *General requirements* in paragraph (d) by revising "Measles Virus Vaccine, Live, Attenuated," to read "Measles Virus Vaccine Live".

§ 630.37 [Amended]

o. In § 630.37 *Equivalent methods* in the text by revising "Measles Virus Vaccine, Live, Attenuated," to read "Measles Virus Vaccine Live".

Subpart F—[Amended]

p. By revising the heading of Subpart F to read "Subpart F—Mumps Virus Vaccine Live".

§ 630.50 [Amended]

q. In § 630.50 by revising the section heading to read "§ 630.50 *Mumps Virus Vaccine Live*" and in paragraphs (a) and (b)(2) by revising "Mumps Virus Vaccine, Live," to read "Mumps Virus Vaccine Live".

§ 630.51 [Amended]

r. In § 630.51 *Clinical trials to qualify for license* in the text by revising "Mumps Virus Vaccine, Live," to read "Mumps Virus Vaccine Live".

§ 630.52 [Amended]

s. In § 630.52 by revising the section heading to read "§ 630.52 *Manufacture of Mumps Virus Vaccine Live*".

§ 630.56 [Amended]

t. In § 630.56 *General requirements* in paragraph (b) by revising "Mumps Virus Vaccine, Live," to read "Mumps Virus Vaccine Live" and in paragraph (e) by revising "Mumps Virus Vaccine, Live" to read "Mumps Virus Vaccine Live".

§ 630.57 [Amended]

u. In § 630.57 *Equivalent methods* in the text by revising "Mumps Virus Vaccine, Live," to read "Mumps Virus Vaccine Live".

Subpart G—[Amended]

v. By revising the heading of Subpart G to read "Subpart G—Rubella Virus Vaccine Live".

§ 630.60 [Amended]

w. In § 630.60 by revising the section heading to read "§ 630.60 *Rubella Virus Vaccine Live*" and in paragraph (a) by revising "Rubella Virus Vaccine, Live" to read "Rubella Virus Vaccine Live" and in paragraph (d)(1) by revising "Rubella Virus Vaccine, Live," to read "Rubella Virus Vaccine Live".

§ 630.61 [Amended]

x. In § 630.61 *Clinical trials to qualify for license* in the text by revising "Rubella Virus Vaccine, Live," to read "Rubella Virus Vaccine Live".

§ 630.62 [Amended]

y. In § 630.62 *Production* in paragraph (b) by revising "Rubella Virus Vaccine, Live" to read "Rubella Virus Vaccine Live".

§ 630.66 [Amended]

z. In § 630.66 *General requirements* in paragraph (b) by revising "Rubella Virus Vaccine, Live," to read "Rubella Virus Vaccine Live" and in paragraph (d) by revising "Rubella Virus Vaccine, Live" to read "Rubella Virus Vaccine Live".

§ 630.67 [Amended]

aa. In § 630.67 *Equivalent methods* in the text by revising "Rubella Virus Vaccine, Live" to read "Rubella Virus Vaccine Live".

Subpart I—[Amended]

bb. By revising the heading of Subpart I to read "Subpart I—Measles Live and Smallpox Vaccine".

§ 630.80 [Amended]

cc. In § 630.80 by revising the section heading to read "§ 630.80 *Measles Live and Smallpox Vaccine*" and in paragraph (a) by revising "Measles-Smallpox Vaccine, Live" to read "Measles Live and Smallpox Vaccine".

§ 630.84 [Amended]

dd. In § 630.84 *Potency tests* in the introductory paragraph by revising "Measles-Smallpox Vaccine, Live," to read "Measles Live and Smallpox Vaccine".

§ 630.87 [Amended]

ee. In § 630.87 *Equivalent methods* in the text by revising "Measles-Smallpox Vaccine, Live" to read "Measles Live and Smallpox Vaccine".

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

5. Part 640 is amended:

Subpart A—[Amended]

a. By revising the heading of Subpart A to read "Subpart A—Whole Blood".

§ 640.1 [Amended]

b. In § 640.1 by revising the section heading to read "§ 640.1 *Whole blood*" and in the text by revising "Whole Blood (Human)" to read "Whole Blood".

§ 640.2 [Amended]

c. In § 640.2 *General requirements* in paragraph (a) by revising "Whole Blood (Human)" to read "Whole Blood".

§ 640.3 [Amended]

d. In § 640.3. in paragraphs (a) and (f) by revising "Whole Blood (Human)" to read "Whole Blood".

§ 640.4 [Amended]

e. In § 640.4 *Collection of the blood* in paragraphs (c) and (h) by revising "Heparinized Whole Blood (Human)" to read "Heparin Whole Blood" and in paragraph (i) by revising "Platelet Concentrate (Human)" and "platelet concentrate" to read "Platelets" and "platelets", respectively.

§ 640.5 [Amended]

f. In § 640.5 *Testing the blood* in paragraphs (a) through (e) by revising "Whole Blood (Human)" to read "Whole Blood" and in paragraph (c) by revising "Anti-Rh_o (Anti-D) Typing Serum" to read "Anti-D Blood Grouping Serum".

§ 640.6 [Amended]

g. § 640.6 by revising the section heading to read "§ 640.6 *Modifications of Whole Blood*" and in the introductory paragraph by revising "Whole Blood (Human)" to read "Whole Blood" and in paragraph (c) by revising "Whole Blood (Human), modified," to read "Whole Blood Cryoprecipitate Removed".

§ 640.7 [Amended]

h. In § 640.7 *Labeling* in the introductory text of paragraph (g) by revising "Whole Blood (Human), Modified" to read "Whole Blood Cryoprecipitate Removed" and in paragraph (g)(1) by revising "Modified" to read "Cryoprecipitate Removed".

Subpart B—[Amended]

i. By revising the heading of Subpart B to read "Subpart B—Red Blood Cells".

§ 640.10 [Amended]

j. In § 640.10 by revising the section heading to read "§ 640.10 *Red Blood Cells*" and in the text by revising "Red Blood Cells (Human)" to read "Red Blood Cells".

§ 640.11 [Amended]

k. In § 640.11 *General requirements* in paragraph (a) by revising "Red Blood Cells (Human)" to read "Red Blood Cells".

§ 640.12 [Amended]

l. In § 640.12 *Suitability of donor* in the text by revising "Red Blood Cells (Human)" to read "Red Blood Cells".

§ 640.13 [Amended]

m. In § 640.13 *Collection of the blood* in paragraph (b) by revising "Whole Blood (Human)" to read "Whole Blood".

§ 640.15 [Amended]

n. In § 640.15 *Pilot samples* in paragraphs (a) and (d) by revising "Red Blood Cells (Human)" to read "Red Blood Cells".

§ 640.16 [Amended]

o. In § 640.16 *Processing* in paragraph (a) by revising "red blood cells (human)" to read "Red Blood Cells" and in paragraph (c) by revising "Red Blood Cells (Human)" to read "Red Blood Cells".

§ 640.17 [Amended]

p. In § 640.17 *Modifications for specific products* in the text by revising "Red Blood Cells (Human)" to read "Red Blood Cells" and by revising "Red Blood Cells (Human), Frozen" to read "Red Blood Cells Frozen".

§ 640.18 [Amended]

q. In § 640.18 *Labeling* in the introductory paragraph by revising "Red Blood Cells (Human)" to read "Red Blood Cells"; in paragraph (a) by revising "Whole Blood (Human)" to read "Whole Blood"; in paragraph (b) by revising "Red Blood Cells (Human), Frozen, and Red Blood Cells (Human), Deglycerolized" to read "Red Blood Cells Frozen and Red Blood Cells Deglycerolized"; and in paragraph (d) by revising "Whole Blood (Human)" to read "Whole Blood".

Subpart C—[Amended]

r. By revising the heading of Subpart C to read "Subpart C—Platelets".

§ 640.20 [Amended]

s. In § 640.20 by revising the section heading to read "§ 640.20 *Platelets*" and in paragraphs (a) and (b) by revising "Platelets Concentrate (Human)" to read "Platelets".

§ 640.22 [Amended]

t. In § 640.22 *Collection of source material* in paragraph (a) by revising "Platelet Concentrate (Human)" to read "Platelets".

§ 640.23 [Amended]

u. In § 640.23 *Testing the blood* in paragraph (a) by revising "Platelet Concentrate (Human)" to read "Platelets".

§ 640.24 [Amended]

v. In § 640.24 *Processing* in paragraphs (a) and (e) by revising "Platelet Concentrate (Human)" to read "Platelets"; in paragraph (b) by revising "platelet concentrate is" to read "platelets are"; and in paragraph (d) by revising "platelet concentrate" to read "platelets".

§ 604.25 [Amended]

w. In § 640.25 *General requirements* in paragraph (a), the introductory text of paragraph (c), and paragraph (c) (1) and (2) by revising "Platelet Concentrate (Human)" to read "Platelets".

Subpart D—[Amended]

x. By revising the heading of Subpart D to read "Subpart D—Plasma".

§ 640.30 [Amended]

y. In § 640.30 by revising the section heading to read "§ 640.30 *Plasma*", in paragraphs (a) and (b) by revising "Single Donor Plasma (Human)" to read "Plasma", and in paragraph (b)(2) by revising "Whole Blood (Human)" to read "Whole Blood".

§ 640.32 [Amended]

z. In § 640.32 *Collection of source material* in paragraph (a) by revising "Single Donor Plasma (Human); Single Donor Plasma (Human), Fresh Frozen; and Single Donor Plasma (Human), Liquid," to read "Plasma, Fresh Frozen Plasma, and Liquid Plasma"; and by revising "Single Donor Plasma (Human), Platelet Rich" to read "Platelet Rich Plasma".

§ 640.33 [Amended]

aa. In § 640.33 *Testing the blood* in paragraph (b) by revising "Single Donor Plasma (Human)" to read "Plasma".

§ 640.34 [Amended]

bb. In § 640.34 *Processing* in paragraph (a) by revising "Single Donor Plasma (Human)" to read "Plasma" and "Single Donor Plasma (Human), Liquid" to read "Liquid Plasma"; in paragraph (b) by revising "Single Donor Plasma (Human), Fresh Frozen" to read "Fresh Frozen Plasma"; in paragraph (c) by revising "Single Donor Plasma (Human), Liquid" to read "Liquid Plasma"; in paragraph (d) by revising "Single Donor Plasma (Human), Platelet Rich" to read "Platelet Rich Plasma"; in the introductory text of paragraph (e) by revising "Single Donor Plasma (Human)" to read "Plasma" and by revising "Platelet Concentrate (Human) and/or Cryoprecipitated Antihemophilic Factor (Human) from Single Donor Plasma (Human)" to read "Platelets and/or Cryoprecipitated AHF from Plasma"; in paragraph (e)(1) by revising "Platelet Concentrate (Human)" to read "Platelets" and "Single Donor Plasma (Human), Fresh Frozen" to read "Fresh Frozen Plasma"; in paragraph (e)(2) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF" and "Single Donor Plasma (Human)" to read "Plasma"; in paragraph (e)(3) by revising "Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor (Human)" to read "Platelets and Cryoprecipitated AHF" and "Single Donor Plasma (Human)" to read "Plasma"; and in paragraph (g)(2) by revising "Single Donor Plasma (Human), Platelet Rich; and Single Donor Plasma (Human), Liquid" to read "Platelet Rich Plasma and Liquid Plasma".

§ 640.35 [Amended]

cc. In § 640.35 *Labeling* in the introductory paragraph by revising "Single Donor Plasma (Human)" to read "Plasma" and in paragraph (s) by changing the proper name "Whole Blood (Human)" to read "Whole Blood".

Subpart F—[Amended]

dd. By revising the heading of Subpart F to read "Subpart F—Cryoprecipitate".

§ 640.50 [Amended]

ee. In § 640.50 by revising the section heading to read "§ 640.50 *Cryoprecipitated AHF*" and in paragraphs (a) and (b) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF".

§ 640.52 [Amended]

ff. In § 640.52 *Collection of source material* in paragraph (a) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF" and "Platelet Concentrate (Human)" to read "Platelets".

§ 640.53 [Amended]

gg. In § 640.53 *Testing the blood* in paragraphs (a) and (c) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF".

§ 640.54 [Amended]

hh. In § 640.54 *Processing* in paragraphs (a)(3) and (b)(1) and (3) by revising "Cryoprecipitated

Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF".

§ 640.55 [Amended]

ii. In § 640.55 *U.S. Standard preparation* in the text by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF".

§ 640.56 [Amended]

jj. In § 640.56 *Quality control test for potency* in paragraphs (a), (b), and (c)(1) by revising "Cryoprecipitated Antihemophilic Factor (Human)" to read "Cryoprecipitated AHF".

Subpart G—[Amended]

kk. By revising the heading of Subpart G to read "Subpart G—Source Plasma".

§ 640.60 [Amended]

ll. In § 640.60 by revising the section heading to read "§ 640.60 *Source Plasma*" and in the text by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.63 [Amended]

mm. In § 640.63 *Suitability of donor* in paragraph (a) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.64 [Amended]

nn. In § 640.64 by revising the section heading to read "§ 640.64 *Collection of blood for Source Plasma*" and in paragraphs (a) and (c) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.67 [Amended]

oo. In § 640.67 *Test for hepatitis B surface antigen* by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.68 [Amended]

pp. In § 640.68 *Processing* in paragraphs (a), (b), and (c) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.69 [Amended]

qq. In § 640.69 *General requirements* in paragraph (a), (b), and (c) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.70 [Amended]

rr. In § 640.70 *Labeling* in the introductory text of paragraph (a) by revising "Source Plasma (Human)" to read "Source Plasma" and in paragraph (b) by revising "Source Plasma (Human)" to read "Source Plasma" and by revising "Source Plasma (Human) Salvaged" to read "Source Plasma Salvaged".

§ 640.71 [Amended]

ss. In § 640.71 *Manufacturing responsibility* in the introductory texts of paragraphs (a) and (b) and in paragraph (b) (1) and (2) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.72 [Amended]

tt. In § 640.72 *Records* in paragraphs (a)(1) and (b) by revising "Source Plasma (Human)" to read "Source Plasma".

§ 640.74 [Amended]

uu. In § 640.74 by revising the section heading to read "§ 640.74 *Modification of Source Plasma*" and in paragraphs (a) and (b) by revising "Source Plasma (Human)" to read "Source Plasma" and in paragraph (b) by revising "Liquid Source Plasma (Human)" to read "Source Plasma Liquid".

§ 640.75 [Amended]

vv. In § 640.75 *Alternate procedures* in the text by revising "Source Plasma (Human)" to read "Source Plasma".

ww. In § 640.76 in paragraphs (a), (b), and (c) by revising "Source Plasma (Human)" to read "Source Plasma" and by revising "Source Plasma (Human) Salvaged" to read "Source Plasma Salvaged".

Subpart H—[Amended]

xx. By revising the heading of Subpart H to read "Subpart H—Albumin (Human)".

§ 640.80 [Amended]

yy. In § 640.80 by revising the section heading to read "§ 640.80 *Albumin (Human)*" and in paragraph (a), introductory text of (b), and paragrah (b)(1) by revising "Normal Serum Albumin (Human)" to read "Albumin (Human)".

§ 640.81 [Amended]

zz. In § 640.81 *Processing* in paragraphs (e) and (g) by revising "Normal Serum Albumin (Human)" to read "Albumin (Human)".

§ 640.82 [Amended]

aaa. In § 640.82 *Tests on final product* in paragraph (f) by revising "Normal Serum Albumin (Human)" to read "Albumin (Human)".

bbb. In § 640.85 in the introductory paragraph by revising "Normal Serum Albumin (Human)" to read "Albumin (Human)".

§ 640.86 [Amended]

ccc. In § 640.86 *Equivalent methods* by revising "Normal Serum Albumin (Human)" to read "Albumin (Human)".

Subpart J—[Amended]

ddd. By revising the heading of Subpart J to read "Subpart J—Immune Globulin (Human)".

§ 640.100 [Amended]

eee. In § 640.100 by revising the section heading to read "§ 640.100 *Immune Globulin (Human)*" and in paragraphs (a) and (b) by revising "Immune Serum Globulin (Human)" to read "Immune Globulin (Human)".

§ 640.101 [Amended]

fff. In § 640.101 *General requirements* in paragraph (e)(3) by revising "Measles Virus Vaccine, Live, Attenuated" to read "Measles Virus Vaccine Live" and in the introductory text of paragraph (f) by revising "Immune Serum Globulin (Human)" to read "Immune Globulin (Human)".

§ 640.102 [Amended]

ggg. In § 640.102 by revising the section heading to read "§ 640.102 *Manufacture of Immune Globulin (Human)*" and in paragraph (d) by revising "Immune Serum Globulin (Human)" to read "Immune Globulin (Human)".

§ 640.104 [Amended]

hhh. In § 640.104 *Potency* in paragraphs (b)(2) and (c)(1) by revising "Reference Measles Immune Globulin" to read "Reference Immune Serum Globulin"; in paragraph (b)(2) by revising "Measles Virus Vaccine, Live, Attenuated" to read "Measles Virus Vaccine Live"; and in paragraphs (b)(3) and (c)(2) by revising "Reference Poliomyelitis Immune Globulin" to read "Reference Immune Serum Globulin".

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

7. Part 660 is amended:

§ 660.23 [Amended]

a. In § 660.23 *Red blood cell preparations* in paragraph (a) by revising "Reagent Red Blood Cells (Human)" to read "Reagent Red Blood Cells".

b. In § 660.25 by revising paragraph (a)(5)(iii), to read as follows:

§ 660.25 Potency test without reference preparations.

* * * * *

(a) * * *

(5) * * *

(iii) For Anti-U, Anti-Kp^a, Anti-Kp^c, Anti-Js^a, Anti-Js^b, Anti-Fy^b, Anti-N, Anti Le^a, Anti-Le^b, Anti-Di^a, Anti-Mg, Anti-

Jk^b, Anti-Xg^a, Anti-Co^b, and Wr^a at least 2+ reaction with undiluted serum.

* * * * *

c. In § 660.28 by revising paragraph (d), to read as follows:

§ 660.28 Labeling.

* * * * *

(d) *Names of antibodies.*

Blood group designation for container label	Optional synonym for package label and package insert
Anti-A	None.
Anti-A_1	Do.
Anti-B	Do.
Anti-A, B	Do.
Anti-Di^a	(Anti-$Diego^a$).
Anti-Fy^a	(Anti-$Duffy^a$).
Anti-Fy^b	(Anti-$Duffy^b$).
Anti-I	None.
Anti-Jk^a	(Anti-$Kidd^a$).
Anti-Jk^b	(Anti-$Kidd^b$).
Anti-Js^a	(Anti-Sutter).
Anti-Js^b	(Anti-Matthews).
Anti-K	(Anti-Kell).
Anti-k	(Anti-Celiano).
Anti-Kp^a	(Anti-Penney).
Anti-Kp^b	(Anti-Rautenborg).
Anti-Le^a	(Anti-$Lewis^a$).
Anti-Le^b	(Anti-$Lewis^b$).
Anti-M	None.
Anti-N	Do.
Anti-M^a	(Anti-Gilfeather).
Anti-P_1	None.
Anti-D	(Anti-Rh_o).
Anti-CD	(Anti-Rh_o').
Anti-DE	(Anti-Rh_o'').
Anti-CDE	(Anti-Rh_o''').
Anti-C	(Anti-rh').
Anti-E	(Anti-rh'').
Anti-c	(Anti-hr').
Anti-e	(Anti-hr'').
Anti-C^w	(Anti-rh^w).
Anti-S	None.
Anti-s	Do.
Anti-U	Do.
Anti-Wr^a	(Anti-$Wright^a$).
Anti-Js^a	(Anti-Sutter).
Anti-Co^b	(Anti-$Colton^b$).
Anti-Xg^a	None.

Effective date. Any product subject to this final rule that is initially introduced or initially delivered for introduction into interstate commerce on or after January 29, 1986 shall bear labeling including the new proper name of the product established herein.

(Secs. 201, 501, 502, 510, 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055–1056 as amended, 76 Stat. 794–795 as amended (21 U.S.C. 321, 351, 352, 360, 371); secs. 351, 352, 353, 361, 58 Stat. 702–703 as amended, 81 Stat. 536 (42 U.S.C. 262, 263, 263a, 264))

Dated: January 18, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–2001 Filed 1–28–85; 8:45 am]

BILLING CODE 4160–01–M

Federal Register

Tuesday
January 29, 1985

Part V

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Metal and Nonmetal Mine Safety and Health; Radiation Standards; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Metal and Nonmetal Mine Safety and Health, Radiation Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: The Mine Safety and Health Administration (MSHA) invites public participation in its review of existing metal and nonmetal radiation standards (30 CFR 57.5–37 through 47). The Agency has identified specific issues with respect to possible regulatory action. Written comments are solicited.

The purpose of this review is to evaluate the adequacy of the existing standards in providing appropriate protection for workers exposed to radiation hazards in surface and underground operations.

DATE: All written comments should be submitted by April 1, 1985.

ADDRESS: Comments should be sent to Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

MSHA radiation protection standards for underground metal and nonmetal mines appear in 30 CFR 57.5–37 through 57.5–47. Current MSHA standards limit the maximum permissible concentration of radon daughters to 1.0 WL (30 CFR 57.5–39)[1] and limit the maximum calendar year exposure to 4.0 WLM (3 CFR 57.5–38).[2]

The agency promulgated a 1.0 WL maximum permissible concentration standard on February 25, 1970, 35 FR 3672. On May 25, 1971 (36 FR 9480), the Environmental Protection Agency (EPA) issued its Federal radiation protection guidance for radon daughters, which specified a maximum exposure limit of 4.0 WLM per year. That guidance was implemented for underground mines in 30 CFR 57.5–42, which automatically incorporated EPA recommendations, 35 FR 18591 (December 8, 1980). In 1976, the Mining Enforcement and Safety Administration, MSHA's predecessor agency, explicitly adopted the current 1.0 WL and 4.0 WLM per year standards set out in 30 CFR 57.5–39 and 30 CFR 57.5–38 respectively, 41 FR 23616 (June 10, 1976), as corrected in 41 FR 28266 (July 9, 1976).

On April 21, 1980, MSHA received a petition requesting an emergency temporary standard for radon daughter exposure. MSHA had requested the assistance of the National Institute for Occupational Safety and Health (NIOSH) to review the literature in this area. On July 14, 1980, MSHA received an interim NIOSH study which reviewed selected scientific papers. This study indicated there is evidence of excess health risk at and below the 120 WLM cumulative exposure limit. (Cumulative exposure was computed based on the maximum exposure of 4 WLM for each of 30 years working life.) NIOSH is undertaking additional research prior to its submission of a final report in response to an MSHA request for a more comprehensive review of the literature and assessment of risk. A number of risk assessments prepared by scientific authorities have become available, including:

(1) Evaluation of Occupational Environmental Exposures to Radon and Radon Daughters in the United States. NCRP Report No. 78, May 31, 1984. National Council on Radiation Protection and Measurements;

(2) Lung Cancer Risk Assessment of Radon-Exposed Miners on the Basis of a Proportional Hazard Model by W. Jacobi, H.G. Paretzke, F. Schindel. International Conference on Occupational Radiation Safety in Mining, October 14–18, 1984, Toronto, Ontario, Canada;

(3) Risk Estimates for the Health Effects of Alpha Radiation, Duncan C. Thomas and K.G. McNeill, by Atomic Energy Control Board, INFO–0081, September 1982, Ottawa, Canada; and

(4) Lung Cancer Mortality Among U.S. Uranium Miners: A Reappraisal, by A.S. Whittemore and A. McMillan, Journal of National Cancer Institute, Vol. 71, No. 3, September 1983.

MSHA has been working with the U.S. Bureau of Mines (Department of Interior) to analyze the cost of ventilating uranium mines at various levels of exposure and to develop techniques to improve exposure measurements. In addition, MSHA is evaluating standards and compliance methods of other countries.

Based on MSHA's review of technical literature, scientific studies, and its enforcement experience, the Secretary has determined that the petition for an emergency temporary standard does not meet the statutory criteria required for issuance of an emergency temporary standard under section 101(b)(1) of the Federal Mine Safety and Health Act of 1977. The parties to this petition are being notified. However, to assure that an appropriate level of health protection is maintained, MSHA will continue its review of existing radiation standards in light of the new information which has become available. In addition, the Agency seeks information concerning the radiation hazards in uranium mills and other facilities where radioactive sources or equipment may be present such as radioactive density gauges and analytical X-ray machines. The ANPR is a part of this process.

Upon completion of a comprehensive analysis of the comments and any other information received, MSHA will determine the adequacy of its existing radiation standards and initiate any appropriate rulemaking.

The Environmental Protection Agency (EPA) has initiated regulatory action concerning radon-222 emissions from underground uranium mines. MSHA intends to coordinate the review of its current standards with EPA to assure that Federal actions are consistent and provide an appropriate level of health protection for all persons exposed to radiation hazards.

II. Public Participation

Interested persons are encouraged to submit comments on any of the issues listed below and other issues dealing with the protection of miners from the hazards of radiation.

Comments may address alternatives to the existing regulatory requirements, including specific regulatory language, the continued need for standards, the elimination of duplicative standards, conflicts with other Federal or state regulations, the impact of specific standards on small businesses, and recordkeeping and reporting requirements. Persons are also encouraged to submit estimates related to the costs of complying with existing standards and costs and effectiveness related to any alternatives submitted.

As part of this review and in addition to the statutory rulemaking requirements of the Federal Mine Safety and Health Act of 1977, MSHA will also be evaluating its standards in accordance with Executive Order 12291, Executive

[1] A "working level" (WL) is a standard measure of radon daughter concentration in air. It is an expression of potential alpha energy. One WL is any combination of radon daughters per liter of air that will result in the emission of 1.3×10^5 Mev (million electron volts) of alpha energy in their decay through Polonium-214 (RAC') (130,000 Mev per liter).

[2] A "working level month" (WLM) is a standard measurement of cumulative exposure. A WLM is an exposure equivalent to 1 WL for 173 hours.

Order 12498, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

III. Specific Issues Identified for Comment

1. Risk Assessment

- What is the relationship and the associated uncertainty between cumulative lifetime radon daughter exposure at or below 120 WLM and the lifetime risk of lung cancer or other biological response?
- What methodology (absolute or relative risk) should be used to arrive at the risk relationship and uncertainty and how do factors such as smoking and exposure to other carcinogens affect this relationship and uncertainty?
- Would a linear, non-threshold model extrapolating from elevated exposure levels (a few hundred working level months or more) be the most appropriate model to predict average lifetime lung cancer risks from exposure to radon daughters?
- Should the risk relationship be modified in some fashion to account for cell repair or other factors?
- Is cancer cell type a valid and reliable method of differentiating cancer attributable to radon daughters from cancer due to other occupational and environmental exposures?
- What is the best estimate of the latency period and how should the question of the latency period be incorporated into the risk assessment model?
- Does latency vary with cigarette smoking or with total exposure or exposure rate?
- How should exposure to thoron daughters, external gamma radiation, respirable and nonrespirable ore dust, and radon gas be incorporated into the risk assessment model?

2. Epidemiological Studies and Dosimetry

- To what extent do any existing epidemiological studies provide a reliable estimate of risk of lung cancer from exposure to radon daughters?
- How valid and reliable are outcome data (lung cancer) in each study?
- What limitations should be applied to interpreting the available epidemiological studies? Should any of the studies be excluded partly or wholly due to inadequacies in design or conduct?
- What impact does exposure rate below 4 WLM per year have on risk?
- Which studies are most useful in assessing risk at or below 120 cumulative working level months of exposure?
- How do these studies factor the reliability of dosimetry into their confidence intervals for a risk coefficient?
- Have the studies used the appropriate comparison population and why?
- If the epidemiological study includes exposure to thoron daughters, external gamma radiation, respirable and nonrespirable ore dust, and radon gas, can these be separated out to give an assessment of risk from radon daughters only? Is it necessary to separate them out?
- Does the possible presence of another carcinogen such as asbestos, arsenic, nickel, or chromium affect the reliability of the study?
- How can inconsistencies among results of epidemiological studies be explained?

3. Effects of Smoking

- What is the effect of smoking on the risk of lung cancer in miners exposed to randon daughters?
- Is the effect additive, multiplicative, or is there some other relationship?
- Would a cessation of smoking be likely to result in a lowering of lung cancer risk from the combined effect of smoking and exposure to radon daughters?
- Would miners who refrained from smoking only during working hours be likely to experience lower lung cancer risks?

4. Exposure Limit

- How should the results of a quantitative risk assessment be used in arriving at an exposure limit?
- Should the exposure limit be based on separate limits for radon daughters, thoron daughters, ore dust and external gamma radiation exposure, or should it be based on a single limit which combines the four exposures?
- Should all mines and ore processing mills be subject to the same exposure limit?

5. Records

- What criteria should be used to determine when records of employee exposure to radon and thoron daughters, ore dust and external gamma radiation should be required?
- What types of records should be required? For what purpose?
- Where should these records be stored and for what time period?

6. As Low as Reasonably Achievable (ALARA)

- How can the concept of "as low as reasonably achievable" be implemented through a regulation?

7. Sampling and Monitoring Methods

- Are existing sampling and exposure monitoring methods sufficiently sensitive, accurate and reliable? If not, what methods would be more suitable?
- What criteria should be the basis for a sampling strategy?
- If the annual exposure limit were to include exposure to ore dust and external gamma radiation, what would be the appropriate sampling monitoring methods?
- What are appropriate methods for time weighting exposure using area monitoring or grab sampling methods?

8. Awareness of Hazards

- What labels, signs or other forms of warning are necessary to apprise miners of the hazards of radiation?
- What training should miners receive regarding the hazards of radiation?

9. Mine Medical Program

- Would medical screening and surveillance requirements be appropriate for miners exposed to radiation? If so, what procedures should be used and for what purposes?

10. Feasibility

- If it is determined that there is a need to increase protection afforded underground miners, what would you recommend as the most feasible approach? Compare alternative approaches in terms of cost and relative effectiveness.
- What technology could be used to lower exposure to radon daughters? Is the technology practical and feasible?
- Is it practical to meet a lower standard by use of administrative controls? If so, what is the overall effect on public health and the numbers of people at risk?
- What specific costs are involved in lowering the exposure to radon daughters? If ventilation is used to reduce radon daughter concentration what is the additional ventilation cost to reduce radon daughter exposure by increments of 1 WLM?
- What is the relationship between reducing emissions of radon daughters into the atmosphere and reducing exposure of miners to radon daughters? EPA is examining containment of mine air thorugh bulkheading, barricading and sealing as means of reducing emissions of radon daughters into the atmosphere. How would increased use of these techniques impact the exposure to miners?
- Would existing sampling methods and exposure monitoring procedures be adequate to measure a lower annual radon daughter exposure limit?

List of Subjects in 30 CFR Parts 56 and 57

Mine safety and health, Radiation protection.

Dated: January 18, 1985.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 85-2011 Filed 1-23-85; 2:41 pm]

BILLING CODE 4510-43-M

federal register

Tuesday
January 29, 1985

Part VI

Environmental Protection Agency

Protest Appeals of Recipients' Procurement Actions Under Federal Assistance Agreements; Subject Index List of EPA Regional Administrator Protest Appeal Determinations Issued During 1983

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2765-7]

Protest Appeals of Recipients' Procurement Actions Under Federal Assistance Agreements; Subject Index List of EPA Regional Administrator Protest Appeal Determinations Issued During 1983

This notice publishes the subject index list of bid protest appeal decisions issued by EPA Regional Administrators during 1983. These determinations were made pursuant to the EPA protest procedures set forth at 40 CFR 35.939 (assistance awarded prior to May 12, 1982), 40 CFR Part 33, May 12, 1982 Interim Final Rules (assistance awarded between May 12, 1982 and March 28, 1983) and 40 CFR Part 33, March 28, 1983 Final Rules (assistance awarded after March 28, 1983).

This the sixth EPA subject index and lists only the decisions for the year stated. The first index, listing Regional Administrator protest appeal determinations issued during the period 1974 through 1977, was published at 43 FR 29086–95 (July 5, 1978). This was supplemented by the index of 1978 determinations published at 44 FR 25812–18 (May 2, 1979), the index of 1979 determinations published at 45 FR 58770–74 (September 4, 1980), the index of 1980 determinations published at 46 FR 30476–80 (June 8, 1981) and the index of 1981 and 1982 determinations published at 49 FR 36004 (September 13, 1984).

In 1983, EPA Regional Administrators issued 70 appeal determinations and 6 determinations of reconsideration requests. The determinations are cited informally with the names of the assistance recipients and protestors shortened and abbreviated for administrative convenience. Each entry begins by identifying the year the appeal was decided and the sequential determination number for that year. This number is not part of the preferred citation which should state the following: Grantee, State, (EPA Region —, date of determination) (Protest of ———).

Copies of specific protest appeal determinations may be examined at or obtained from the EPA Office of Regional Counsel or from the Office of General Counsel in EPA headquarters.

For further information contact: J. Kent Holland Jr., Esquire; Grants, Contracts, and General Law Division (LE–132–G), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460; (202) 382–5313.

Dated: January 15, 1985.

Gerald H. Yamada,

Acting General Counsel (LE–130).

A/E Procurement

83:04 Globe, AZ (IX, 1–25–83) (*Brown & Caldwell*) (prior EPA approval required).

83:04 Globe, AZ [Reconsideration] (IX, 4–11–83) (*Brown & Caldwell*) (prices and identities of proposers publicly disclosed).

Ambiguity

83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (MBE requirements unclear as to responsiveness).

83:27 Port Arthur, TX (V, 5–12–83) (*Robert Bossow, Inc.*) (unclear bid evaluation method harmless error where no reliance by or prejudice to bidder).

83:36 Bentonville, AR (VI, 6–14–83) (*Archer Henry Const., Co.*) (harmless error where no prejudice to bidder).

83:64 Los Angeles, CA (IX, 11–25–83) (*C K Pump & Dewatering Corp.*) (ambiguous MBE requirements cause for rejecting all bids).

83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (to determine if specifications restrictive consider extrinsic factors like trade custom).

Award-Prime Contract

83:59 Puerto Rico, PR (II, 10–18–83) (*Longo—Puerto Rico, Inc.*) (no right to public contract).

Bids

A. General

83:07 Oklahoma City, OK (VI, 2–4–83) (*D.J. Domas, Inc.*) (duplicate copies of bid required by IFB).

83:09 Covington, GA (IV, 2–9–83) (*Griffin Const., Co., & Ethridge Brothers Const., Inc.*) (must be signed and bidder clearly identified).

83:15 Union City, OH (V, 3–8–83) (*Mote Const., Co.*) (separate bids required for two related projects with different IFBs).

83:21 Chester, CT (I, 4–7–83) (*Maple Hill Const., Co.*) (unsigned bid responsive where accompanied by signed bid bond) (failure to indicate authority of signatory not fatal if sufficient evidence of authority).

B. Addenda

83:21 Chester, CT (I, 4–7–83) (*Maple Hill Const. Co.*) (addenda not submitted but acknowledged in writing prior to bid opening).

83:34 New Concord, OH (V, 6–10–83) (*Adams Robinson Enterprise, Inc.*) (failure to acknowledge addendum made bid nonresponsive).

83:69 Conroe, TX (VI, 12–13–83) (*KNC, Inc.*) (verbal addenda generally prohibited) (inadequate time to consider addenda).

C. Alternative

83:10 Needles, CA (IX, 2–10–83) (*Hefley Bros., Corp.*) (principal bid not rendered nonresponsive by nonresponsiveness of alternate bid) (must be rational performance basis for grantee switching selected alternative).

83:36 Bentonville, AR (VI, 6–14–83) (*Archer Henry Const., Co.*) (choice between equal alternatives based on cost).

D. Deduct items

83:06 Western Carolina, SC (IV, 2–2–83) (*Ashbrook-Simon-Hartley*) (grantee review of low bidder's deduct equipment).

83:15 Union City, OH (V, 3–8–83) (*Mote Const., Co.*) (deduct cannot be considered unless all bidders had opportunity to offer deduct).

83:36 Bentonville, AR (VI, 6–14–83) (*Archer Henry Const., Co.*) (deductive alternates used where grantee knows material changes in scope of services may occur).

83:47 Topeka, KS (VII, 7–21–83) (*Walters-Morgan, Inc.*) (where bids on two separate projects opened same day combined bid deduction offered by bidder is unacceptable).

E. Extension of Bids

83:59 Puerto Rico, PR (II, 10–18–83) (*Longo—Puerto Rico, Inc.*) (revival of expired bid not in public interest).

F. Qualified

83:46 Palatine, IL (V, 7–19–83) (*Di Paolo-Rossetti, Joint Venture*) (offer to deduct amount if given two separate contracts is a conditional bid).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (warranty provisions).

G. Unbalanced

83:66 Boston, MA (I, 12–9–83) (*Schiavone Const., Co.*) (penny bidding not per se unbalanced and nonresponsive).

Bid Evaluation

83:04 Globe, AZ [Reconsideration] (IX, 4–11–83) (*Brown & Caldwell*) (must clearly state method and criteria).

83:06 Western Carolina, SC [Reconsideration] (IV, 5–6–83)

(*Ashbrook-Simon-Hartley*) (no right to contract but right to be fairly judged under performance specifications).

83:11 LaPorte, TX (VI, 2–18–83) (*Jess Lovelace Cosnt., Co.*) (estimated quantities of work must be reasonable) (award of unit price contract may not be based on total prices on alternative means of performance).

83:21 Chester, CT (I, 4–7–83) (*Maple Hill Const., Co.*) (deference to exercise of discretion by public official).

83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) (*Fiberglass Engineered Products, Inc.*) (ambiguous experience clause requirement).

83:27 Port Arthur, TX (V, 5–12–83) (*Robert Bossow, Inc.*) (IFB unclear as to low alternative and deduction to be evalauted—harmless error).

83:30 St. Albans, WV (III, 5–27–83) (*Ralph B. Carter Co.*) (must be clearly stated method).

83:36 Bentonville, AR (VI, 6–14–83) (*Archer Henry Const., Co.*) (ambiguous IFB description harmless error if no reliance by bidder).

83:45 Casper, WY (VIII, 7–6–83) (*Shawnee Const., Inc.*) (must award based on stated criteria).

83:48 Heber Spring, AR (VI, 8–2–83) (*Trigon Engineering Co.*) (operation and maintenance costs, cost-effectiveness considered).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (failure to follow evaluation criteria by waiving specifications).

83:60 Tri-City, OR (X, 10–20–83) (*Donald M. Drake Co.*) (bid evaluated on component item amounts not summary total).

Bid Shopping

83:13 Sandpoint, ID (X, 3–3–83) (*Lydig Const., Co.*) (subcontractor listing as material term).

Bidders

83:06 Western Carolina, SC (IV, 2–2–83) (*Ashbrook-Simon-Hartley*) (where specifications required supplier to submit equipment for review through prime contractor grantee may refuse to review equipment directly offered).

Bonds

83:02 Columbus, OH (V, 1–12–83) (*Cobey Metro—Waste Compositing Systems, Inc.*) (5 year bond not unduly restrictive if available at nonburdensome cost).

83:03 Columbus, OH [Reconsideration] (V, 6–6–83) (*Cobey Metro—Waste Composting System, Inc.*) (review of numerous EPA decisions concerning bonds) (must prove rational basis for bond requirement if protestor shows effect on competition) (5 year bond requirement deemed reasonable).

83:41 MDS, Chicago, IL (V, 6–24–83) (*Premier Electrical Const., Co.*) (summary dismissal of protest where bid bond not extended).

Burden of Proof

83:01 Spearfish, SD (VIII, 1–11–83) (*Rickel Manufacturing Co.*) (grantee must prove exclusionary specification based on minimum performance needs).

83:03 Columbus, OH [Reconsideration] (V, 6–6–83) (*Cobey Metro—Waste Compositing System, Inc.*) (grantee must prove rational basis for experience and bonding requirements if protestor shows adverse effect).

83:16 Halstead, Hutchinson, KS (VII, 3–9–83) (*Charles E. Stevens*) (protestor's burden to prove intent to bid).

83:27 Port Arthur, TX (V, 5–12–83) (*Robert Bossow, Inc.*) (bidder failed to prove reliance on ambiguity).

83:39 Philadelphia, PA (III, 6–22–83) (*Fisher & Porter Co.*) (shifting burden).

83:43 Toledo, OH (V, 6–29–83) (*Industrial Pump & Equipment Corp.*) (protestor must show specification not minimum performamce).

83:63 Monterey CA (IX, 11–4–83) (*Power Systems*) (successful supplier cannot prove specifications excluded it).

83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (shifting burden where restrictive specification alleged did not exclude equipment).

83:69 Conroe, TX (VI, 12–13–83) (*KNC, Inc.*) (protestor must show prejudice to competition).

Choice of Law

A. General

83:34 New Concord, OH (V, 6–10–83) (*Adams Robinson Enterprise, Inc.*) (EPA reliance on grantee interpretation of state and local law).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (under State law warranty qualification did not negate express warranty).

83:53 New Haven, CT (I, 8–19–83) (*Blakeslee arpaia Chapman, Inc.*) (interpretation of local law—deference to City's legal opinion).

83:61 Johnston, OH (V, 10–24–83) (*Zimpro, Inc.*) (protestor barred from immediate protest where issues primarily determined by state law).

83:66 Boston, MA (I, 12–9–83) (*Schiavone Const., Co.*) (deference to grantee interpretation where State law unclear and no overriding federal principle).

B. Local Law

83:07 Oklahoma City, OK (VI, 2–4–83) (*D.J. Domas, Inc.*) (requiring submission of duplicate copies of bids).

C. State Law

83:05 Morton, MS (IV, 1–25–83) (*Associated Cosnt., Inc.*) (City attorney opinion on state licensing requirement).

83:13 Sandpoint, ID (X, 3–3–83) (*Lyding Const., Co.*) (listing subcontractors required, no overriding federal interest).

Conflict of Interest

83:29 Fargo, ND (VIII, 5–18–83) (*Van Bergen & Markson, Inc.; The Gray Engineering Group, Inc. & Conservatek, Inc.*) (Code of Conduct must be maintained by grantee) (potential conflict where City official engaged in contracting business).

Engineering Judgment

83:20 Los Angeles, CA (IX, 3–28–83) (*Solar Turbines, Inc.*) (basic design decision not protestable where based on performance needs).

83:23 Jerseyville, IL (V, 4–14–83) (*Clow Corp.*) (must show rational basis for using brand name specification).

83:30 St. Albans, WV (III, 5–27–83) (*Ralph B. Carter Co.*) (performance tests of equipment).

83:37 Central Valley, UT (VIII, 6–17–83) (*American Surfpac, Inc.*) (choice of filter media not basic design and may be protested).

83:55 Brazos River, TX (VI, 9–23–83) (*Jeffery Manufacturing Div.*) (technical features need not be only choice available if rational) (reliability requirements consideration).

Experience Requirements

83:02 Columbus, OH (V, 1–12–83) (*Cobey Metro—Waste Composting Systems, Inc.*) (experience clause justified by complexity of the equipment and innovative technology) (supplier standing under Part 35 to challenge clause and determination of inadequate experience).

83:03 Columbus, OH [Reconsideration] (V, 6–6–83) (*Cobey Metro—Waste Composting System, Inc.*) (only must prove rational basis for experience requirement if protestor shows competition affected).

83:24 Oklahoma City, OK (VI, 4–29–83) (*D.J. Domas, Inc.*) (general clause requiring experience installing similar equipment—no bond alternative).

83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) *(Fiberglass Engineered Products, Inc.)*

(requiring unspecific period of experience is ambiguous).

83:38 Sacramento, CA (VIII, 6–17–83) (*Power Machine Co.*) (must be justified).

E.E.O.

83:12 Le Clarie, IA (VII, 2–23–83) (*C. Iber & Sons, Inc.*) (submittal of documents after bid opening).

Harmless Error

83:55 Haysville, KS [Reconsideration] (VII, 2–14–83) (*Walker Process Corp.*) (procedural error by not distributing engineer's letter).

83:03 Columbus, OH [Reconsideration] (V, 6–6–83) (*Cobey Metro—Waste Composting System, Inc.*) (incorrect EPA conclusion that grantee had authority to use a sole source.

83:27 Port Arthur, TX (V, 5–12–83) (*Robert Bossow, Inc.*) (where reliance on unclear bid evaluation method).

83:36 Bentonsville, AR (VI, 6–14–83) (*Archer Henry Const., Co.*) (ambiguous IFB description of bid evaluation method).

83:48 Heber Spring, AR (VI, 8–2–83) (*Trigon Engineering Co.*) (no prejudice resulted from imperfect bid evaluation process).

Invitation for Bids

A. Addenda

83:16 Halstead, Hutchinson, KS (VII, 3–9–83) (*Charles E. Stevens*) (where addenda had no connection with bid preparation no harm in short notice period).

83:69 Conroe, TX (VI, 12–13–83) (*KNC, Inc.*) (verbal addenda generally prohibited) (inadequate time to consider addenda).

Jurisdiction

83:04 Globe, AZ (IX, 1–25–83) (*Brown & Caldwell*) (grantee procurement action premature where prior EPA approval of A/E contract not obtained).

83:11 LaPorte, TX (VI, 2–18–83) (*Jess Loveless Const., Co.*) (reprocuremnt of services after contractor quits job).

83:33 Joplin, MI (IX, 6–6–83) (*Advanco Constructors, Inc.*) (summary dismissal where protest based solely on Federal Procurement regulations not adopted by EPA regulations).

83:37 Central Valley, UT (VIII, 6–17–83) (*American Surfpac, Inc.*) (selection of filter media not broad design decision—protestable).

83:57 Sod Run, Harford County, MD (III, 10–7–83) (*CESCO, Inc.*) (equipment substitution not protestable).

83:58 Evanston, WY (VIII 10–18–83) (*WesTech Engineering, Inc.*) (equipment substitution by contractor not protestable procurement action).

83:61 Johnstown, OH (V, 10–24–83) (*Zimpro, Inc.*) (subcontractor substitution by contractor not protestable).

83:63 Monterey, CA (IX, 11–4–83) (*Power Systems*) (contract obligations not addressable in bid protest).

83:66 Boston, MA (I, 12–9–83) (*Schiavone Const. Co.*) (violation of State law not protestable unless contravening federal requirement).

License

83:05 Morton, MS (IV, 1–25–83) (*Associated Const., Inc.*) (license requirement affects responsibility not responsiveness).

Listing Subcontractors and Equipment

83:13 Sandpoint, ID (X, 3–3–83) (*Lydig Const., Co.*) (required by state law) (follow Part 35 determinations).

83:17 Patapsco, MD (III, 3–17–83) (*J. Vinton, Schafer & Sons, Inc.*) (failure to list MBEs did not render bid nonresponsive).

83:21 Chester, CT (I, 4–7–83) (*Maple Hill Const., Co.*) (subcontractor listing not matter of responsiveness unless clear IFB).

83:22 San Jose, CA (IX, 4–11–83) (*Johnson Controls, Inc.*) (equipment listing responsibility matter under Part 33 unless IFB clear to contrary).

83:26 Waynesburg [Stark County], OH (V, 5–12–83) (*Robert Bossow, Inc.*) (bid may be accepted and contractor required to do substitution).

83:28 Des Moines, WA (X, 5–18–83) (*Will Const. Co. Inc.*) (listing MBE subcontractor responsibility matter).

83:32 Los Angeles, CA (IX, 6–6–83) (*Advanco Constructors, Inc.*) (bid not deemed nonresponsive for listing more than one subcontractor).

83:35 Pleasant Hill, IL (V, 6–10–83) (*State Mechanical Contractors, Inc.*) (because bidder required to perform to specifications and substitute equipment if necessary, listing nonconforming equipment is not nonresponsive).

83:44 Streetsboro, Ravenna, OH (V, 7–1–83) (*Robert Bossow, Inc.*) (substitution of noncomplying equipment) (listing errors not grounds for rejection).

83:44 Streetsboro, Ravenna, OH [Reconsideration] (V, 8–26–83) (*Robert Bossow, Inc.*) (bid accepted and contractor required to substitute equipment).

83:49 MSD, Chicago, IL (V, 8–2–83) (*Door Systems of Elk Grove*) (not grounds for rejection where IFB required listing) (listing to list MBEs).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (may accept bid and required equipment substitution).

Local Preference

83:29 Fargo, ND (VIII, 5–18–83) (*Van Bergen & Markson, Inc.; The Gray Engineering Group, Inc. & Conservatek, Inc.*) (procedures or practices creating preference prohibited).

Minority Business Enterprise (MBE) (See Responsibility and Responsiveness for Other Determinations)

83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (positive efforts satisfied by meeting goal) (MBE rejected by prime for business reasons not discriminatory motive).

83:14 MSD Chicago, IL (V, 3–4–83) (*R. Rudnick & Co., Inc. & Namat Const., Co.*) (prime receives MBE subcontractor credit only for work actually done by MBE) (where bid met MBE goal on its face but MBE not bonafide, evaluate contractor pre-bid opening positive efforts).

83:17 Patapsco, MD (III, 3–17–83) (*J. Vinton, Schafer & Sons, Inc.*) (bidder may demonstrate positive efforts until contract award).

83:25 Onondaga County, NY (II, 5–9–83) (*Herbert F. Darling, Inc.*) (responsibility challenged where MBE goal not met in bid and good faith efforts not demonstrated) (post-bid determination of good faith efforts ripe for appeal when award announced).

83:26 Waynesburg [Stark County], OH (V, 5–12–83) (*Robert Bossow, Inc.*) (ambiguous MBE requirements requires resolicitation due to effect on competition).

83:28 Des Moines, WA (X, 5–18–83) *(Will Const., Co., Inc.)* (MBE responsibility curable after bid opening).

83:34 New Concord, OH (V, 6–10–83) *(Adams Robinson Enterprise, Inc.)* (where IFB unequivocally required bidder state MBE offer, failure to do so nonwaivable).

83:35 Pleasant Hill, IL (V, 6–10–83) *(State Mechanical Contractors, Inc.)* (documentation of positive efforts made bid responsive though no MBE participation proposed).

83:46 Palatine, IL (V, 7–19–83) *(Di Paolo-Rossetti, Joint Venture)* (IFB made self certification affidavit and 20 day advertising matters of responsiveness).

83:49 MSD, Chicago, IL (V, 8–2–83) *(Door Systems of Elk Grove)* (MBE subcontractor listing not material to bid).

83:64 Los Angeles, CA (IX, 11–25–83) *(C K Pump & Dewatering Corp.)* (ambiguous MBE requirements cause to reject all bids).

Mistake

83:10 Needles, CA (IX, 2–10–83) *(Hefley Bros., Corp.)* (where bidder alleges mistake he cannot waive right to have bid rejected unless absent mistake he would be low bidder).
83:36 Bentonville, AR (VI, 6–14–83) *(Archer Henry Const., Co.)* (correction of math error displacing another bidder) (bidder cannot compel upward correction of competitor's bid).
83:45 Casper, WY (VIII, 7–8–83) *(Shawnee Const., Inc.)* (not necessarily require finding bid nonresponsive, bidder must be given chance to verify apparent mistake).
83:60 Tri-City, OR (X, 10–20–83) *(Donald M. Drake Co.)* (where mistake not claimed reconciliation clause waived).

Negotiated Procurement

83:04 Globe, AZ [Reconsideration] (IX, 4–11–83) *(Brown & Caldwell)* (prices and identities of proposers publicly disclosed) (right to revise proposal) (essential to have clear statement of evaluation criteria and method).

Prequalification

83:02 Columbus, OH (V, 1–12–83) *(Cobey Metro—Waste Composting Systems, Inc.)* (time between notification of prequalification and bid opening is discretionary) (supplier not entitled to "marketing" time).
83:23 Jerseyville, IL (V, 4–14–83) *(Clow Corp.)* (not required to seek prequalification before protesting unduly restrictive specifications).
83:62 Wayne, NB (VII, 10–31–83) *(Envirex, Inc.)* (specifications interpreted restrictively caused rejection of prequalified supplier).
83:68 Tri-City, OR (X, 12–9–83) *(Dresser Industries, Inc.)* (failure to timely submit equipment information).

Procedure

83:01 Spearfish, SD (VIII, 1–11–83) *(Rickel Manufacturing Co.)* (decision affirmed for different reasons than supplied by grantee).
83:02 Columbus, OH (V, 1–12–83) *(Cobey Metro—Waste Composting Systems, Inc.)* (summary dismissal not justified by failure to notice parties).
83:08 Hamilton, MT (VIII, 2–8–83) *(4G Plumbing & Heating, Inc.)* (grantee duty to afford opportunity to present arguments).
83:13 Sandpoint, ID (X, 3–3–83) *(Lydig Const., Co.)* (appeal premature before grantee issues decision) (applicability of Part 33 regulations).
83:14 MSD Chicago, IL (V, 3–4–83) *(R. Rudnick & Co., Inc. & Namat Const., Co.)* (hearing notice).
83:16 Halstead, Hutchinson, KS (VII, 3–9–83) *(Charles E. Stevens)* (GAO decisions used).
83:22 San Jose, CA (IX, 4–11–83) *(Johnson Controls, Inc.)* (GAO decisions used).
83:23 Jerseyville, IL (V, 4–14–83) *Clow Corp.)* (citing Part 35 instead of Part 33 regulations not fatal) (failure to seek prequalification not failure to exhaust administrative remedies where futile).
83:29 Fargo, ND (VIII, 5–18–83) *(Van Bergen & Markson, Inc.; The Gray Engineering Group, Inc. & Conservatek, Inc.)* (where IFB improperly included Part 35 regulations EPA applied Part 33 regulations with same result).
83:31: Younstown, OH (V, 5–31–83) *(Floyd Brown Associates)* (new issues may not be raised on appeal) (no allegation how action violated regulations).
83:37 Central Valley, UT (VIII, 6–17–83) *(American Surfpac, Inc.)* (telegraphic notice perfecting appeal).
83:38 Sacramento, CA (VIII, 6–17–83) *(Power Machine Co.)* (adequate notice where regulations not cited).
83:41 MSD, Chicago, IL (V, 6–24–83) *(Premier Electrical Const., Co.)* (bid bond extension during protest).
83:48 Heber Spring, AR (VI, 8–2–83) *(Trigon Engineering Co.)* (few EPA restraints on manner grantee decides protest).
83:49 MSD, Chicago, IL (V, 8–2–83) *(Door Systems of Elk Grove)* (grantee dismissal for failure to attend hearing and present detailed written statement).
83:51 Santa Barbara, CA (IX, 8–15–83) *(Namtec Corp. & Union Enginnering Co.)* (failure to reference regulations and notify parties not fatal).
83:61 Johnstown, OH (V, 10–24–83) *(Zimpro, Inc.)* (specific regulations not cited).

Rational Basis Test

83:01 Spearfish, SD (VIII, 1–11–83) *(Rickel Manufacturing Co.)* (no rational basis for liquid cooled pump).
83:18 Perryville, MD (III, 3–21–83) *(Lyco Wastewater Equipment Division)* (no performance basis for rejecting RBC equipment).
83:20 Los Angeles, CA (IX, 3–28–83) *(Solar Turbines, Inc.)* (engineering design to use four turbines).
83:23 Jerseyville, IL (V, 4–14–83) *(Clow Corp.)* (for using brand name or equal specifications instead of stating technical requirements).
83:38 Sacramento, CA (VIII, 6–17–83) *(Power Machine Co.)* (defer to grantee where it and protester have credible cases).
83:41 MSD, Chicago, IL (V, 6–24–83) *(Premier Electrical Const., Co.)* (setting period for bid bond extension).
83:55 Brazo River, TX (VI, 9–23–83) (*Jeffery Manufacturing Div.*) (technical requirements need not be only available choice).
83:62 Wayne, NB (VII, 10–31–83) (*Envirex, Inc.*) (speculation of equipment failure) (post ward equipment substitution not required by subcontractor price—no effect in prime's price).
83:66 Boston, MA (I, 12–9–83) (*Schiavone Const., Co.*) (interpretation of state law).
83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (specifications to achieve uniformity in blowers by requiring single manufacturer).

Reconsideration

82:55 Haysville, KS [Reconsideration] (VII, 2–14–83) (*Walker Process Corp.*) (affirmed 10–13–82 decision) (inherent authority of EPA).
83:63 Elk Pinch, WV [Reconsideration] (III, 1–7–83) (*Kappe Associates, Inc.*) (cannot raise new argument based on same facts).
83:03 Columbus, OH [Reconsideration] (V, 6–6–83) (*Cobey Metro-Waste Composting System, Inc.*) (affirmed prior decision—no legal error).
83:06 Western Carolina, SC [Reconsideration] (IV, 5–6–83) (*Ashbrook-Simon-Hartley*) (affirmed prior decision).
83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) (*Fiberglass Engineered Products, Inc.*) (affirmed prior decision—no new facts).
83:37 Central Valley, UT [Reconsideration] (VIII, 9–22–83) (*American Surfpac, Inc.*) (affirmed 83:42—summarily dismissed as untimely).
83:44 Streetsboro, Ravenna, OH [Reconsideration] (V, 8–26–83) (*Robert Bossow, Inc.*) (affirmed prior decision—no legal error shown).

Regulations

83:29 Fargo, ND (VIII, 5–18–83) (*Van Bergen & Markson, Inc.; Gray Engineering Group, Inc. & Conservatek, Inc.*) (where IFB incorrectly included Part 35 regulations EPA applied Part 33).
83:46 Palatine, IL (V, 7–19–83) (*Di Paolo-Rossetti, Joint Venture*) (grantee opted to use interim Part 33 by reference in IFB).

83:66 Boston, MA (I, 12–9–83) (*Schiavone Const., Co.*) (grantee indicated Part 33 applied by reference in IFB).

Rejection of All Bids

83:07 Oklahoma City, OK (VI, 2–4–83) (*D.J. Domas, Inc.*) (all bids may be rejected if in best interest to EPA and grantee).

83:22 San Jose, CA (IX, 4–11–83) (*Johnson Controls, Inc.*) (protestable procurement action) (must be good cause, PRM 78–8 example of good cause).

83:26 Waynesburg [Stark County], OH (V, 5–12–83) (*Robert Bossow, Inc.*) (ambiguous MBE requirements).

83:60 Tri-City, OR (X, 10–20–83) (*Donald M. Drake Co.*) (not good cause for rejection where prejudicial ambiguity).

83:64 Los Angeles, CA (IX, 11–25–83) (*C K Pump & Dewatering Corp.*) (ambiguity in MBE requirements).

Responsibility

83:02 Columbus, OH (V, 1–12–83) (*Cobey Metro-Waste Composting Systems, Inc.*) (inadequate experience).

83:05 Morton, MS (IV, 1–25–83) (*Associated Const., Inc.*) (failure to obtain license).

83:10 Needles, CA (IX, 2–10–83) (*Hefley Bros., Corp.*) (affirmative determination not reversed by EPA unless fraud, bad faith or violation of objective standards of responsibility).

83:14 MSD Chicago, IL (V, 3–4–83) (*R. Rudnick & Co., Inc. & Namat Const., Co.*) (contractor must demonstrate positive efforts if it fails to meet MBE goal) (EPA may reverse affirmative determination if grantee fails to consider all relevant information).

83:17 Patapsco, MD (III, 3–17–83) (*J. Vinton, Schafer & Sons, Inc.*) (failure to attach MBE documentation) (positive efforts may be cured anytime before contract award).

83:28 Des Moines, WA (X, 5–18–83) (*Will Const., Co., Inc.*) (MBE form incomplete).

83:42 Eastern Avenue Baltimore, MD (V, 6–28–83) (*Allied Contractors, Inc.*) (MBE requirements can be met by satisfying goal or showing good faith efforts).

83:45 Casper, WY (VIII, 7–8–83) (*Shawnee Const., Inc.*) (MBE requirements).

83:49 MSD, Chicago, IL (V, 8–2–83) (*Door Systems of Elk Grove*) (MBE subcontractor listing).

83:50 Detroit, MI (V, 8–2–83) (*Dynamic Const., Co., Inc.*) (MBE requirements positive efforts demonstrated after bid opening)

83:52 Berkeley, CA (IX, 8–16–83) (*Gerl Const., Co.*) (MBE requirements).

83:53 New Haven, CT (I, 8–19–83) (*Blakeslee Arpaia Chapman, Inc.*) (local affirmative action agreement).

Responsiveness

83:01 Spearfish, SD (VIII, 1–11–83) (*Rickel Manufacturing Co.*) (pump not capable of meeting specified cubic feet per minute is nonresponsive).

83:09 Covington, GA (IV, 2–9–83) (*Griffin Const., Co., & Ethridge Brothers Const., Inc.*) (bid signing, bidder identity and bid bonds).

83:10 Needles, CA (IX, 2–10–83) (*Hefley Bros., Corp.*) (principal bid not rendered nonresponsive by failure to bid on alternate).

83:13 Sandpoint, ID (X, 3–3–83) (*Lydig Const. Co.*) (subcontractor listing).

83:15 Union City, OH (V, 3–8–83) (*Mote Const., Co.*) (separate bids required for two related projects with different IFBs).

83:19 Oklahoma City, OK (VI, 3–25–83) (*Envirex, Inc.*) (bid nonresponsive due to qualifications to liquidated damages, time and warranty clauses).

83:21 Chester, CT (I, 4–7–83) (*Maple Hill Const., Co.*) (unsigned bid responsive where accompanied by signed bid bond) (addenda not submitted but written acknowledgement prior to bid opening).

83:22 San Jose, CA (IX, 4–11–83) (*Johnson Controls, Inc.*) (equipment listing requirement not matter of responsiveness under Part 33) (nonconforming equipment did not make bid nonresponsive where grantee can require substitution).

83:34 New Concord, OH (V, 6–10–83) (*Adams Robinson Enterprise, Inc.*) (MBE forms and information) (where addendum not acknowledged bid nonresponsive).

83:35 Pleasant Hill, IL (V, 6–10–83) (*State Mechanical Contractors, Inc.*) (MBE documentation satisfied) (bid listing nonconforming equipment is responsive; substitution permitted).

83:44 Streetsboro, Ravenna, OH (V, 7–1–83) (*Robert Bossow, Inc.*) (bid listing nonconforming equipment is responsive substitution permitted).

83:46 Palatine, IL (V, 7–19–83) (*Di Paolo-Rossetti, Joint Venture*) (MBE information and 20 day advertising required by IFB cannot be waived as immaterial) (self certification affidavits).

83:50 Detroit, MI (V, 8–2–83) (*Dynamic Const., Co., Inc.*) (acknowledged bid addendum but did not adjust bid).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (material, technical and commercial terms cannot be waived) (bid cannot be clarified after bid opening).

83:56 Los Angeles, CA (IX, 9–30–83) (*Bailey Controls Co.*) (exception to contract conditions and bid bond amount nonresponsive).

83:69 Conroe, TX (VI, 12–13–83) (*KNC, Inc.*) (inclusion of extraneous information in bid OK where bid terms not qualified).

83:70 Contra Costa, CA (IX, 12–16–83) (*Perkin—Elmer*) (principal bid not rendered nonresponsive by submittal of uninvited alternate).

Review

83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) (*Fiberglass Engineered Products, Inc.*) (EPA may reexamine and overrule decisions made by delegated State agency).

83:60 Tri-City, OR (X, 10–20–83) (*Donald M. Drake Co.*) (rational basis standard of EPA review).

Specifications

A. General

83:39 Philadelphia, PA (III, 6–22–83) (*Fisher & Porter Co.*) (must not include requirements unrelated to minimum performance needs).

83:48 Heber Spring, AR (VI, 8–2–83) (*Trigon Engineering Co.*) (operation and maintenance costs of equipment).

83:70 Contra Costa, CA (IX, 12–16–83) (*Perkin—Elmer*) (bidder could not rely on oral interpretation of specifications when IFB required they be in writing).

B. Brand Name or Equal

83:23 Jerseyville, IL (V, 4–14–83) (*Clow Corp.*) (used as disguised sole source) (can only be used if rational basis for not stating technical requirements) (must state salient features).

C. Sole Source

83:23 Jerseyville, IL (V, 4–14–83) (*Clow Corp.*) (brand name or equal specifications satisfied by only one supplier).

83:37 Central Valley, UT (VIII, 6–17–83) (*American Surfpac, Inc.*) (where two manufacturers able to bid on equipment, not sole source).

83:38 Sacramento, CA (IX, 6–17–83) (*Power Machine Co.*) (EPA may review sole source even if State agency prior approval) (not justified to reduce spare parts and maintenance through standardization).

83:39 Philadelphia, PA (III, 6–22–83) (*Fisher & Porter Co.*) (catalog design features which can be met by only one manufacturer).

83:62 Wayne, NB (VII, 10–31–83) (*Envirex, Inc.*) (grantee directed particular equipment be substituted after prime contract award).

D. Unduly Restrictive

83:01 Spearfish, SD (VIII, 1–11–83) (*Rickel Manufacturing Co.*) (requiring liquid cooled pump exceeded minimum performance needs).
83:06 Western Carolina, SC (IV, 2–2–83) (*Ashbrook-Simon-Hartley*) (engineer is to establish minimum performance needs and specifications should be performance based).
83:18 Perryville, MD (III, 3–21–83) (*Lyco Wastewater Equipment Division*) (RBC equipment arbitrarily rejected) (must not include requirements that are not performance related).
83:23 Jerseyville, IL (V, 4–14–83) (*Clow Corp.*) (requiring RBC be air driven not minimum performance need) (competition adversely affected—not cured by manufacturer of described item and not cured by ability of others to create copy item).
83:30 St. Albans, WV (III, 5–27–83) (*Ralph B. Carter Co.*) (performance test allegedly made specifications restrictive as applied).
83:38 Sacramento, CA (IX, 6–17–83) (*Power Machine Co.*) (limitation of type of filter media not unduly restrictive where two suppliers).
83:39 Philadelphia, PA (III, 6–22–83) (*Fisher & Porter Co.*) (proprietary design features) (specifications cannot be modified through private agreement involving testing).
83:43 Toledo, OH (V, 6–29–83) (*Industrial Pump & Equipment Corp.*) (pumps selected for lower capital and reapir costs and less installation space).
83:48 Heber Spring, AR (VI, 8–2–83) (*Trigon Engineering Co.*) (nonexcluded bidder cannot protest specifications).
83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (grantee willingness to waive requirement indicates specifications overstated minimum needs).
83:55 Brazos River, TX (VI, 9–23–83) (*Jeffery Manufacturing Div.*) (shifting burden of proof) (technical features need not be only possible choice so long as rational).
83:62 Wayne, NB (VII, 10–31–83) (*Envirex, Inc.*) (by requiring equipment substitution grantee restrictively applied specifications).
83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (temperature rise specifications for blower equipment to lower operating costs rationally based) (specifications to achieve uniformity in blowers requiring single manufacturer).
83:70 Contra Costa, CA (IX, 12–16–83) (*Perkin—Elmer*) (exact compliance with design specifications must be determined from face of bid without extrinsic evidence) (post bid evaluation of equipment not permitted where not provided for by IFB).

Standing

83:02 Columbus, OH (V, 1–12–83) (*Cobey Metro—Waste Composting Systems, Inc.*) (supplier protest experience requirements and grantee determination of inadequate experience).
83:03 Columbus, OH (V, 1–12–83) (*Zimpro, Inc.*) (subcontractor not listed by prime lacks direct financial interest).
83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (MBE subcontractor offeror may protest prime's actions).
83:16 Halstead, Hutchinson, KS (VII, 3–9–83) (*Charles E. Stevens*) (protester burden to show intent to bid).
83:18 Perryville, MD (III, 3–21–83) (*Lyco Wastewater Equipment Division*) (RBC supplier may protest specifications which prevented prime from awarding it contract).
83:22 San Jose, CA (IX, 4–11–83) (*Johnson Controls, Inc.*) (low bidder affected by decision to reject all bids).
83:29 Fargo, ND (VIII, 5–18–83) (*Van Bergen & Markson, Inc.; The Gray Engineering Group, Inc. & Conservatek, Inc.*) (subcontractor may protest substitution dictated by grantee).
83:30 St. Albans, WV (III, 5–27–83) (*Ralph B. Carter Co.*) (subcontractor may protest City rejection of its equipment).
83:38 Sacramento, CA (IX, 6–17–83) (*Power Machine Co.*) (subcontractor protested specifications).
83:43 Toledo, OH (V, 6–29–83) (*Industrial Pump & Equipment Corp.*) (supplier alleging sole source) (Part 33 regulations).
83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (supplier protested specifications and prime's responsiveness).
83:56 Los Angeles, CA (IX, 9–30–83) (*Bailey Controls Co.*) (to protest competitor's responsiveness bidder must be responsive).
83:57 Sod Run, Harford County, MD (III, 10–7–83) (*CESCO, Inc.*) (equipment substitution not protestable).
83:58 Evanston, WY (VIII, 10–18–83) (*WesTech Engineering, Inc.*) (equipment substitution not protestable).
83:62 Wayne, NB (VII, 10–31–83) (*Envirex, Inc.*) (prequalified supplier may protest grantee directed substitution).
83:63 Monterey, CA (IX, 11–4–83) (*Power Systems*) (successful supplier cannot protest specifications).
83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (where protester can meet specifications no basis for protest).

Sua Sponte Review

83:01 Spearfish, SD (VIII, 1–11–83) (*Rickel Manufacturing Co.*) (authority to review unduly restrictive specifications).
83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (where appeal summarily dismissed EPA may review merits to provide guidance).
83:11 LaPorte, TX (VI, 2–18–83) (*Jess Lovelace Const., Co.*) (where integrity of procurement system at issue).
83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) (*Fiberglass Engineering Products, Inc.*) (experience clause—integrity of procurement).
83:41 MSD, Chicago, IL (V, 6–24–83) (*Premier Electrical Const., Co.*) (strictly discretionary).
83:60 Tri-City, OR (X, 10–20–83) (*Donald M. Drake Co.*) (EPA may raise issue not addressed by any party).

Subcontract—Award

83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (contractor rejected MBE subcontractor for business reasons).
83:29 Fargo, ND (VIII, 5–18–83) (*Van Bergen & Markson, Inc.; The Gray Engineering Group, Inc. & Conservatek, Inc.*) (business reasons for substituting subcontract).
83:24 Oklahoma City, OK [Reconsideration] (VI, 5–23–83) (*Fiberglass Engineered Products, Inc.*) (anticipated receipt of contract not protected by Fifth Amendment due process).
83:57 Sod Run, Harford County, MD (III, 10–7–83) (*CESCO, Inc.*) (equipment substitution by contractor not protestable).
83:58 Evanston, WY (VIII, 10–18–83) (*WesTech Engineering, Inc.*) (equipment substitution not protestable).
83:61 Johnstown, OH (V, 10–24–83) (*Zimpro, Inc.*) (subcontractor substitution by contractor not protestable).

Subcontractor Listing (See Listing Subcontractor) Summary Dismissal

83:19 Oklahoma City, OK (VI, 3–25–83) (*Envirex, Inc.*) (where protest by bidder who qualified bid was obviously frivolous).

83:33 Joplin, MI (IX, 6–6–83) (*Advanco Constructors, Inc.*) (where protest relies on Federal Procurement regulations not adopted by EPA regulations).

83:40 Elkhart, IN (V, 6–22–83) (*Penn equipment & Tool Corp.*) (based on timeliness).

83:66 Boston, MA (I, 12–9–83) (*Schiavone Const., Co.*) (where no alleged violation of EPA regulation).

Time Limitations

83:01 Spearfish, SD (VIII, 1–11–83) (*Rickel Manufacturing Co.*) (mailed appeal must be received within one week).

83:02 Columbus, OH (V, 1–12–83) (*Cobey Metro—Waste Composting Systems, Inc.*) (documents must be promptly filed following mailgram notice and protest).

83:08 Hamilton, MT (VIII, 2–8–83) (*4G Plumbing & Heating, Inc.*) (communications between protestor and EPA do not excuse untimely filing of appeal).

83:22 San Jose, CA (IX, 4–11–83) (*Johnson Controls, Inc.*) (clock not started by engineer's communication to bidder concerning adequacy of equipment).

83:25 Onondaga County, NY (II, 5–9–83) (*Herbert F. Darling, Inc.*) (appeal of post bid determination of good faith MBE efforts ripe when award announced).

83:28 Des Moines, WA (X, 5–18–83) (*Will Const., Co., Inc.*) (protester's burden of proving timeliness).

83:31 Youngstown, OH (V, 5–31–83) (*Floyd Brown Associates*) (must challenge evaluation criteria before submitting proposal).

83:38 Sacramento, CA (IX, 6–17–83) (*Power Machine Co.*) (protest after bid opening where specification not clearly restrictive on its face) (rejection of equipment started clock).

83:39 Philadelphia, PA (III, 6–22–83) (*Fisher & Porter Co.*) (good faith negotiations delayed clock).

83:40 Elkhart, IN (V, 6–22–83) (*Penn Equipment & Tool Corp.*) (strictly construed 1 week).

83:43 Toledo, OH (V, 6–29–83) (*Industrial Pump & Equipment Corp.*) (sole source must be protested before bid opening).

83:50 Detroit, MI (V, 8–2–83) (*Dynamic Const., Co., Inc.*) (timely where no knowledge of grantee intent to award to competitor).

83:51 Santa Barbara, CA (IX, 8–15–83) (*Namtec Corp. & Union Engineering Co.*) (7 days to protest restrictive specifications) (nonresponsive bid must be protested within 1 week of learning of award) (oral notice of City Council meeting starts appeal clock).

83:54 Dorchester, MD (III, 9–20–83) (*F.E. Meyers Co.*) (specifications must be protested prior to bid opening).

83:55 Brazos River, TX (VI, 9–23–83) (*Jeffery Manufacturing Div.*) (where protester reasonably believed equipment met specifications protest may be filed after bid opening).

83:58 Evanston, WY (VIII, 10–18–83) (*WesTech Engineering, Inc.*) (protester risks late delivery of express mail protest appeal).

83:60 Tri-City, OR (X, 10–20–83) (*Donald M. Drake Co.*) (telegraphic notice received after close of business deemed timely).

83:63 Monterey, CA (IX, 11–4–83) (*Power Systems*) (protest of specifications).

Waiver

83:05 Morton, MS (IV, 1–25–83) (*Associated Const., Inc.*) (license requirement waived as technicality).

83:07 Oklahoma City, OK (VI, 2–4–83) (*D.J. Domas, Inc.*) (grantee must have rational basis for refusing to waive minor informalities).

83:09 Covington, GA (IV, 2–9–83) (*Griffin Const., Co., & Ethridge Brothers Const., Inc.*) (discretionary authority of grantee cannot be compelled by bidder).

83:32 Los Angeles, CA (IX, 6–6–83) (*Advanco Constructors, Inc.*) (irregularities in listing subcontractors must be waived as minor where IFB did not make it matter of responsiveness).

83:34 New Concord, OH (V, 6–10–83) (*Adams Robinson Enterprise, Inc.*) (failure to acknowledge receipt of addendum not waivable where material).

83:40 Elkhart, IN (V, 6–22–83) (*Penn Equipment & Tool Corp.*) (minor deviations involving bid bond surety form caused no competitive advantage).

83:46 Palatine, IL (V, 7–19–83) (*Di Paolo-Rossetti, Joint Venture*) (where MBE requirements are responsiveness matters, waiver not permitted).

83:68 Tri-City, OR (X, 12–9–83) (*Dresser Industries, Inc.*) (bidder waives protest issue by not submitting evidence).

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BILLING CODE 6560–50–M

federal register

Tuesday
January 29, 1985

Part VII

Department of Health and Human Services

Office of Human Development Services

Head Start Program; Availability of Fiscal Year 1985 Financial Assistance and Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13600.851]

Head Start Program; Availability of FY 1985 Financial Assistance and Request for Applications

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Announcement of availability of Fiscal Year 1985 financial assistance and request for applications to establish a body to develop and operate a national program for accreditation or approval of Child Development Association (CDA) training and assessment programs and administer a national CDA credential program.

SUMMARY: The Administration for Children, Youth and Families (ACYF), OHDS, announces that competing applications will be accepted for financial assistance through a cooperative agreement to develop and operate a national program for the accreditation or approval of CDA training and assessment programs and to administer the national CDA credential program. The level of Federal support for a 30-month grant period will not exceed $2 million.

This cooperative agreement is intended to restructure the current CDA program by establishing a new structure responsible for the setting of standards for CDA training programs, the accreditation or approval of these training programs, and the issuance of the CDA credential. Specifically, this new structure will:

(1) Establish and maintain standards for CDA training;

(2) Establish a process for national accreditation or approval of CDA training institutions, patterned after the successful experience of other professions in the human services field;

(3) Award the CDA credential to successful candidates;

(4) Establish a fee structure adequate to support the CDA accreditation/approval and the credential programs.

DATE: The closing date for receipt of applications is April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Clennie Murphy, Acting Associate Commissioner, Administration for Children, Youth and Families, (202) 755–2987.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Human Services Reauthorization Act, Pub. L. 98–588, (Oct. 30, 1984) Section 106 amending Section 648 of the Head Start Act, 42 U.S.C. 9843.

Program Purpose

The Head Start program is designed to provide comprehensive developmental services primarily to low income preschool children, age three to the age of compulsory school attendance, and their families. To aid enrolled children to obtain their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. The Head Start Act was originally enacted in 1965. The current Head Start Act was enacted by Subchapter B of Chapter 8 of Title VI of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, and reauthorized by the Human Services Reauthorization Act, Pub. L. 98–558.

Background of the CDA Program

In an effort to increase the number of competent staff in child care programs, the Child Development Associate (CDA) program was initiated in 1971 through a task force of early childhood education and child development specialists convened by the Office of Child Development, ACYF's predecessor agency. During the period from 1972 to 1975, the task force developed an innovative, comprehensive plan for training, assessing, and issuing credentials to child care staff that has grown into the CDA program. During this period the CDA Competency Standards, and the Assessment and Credential Award System described below were developed. In addition, 13 pilot CDA training programs were funded to develop curriculum materials consistent with the CDA Competency Standards. The system became operational in 1975, and, except for a short interval, has been in continuous operation with support from ACYF and fees for assessments and credentials paid by persons seeking the CDA credential.

The CDA program was designed to provide performance-based training and assessment, leading to the CDA credential. The CDA Competency Standards, have served as the foundation for training and assessment. The Compentency Standards include the evaluation of the candidate's ability to:

(1) Establish and maintain a safe, healthy learning environment;

(2) Advance physical and intellectual competence of the childen;

(3) Support social and emotional development and to provide guidance and discipline in the care centers or classrooms;

(4) Establish positive and productive relationships between families and children or families and child care providers;

(5) Ensure a well-run, purposeful program responsive to participant needs; and

(6) Maintain a commitment to professionalism.

Within these six areas, the CDA candidate must demonstrate thirteen specific functional areas. In addition, a person who works in a bilingual program and has demonstrated bilingual competence in either the center-based, home visitor, or family day care setting may become a Child Development Associate with a Bilingual Specialization.

An estimated 6,000 individuals participate in CDA training each year through approximately 200 training institutions with CDA programs. ACYF provides approximately $6 million per year to Head Start grantees to support Head Start staff participation in CDA training. ACYF has also developed CDA training materials that many of the CDA training programs are using today.

While CDA training is provided by many institutions, CDA assessments are conducted through one body—the CDA National Credential Program. The performance-based assessments are conducted by Local Assessment Teams (LAT). They occur in the community where the CDA candidate works. The LAT is comprised of the candidate, an advisor, a parent/community representative and a CDA representative. This team observes the candidate's work, collects information from the parents of the children in the candidate's care, reviews the education, background experience, training of the candidate, and then decides on the candidate's competence. All members of the team must agree in order for the candidate to earn the CDA credential. Documentation on the candidate and the recommendations from the LAT are reviewed by the CDA National Credential Program. If all procedures have been followed, the recommendations made by the LAT are accepted and the CDA credential is awarded. Approximately 3,000 assessments are conducted each year.

The CDA credential is national professional credential awarded to individuals on behalf of the National CDA Credential Program. Currently, the CDA Credential Commission, whose membership consists of representatives of national professional associations from the early childhood development

field, is the policy making body for the CDA program.

Current candidates for the CDA credential pay fees to the CDA National Credential Program for the assessment and the credential, including a $25 application fee, a $250 assessment fee, a $50 credential fee and a $50 credential five-year renewal fee. The actual cost for each assessment is in excess of $600. The difference between income from fees and actual costs has been subsidized by Federal grants to the National Credential Program. Bank Street College of Education currently administers the CDA National Credential Program under a Federal grant which expires in August, 1985.

In recent years, ACYF and some private foundations have provided financial support to expand the CDA program to new populations. The program is now available to home visitors, center-based providers working with infants and toddlers, and family day care providers. This expansion increases the number of persons likely to seek the CDA credential and enhances the potential for improving the quality of child care services throughout the country.

Goals and Objectives

The promotion of the supply of quality child care continues to be a high priority of the Federal government. As the number of working mothers has increased, Federal efforts have been directed at encouraging employers to address the day care needs of their employees. Working parents now benefit from Federal tax credits for child care. The CDA program is a Federally-initiated effort which has made a significant contribution to improving the quality of Head Start and other child care programs.

With society's growing concern for the quality of pre-school child care, we believe that expansion of the CDA program is timely and necessary. The centralized structure of the CDA program limits the ability to expand the program and maintain high quality with a fee structure affordable to candidates. Therefore ACYF proposes to restructure the program. Presently CDA training is provided by an estimated 200 institutions nationwide. There are no common standards or curricula for this training. We believe that the child care field needs to address these issues by establishing and applying national standards for CDA training and assessment programs.

Scope of This Program Announcement

This program announcement is intended to solicit proposals for the development and operation of a national program for accreditation or apporval of CDA training and assessment programs and the administration of a national CDA credential program.

Scope of Work

The successful applicant will be responsible for:

1. Development of an approval or accreditation process including: (a) broad-based participation by the early childhood education and child care fields; (b) utilization of individuals experienced in operating CDA training programs; (c) review of existing CDA and related training practices, policies, standards, and fee structure; (d) establishment of quality standards for CDA training and assessment programs; (e) initial implementation and operation of the approval or accreditation process within the first year.

2. Development of a process to shift responsibility from the National Credential Program to training institutions for conducting individual assessments. Within the first year, provisional approval should be provided to as many local programs as possible so that the shift in responsibility can begin. During this transitional period, the successful applicant should conduct assessments only in those areas where there is no approved CDA training and assessment program. Training institutions shall include costs for the assessment in their tuition and fees. By the end of 18 months, no local assessments shall be conducted by the successful applicant with Federal funds.

3. The successful applicant will award the CDA credential, maintain a central registry of CDAs, administer the CDA renewal system, set policy for the program and refer prospective candidates to local programs no later than September 1, 1985.

Bank Street College will manage the credential award process under an existing grant through June 1985. During July and August of 1985 continuity in services to candidates in the system must be ensured.

4. Establishment of a fee structure which will generate sufficient income to permit operation of the national accreditation and credential programs after the completion of the Federal funding period.

5. Promotion of the CDA program nationally, including working with State and local governments to include the CDA credential in their licensing standards.

Eligible Applicants

Eligible applicants must be non-profit institutions or organizations with relevant experience and demonstrated capability to complete the project as described.

Available Funds

HDS expects to award up to $1 million for the first 12 months of this cooperative agreement and an additional $1 million over the following 18 months.

Recipient Share of the Project

Recipients are required to provide a 15% non-Federal share or in-kind contribution.

Application Content

The Administration for Children, Youth and Families is requesting applicants to prepare an application which will address the following:

A. The technical approach to each of the tasks in the scope of work. The technical approach should provide a complete plan of activities including a time frame for each task

B. The applicant's capability to meet the goals and objectives of the announcement. The capability statement should describe all necesary personnel, facilities, materials and services.

C. A detailed budget for the first year. The budget should include estimates for both expenditures and income.

Availability of Forms

Application for a financial assistance award under this program announcement must be submitted on the standard forms provided for this purpose at the end of this program announcement.

Criteria for Review and Evaluation of Financial Assistance Application

Competing applications for financial assistance will be reviewed and evaluated against the following criteria.

- Process for developing quality standards and implementing an accreditation or approval process for CDA training and assessment. (25 points)

Viability of overall approach to quality standards development; extent of projected participation of early childhood education and child care field and CDA profession, including existing CDA training programs; thoroughness of detail in describing task activities; understanding of what is entailed in accreditation or approval of training and assessment programs; understanding of role of CDA in child care and statement of philosophy of CDA accreditation or approval; comprehensiveness of areas identified in which standards will be developed; viability of overall approach

to implementation and operation; adequacy of plans for promoting the accreditation or approval process; assurance that the accreditation or approval process will begin operation within the first year.

• Developing a process for shifting responsibility for assessments from the national credential program to training institutions. (15 points)

Viability of overall approach; adequacy of transitional plans ensuring assessment will be available to qualified individuals without interruption; statement of principles to guide this process; adequacy of monitoring system over CDA assessments.

• Plans for operating a national credential program for CDAs. (15 points)

Viability of overall approach to operate a credential program, maintain a central registry of CDAs, administer the CDA renewal system, set policy for the program and refer prospective candidates to local programs no later than September 1, 1985.

• Establishment of a financial plan to become independent of direct Federal support while maintaining a reasonable fee schedule affordable to prospective candidates. (20 points)

• Promoting CDA. (10 points)

Creativity and thoroughness of planning for promotion of the CDA program. Involvement of profession in increasing the acceptance and recognition of the CDA credential.

• Experience in the establishment and operation of both accreditation of credential processes. (15 points)

While not a condition for funding, special consideration will be given to applicants who demonstrate a capability and likelihood of completing the project substantially earlier than the proposed 30-month project period and/or for substantially less Federal funding than the proposed $2 million.

Application Submission

At a minimum, one signed original and two copies of the application are required. However, an additional three copies would be helpful in expediting the review process. Applications, including all attachments, must be submitted to William McCarron, Chief, Grants Management Office, OHDS Grants and Contracts Management Division, North Building, Room 1296, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Application Consideration

Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified individuals. The results of the review will assist the Associate Commissioner of the Head Start Bureau to determine which applicant will be recommended for funding. The Commissioner of ACYF will approve the final selection.

After the Commissioner has approved the final selection, unsuccessful applicants will be notified in writing of this final decision. The successful applicant will be notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds awarded, the budget period for which support is given, and the total period for which project support is contemplated.

Notification Under Executive Order 12372

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." State Processes or directly affected State, area-wide, regional, and local officials and entities have 60 days to comment on the application, starting from the deadline date for applications submission to HDS. Each State has established a State Single Point of Contact (SPOC) to fulfill the requirements of E.O. 12372. Applicants must submit required material to the SPOCs so that HDS can obtain comments from the SPOCs as part of the award process. (Applications for programs to be administered directly by Federally recognized Indian tribes are exempt from the requirements of E.O. 12372.) Applicants should contact their SPOC as soon as possible to alert them of the prospective applications and receive specific instructions regarding the process. Required material should be sent to the SPOC as early as possible. SPOCs will submit their comments directly to Clennie H. Murphy, Jr. Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. HDS will notify the State of any application received which has no indication that the State Process has had an opportunity for review.

Closing Date for Receipt of Application

The closing date for receipt of applications is April 1, 1985. Applications may be mailed or hand delivered to: William McCarron, Chief, Grants Management Office, HDS Grants and Contracts Management Division, 330 Independence Ave., SW, Room 1296–N Bldg., Washington, D.C. 20201.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date at the HDS Grants and Contracts Management Office, or

2. Sent on or before the deadline date and received by the granting agency in time to be considered during the competitive review and evaluation process. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

Hand-delivered applications: Hand-delivered applications are accepted at the HDS Grants and Contracts Management Office during the normal working hours of 8:30 A.M. to 5:00 P.M. Monday through Friday.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: January 18, 1985.

Dodie Livingston,

Commissioner, Administration for Children, Youth and Families.

Approved: January 24, 1985.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Appendix A.—State Single Point of Contact List

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105–0939

Arizona

Office of Economic Planning and Development, State of Arizona

Note.—Correspondence & questions concerning this state's E.O. 12372 process should be directed to: Jo Stephens, Director, Local Government Assistance, ATTN: Arizona State Clearinghouse, 1700 West Washington, Rm. 205, Phoenix, Arizona 85007, Tel. (602) 255–5004.

Arkansas

State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–2311

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 445–0282

Colorado

State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Colorado 80203, Tel. (303) 866–2156.

Connecticut

Gary E. King, Under Secretary, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459

Note.—Correspondence & questions concerning this state's E.O. 12372 process should be directed to: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Tel. (203) 566–4298.

Delaware

Executive Department, Thomas Collins Building, Dover, Delaware 19903, Attn: Franchine Booth, Tel. (302) 736–4204

Florida

Ron Fahs, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488–8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georiga, 30334, Tel. (404) 656–3855.

Hawaii

Kent M. Keith, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804
For Information Contact: Hawaii State Clearinghous, Tel. (808) 548–3085.

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–6639.

Indiana

Ms. Susan J. Kennell, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5604

Iowa

Office for Planning and Programming, Capital Annex, 523 East 12th Street, Des Moines, Iowa 50319, Tel. (515) 281–6483.

Kansas

Kansas Department of Human Resources, Office of The Secretary, Attention: Judy Krueger, 401 Topeka Avenue, Topeka, Kansas 66603, Tel. (913) 296–5075.

Kentucky

Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564–2382.

Louisiana

Michael J. Jefferson, Dept. of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 44455, Capitol Station, Baton Rouge, Louisiana 70804, Tel. (504) 925–3722

Maine

State Planning Office, Attn: Intergovernmental Review Process, State House Station No. 38, Augusta, Maine 04333, Tel. (207) 289–3154.

Maryland

Guy W. Hagar, Director, Maryland State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Tel. (301) 383–7875

Massachusetts

Executive Office of Communities and Development, 100 Cambridge Street, Rm. 1401, Boston, Massachusetts 02202, Tel. (617) 727–7078.

Michigan

Carol Hoffman, Director, Office of Business and Community Development, Michigan Department of Commerce, P.O. Box 30004, Lansing, Michigan 48909, Tel. (517) 373–0933.

Mississippi

Office of Federal State Programs, Department of Planning and Policy, 1504 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202.
For Information Contact: Mr. Marlan Baucum. Department of Planning and Policy, Tel. (601) 359–3069.

Minnesota

Thomas N. Harren, Minnesota State Planning Agency, Capitol Square Building—Room 101, 550 Cedar Street, St. Paul, Minnesota 55101, Tel. (612) 296–3698.

Missouri

Missouri Federal Assistance Clearinghouse, Office of Administration, Division of Budget and Planning, Room 129 Capitol Building, Jefferson City, Missouri 65102, Tel. (314) 751–4834 or 751–2345.

Montana

Agnes Fipperian, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helana, Montana 59620, Tel. (406) 444–5522.

Nebraska

Policy Research Office, P.O. Box 94601, Room 1321, State Capitol, Lincoln, Nebraska 68509, Tel. (402) 471–2414.

Nevada

Ms. Linda A. Ryan, Director, Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885–4420

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to: John Walker, Clearinghouse Coordinator, Tel. (702) 885–4420

New Hampshire

David G. Scott, Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625, Tel. (609) 292–6613

Note.—Correspondence and questions concerning this state's E.O. process should be directed to: Nelson S. Silver, State Review Process, Division of Local Government Services—CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–9025

New Mexico

Peter C. Pence, Director, Department of Finance and Administration, State of New Mexico, 515 Don Gaspar, Santa Fe, New Mexico 87503, Tel. (505) 827–3885

New York

Director of the Budget, New York State

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to: New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733–4131

North Dakota

Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor—State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224–2094

Ohio

State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, Ohio 43215

For Information Contact: Mr. Leonard E. Roberts, Deputy Director, Tel. (614) 466–0699

Oklahoma

Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105, Tel. (405) 528–8200

Oregon

Intergovernmental Relations Division, State Clearinghouse, Executive Building, 155 Cottage Street, N.E., Salem, Oregon 97310, Tel. (503) 373–1998

Pennsylvania

Pennsylvania Intergovernmental Council, P.O. Box 1288, Harrisburg, Pennsylvania 17108, ATTN: Charles Griffiths, Executive Director, Tel. (717) 783–3700

Rhode Island

Daniel W. Varin, Chief, Rhode Island Statewide Planning Program, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277–2656

South Carolina

Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Tel. (803) 758–2417

South Dakota

Ieff Stroup, Commissioner of the Bureau of Intergovernmental Relations, Second Floor, Capitol Building, Pierre, South Dakota 57501, Tel. (605) 773–3661

Tennessee

Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37219, Tel. (615) 741–1676

Texas

Bob McPherson, State Planning Director, Office of the Governor, Austin, Texas 78711, Tel. (512) 475–6156

Utah

Michael B. Zuhl, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533–5245

Vermont

State Planning Office, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326

Virginia

Robert H. Kirby, Intergovernmental Review Officer, Department of Planning and Budget, Post Office Box 1422, Richmond, Virginia 23211, Tel. (804) 786–1921

Washington

Ken Black, Washington Department of Community Development, Ninth and Columbia Building, Olympia, Washington 98504, Tel. (206) 753–2200

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Economic and Community Development, Building #6, Room 553, Charleston, West Virginia 25305, Tel. (304) 348–4010

Wisconsin

Secretary Doris J. Hanson, Wisconsin Department of Administration, 101 South Webster Street—GEF 2, Madison, Wisconsin 53702, Tel. (608) 266–1212

Wyoming

Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574

Virgin Islands

Federal Programs Office, Office of the Governor, The Virgin Islands of the United States, Charlotte Amalie, St. Thomas 00801, Tel. (809) 774–6511

District of Columbia

Pauline Schneider, Director, Office of Intergovernmental Relations, Room 416, District Building, Washington, DC 20004, Tel. (202) 727–6265

Puerto Rico

Nelson Soto, President, Puerto Rico Planning Board, P.O. Box 4119 Minilla Station, San Juan, Puerto Rico 00940, Tel. (809) 724–7900

Northern Mariana Islands

Planning and Budget Office, Office of the Governor, Saipan, CM 96950

Appendix B.—Instructions for Applying for Federal Assistance From HDS Programs

(OMB 0980–0016, Expires: 2/85, Clearance Pending: 2/88)

INTRODUCTION

Use of Forms

The forms included in this "kit" shall be used to apply for all new discretionary grants and cooperative agreements awarded by the Office of Human Development Services. They shall also be used to request supplemental assistance, proposed changes or amendments, and request continuation or refunding for previously approved grants or cooperative agreements from the Office of Human Development Services. An original and two copies of the forms should be submitted to the responsible grants management office. If an item cannot be answered or does not appear to be related or relevant to the assistance required, write "NA" for not applicable.

Applications

Applicants for new awards and competing continuations are required to submit a complete application which consists of Parts I (SF–424) through Part V. Applicants for new projects must include completed Standard Forms 441, Civil Rights Assurance and HHS—641, Rehabilitation Act Assurance. Applicants for additional funding (such as a non-competing continuation or supplemental grant) or amendments to a previously submitted application should include only affected pages. Previously submitted pages whose information is still current need not be resubmitted. Additionally, applicants for certain HDS programs may be subject to Executive Order 12372, Intergovernmental Review of Federal Programs (see Attachments 1 and 2). These applicants must follow the instructions provided relative to Executive Order 12372 coverage where appropriate, as listed on page 11.

Submission of Applicants

(1) Non-competing Continuation Grants—Applicants for continuation grants must submit these forms not later than 90 days prior to the budget period end date.

(2) New Projects and Competing Continuations—Applicants for Assistance to support new projects or for competing continuations should refer to program announcements for information regarding deadline dates for submission of forms.

Instructions for Completion of Part I (SF–424)

Section I

Applicants shall complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk (*) and use Section IV. An explanation follows for each item.

Items

1. Mark appropriate box. Preapplication and application are described in OMB Circular A–102 and HDS program instructions. Use of the SF–424 as a Notice of Intent is at State option. HDS does not require Notice of Intent.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. For a program covered by Executive Order 12372, enter the number assigned, if any, by the State Point of Contact Office. Applications submitted to OHDS must contain this identifier, if provided by the State Point of Contact. Note: Item 22 of this form must be completed for programs covered by E.O. 12372.

3b. Date identifier is assigned by State.

4a.–4h. Enter legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

IF THE PAYEE WILL BE OTHER THAN THE APPLICANT, ENTER IN THE REMARKS SECTION "PAYEE". THE PAYEE'S NAME, DEPARTMENT OR DIVISION, COMPLETE ADDRESS AND EMPLOYER IDENTIFICATION NUMBER AND DHHS ENTITY NUMBER.

If an individual's name and/or title is desired on the payment instrument, the name/or title of the designated individual must be specified.

5. Enter Employer Identification Number of applicant as assigned by the Internal Revenue Service. If the applicant organization has been assigned a DHHS Entity Number consisting of the IRS employer identification number prefixed by "1" and suffixed by a two-digit number, enter the full Entity Number. If applicant has other grants with DHHS and has been assigned a Payee Identification Number, enter PIN in parenthesis ( ) beside employer identification number.

6a. Enter the Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint funding) enter "multiple" and explain in Section IV remarks. If unknown, cite Public Law or U.S. Code.

6b. Enter the program title from Catalog of Federal Domestic Assistance. Abbreviate if necessary.

7. Enter title and appropriate description of project. For Notification of Intent, continue in Section IV if necessary to convey proper description. If project affects particular sites as, for example, construction or real property projects, attach a map showing the project location.

8. Enter appropriate letter to designate grantee type—"City" includes town, township or other municipality. If the grantee is other than that listed, specify type on "Other" line e.g., Council of Government.

Note.—Nonprofit organizations which have not previously received HDS program support must submit proof of nonprofit status.

9. Enter Governmental unit where significant and meaningful impact could be observed. List only largest unit or units is affected, such as State, county, or city. If entire unit is affected, list it rather than subunits.

10. Identify estimated number of persons *directly* benefiting from project, as described in the program narrative.

11. All applicants for new, competing continuation and non-competing continuation grants should enter the letter "A". And applicants for supplemental grant funding should enter the letter "B".

12. Enter amount requested or to be contributed during the initial funding/budget period by each contributor. Where allowable the value of inkind contributions should be included. If the action is a change in dollar amount of existing grant (a revision or augumentation), indicate only the amount of the change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding use totals and show program breakdowns in remarks. Item definitions: 12a, amount requested from Federal Government; 12b, amount applicant will contribute; 12c, amount from State, if applicant is not a State; 12d, amount from local government, if applicant is not a local government; 12e, amount from any other sources, explain in Section IV. Note: Applicants for research grants should complete 12a and 12f only.

13a. Self explanatory.

13b. Enter the district(s) where most of actual work will be accomplished. If city-wide or State-wide covering several districts, write "city-wide" or "State-wide".

14. Enter appropriate letter. Definitions are:

A. *New.* A submittal for the first time for a new project or project period (includes competing continuations).

B. *Renewal.* Not applicable to HDS grant programs.

C. *Revision.* A modification to project after the initial funding/budget period and within the approved project period.

D. *Continuation.* Support for a non-competing continuation project after the initial funding/budget period and within the approved project period.

E. *Augumentation.* (Referred to elsewhere in these instructions and in other HDS publications as a "supplemental"). An application for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

15. Enter approximate date project is expected to begin. If initial budget period is other than 12 months, check item 21 and explain in Part IV.

16. Enter estimated number of months to complete project after Federal funds are available.

17. Complete only for revisions (item 14c), or augumentations (Supplements) (Item 14e).

18. Date application/preapplication must be submitted to HDS in order to be eligible for funding consideration.

19. Name and address of the Federal agency to which this request is addressed. Indicate as clearly as possible the name of the office to which the application will be delivered.

20. Enter existing Federal grant identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".

21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

Section II

Applicants will always compete either item 22a or 22b *and* items 23a and 23b. An explanation follows for each item.

22a. Complete if application is subject to Executive Order 12372 (State review and comment).

Note.—All written comments submitted by or through the State Contact must be attached, if available. Applicants are advised of the delay of funding near the end of the fiscal year, if a timely notification to the State Contact is not made.

22b. Check if application is not subject to E.O. 12372.

23a. Name and title of authorized representative of legal applicant.

23b. Self explanatory. *Note:* Authorized representative signature cannot be signed by designee.

Note.—Applicant completes only sections I and II. Section III is completed by Federal agencies.

Instructions for Completion of Part II

Negative answers will not require an explanation unless the responsible HDS program office requests more information at a later date. All "Yes" answers must be explained on a separate page in accordance with these instructions.

Item 1—Provide the name of the governing body establishing the priority system and the priority rating assigned to this project. If the priority rating is not available, give the approximate date that it will be obtained.

Item 2—Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval. If the clearance is not available, give the approximate date that it will be obtained.

Item 3—Furnish the name of the approving agency and the approval date. If the approval has not been received, state approximately when it will be obtained.

Item 4—Show whether the approved comprehensive plan is State, local or regional; or, if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination, and state whether this project is in conformance with the plan. If the plan is not available, explain why.

Item 5—Show the population residing or working on the Federal installation who will benefit from this project. (Federally recognized Indian reservations are not "Federal Installations")

Item 6—Show the percentage of the project work that will be conducted on Federally-owned land or leased land. Give the name of the Federal installation and its location.

Item 7—Briefly describe the possible beneficial and/or harmful effect on the environment because of the proposed project. If an adverse environmental effect is anticipated, explain what action will be taken to minimize it.

Item 8—State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions, if additional data is needed.

Item 9—Show the Catalog of Federal Domestic Assistance number, the program number, the type of assistance, the status, the amount of each project where there is related previous, pending or anticipated assistance from another funding source.

Instructions for Completion of Part III

This form is designed so that application can be made for funds to support one or more functions or activities. Generally, HHS funded programs do not require a breakdown by function or activity. Therefore, only Line 1 need be completed. However, Head Start, funded by the Administration for Children, Youth and Families requires that activities commonly identified by program accounts be displayed separately on individual lines (Lines 1–4 under Section A and Columns 1–4 under Section B).

Since HDS programs award funds to support activities for budget periods which are generally 12 months in duration, Section A, B, C, and D must provide budget information for the requested budget period. Section E should reflect the need for Federal assistance in subsequent budget periods.

Applicants for research grants are not required to complete information items related to non-Federal share. Rather, research cost sharing shall be negotiated separately with the funding office.

Section A—Budget Summary

Lines 1–4

Col. (a): For applications pertaining to a single grant program and *not* requiring a functional, activity or program account breakout enter on Line 1 under Column (a) the Federal Domestic Assistance Catalog program title (See attached listing). For "Head Start", enter the activities (program accounts) name and number for which funds are being requested on separate lines.

Col. (b): Enter appropriate Catalog of Federal Domestic Assistance number. For "Head Start", enter the activities (program accounts) name and number for which funds are being requested on separate lines.

Col. (c)–(g): For *new applications*, leave Columns (c) and (d) blank. For each line entry, enter in Columns (e), (f), and (g) the appropriate amounts needed to support the project for the first budget period. Applicants for research grant should make no entries in Column (f).

For *non-competing*, or *competing continuation applications*, enter in Columns (c) and (d) the estimated amounts for funds which will remain unobligated at the end of the current budget period. Enter in columns (e), (f), and (g) the appropriate amounts needed to support the project for the new budget period. (Applicants for research grants should make no entries in Columns (d) or (f). Column (g) should equal the total to Column (e) and Column (f).

For *augumentation* (supplements) and changes to existing grants, leave Columns (c) and (d) blank and enter in Columns (e) and (f) the amount of increase or decrease of Federal and non-Federal funds, as appropriate. Enter in Column (g) the new total budgeted amount (Federal and non-Federal) which includes the previously authorized total budgeted amounts for the current budget period plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Columns (g) should not equal the sum of the amounts in Columns (e) and (f). Applicants for research grants should make no entries in columns (d) or (f).

Line 5

Enter the totals for all columns completed.

Section B—Budget Categories—Column 1–5

In the Column heading (1) through (4), enter the same titles of the grant programs and/or program accounts shown on Lines 1 through 4, Column (a), Section A. For each grant program or activity (program account) entered in Columns (1) through (4) enter the total requirements for *Federal funds* by object class categories and enter total in Column 5.

Allowability of costs are governed by applicable cost principles set forth in Subpart Q of 45 CFR Part 74 and the HDS Grants Administration Manual.

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff. Do not include costs of consultants or personnel costs of delegate agencies. (See Section F, Line 21, for additional requirements).

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate. Provide break-down of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of out-of-town travel for employees of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs. (See Line 6h and Section F, Line 21, for additional instructions).

Equipment—Line 6d: Enter the total costs of all equipment to be acquired by the project. "Equipment" means an article of tangible personal property having a useful life of more than two years and an acquisition cost of $500 or more per unit. An applicant may use its own definition of equipment, provided that such a definition would at least include all tangible personal property as defined in the preceeding sentence. (See Section F, Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.), and, (2) contracts agreements with secondary recipient organizations including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not

include payments to individuals on this line. Attach a list of contractors indicating the name of the organization; the purpose of the contract; statement (scope) of work; period of performance; and the estimated dollar amount of the award. If the Name of Contractor, Scope of Work and estimated total is not available or has not been negotiated, include in Line h, "Other". (Note: Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant must submit sections A and B of Part III, Budget Section, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total cost of all such agencies will be part of the amount shown on Line 6(f). Provide back-up documentation identifying Name of contractor, purpose of contract and major cost elements.

Construction—Line 6g: Enter the costs of alterations or renovation. Provide narrative justification and break-down or costs. New construction is unallowable.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs, (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the totals of Lines 6(a) through 6(h).

Indirect Charges—Line 6j: Enter the total amount of indirect costs. If no indirect costs are requested enter "none". This line should be used only when the applicant (except local governments) has an indirect cost rate approved by the Department of Health and Human Services. If rate has recently been approved, please enclose a copy of current rate. Local governments shall enter the amount of indirect costs determined in accordance with HHS requirements. In the case of training grants to other than State or local governments, the reimbursement of indirect costs will be limited to the lesser of actual indirect costs or 8 percent of the amount allowed for direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alteration and renovations. It should be noted that when an indirect cost rate is requested, these costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Total—Line 6k: Enter the total amounts of Lines 6(i) and 6(j). For all new competing and non-competing continuation applications, the total amount shown in Column (5), Line 6(k), should be the same as the amount shown in Section A, Column (e), Line 5.

For all supplements or changes, the total of the amount shown in Columns (1) through (4) should equal the amount shown in Section A, Line 5(e). The amount shown in Column (5) should include the cumulative total of the previously approved Federal share for the current budget period plus or minus, as appropriate, the increase or decrease of Federal fund.

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show, in the program narrative statement, the nature and source of income.

Section C—Non-Federal Resources

Line 8–11: Enter amounts of non-Federal resources that will be used to support the project. (Applicants for research grants should not complete this Section but will negotiate appropriate cost sharing arrangements with the funding office). Provide a brief explanation, on a separate sheet, showing the type of contribution, and whether it is in cash or in-kind. If in-kind, is allowable and included, show the basis for computation including:

(1) Numbers and types of volunteers and rates at which their services are valued;

(2) Valuation of donated space (use only) including number of square feet and value assigned per square foot; and

(3) Determination of depreciation and use allowance for grantee-owned space; [Include statement whether space was purchased or constructed, totally or in part with federal funds for items (2) and (3)].

(4) Type and value of other in-kind contributions expected.

Column (a): Enter the program title or activities (program accounts) as in Column (a) Section A.

Column (b): Enter the amount of cash and in-kind contributions to be made by the applicant.

Column (c). Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant State agency.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the totals of Columns (b), (c), and (d).

Line 12— Enter total of each of Columns (b) through (e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D—Forecasted Cash Needs

Line 13— Enter the amount of Federal cash needed for this grant, by quarter, during the budget period.

Line 14— Enter the amount of cash from all other sources needed by quarter during the budget period. (Applicants for research grants should not complete this line).

Line 15— Enter the totals of amounts on Line 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Projects

*Line 16–19—*Enter in Column (a) the same program title or activities (program accounts) as in Column (a) Section A. For new or competing continuation or non-competing continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding budget periods (usually in years). Do not enter current year budget amount; enter second, third, fourth, and fifth year budget estimate needs. This Section need not be completed for Headstart applicants with indefinite project periods or for revisions or supplements for the current budget period which do not increase the general level of support.

*Line 20—*Enter the totals of each of the Columns (b) through (e).

Section F—Other Budget Information

*Line 21—*Use this space to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the HDS program office. Budget items which require identification and justification shall include, but not be limited to, the following:

1. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

2. Any foreign travel;

3. A list of all equipment (See Part III, Section B, Line 6d) and estimated cost of each item to be purchased. Need for equipment must be supported in program narrative;

4. Contractual: Major items or groups of smaller items; and

5. Other: group and major categories, e.g., consultants, local transportation, space rental, training allowances, staff training, computer equipment, etc. Provide a complete break-down of all costs that make up this category.

Line 22—Enter the type of indirect rate (provisional, final fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date HDS approved the rate, where applicable. Attach a copy of rate agreement if recently approved.

Line 23—Provide any other explanations required or deemed necessary.

Attachment 1

EXECUTIVE ORDER 12372 COVERAGE

1. General

Executive Order 12372, "Intergovernmental Review of Federal Programs," provides for the State and local government coordination and review of proposed Federal financial assistance. Certain applicants for HDS grants must comply with the provisions of E.O. 12372 and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." The following table provides a listing of all HDS assistance programs identified by Catalog of Federal Domestic Assistance Number (CFDA), and shows those programs and activities which are covered by E.O. 12372 and those which are exempt from coverage.

Federally recognized Indian Tribes are exempt from the provisions and requirements of E.O. 12372 (see 48 FR 29196 dated June 24, 1983).

States may design their own processes for reviewing and commenting on proposed Federal assistance under certain Federal programs. States adopting a review process under the E.O. will have designated a State official or organization to act as the State's "Single Point of Contact" (SPOC) for sending official State recommendations to HDS Applicants with projects subject to E.O. 12372 review must adhere to the requirements of their State processes.

2. Procedures for New and Competing Continuation Applications

E.O. 12372 requires applicants for new and competing continuation grants and cooperative agreements to coordinate their plans at the State and local levels through the State SPOC. Names and addresses of the State SPOC are listed in the **Federal Register** announcement soliciting applications or in the application kit. A current listing can also be obtained from the regional or headquarters grants management office. Potential applicants should contact their State SPOC at the earliest feasible time and notify them of their intent to apply for Federal assistance. Many State offices have their own notification forms and instructions, and applicants should obtain this material directly from them.

Applications submitted to HDS must respond to the E.O. 12372 Certification, Item 22 on Standard Form 424. HDS will notify the State SPOC of any application covered by E.O. 12372 that does not indicate that the State contact has had an opportunity to review it. Therefore, failure to notify the State of the proposed application to HDS may result in a delay of funding as HDS will not make an award without assurance of compliance with this process.

State SPOC offices have sixty (60) days after the HDS deadline date for the receipt of applications in which to review and resolve problems with the applicant and submit comments to HDS.

3. Procedures for Non-Competing Continuation Applications

Applicants for non-competing continuations of awards covered by E.O. 12372 must contact the State SPOC regarding their application at the earliest possible time. Applications submitted to HDS must respond to the E.O. 12372 Certification, Item 22 on the Standard Form 424. HDS will notify the State SPOC of the receipt of any covered program application which has no indication that the State process has had an opportunity for review.

The closing date for submission of State comments is thirty (30) days after the deadline date for receipt of applications. Applicants are advised to make claer to the SPOC that they are applying for a non-competing continuation award with a thirty day rather than a sixty (60) day review period.

Attachment 2

Catalog of Federal domestic assistance number	Discretionary grants	Mandatory or formula grants
HDS Programs and Activities Covered by Executive Order 12372		
13.600	Head Start—Basic Head Start Program, Research, Training and Technical Assistance, Demonstration, and Pilot Projects.	
13.623	Runaway Youth—all projects.	
13.628	Child Abuse and Neglect Prevention and Treatment—All projects.	State Child Abuse and Neglect Prevention and Treatment.
13.630		Developmental Disabilities—Basic Support and Advocacy.
13.631	Developmental Disabilities Special Projects.	
13.633		Aging—Title III-A & III-B, Grants for Supportive Services and Senior Centers.
13.635		Aging—Title III-C, Nutrition Services.
13.645		Child Welfare Services—Title IV-B State Grants.
13.646		Work Incentive Program (WIN).
HDS Programs and Activities Not Covered by Executive Order 12372		
13.608	Child Welfare Research & Demonstration Section 426 of Social Security Act (SSA).	
13.612	Native American Programs—Financial Assistance.	
13.632	Developmental Disabilities—University Affiliated Facilities and Satellite Centers.	
13.647	Social Services Research and Demonstration—Section 1110 of SSA.	
13.648	Child Welfare Services (426) Training.	
13.652	Adoption Opportunities—Research & Demonstration.	
13.655	Aging—Title VI, Grants to Indian Tribes.	
13.658		Title IV-E—Foster Care.
13.659		Title IV-E—Adoption Assistance.
13.661	Native American Programs—Research, Demonstration, and Evaluation.	
13.662	Native American Programs—Training and Technical Assistance.	
13.667		Social Services Block Grant.
13.668	Aging—Title IV, Research, Demonstration, & Training.	

BILLING CODE 4130-01-M

APPENDIX C

OMB Approval No. 0348-0006

FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION (Mark appropriate box)
- ☐ NOTICE OF INTENT (OPTIONAL)
- ☐ PREAPPLICATION
- ☐ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER — a. NUMBER; b. DATE (Year month day) 19

3. STATE APPLICATION IDENTIFIER — NOTE: TO BE ASSIGNED BY STATE — a. NUMBER; b. DATE ASSIGNED (Year month day) 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name
- b. Organization Unit
- c. Street/P.O. Box
- d. City
- e. County
- f. State
- g. ZIP Code
- h. Contact Person (Name & Telephone No.)

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

6. PROGRAM (From CFDA) — a. NUMBER ☐☐*☐☐☐ MULTIPLE ☐; b. TITLE

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)

8. TYPE OF APPLICANT/RECIPIENT
A—State; B—Interstate; C—Substate Organization; D—County; E—City; F—School District; G—Special Purpose District; H—Community Action Agency; I—Higher Educational Institution; J—Indian Tribe; K—Other (Specify):
Enter appropriate letter ☐

9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

10. ESTIMATED NUMBER OF PERSONS BENEFITING

11. TYPE OF ASSISTANCE
A—Basic Grant; B—Supplemental Grant; C—Loan; D—Insurance; E—Other
Enter appropriate letter(s) ☐☐

12. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. Total	$	.00

13. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

14. TYPE OF APPLICATION
A—New; B—Renewal; C—Revision; D—Continuation; E—Augmentation
Enter appropriate letter ☐

15. PROJECT START DATE (Year month day) 19

16. PROJECT DURATION (Months)

17. TYPE OF CHANGE (For 14c or 14e)
A—Increase Dollars; B—Decrease Dollars; C—Increase Duration; D—Decrease Duration; E—Cancellation; F—Other (Specify):
Enter appropriate letter(s) ☐☐☐

18. DATE DUE TO FEDERAL AGENCY ► (Year month day) 19

19. FEDERAL AGENCY TO RECEIVE REQUEST
- a. ORGANIZATIONAL UNIT (IF APPROPRIATE)
- b. ADMINISTRATIVE CONTACT (IF KNOWN)
- c. ADDRESS

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT► To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
- a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
- b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE

24. APPLICATION RECEIVED (Year month day) 19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

SECTION III—FEDERAL AGENCY ACTION

27. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
- ☐ e. DEFERRED
- ☐ f. WITHDRAWN

28. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

29. ACTION DATE► (Year month day) 19

30. STARTING DATE (Year month date) 19

31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

32. ENDING DATE (Year month date) 19

33. REMARKS ADDED ☐ Yes ☐ No

NSN 7540-01-008-8162
PREVIOUS EDITION IS NOT USABLE

424-103

STANDARD FORM 424 PAGE 1 (Rev. 4-84)
Prescribed by OMB Circular A-102

OMB NO. 0348-0006

PART II
PROJECT APPROVAL INFORMATION

Item 1.
Does this assistance request require State, local regional, or other priority rating?
_____ Yes _____ No
Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No
Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No
Name of Approving Agency _____
Date _____

Item 4.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No
Check one: State ☐ Local ☐ Regional ☐
Location of Plan _____

Item 5.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No
Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 6.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No
Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 7.
Will the assistance requested have an impact or effect on the environment
_____Yes _____ No
See instructions for additional information to be provided.

Item 8.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____ Yes _____ No
Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 9.
Is there other related assistance on this project previous, pending, or anticipated
_____Yes _____ No
See instructions for additional information to be provided.

OMB NO. 0348-0006

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	- Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

OMB NO. 0348-0006

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach Additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV PROGRAM NARRATIVE (Attach per instruction)

PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines and requirements, including 45 CFR Part 74, and OMB Circulars No. A-102 and A-110, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.

6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.

9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

13. Applicants for the Administration for Native Americans Programs, hereby certify in accordance with 45 CFR 1336.53, that the financial assistance provided by the Office of Human Development Services for the specified activities to be performed under this program, will be in addition to, and not in substitution for, comparable activities provided without Federal assistance.

14. It will comply with the Age Discrimination Act of 1975 which provides that: No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity for which the applicant receives Federal financial assistance.

15. It will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

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federal register

Tuesday
January 29, 1985

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21, 25, and 36

Proposed Revision of Standards Governing the Noise Certification of Aircraft; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 25 and 36

[Docket No. 23340; Notice No. 85-2]

Proposed Revision of Standards Governing the Noise Certification of Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise certain provisions of the regulations prescribing requirements for aircraft noise certification to make them more understandable and easier to use. This proposal also contains substantive regulatory changes needed to simplify test requirements or minimize paperwork and recordkeeping requirements placed upon applicants by the current requirements. In large part, this proposal is based on the body of good engineering practice that has developed over the thirteen years since the original adoption of Part 36. These proposals also result from comments received from the general public and aviation industry in response to a Petition for Rulemaking from the Aerospace Industries Association of America. This proposal is part of the President's regulatory reform program to simplify regulations and reduce paperwork burdens.

DATE: Comments must be recieved on or before April 24, 1985.

ADDRESSES: Send comments on the rule in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23340, 800 Independence Avenue, SW., Washington, D.C. 20591;

Or deliver comments in duplicate to:

FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591

Comments may be examined in the Rules Docket, weekdays except Federal Holidays, between 8:30 a.m., and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Tedrick, Noise Policy and Regulatory Branch (AFE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23340." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Synopsis of the Proposal

Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. As the part is currently organized, Subparts B and C and Appendices A, B and C apply to transport category large airplanes and subsonic turbojet powered airplanes regardless of category. This Notice proposes to revise these sections of the Part to better reflect the actual technical basis for noise certification of aircraft. Substantive changes are proposed in the testing and in the recordkeeping and reporting requirements. As proposed, the Federal Aviation Administration (FAA) believes that while there would be a substantial cost reduction accrued as a result of these proposals, there will be no net increase or decrease in stringency for any class of aircraft. The FAA also believes that no increase or decrease in aircraft noise levels would result from the adoption of these proposals.

Changes in Test Requirements

The FAA proposes to make a number of changes to the noise certification test requirements to simplify the procedures, to clarify the content or intent of the tests, to update equipment specifications to better accommodate the use of modern digital electronics, and to further reduce the number of full flight tests conducted solely for approval of relatively minor aircraft modifications. One such change involves dropping from four to two the minimum number of sideline noise measuring stations used to define the maximum sideline noise. By placing the remaining microphones on either side of the point where the jet aircraft reaches 1000 feet altitude, the maximum noise can be determined at significantly lower costs for equipment, installation, calibration and data reduction.

Similarly, relative humidity and wind limits on test conditions would be opened up to maximize available test sites and usable days at those sites. The humidity limit, critical to the absorption of sound with distance, would be increased for those applicants using higher-precision instruments, while the proposed wind limit increase is based on experience. The requirement which specifies the location of the meteorological instrumentation is clarified to require that the weather be measured in the vicinity of the noise measuring stations, rather than at the nearest airport.

A number of technical changes are proposed to the analyzer specifications and to the data reporting requirements to facilities the use of a wider variety of instrumentation, particularly the newer digital analyzers. Further, because recent computer processing advances make it possible to use data closer to the ambient noise floor and in some cases to reconstruct data where parts of the spectrum are below the ambient, greater flexibility is proposed for the FAA in approving test and analysis procedures.

One of the major impacts of these proposals would be to provide clearer guidelines on the use of non-flight, supplemental tests to meet Part 36 regulatory requirements. The cost of noise certification of a single jet aircraft type often runs from several hundred thousand dollars to well over a million. Where a long production run of a complex and sophisticated aircraft is anticipated, this cost is generally insignificant when compared to the total development cost of the project. However, to meet the increasingly competitive nature of aviation in this decade, aircraft manufacturers have shortened production runs of standard models and now produce families of related short production run versions. A number of the changes in this proposal would make it easier to collect a flight data base of sufficient quality and breadth from the first aircraft in such a family that other related aircraft can be noise certificated using that data base supplemented by only relatively simple and inexpensive tests and analyses. For instance, under this proposal noise data from static tests conducted at either the engine or aircraft manufacturer's ground facilities may be approved, as appropriate, by FAA certificating authorities.

Changes in Documentation Requirements

It is anticipated that the documentation requirements on indsutry and on individual applicants would be reduced as a result of this proposal. These changes would improve the responsiveness of the FAA to initiatives from the private sector and would result in lower expenditures in manpower and effort by the Government in the review and approval of certification documents.

The changes already discussed in eliminating requirements for prior FAA approval of certain test procedures should greatly simplify the paperwork prior to the test, as well as simplify the test itself. As proposed in this notice, Part 36 would retain the requirement for an approved test plan, albeit a simpler one. Similarly, the certification report which contains the engineering data supporting the certification would also continue.

The paperwork after certification, however, is where this proposal will have its greatest effect. Currently, Part 36 requires that Airplane Flight Manuals (AFM) must contain all procedures that are employed in the flight test, the certificated noise levels, any weight limitations that were required to meet the noise level requirements, and "other information for the flight crew." While this did not appear to be an onerous burden at the time Part 36 was adopted, the FAA has found a number of situations where these seemingly simple requirements have resulted in an outlandish distortion of the legitimate functions of the AFM. Several large commercial jet aircraft types have certificated more than five thousand different versions each. As a result, the AFMs contain hundreds of pages of noise "information." Under these circumstances, it is often extremely difficult to identify which data are applicable to any particular airplane on a given day. However, a copy of the AFM is currently required to be carried on board every airplane.

After careful consideration of the issue, the FAA believes that it is appropriate to consider simplification in the Airplane Flight Manual reporting requirements. The AFM is a required document providing information necessary for the safe operation of the airplane. Aircraft weight limits or operating configurations required to meet Part 36 certification are placed in the limitations section of the AFM. However beyond this, the FAA now feels that only a minimum requirement for a Part 36 compliance statement and the takeoff, approach, and sideline noise levels for that specific airplane hardware configuration are necessary. Thus, the FAA proposes to clarify Parts 25 and 36 to preclude the continuing inclusion of needless inappropriate information in the Airplane Flight Manual.

Other Changes

The acoustical changes provisions of Part 21 would be clarified by specifically excepting from the noise certification requirements several temporary configurations and conditions used for maintenance. Since none of these conditions represents the permanent configuration of any aircraft type, the FAA feels that this action is consistent with Section 611 of the Federal Aviation Act (as amended).

Numerous references to obsolete dates and conditions would be removed to shorten and simplify Part 36 and several sections would be retitled more appropriately. All these proposed changes would aid in the clarification of both the rule and its intent.

Regulatory History

Since its adoption in November 1969, FAR Part 36 has been the basis for all Federal aircraft noise regulations in the United States. That regulation was structured to provide a firm, consistent foundation for subsequent rulemaking activities to abate and control aircraft noise. Part 36, therefore, includes precise instructions concerning the acquisition, processing, and documentation of noise data from inflight aircrtaft. As originally promulgated, Part 36 applied only to turbojet aircraft and propeller-driven transport category airplanes over 12,500 pounds maximum gross weight.

In 1975, noise certification standards for propeller-driven small airplanes were added. The noise level requirements for certain new turbojets and transport category airplanes were lowered in 1977. These lower noise level standards were applied in 1978 to derivations of older aircraft types. Standards for Concorde supersonic transport airplanes were also adopted in 1978.

Amendment 36-9, which was adopted in 1978, widely revised the test and analysis specifications contained in Appendices A and B of Part 36. The specifications were expanded to include technical details that had been omitted from the original publication. An example of this was the addition of a section on the calibration of acoustical test equipment. Other changes were made to bring FAR Part 36 into agreement with international standards on noise measurement and with the procedures adopted for noise certification by the International Civil Aviation Organization (ICAO).

On October 28, 1982, the FAA published for public comment a petition from the Aerospace Industries Association of America (AIA), on behalf of its member aircraft manufacturers, for amendment of FAR Parts 21 and 36. A discussion of the issues raised by this petition follows.

Petition for Rulemaking

Although this Notice is largely based upon an eighteen month review project initiated as a part of the Administration's regulatory reform program, the Notice was also influenced by a Petition for Rulemaking (47 FR 47854; October 28, 1982). This petition, from the Aerospace Industries Association of America (AIA) on behalf of its member aircraft manufacturers, was for amendment of Parts 21 and 36 of the Federal Aviation Regulations (14 CFR Parts 21 and 36). The AIA petition concerned the rules for turbojet airplanes and proposed: (a) Retaining the basic noise requirements that must be met for airplane noise certification; (b) deleting the detailed noise measurement and analysis specifications from the rule and issuing Advisory Circulars containing compliance demonstration techniques currently approved by the FAA; (c) simplifying procedures for noise

information reporting requirements in the Airplane FLight Manual; and (d) amending the acoustical change provisions of 14 CFR Part 21 to eliminate multiple compliance requirements such as demonstrations for non-standard operating configurations and alternative takeoff thrust options.

In response to the petition, the FAA opened Docket No. 23340 and accepted public comments and data until January 20, 1983. To assist the FAA in its review, comments were invited on ten specific issues raised in the petition. The following summary of the comments submitted to the Docket and the disposition of the issues is organized accordingly.

1. *Ways in which the "Regulation by Objective" (RBO) concept could be implemented within the framework and objectives of Parts 21 and 36.*

The majority of respondents (9 of 14 or 64%) felt that the present noise certification process must be maintained in order to retain the integrity of the certification process. However, a number of these respondents felt that certain segments of Parts 36 and 21 should be streamlined and updated to include new certification techniques recently introduced. It was felt that RBO would seriously undermine the technical validity of noise certification, hence lead to an eventual decline in noise standards. Many opponents to the AIA proposal felt that until RBO becomes a firm commitment on the part of the FAA, a program as such would not be "workable." Two respondents commented on the present "immature and unproven status" of the RBO.

Several respondents felt the AIA petition was directed only toward easing the burden of noise certification for the larger transport category planes and did not address specific noise certification issues pertinent to other types of aircraft, such as executive jet aircraft.

After considering these comments, the FAA is concerned that RBO (at least in this particular petition) was not adequately explained and detailed. Since the petition lacked specificity, commenters on both sides of the issue were left to their imaginations and to discuss their respective philosophies of regulation. The proposals contained in this Notice are more specific and cannot be labeled "Regulation by Objective." However, this is largely immaterial, since the proposals represent the best of current practice and thirteen years of experience by both FAA and industry.

2. *Cost savings and/or impacts that could be realized by adoption of RBO.*

Those in favor of the RBO approach to noise certification approved of it specifically because of the cost savings. No respondent offered any specific figures on potential cost savings, using instead AIA estimates. The AIA had previously estimated that up to 50% of noise certification costs could be saved in demonstration flight time alone. Additional savings were projected in administrative costs both to the FAA and to manufacturers.

However, opposing views were concerned about whether the cost savings would be worth the possible degradation of the noise certification process. For instance, one commenter claimed that "if measurement and analyses standards are stipulated in an Advisory Circular they will have to be regarded as negotiable and subject to possible relaxation and the international acceptability of FAA noise certification may as a result be called into question. This would place additional burdens upon the manufacturer."

The FAA shares the concerns expressed here. While it is important to minimize costs for both industry and Government, it is vital that the validity and reputation of U.S. noise certification actions should not be diminished. Further, the FAA does not want the process to create or to widen any differences between U.S. and ICAO aircraft noise certification levels or stringencies. The AIA petition, on this point, expressed the desire that the changes they recommended be carefully coordinated to eliminate already existing differences.

This Notice proposes to update specific certification measurement and analysis procedures on the basis of both national and international experience. The choice of procedures within the broad framework of FAR Part 36 and the responsibility of documenting the certification using those procedures would still be with the aircraft manufacturers under this proposal. The FAA would continue to approve Test Plans and ensure that the plan was followed in obtaining the certificated noise levels. However, the use of more modern equipment, instrumentation and methods would provide cost savings. Further, simplifications in the requirements (such as reductions in the number of sideline measurements) and increased use of supplemental tests (such as engine static tests in certifications of families of aircraft) would result in significant cost savings.

3. *Need for the Airplane Flight Manual (AFM) to document the results of noise certification.*

Nine of the fourteen respondents to the Docket commented upon this issue. About half of these felt that the elaborate noise level data currently included as part of the Flight Manual serve no operational purpose whatsoever. One commentator mentioned that there are certain other items which have direct effect on operations which are left out of the Flight Manual; hence there should be no need to include noise data. Four commenters felt that noise data could be better disseminated through other channels, such as advisory circulars, type certificate data sheets (TCDS), or the aviation safety analysis system.

A number of commentators in favor of retaining the noise certification documentation in the Flight Manual believed the manual could be simplified to eliminate irrelevant information, such as detailed enumeration of noise demonstration conditions. Several respondents suggested that a different noise unit such as the A-weighted decibel would be more responsive to airport user needs than the Effective Perceived Noise Level used for certification procedures.

The five respondents in favor of the continued use of the Flight Manual felt that the Flight Manual, containing official FAA noise data, is the most readily available and detailed document concerning noise level data. The Flying Tigers comments specifically questioned whether current information, though "questionable in usefulness," would be readily available through other means.

An association of business aircraft owners and operators expressed strong opposition to deleting the aircraft noise levels from the AFM. In fact, they went on to suggest that the AFM data should be expanded to provide the noise levels in at least one additional noise unit and to provide these data at "various conditions of weight, power." However, the various manufacturers' associations did not agree. They felt that very few airport authorities use or understand the noise data which are currently in the manual and thus "the requirement to publish the FAR 36 certification data in the AFM provides no useful data to the pilot in operations of the aircraft and should be deleted."

The FAA, after careful consideration of all of these comments and opinions, agrees that some simplification and clarification of the Airplane Flight Manual documentation requirements is necessary. Specifically, there does not appear to be any need to continue to use this forum to publish the flight operational procedures used during the noise certification tests. Therefore, it is proposed to eliminate that requirement. Beyond this, recent FAA experience indicates that there is wide variation in flight manuals between various

companies and that this variation largely results from lack of clarity in the current rule language. Accordingly, the FAA is proposing specific wording to eliminate this problem.

4. *Alternatives to the Airplane Flight Manual for documenting noise certification.*

The respondents on this issue suggested several alternatives to the AFM for documenting noise certification. An association of U.S. air carriers suggested that one possible alternative "would be an Engineering Report from the applicant to the FAA, with a letter response from FAA signifying that all noise certification requirements have been met."

Both the AIA and the General Aviation Manufacturers Association (GAMA) recommended the use of FAA Advisory Circulars which are designed for quick and easy updating. GAMA noted that Advisory Circulars have "the advantage of making more data available at one time, to a large number of people." They went on to suggest that additional data formats might be developed to present data resulting from use of low noise operating procedures. While the FAA endorses this suggestion, the expansion of the present Advisory Circular format does not require rulemaking action and will be considered separately.

5. *Excepting "nonstandard configurations" and derated engines from individual noise certification action.*

The majority of respondents felt that exceptions should be allowed for all multiple configuration demonstrations. They believed that sound differences are "inperceptible" and may be discernable only through analysis and not measurement. Comment was made that no other ICAO members state requires noise certification for different configurations. The British Civil Aviation Authority agrees with the AIA provided that the configuration is only temporary in nature. The CAA maintains that the environmental impact of such aircraft configurations is small.

Those opposing the exception feel that significant differences exist between different configurations, specifically between standard and stretched versions and between different engine complements. The Airport Operators Council International (AOCI) considers the AIA proposal "completely unrealistic." According to the opponents, basing compliance on a single reference airplane configuration and on one takeoff and landing procedure does not appear warranted based on past observations. The Flying Tigers object "vigorously" to the AIA proposal to eliminate noise certification at alternate thrust ratings. It has been their experience that alternate thrust ratings "can be of significant value when planning noise sensitive takeoffs at less than maximum takeoff gross weight."

The FAA believes that some of the comments cited above are based upon a misinterpretation of the petitioner's intent. It is the FAA's view that the AIA intended to seek an exception for configurations that, by their very nature, would not constitute the standard, or normal, operating configuration of the aircraft. One such configuration would be that where an engine is ferried from one point to another (presumably for maintenance purposes) by fastening it to the outside of the airplane in a location not normally occupied by an engine. To the extent that such configurations can be identified unambiguously, the FAA intends to except them.

6. *Means for simplifying the definition of and documentation for "acoustical changes."*

Only four respondents specifically addressed this proposal. One commentator agreed "in principle" since they were not directly affected. The other comment was a further reiteration from AIA of their initial proposal. The third, Mr. Edward Gaydos, believes that a derivative design "which incorporates the same engine-nacelle combination as the parent design, should not be expected to have noise levels greater than the parent design . . . and therefore should not be considered an acoustical change."

The FAA endorses these suggestions in principle.This Notice proposes to simplify the requirements somewhat while preserving the data quality of the present Part 36 requirements.

Since the petition did not propose specific simplifications, the public was unable to provide specific comments. However, the publication of this Notice will provide the public with the opportunity to comment on a series of definite proposals.

7. *Simplified (or alternative) noise test procedures and methods for correcting test results to Part 36 standard day conditions.*

Again, only four comments were received on this issue. Those commentors associated with aircraft manufacturing supported the idea of simplifying the existing test procedures. In part, this position reflected a concern for the cost of conducting the noise certification tests themselves. However, the major thrust of the argument was that, regardless of cost, knowledge of factors affecting noise measurements has increased significantly over the fifteen years that airplanes have been subject to noise certification requirements.

Only one commentor, a foreign certification authority, flatly opposed the concept of simplification citing the long record of reliability of the present methods and objecting to any deviation from international standards adopted by ICAO. Another foreign certification authority expressed, "with qualifications," approval of the principal of simplification. However, their comments also expressed preference for an evolutionary process in developing equivalent procedures rather than a sudden shift to vaguer, more generalized requirements.

After consideration of all these comments, the FAA agrees with the last cited commenter. It is obvious on the basis of nearly fifteen years' experience that the current test and correction procedures can and should be opened up somewhat. The proposals contained herein are intended to do exactly that. They are intended to lower the cost and complexity of noise certification while making no changes in the accuracy or reliability of the noise values derived from those tests.

8. *Coordination and comparison with the international noise certification procedures (ICAO Annex 16).*

Overwhelming support was given to coordinating FAA and ICAO standards. A point of discussion was the leadership position taken by the FAA in implementing of ICAO standards. The question is not whether coordination should exist between the two organizations, but whether the AIA proposal, if accepted by the FAA, will appeal to ICAO membership. Those respondents favoring the AIA proposal felt the FAA should lead the way in encouraging ICAO to adopt similar proposals.

Opponents of the AIA proposal believed that the amendments would only cause disagreement among the two organizations, thus hindering cooperation. The Dutch government was prompted to say, "it could well be that the American aircraft manufacturers will be faced with a problem with regard to the acceptance by foreign aviation authorities of their compliance demonstration to the ICAO Annex 16 requirements."

The FAA believes that commenters' stated objections to the AIA proposals lie principally with the concept of RBO. Since RBO is not included in this NPRM, the FAA expects that the expressed concerns about international harmony should be moot. Further, many of the three dozen specific proposed word

changes to Part 36 are intended to eliminate minor wording differences that have grown up over the years between the two standards. As a result, it is expected that this Notice will be generally viewed as a significant step toward international harmonization.

9. *Effectivity and applicability of the proposed rule.*

Only those in favor of the proposal commented on the issue of applicability. They believed the rules should be effective upon issuance applicable to any new type aircraft for which an application was initiated after the date the amended rule was issued. Under the petition, only certifications of large transport category airplanes and subsonic turbojet airplanes would be affected. GAMA felt the "concept" of the proposed rule change could also be applied to small propeller-driven airplanes.

10. *Stringency and technical validity of noise certification and noise data collected under the proposed rule modifications.*

Since actual noise limits would not have been altered by the AIA proposal, those in favor of the proposal believed that no change would occur in the stringency and technical validity of noise certification. One respondent mentioned that stringency and technical validity are not necessarily related. The proponents belief that data quality "may even improve" due to new techniques was disputed by the opponents. These commentators believed that questions may arise concerning a specific noise test due to different noise gathering techniques, thus creating a lack of faith in the FAA's noise certification process. Some even saw the AIA proposal as the beginning of the dismantling of existing noise rules and limits under the guise of regulation by objective.

The FAA does not see it that way. While the AIA petition was vague in many respects, the FAA does not believe that its purpose was to dismantle or impede U.S. aircraft noise certification. Such a result would be counterproductive and would cause more problems than the slight savings would justify. However, the noise certification rules do not appear to be a suitable candidate for conversion to RBO. Accordingly, this Notice proposes specific wording changes to outmoded, outdated, and unclear regulatory passages, rather than the fundamental sweeping changes necessary to incorporate RBO.

Need for Regulation

Because FAR Part 36 has been regarded generally as both fair and reasonable, the noise certification program in the United States has been effective in maintaining a balance between legitimate environmental concerns and development of economically viable aircraft. However, as with any regulation, there has gradually arisen a need to review and overhaul the regulation in order to maintain that balance. In this particular instance, the need arises mainly from two developments.

The first is the recognition that many of the time-phased noise certification requirements that were originally written into Part 36 or introduced in subsequent amendments are simply no longer pertinent to anyone. This is particularly true of requirements that were based on the original date of application for new or amended type certificates. As amendments were added, applicants who had applied prior to the effective date of the amendment were "grandfathered" so as to not place undue burden on those who, in good faith, had already begun development. However, as those applicants completed their programs the need for such grandfathering provisions disappeared. Accordingly, many of the amendments proposed in this Notice are to delete such outdated provisions and to renumber or restructure the remaining sections. This action will greatly clarify the intent and application of the Part.

A second impetus to the proposed revisions comes from changes in the aircraft industry itself. Partly as a result of airline deregulation, airplane manufacturers have found it necessary to certificate and deliver more specialized versions of the same aircraft type. This has the effect of developing families of related short production run aircraft. Since there is no technical reason for requiring each version to be individually flight tested, Part 36 needs amendment to allow new, alternative, simpler tests (such as engine static tests) and analysis procedures. Related simplifications are also necessary in the documentation requirements to minimize paperwork burdens on the private sector. In the case of the Aircraft Flight Manual, it is also necessary to clarify the requirements for the noise section to ensure that only data pertinent to the specific aircraft are included.

Discussion of the Proposal

Acoustical Change

In the United States, noise certification of aircraft is an integral part of the total airworthiness certification process. The requirement to meet FAR Part 36 noise standards is triggered by the airworthiness certification procedures of Part 21. This is very specifically true of acoustical changes. These are changes to the aircraft type design which might affect the noise emission characteristics of the aircraft. The definition of acoustical change and the requirement to meet Part 36 standards for certain types of design changes meeting that definition are in Part 21. Therefore, in proposing to modify the acoustical change requirements for certain aircraft, the FAA proposes to modify § 21.93(b) of FAR Part 21.

Specifically, the FAA proposes to exempt from the definition of acoustical change for turbojet aircraft and transport category large aircraft (a) gear down flight with one or more retractable landing gear during the entire flight and (b) spare engine and nacelle carriage external to the skin of the airplane and the return of the pylon or other external mount. These two conditions add considerable drag to the aircraft and are only flown in unusual circumstances. For example, external spare engine and nacelle carriage is generally only necessary to support the unscheduled maintenance of a disabled aircraft. Because it is uneconomic to fly extended periods with the severely increased drag imposed by either of the two proposed exemption conditions, the FAA does not believe that they should be subject to the same noise certification requirements as permanent, in-service configurations.

Aircraft Flight Manual

Over the past several years, there has been some concern that the aircraft operational limits, if any, that are estabished as a result of FAR 36 type certification are not being expressed properly in the Aircraft Flight Manual (AFM) when combined with the airworthiness limitations. To clarify the intent of the existing regulations, it is proposed to add clarifying language in Part 25 (where the other AFM requirements are listed) and in Part 36. The Part 25 change would clarify the maximum certificated weight of the airplane when it is necessary to limit the maximum gross weight in order to meet the noise limits of Part 36.

Similarly, Part 36 would be amended to clarify that there can only be one takeoff, one approach, and one sideline noise value developed and reported as the certificated values in the AFM. If the manufacturer wants to put noise numbers for other conditions in the AFM, they must be segregated and identified as information separate from the certificated noise levels values. While this Notice does not propose to

change this requirement, it more clearly states its intent. It is also proposed to clarify use of the terms, Stage 1, Stage 2, and Stage 3 airplanes, by categorically stating that each airplane must be one or another but may not be identified as complying with more than one Stage.

Obsolete Dates and Conditions

Numerous reference to dates and conditions that are no longer pertinent to present and future applicants for type certification would be removed under this proposal. The intent here is to simplify Part 36 to make it easier for applicants to determine which, if any, provisions apply directly to them. With the removal of these references and sections, it will be necessary to renumber certain sections of Part 36.

Certification Reports

Among the existing documentation requirements is one for a technical data report on the certification tests and results. This Notice would clarify Section 36.1501 to better describe the information necessary to be included and would for the first time specifically allow inclusion of data from supplemental tests (such as ground-based static tests of engines). This increased flexibility is intended to allow wider use of cost-saving equilvalent procedures as long as the data can be analyzed to yield results that would be the same as if the aircraft had been completely flight tested. No increase in documentation requirements will result—only better definition of the requirements, themselves.

Test Requirements

This Notice would simplify noise certification test requirements in several ways. In each case, the intent of the proposed change would be to lower the cost of certification without diluting the quality of the noise data used for certification. In some cases, the costs would be lowered by widening the acceptable weather window during which tests may be conducted. This would lower costs to both industry and government by minimizing delays which presently tie up equipment, aircraft and personnel for days while waiting for specific weather conditions. One proposal would allow the temperature and relative humidity limits to be increased in those cases where relative humidity is measured by a more accurate instrument. Another weather-related proposal would increase the allowable average wind from 10 knots to 12 knots and the crosswind from 5 knots to 7 knots. The maximum wind velocity could not exceed 15 knots with a limit of 10 knots crosswind. This Notice also proposes to clarify that the weather should be measured in the vicinity of the noise measuring stations, rather than at the nearest airport.

A number of changes are proposed in the technical specifications for the electronic equipment used in the collection and analysis of the noise data. These changes follow closely the standards adopted by the International Civil Aviation Organization (ICAO) and should minimize costs where manufacturers have to certificate to both ICAO and U.S. standards.

The major change to the Part 36 test requirements from this Notice would be to change the sideline microphone array specified in Section A36.1(b) of Appendix A. The FAA proposes to change the required minimum number of microphones from four to two. These would be placed on either side of the point where the jet aircraft reaches 1000 feet altitude to determine the maximum noise. Because of the difficulties encountered by applicants in finding appropriate test sites that can accommodate the larger present array, the FAA believes that this particular proposal will significantly ease regulatory burdens.

Data Correction and Analysis

Section A36.5 of Appendix A would be amended to clarify the information that is needed to correct the data to standard reference conditions. Specifically, only those engine performance parameters relevant to noise generation, such as net thrust, engine pressure ratio, exhaust temperatures, and fan or compressor rotational speeds, would be reported. The meteorological requirements would be clarified to acknowledge that the FAR Part 36 reference atmosphere should be considered homogeneous. Aircraft sound pressure levels under the proposal would need to exceed the ambient background noise by only 3 decibels instead of the present 5 decibels. The proposal would even allow lower signal-to-noise ratio if the method for separating the signal from the noise is approved by the FAA. Several other amendments to Appendices A and B of FAR 36 are proposed that would make relatively minor changes to mathematical constants in the correction procedures or that would make minor revisions in the description of the procedures. These are considered to be clarifying, not substantive, in nature.

Regulatory Impact Evaluation

The FAA conducted a detailed regulatory evaluation which is included in the regulatory docket. This evaluation reviews all proposed changes to Parts 21 and 36. The FAA determined that this NPRM is consistent with the objectives of Executive Order 12291 as part of the President's Regulatory Reform Program to reduce regulatory burdens on the public. This NPRM imposes no additional costs on the Federal Government.

The amendments proposed in the NPRM would provide benefits in the aggregate to the aviation public. These amendments would provide general benefits to the aviation public by deleting obsolete requirements, updating equipment requirement with respect to the state-of-the-art, updating and clarifying the text, and relaxing certain documentation requirements. The regulations would be more concise and easier to understand. In addition, these proposed amendments to Part 36 are expected to provide several other benefits to the general public, including: commonality and a more logical progression of the rules, reduced complexity, and deletion of redundancies and obsolete compliance dates. These changes will provide a regulation that is easier to read and understand, and will therefore, reduce the amount of study time for person who are responsible for knowing and complying with the regulation. No additional costs are expected to result from the proposed rule changes.

Therefore, it is certified that this proposal is not a major rule under E.O. 12291, and is not significant pursuant to DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The FAA invites comments on the regulatory evaluation which is included in the Docket. A copy of the initial regulation evaluation may be examined in the public docket or obtained from the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Regulatory Flexibility Determination

As detailed in the evaluation, all but four of the proposed changes to Part 36 are editorial or clarifying changes. Three of the four other changes result only in minimal benefits. The other proposal is a change to § A36.1(b) which will lower the cost with no change in benefit. Any economic savings would be minor—approximately $5000 per aircraft certification. Only three aircraft manufacturers and less than twelve aircraft modifiers fall under the definition of small entities. Thus, the change could not be construed to have a significant economic impact on a substantial number of entities.

Therefore, it is certified that the proposal, if enacted, will not have

significant economic impact on a substantial number of "small intities" under the criteria of the Regulatory Flexibility Act.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1C), the FAA has determined that this proposal would not constitute a major Federal action significantly affecting the quality of the human environment. The proposed changes are either technical of clarifying in nature and would neither raise nor lower aircraft noise levels. Therefore, no environmental assessment or environmental impact statement was prepared.

List of Subjects

14 CFR Parts 21 and 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 36

Aircraft, Noise control.

The Proposed Amendments

PART 21—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend Part 36 of the Federal Aviation Regulations (14 CFR Part 25.25 and in 36) in part as follows:

§ 21.93 [Amended]

1. Section 21.93(b) would be amended to revise paragraph (b)(2) to read as follows:

* * * * *

(b) * * *

(2) Turbojet powered airplanes (regardless of category). For airplanes to which this paragraph applies, "acoustical changes" do not include changes in type design that are limited to one of the following—

(i) Gear down flight with one or more retractable landing gear down during the entire fight, or

(ii) Spare engine and nacelle carriage external to the skin of the airplane (and return of the pylon or other external mount), or

(iii) Time-limited engine and/or nacelle changes, where the airplane may not be operated for a period of more than 90 days unless compliance with the applicable acoustical change provisions of Part 36 of this chapter is shown for that change in type design.

* * * * *

PART 25—[AMENDED]

§ 25.25 [Amended]

2. Section 25.25 would be amended by adding ";or" to the end of paragraph (a)(2) by adding a new paragraph (a)(3) to read as follows:

(a) * * *

(3) The highest weight at which compliance is shown with the certification requirements of Part 36 of this chapter.

* * * * *

PART 36—[AMENDED]

3. Section 36.1 would be amended to add a new paragraph (g) to read as follows:

§ 36.1 Applicabilty and definition.

* * * * *

(g) For purposes of showing compliance with this Part for transport category large airplanes and turbojet airplanes regardless of category, each airplane must be shown to be either a Stage 1, a Stage 2, or a Stage 3 airplane and may not be identified as complying with more than one Stage.

* * * * *

§ 36.7 [Amended]

4. Section 36.7(c)(1) would be amended by revising the last sentence to read as follows:

* * * * *

(c) * * *

(1) * * * The tradeoff provisions of Section C36.5(b) of Appendix C of this Part may not be used to increase the Stage 1 noise levels, unless the resulting aircraft qualifies as a Stage 2 airplane.

* * * * *

5. Section 36.7 (d) and (e) would be revised to read as follows:

* * * * *

(d) Stage 2 airplanes. If an airplane is a Stage 2 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) Airplanes with high bypass ratio turbojet engines. For an airplane that has turbojet engines with a bypass ratio of 2 or more before a change in type design—

(i) The airplane after the change in type design may not exceed either (A) each Stage 3 noise limit by more than 3 EPNdB, or (B) each Stage 2 noise limit, whichever is lower;

(ii) The tradeoff provisions of Section C36.5(b) of Appendix C of the Part may be used in determining compliance under this paragraph with respect to the Stage 2 noise limit or to the Stage 3 plus 3 EPNdB noise limits, as applicable; and

(iii) During the takeoff and sideline noise test conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(2) Airplanes that do not have high bypass ratio turbojet engines. For an airplane that does not have turbojet engines with a bypass ratio of 2 or more before a change in type design—

(i) The airplane may not be a Stage 1 airplane after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(e) Stage 3 airplanes. If an airplane is a State 3 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) If compliance with Stage 3 noise levels is not required before the change in type design, the airplane must—

(i) Be a Stage 2 airplane after the change in type design and compliance must be shown under the provisions of paragraph (d)(1) or (d)(2) of this section, as appropriate; or

(ii) Remain a Stage 3 airplane after the change in type design and compliance must be shown under the provisions of paragraph (e)(2) of this section.

(2) If compliance with Stage 3 noise levels is required before the change in type design, the airplane must be a Stage 3 airplane after the change in type design.

* * * * *

6. Section 36.201(b) would be revised to read as follows:

* * * * *

(b) For applications for type certification for subsonic transport category large airplanes and all subsonic turbojet powered airplanes, it must be shown that the noise levels of the airplane are no greater than the Stage 3 noise limits prescribed in section C36.5(a)(3) of Appendix C of this Part.

* * * * *

§ 36.201 [Amended]

7. Section 36.201 (c) and (d) would be removed.

8. Section 36.1501 would be revised to read as follows:

§ 36.1501 Procedures, noise levels and other information.

(a) All procedures, weights, configurations, and other information or data that are employed for obtaining the certificated noise levels prescribed by

this Part must be developed and approved, including equivalent procedures used for flight, test, and analysis. This must include noise levels achieved during type certification.

(b) Where supplemental test data are approved for modification or extension of an existing flight data base, such as acoustic data from engine static tests used in the certification of acoustical changes, the test procedures, physical configuration, and other information and procedures that are employed for obtaining the supplemental data must be developed.

§ 36.1581 [Amended]

9. Section 36.1581(a) would be amended by adding the following subparagraphs (1) and (2):

(a) * * *

(1) For transport category large airplanes and turbojet powered airplanes, the noise level information must be one value each for takeoff, sideline, and approach as defined and required by Appendix C of this Part, along with the associated maximum takeoff weight, maximum landing weight, and configuration.

(2) For propeller driven small airplanes the noise level information must be one value for flyover as defined and required by Appendix F of this Part, along with the associated maximum takeoff weight and configuration.

* * * * *

10. Existing § 36.1581(b) would be redesignated (c), existing paragraph (c) removed, and a new paragraph (b) added to read as follows:

* * * * *

(b) If supplemental operational noise level information is included in the approved portion of the Airplane Flight Manual, it must be segregated, identified as information in addition to the certificated noise levels, and clearly distinguished from the information required under 36.1581(a).

* * * * *

11. Section 36.1581 is further amended by redesignating paragraphs (d) and (e) as (e) and (f), respectively, and by adding a new paragraph (d) to read as follows:

* * * * *

(d) For transport category large airplanes and turbojet powered airplanes, for which the weight used in meeting the takeoff or landing noise requirements of this Part is less than the maximum weight established under the applicable airworthiness requirements, those lesser weights must be furnished, as operating limitations, in the operating limitations section of the Airplane Flight Manual. Further, the maximum takeoff weight must not exceed the takeoff weight that is most critical from a takeoff noise standpoint.

* * * * *

The following changes are made to Appendix A to Part 36:

12. Section A36.1(b) would be amended to revise paragraph (1) to read as follows:

* * * * *

(b) * * * (1) Tests to show compliance with established aircraft noise certification levels must consist of a series of takeoffs and approaches (or stabilized flight path segments thereof) during which measurements must be taken at noise measuring stations located at the measuring points prescribed in § C36.3 of Appendix C of this Part. Each recorded segment must include measurements throughout the entire time period in which the recorded signal is within 10 dB of PNLTM.

* * * * *

13. Section A36.1(b) would be amended to revise paragraph (7) to read as follows:

* * * * *

(b) * * *

(7) A minimum of two noise measuring stations, symmetrically positioned about the test flight track, must be used to define the maximum sideline noise with respect to location and level as required by § C36.3 of Appendix C of this Part. For turbojet powered aircraft, the maximum sideline noise may be assumed to occur at the point (or its approved equivalent) along the extended centerline of the runway where the aircraft reaches 1000 feet (305 meters) altitude. For aircraft powered by other than turbojet engines, the altitude for maximum sideline noise must be determined experimentally.

* * * * *

14. Section A36.1(c) would be amended to revise paragraphs (3) and (4) to read as follows:

* * * * *

(c) * * *

(3) Relative humidity and ambient temperature over that portion of the sound propagation path between the aircraft and a point 10 meters above the ground at the noise measuring station is such that the sound attenuation in the one-third octave band centered at 8 kHz is not greater than 12 dB/100 meters and the relative humidity is between 20 and 95 percent, inclusively. However, if the dew point and dry bulb temperature used for obtaining relative humidity are measured with a device which is accurate to within ±0.5°C, the sound attenuation rate shall not exceed 14 dB/100 meters in the one-third octave band centered at 8 kHz.

(4) Average wind velocity 10 meters above ground does not exceed 12 knots and the crosswind component does not exceed 7 knots. The average wind shall be determined using a thirty-second averaging period spanning the 10 dB down time interval. Maximum wind velocity 10 meters above ground does not exceed 15 knots and the crosswind component does not exceed 10 knots during the 10 dB down time interval.

* * * * *

15. Section A36.1(d) would be amended to remove subparagraphs (5)(iii) and (7)(iii).

16. Section A36.3 would be amended by redesignating paragraphs (c)(2) (ii), (iii) and (iv) as (c)(2) (iii), (iv) and (v), respectively, by revising (c)(2)(i), and by adding a new (c)(2)(ii) to read as follows:

* * * * *

(c) * * *

(2) * * *

(i) After an adequate "warm-up" period, at least as long as that specified by the equipment manufacturer, the system output for constant acoustical input shall change by not more than 0.3 dB within any one hour nor by more than 0.4 dB within 5 hours.

(ii) The variation of microphone and preamplifier system sensitivity within an angle of ±30 degrees of grazing (60–120 degrees from the normal to the diaphragm) must not exceed the following values:

Frequency (Hz)	Change in sensitivity (dB)
45 to 1120	1
1120 to 2240	1.5
2240 to 4500	2.5
4500 to 7100	4
7100 to 11200	5

The variation of microphone sensitivity in the plane of the diaphram must not exceed ±0.5 dB over the same frequency range.

17. Section A36.3(d) would be amended to revise paragraphs (2), (5), and (6) to read as follows:

* * * * *

(2) A set of 24 consecutive one-third octave filters must be used. The first filter of the set must be centered at a geometric mean frequency of 50 Hz and the last filter at 10,000 Hz.

(i) The output of each filter must contain less than 0.5 dB ripple.

(ii) The correction for effective bandwidth relative to the response at the center frequency response for each one-third octave band filter must be determined by measuring the filter response to sinusoidal signals at a minimum of 20 frequencies equally spaced between the two adjacent preferred one-third octave frequencies or by using an approved equivalent procedure.

* * * * *

(5) The averaging properties of the integrator must be tested as follows:

(i) White noise must be passed through the 200 Hz one-third octave band filter and the output fed in turn to each detector/integrator. The standard deviation of the measured levels must than be determined from a large number of samples of the filtered white noise taken at intervals of not less than 5 seconds. The value of the standard deviation must be within the interval 0.45±0.06dB for a probability limit of 95 percent. (An approved equivalent method may be substituted for this

test on those analyzers where the test signal cannot readily be fed directly to each detector/integrator.)

(ii) For each detector/integrator, the response to a sudden onset or interuption of a constant amplitude sinusoidal signal at the respective one-third octave band center frequency must be measured at sampling times 0.5, 1.0, 1.5 and 2.0 seconds after the onset or interruption. The rising responses must be the following amounts below the steady-state level:

0.5 seconds	4.0±1.0 dB
1.0 seconds	1.75± 0.75 dB
1.5 seconds	1.0± 0.5 dB
2.0 seconds	0.6± 0.5 dB

(iii) The falling response must be such that the sum of the decibel readings (below the initial steady-state level) and the coresponding rising response reading is 6.5±1.0 dB, at each sampling time.

(iv) Analyzers using true integration cannot meet the requirements of (i), (ii), and (iii) directly, because their overall average time is greater than the sampling interval. For these analyzers, compliance must be demonstrated in terms of the equivalent output of the data processor. Further, in cases where readout and resetting require a dead-time during acquisition, the percentage loss of the total data must not exceed one percent.

(6) The sampling interval between successive readouts shall not exceed 500 milliseconds and its precise value must be known to within ±1 percent. The instant in time by which a readout is characterized, shall be the midpoint of the average period. (The averaging period is defined as twice the effective time constant of the analyzer.)

* * * * *

18. Section A36.3(e) would be amended to revise the first sentence of paragraph (7) to read as follows:

(e) * * *

(7) A performance calibration analysis of each piece of calibration equipment, including pistonphones, reference microphones, and voltage insert devices, must have been made during the six calendar months * * *

* * * * *

19. Section A36.5(b) would be amended to revise subparagraphs (5)(vi) and (vii) to read as follows:

* * * * *

(b) * * *

(5) * * *

(vi) Engine performance parameters relevant to noise generation, such as net thrust, engine pressure ratio, exhaust temperatures, and fan or compressor rotational speeds.

(vii) Aircraft flight path (altitude versus distance and lateral deviation from flight track in feet).

* * * * *

20. Section A36.5(c)(1) would be amended by adding the word "homogeneous" ahead of the words "atmospheric conditions."

* * * * *

21. Section A36.5(c) would be amended to revise subparagraph (2)(i) to read as follows:

* * * * *

(c) * * *

(2) * * *

(i) Maximum landing weight, except as provided in 36.1581(c) of this Part;

* * * * *

22. Section A36.5(d) would be amended to revise the first sentence of paragraph (3) to read as follows:

* * * * *

(d) * * *

(3) Aircraft sound pressure levels within the 10 dB-down points (described in section B36.9 of Appendix B) must exceed the mean background sound pressure levels determined under section A36.3(f)(3) by at least 3 dB in each one-third octave band * * *

* * * * *

23. Section A36.5(d) would be amended to add new subparagraphs (4)(5) to read as follows:

* * * * *

(d) * * *

(4) Where more than seven one-third octaves are within 3 dB of the ambient noise levels a time/frequency interpolation of the noise data shall be performed using an approved procedure.

(5) If equivalent test procedures, different from the reference procedures are used, the test procedures and all methods for adjusting the results to the reference procedures must be approved by the FAA. The amounts of adjustments must not exceed 16 EPNdB on take-off and 8 EPNdB on approach, and if the adjustments are more than 8 EPNdB and 4 EPNdB respectively, the resulting numbers must not be within 2 EPNdB of the appropriate Appendix C noise levels including tradeoffs.

* * * * *

24. Section A36.5(e) would be amended to substitute the word "mean" for the word "average" for every use in this section and add a new paragraph (4) to read as follows:

* * * * *

(e) * * *

(4) If equivalent procedures are to be used to certificate several airplane configurations of the same type from noise tests of a single airplane, the test procedures and analysis methods must be approved by the FAA. The request for approval must identify the noise measurement test procedures and data base, the airplane configurations, procedures and analysis methods, the method for establishing the 90 percent confidence limit for each noise certification level, and the proposed equivalent procedures.

* * * * *

25. Section A36.9 would be amended to revise paragraph (b)(1) to read as follows:

* * * * *

(b) * * *

(1) The wind velocity, temperature and relative humidity measurements required under this Part must be measured in the vicinity of the noise measuring stations. The location of the meteorological measurements must be approved by the FAA as representative of those atmospheric conditions existing near the surface over the geographical area in which aircraft noise measurements are made. In some cases, a fixed meteorological station (such as those found at airports or other facilities) may meet this requirement.

* * * * *

26. Section A36.9 would be amended to revise paragraph (d)(2) to read as follows:

* * * * *

(d) * * *

(2) If the atmospheric absorption coefficients do not vary over the sound propagation path by more than ±1.65 dB/1000 ft (±0.5 dB/100 meters) in the 3150 Hz one-third octave band from the value of the absorption coefficients derived from the meteorological measurement obtained at 10 meters above the surface, the mean of the values of the atmospheric absorption coefficients at the altitude of the aircraft and at 10 meters above the surface may be used to determine the atmospheric attenuation rates for each one-third octave band. The resulting atmospheric attenuation rate may be used to compute the PNLT correction under section A36.11(d) of this appendix.

* * * * *

27. Section A36.11(a) would be amended to remove from subparagraph (3)(v) the phrase "in the form of curves or tables giving the variation of EPNL with approach angle."

28. Section A36.11(e) introductory text would be amended to revise the first sentence to read, "If the measured takeoff and approach flight paths do not conform to those prescribed as the corrected and reference flight paths, respectively, under § A36.11 (b) and (c) it will be necessary to apply duration corrections to the EPNL values calculated from the measured data."

29. Section A36.11(e) would be amended to revise the formula only in paragraphs (1), (2) and (3) to read as follows:

* * * * *

(1) *Takeoff flight path.* For the takeoff flight path shown in Figure A3, the correction term is calculated using the formula—

$$\Delta 2 = -7.5 \log (KR/KRc)$$

* * * * *

(2) *Approach flight path.* For the approach flight path shown in Figure A6, the correction term is calculated using the formula—

$$\Delta 2 = -7.5 \log (NT/393)$$

* * * * *

(3) *Sideline flight path.* For the sideline flight path, the correction term is calculated during the formula—

$$\Delta 2 = -7.5 \log (LX/LXc)$$

* * * * *

30. Section A36.11 is amended by revising paragraph (f) introductory text,

(f)(1), (f)(2) and (f)(2)(ii) to read as follows:

* * * * *

(f) *Nonstandard location correction.* All takeoff and approach noise measurements must be conducted at the measuring points prescribed in § 36.1 of Appendix C, except where it is necessary to bring the measurement station closer to the aircraft flight path to ensure recording the complete flyover noise/time record required by § B36.9(f) of Appendix B of this Part (i.e., a flyover noise/time record which includes the required period before and after the 10 dB-down point from PNLTM). The EPNL value computed from these measurements must be corrected to the value that would have occurred at the prescribed measuring points under one of the following procedures:

(1) *Simplified procedure.* Unless the amount of adjustment exceeds 8 dB on takeoff or 4 dB on approach, or the correction results in a final EPNL value which is within 1.0 dB of the noise levels . . . prescribed in Appendix C of this part, the following correction procedure must be used:

(2) *Integrated procedure.* If the amount of adjustment exceeds 8 dB on takeoff or 4 dB on approach, or the correction results in a final EPNL value which is within 1.0 dB of the noise levels . . . prescribed in Appendix C of this part, the following correction procedure must be used:

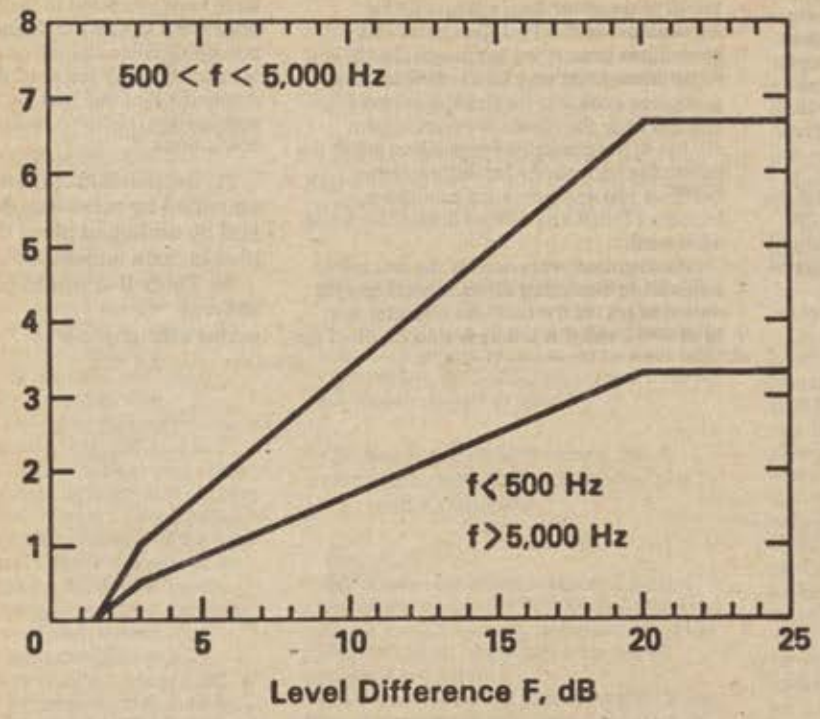
(ii) After the measured ½-second spectra have been corrected to the measuring points prescribed in § 36.1 of Appendix C, the remaining noise evaluation . . . must be conducted under the procedures prescribed in Appendix B of this part, including the appropriate reference thrust and airspeed corrections.

31. Section B36.5(h) would be amended by removing the word "zero", and by adding in place thereof the phrase "one and a half".

32. Table B–2 would be revised as shown:

BILLING CODE 4910-13-M

Table B2 — Tone Correction Factors



Frequency f, Hz	Level Difference F, dB	Tone Correction C, dB
50 ≤ f < 500	1½* ≤ F < 3	F/3 − ½
	3 ≤ F < 20	F/6
	20 ≤ F	3½
500 ≤ f ≤ 5,000	1½* ≤ F < 3	2 F/3 − 1
	3 ≤ F < 20	F/3
	20 ≤ F	6 2/3
5,000 < f ≤ 10,000	1½* ≤ F < 3	F/3 − ½
	3 ≤ F < 20	F/6
	20 ≤ F	3 1/3

*See Step 8

33. Section B36.9(c) would be amended to revise the definition of Δt as follows:

* * * * *

$\Delta t = 0.5$ sec. (or the approved sampling time interval), and

* * * * *

34. Section B36.9(f) would be revised to read as follows:

* * * * *

(f) The aircraft testing procedures must include the 10 dB-down points in the flyover noise/time record.

* * * * *

35. Section B36.11 would be amended to add a paragraph (c) to read as follows:

* * * * *

(c) If, during a test flight, one or more peak values of PNLT are observed which are within 2 dB of PNLTM, the value of EPNL shall be calculated for each, as well as for PNLTM. If any EPNL value exceeds the value at the moment of PNLTM, the maximum value of such exceedance must be added as a further adjustment to the EPNL calculated from the measured data.

36. Section B36.13 would be amended to revise paragraphs (a) and (b), Figure B3, and by adding Table B4 to read as follows:

* * * * *

(a) The relationship between sound pressure level and perceived noisiness given in Table B1 is illustrated in Figure B3. The variation of log (n) with SPL for a given one-third octave band can be expressed by straight lines as shown in Figure B3.

(1) the slopes of the straight lines M(b), M(c), M(d) and M(e);

(2) the intercepts of the lines on the SPL axis, SPL (b) and SPL (c); and

(3) the co-ordinates of the discontinuities, SPL (a) and log n(a); SPL (d) and log $n = -1.0$; and SPL (e) and log $n = \log (0.3)$.

(b) The important aspects of the mathematical formulation are:

(1) SPL > SPL (a)
$n = \text{antilog } [M(c) (SPL - SPL(c))]$

(2) SPL (b) < SPL < SPL (a)
$n = \text{antilog } [M(b) (SPL - SPL(c))]$

(3) SPL (e) < SPL < SPL (b)
$n = \text{antilog } [M(e) (SPL - SPL(b))]$

(4) SPL (d) < SPL < SPL (e)
$n = 0.1 \text{ antilog } [M(d) (SPL - SPL(d))]$

* * * * *

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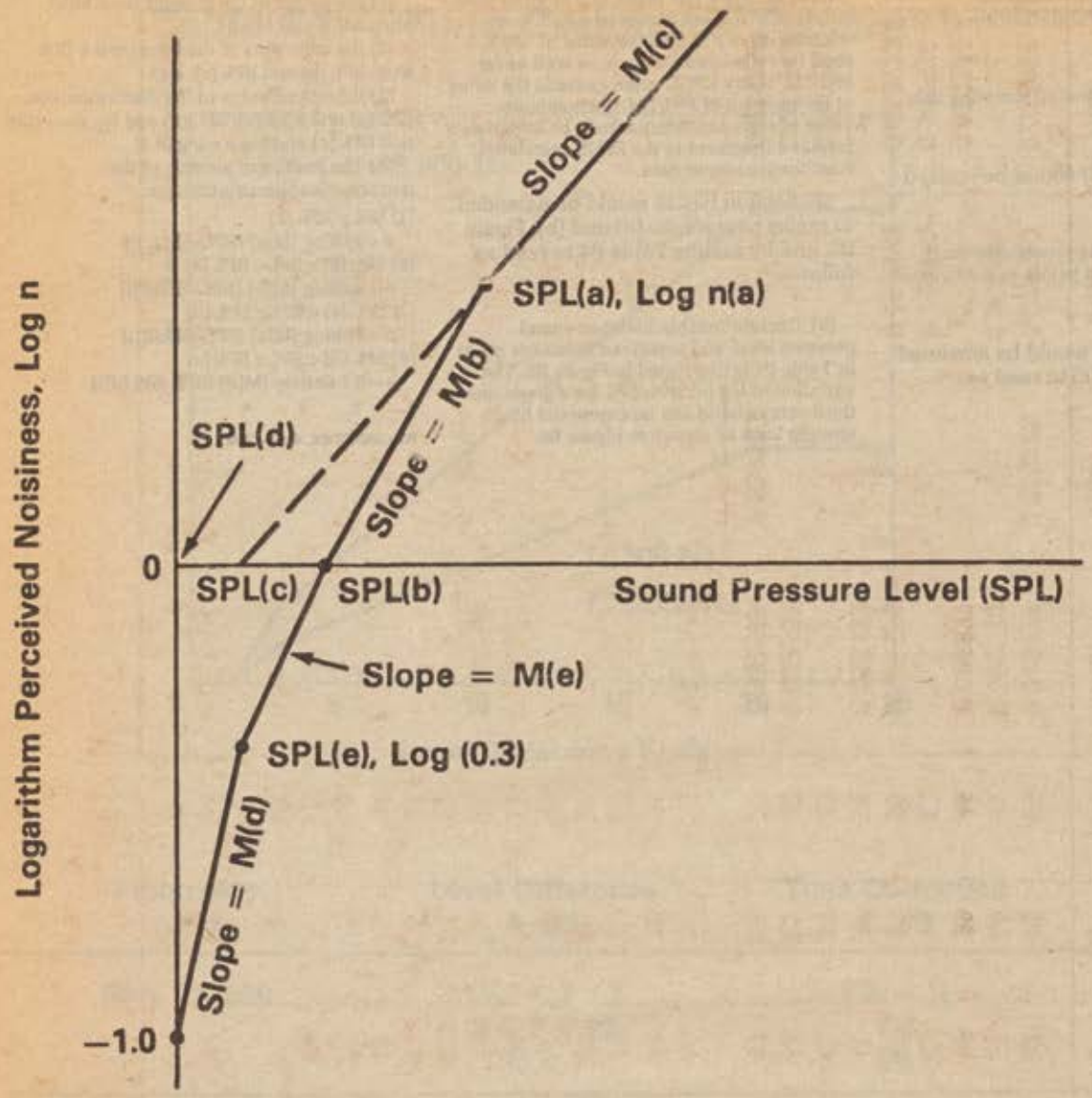

Fig. B3. Perceived Noisiness As a Function of Sound Pressure Level.

Table B4 Constants for Mathematically Formulated NOY Values

Band (i)	f Hz	SPL (a)	SPL (b)	SPL (c)	SPL (d)	SPL (e)	M(b)	M(c)	M(d)	M(e)
1	50	91.0	64	52	49	55	0.043478	0.030103	0.079520	0.058098
2	63	85.9	60	51	44	51	0.040570	↕	0.068160	"
3	80	87.3	56	49	39	46	0.036831		"	0.052288
4	100	79.9	53	47	34	42	"		0.059640	0.047534
5	125	79.8	51	46	30	39	0.035336		0.053013	0.043573
6	160	76.0	48	45	27	36	0.033333		↕	"
7	200	74.0	46	43	24	33	"			0.040221
8	250	74.9	44	42	21	30	0.032051			0.037349
9	315	94.6	42	41	18	27	0.030675	0.030103		0.034859
10	400	∞	40	40	16	25	0.030103			↕
11	500	↕	40	40	16	25	↕			
12	630		40	40	16	25				
13	800		40	40	16	25				
14	1000		40	40	16	25			0.053013	
15	1250		38	38	15	23	0.030103	Not	0.059640	0.034859
16	1600		34	34	12	21	0.029960	Applicable	0.053013	0.040221
17	2000		32	32	9	18	↕		"	0.037349
18	2500		30	30	5	15			0.047712	0.034859
19	3150		29	29	4	14			"	↕
20	4000		29	29	5	14			0.053013	
21	5000		30	30	6	15			"	0.034859
22	6300	∞	31	31	10	17	0.029960		0.068160	0.037349
23	8000	44.3	37	34	17	23	0.042285	0.029960	0.079520	"
24	10000	50.7	41	37	21	29	"	"	0.059640	0.043573

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Appendix C is amended as follows:

37. Section C36.5 would be amended to remove paragraph (c).

38. Section C36.7 would be retitled *Takeoff Reference and Test Limitations.*

39. Section C36.7 would be amended to delete paragraph (d) and to redesignate paragraphs (e) and (f) as (d) and (e), respectively.

40. Section C36.9 would be retitled *Approach Reference and Test Limitations*

41. Section C36.9 would be amended to remove paragraph (d) and to redesignate paragraphs (e) and (f) as (d) and (e), respectively.

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) involves a proposed regulation which is not major under Executive Order 12291, (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Issued in Washington, D.C., on November 13, 1984.

John E. Wesler,

Director of Environment and Energy.

[FR Doc. 85-1642 Filed 1-28-85; 8:45 am]

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