

§ 48.14 Push money.

It is an unfair trade practice for any industry member to pay or contract to pay anything of value to a salesperson employed by a customer of the industry member, as compensation for, or as an inducement to obtain, special or greater effort or service on the part of the salesperson in promoting the resale of products supplied by the industry member to the customer:

(a) When the agreement or understanding under which the payment or payments are made or are to be made is without the knowledge and consent of the salesperson's employer; or

(b) When the terms and conditions of the agreement or understanding are such that any benefit to the salesperson or customer is dependent on lottery or chance; or

(c) When any provision of the agreement or understanding requires or contemplates practices or a course of conduct unduly and intentionally hampering sales of products of competitors of an industry member; or

(d) When, because of the terms and conditions of the agreement or understanding, including its duration, or the attendant circumstances, the effect may be substantially to lessen competition or tend to create a monopoly; or

(e) When similar payments are not accorded to salespersons of competing customers on proportionally equal terms in compliance with section 2 (d) and (e) of the Clayton Act.

NOTE: Payments made by an industry member to a salesperson of a customer under any agreement or understanding that all or any part of such payments is to be transferred by the salesperson to the customer, or is to result in a corresponding decrease in the salesperson's salary, are not to be considered within the purview of this section, but are to be considered as subject to the requirements and provisions of section 2 (a) of the Clayton Act.

[Rule 14]

§ 48.15 Deceptive representations as to earnings, etc.

It is an unfair trade practice to make false, misleading, or deceptive statements or representations regarding opportunities for making money, or of actual or probable earnings, by agents, jobbers, dealers, and others, handling products of this industry. [Rule 15]

§ 48.16 Substitution of products.

It is an unfair trade practice for a member of the industry to make an unauthorized substitution of products, where such substitution has the capacity and tendency or effect of misleading or deceiving purchasers, by:

(a) Shipping or delivering industry products which do not conform to samples submitted, to specifications (in bids or otherwise) upon which the sale is consummated, or to representations made prior to securing the order, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery; or

(b) Falsely representing the reason for making a substitution. [Rule 16]

§ 48.17 Enticing away employees of competitors.

It is an unfair trade practice for any member of the industry wilfully to entice away employees or sales-contact personnel of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition: *Provided*, That, nothing in this section shall be construed as prohibiting such persons from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting injury on such competitor. [Rule 17]

§ 48.18 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair practice specified in this part. [Rule 18]

Issued: December 14, 1959.

Promulgated by the Federal Trade Commission December 17, 1959.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-10602; Filed, Dec. 16, 1959; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Miscellaneous Amendments

Pursuant to the general authority contained in section 12 of the act of June 25, 1938 (52 Stat. 1094, 1107; 45 U.S.C. 362), §§ 345.1, 345.2, 345.9, 345.10, and 345.20 of Part 345 (20 CFR 345.1, 345.2, 345.9, 345.10 and 345.20) of the Regulations under such act are amended by Board Order 59-219, dated December 2, 1959, to read as follows:

| | |
|---|---|
| If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30, of any year, as determined by the Board, is— | The rate with respect to compensation paid during the next succeeding calendar year shall be (percent)— |
| \$450,000,000 or more..... | 1½ |
| \$400,000,000 or more but less than \$450,000,000..... | 2 |
| \$350,000,000 or more but less than \$400,000,000..... | 2½ |
| \$300,000,000 or more but less than \$350,000,000..... | 3 |
| Less than \$300,000,000..... | 3¾ |

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on

§ 345.1 Statutory provisions.

Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below or so much of the compensation as is not in excess of \$300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939, and before July 1, 1954, and is not in excess of \$350 for any calendar month paid by him to any employee for services rendered to him after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended: *Provided, however*, That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than \$300 for any month before July 1, 1954, and to not more than \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended, of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946 bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$300 if such month is before July 1, 1954, or less than \$350 if such month is after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;
2. With respect to compensation paid after the month in which this Act was amended in 1959, the rate shall be as follows:

| | |
|---|---|
| If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30, of any year, as determined by the Board, is— | The rate with respect to compensation paid during the next succeeding calendar year shall be (percent)— |
| \$450,000,000 or more..... | 1½ |
| \$400,000,000 or more but less than \$450,000,000..... | 2 |
| \$350,000,000 or more but less than \$400,000,000..... | 2½ |
| \$300,000,000 or more but less than \$350,000,000..... | 3 |
| Less than \$300,000,000..... | 3¾ |

September 30 of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account. (Section 8(a) of the Railroad Unemployment Insurance Act)

The contributions required by this Act shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this Act as may be prescribed by Regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ. If a contribution required by this Act is not paid when due, there shall be added to the amount payable (except in the case of adjustments made in accordance with the provisions of this Act) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account. (Section 8(g) of the Railroad Unemployment Insurance Act)

All provisions of law, including penalties, applicable with respect to any tax imposed by section 1800 or 2700 of the Internal Revenue Code, and the provisions of section 3661 of such code, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the contributions required by this Act: *Provided*, That all authority and functions conferred by or pursuant to such provisions upon any officer or employee of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to such contributions, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefor. (Section 8(h) of the Railroad Unemployment Insurance Act)

*** For the purposes of determining *** the amount of contributions due pursuant to this Act, employment after June 30, 1940, in the service of a local lodge or division of a railway-labor-organization employer or as an employee representative shall be disregarded. For purposes of determining *** the amount of contributions due pursuant to this Act, employment as a delegate to a national or international convention of a railway labor organization defined as an "employer" *** shall be disregarded if the individual having such employment has not previously rendered service, other than as such a delegate, which may be included in his "years of service" for the purposes of the Railroad Retirement Act. (Section 1(g) of the Railroad Unemployment Insurance Act)

§ 345.2 Employers' contributions.

The \$400 specified in this section is the maximum compensation per employee per month subject to contributions after May 31, 1959, with respect to services rendered after that date. Maximum compensation amounts subject to contributions, and allocations, for prior periods are shown in § 345.1.

(a) Except as provided in paragraph (b) of this section, every employer shall pay a contribution equal to the following percentages of the amount of compensation paid to any employee for employment on and after July 1, 1939:

| | Percent |
|---|---------|
| (1) July 1, 1939 through Dec. 31, 1947 | 3 |
| (2) January 1, 1948 through Dec. 31, 1955 | ½ |
| (3) January 1, 1956 through Dec. 31, 1956 | 1½ |
| (4) January 1, 1957 through Dec. 31, 1957 | 2 |
| (5) January 1, 1958 through Dec. 31, 1958 | 2½ |
| (6) January 1, 1959 through May 31, 1959 | 3 |
| (7) June 1, 1959 through Dec. 31, 1959 | 3¾ |
| (8) Each succeeding calendar year, the applicable percentage specified in § 345.1 of these regulations. | |

(b) If compensation is paid by more than one employer to an employee with respect to employment during the same calendar month, and if the aggregate compensation paid to such employee by all employers is more than \$400 for the calendar month, then there shall be included in the measure of each such employer's contribution only that proportion of \$400 which the amount paid by him to the employee for the month bears to the aggregate compensation paid to such employee by all employers for that month: *Provided, however*,

(1) If such aggregate compensation is paid by two or more employers, only one of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and if the compensation paid to the employee by the employer other than a subordinate unit equals or exceeds \$400 for the month, then no subordinate unit shall be liable for any contribution with respect to the compensation paid by it to such employee for that month, and the measure of the contribution of the employer other than a subordinate unit with respect to the compensation paid by him to such employee for that month shall be \$400.

(2) If such aggregate compensation is paid by two or more employers other than a subordinate unit of a national railway-labor-organization employer, and by one or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by the employers other than a subordinate unit equals or exceeds \$400 for the month, then no subordinate unit shall be liable for any contribution with respect to the compensation paid by it to such employee for that month, and the measure of the contribution of each employer other than a subordinate unit shall be that proportion of \$400 which the compensation paid by such employer to the employee for the month bears to the total compensation paid to such employee by all such employers other than a subordinate unit for that month.

(3) If such aggregate compensation is paid by two or more employers, only one of whom is a subordinate unit of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate unit is less than \$400 for the month, then the measure of the contribution of each employer other than the subordinate unit shall be the full amount of compensation paid by him to such employee for that month, and the measure of the contribution of the subordinate unit of a national railway-labor-organization employer shall be \$400 less the total compensation paid to such employee for that month by all other employers.

(4) If such aggregate compensation is paid by one or more employers other than a subordinate unit of a national railway-labor-organization employer and by two or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid to the employee by all employers other than the subordinate units is less than \$400 for the month, then the meas-

ure of the contribution of each employer other than the subordinate units shall be the full amount of compensation paid by him to such employee for that month, and the measure of the contribution of each subordinate unit of the national railway-labor-organization employer shall be that proportion of \$400 less the total compensation paid to such employee for the month by all employers other than the subordinate units which the compensation paid by such subordinate unit to the employee for that month bears to the total compensation paid to such employee by all such subordinate units for that month.

§ 345.9 Place and time for filing employers' contribution reports.

Each employer's contribution report shall be filed with the Director of Budget and Fiscal Operations, Railroad Retirement Board, 844 Rush Street, Chicago 11, Illinois.

(a) Except as provided in paragraph (b) of this section, the employer's contribution report for each quarterly period shall be filed on or before the last day of the second calendar month following the period for which it is made. If such last day falls on Saturday, Sunday, or a national legal holiday, the report may be filed on the next following business day. If mailed, reports must be postmarked on or before the date on which the report is required to be filed.

(b) For eligible employers who have elected to report contributions annually in accordance with § 345.5(a)(2), the contribution report shall be filed on or before the last day of the second calendar month following the close of the calendar year. If such last day falls on Saturday, Sunday, or a national legal holiday, the report may be filed on the next following business day. If mailed, reports must be postmarked on or before the date on which the report is required to be filed.

(c) If there is a delay in the filing of a contribution report, the Director of Budget and Fiscal Operations may set a later date for filing, if, in his judgment, (1) the delay is due to reasonable cause, (2) the amount of interest payable for the delinquency represents a charge totally disproportionate to the period of delay and, (3) the employer's previous record for submission of reports warrants such action.

§ 345.10 Payment of employers' contributions.

(a) The contribution required to be reported on an employer's contribution report is due and payable to the Board without assessment or notice, at the time fixed for filing the contribution report.

(b) Certified or uncertified checks may be tendered as provisional payment of contributions and should be made payable to the Railroad Retirement Board and mailed with the contribution report to the Director of Budget and Fiscal Operations, Railroad Retirement Board, 844 Rush Street, Chicago 11, Illinois. No employer who tenders a check as provisional payment of contribution shall be released from the obligation to make ultimate payment thereof

until such check has been duly paid. If a check is not paid by the bank on which it is drawn, the employer by whom such check has been tendered shall remain liable for the payment of the contribution and for all legal penalties and additions to the same extent as if such check had not been tendered.

§ 345.20 Assessments.

The Director of Budget and Fiscal Operations is authorized, on behalf of the Board, to issue assessments of contributions, interest, and penalties, and notices and demands for payment thereof. (Sec. 12, 52 Stat. 1107, as amended; 45 U.S.C. 362)

Dated: December 11, 1959.

By authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F.R. Doc. 59-10674; Filed, Dec. 16, 1959; 8:47 a.m.]

Title 30—MINERAL RESOURCES

**Chapter I—Bureau of Mines,
Department of the Interior**

**SUBCHAPTER E—MECHANICAL EQUIPMENT FOR
MINES; TESTS FOR PERMISSIBILITY AND
SUITABILITY; FEES**

[Bureau of Mines Schedule 30]

**PART 35—FIRE-RESISTANT
HYDRAULIC FLUIDS**

There was published in the FEDERAL REGISTER of September 25, 1959 (24 F.R. 7728), a notice and text of proposed regulations to be included as Part 35 of Subchapter E of Title 30, Code of Federal Regulations, prescribing procedures for testing and approving hydraulic fluids and concentrates for the production of such fluids for fire-resistant qualities.

Interested persons were allowed 30 days after publication of the notice to submit written comments, suggestions, or objections concerning the proposed regulations. Suggestions were received from two different sources pertaining primarily to specifications for lubricating properties of fire-resistant hydraulic fluids; but after careful consideration these are believed to be covered adequately in § 35.6 of the proposed regulations. No adverse comment was received on the fire-resistant requirements for hydraulic fluids. The proposed regulations are therefore adopted without change and are set forth below.

MARLING J. ANKENY,
Director,
Bureau of Mines.

Approved: December 11, 1959.

ELMER F. BENNETT,
Acting Secretary of the Interior.

Part 35 of Title 30 follows:

Subpart A—General Provisions

| | |
|------|--|
| Sec. | |
| 35.1 | Purpose. |
| 35.2 | Definitions. |
| 35.3 | Consultation. |
| 35.4 | Types of hydraulic fluids for which certificates of approval may be granted. |

| | |
|-------|---|
| Sec. | |
| 35.5 | Fees for investigation. |
| 35.6 | Applications. |
| 35.7 | Date for conducting tests. |
| 35.8 | Conduct of investigations, tests, and demonstrations. |
| 35.9 | Certificates of approval. |
| 35.10 | Approval labels and markings. |
| 35.11 | Material required for record. |
| 35.12 | Changes after certification. |
| 35.13 | Withdrawal of certification. |

Subpart B—Test Requirements

| | |
|-------|--|
| 35.20 | Autogenous-ignition temperature test. |
| 35.21 | Temperature-pressure spray-ignition test. |
| 35.22 | Test to determine effect of evaporation on flammability. |
| 35.23 | Performance required for certification. |

AUTHORITY: §§ 35.1 to 35.23 issued under sec. 5, 36 Stat. 370, as amended, and sec. 212(a), 66 Stat. 709, 30 U.S.C. 7, 482(a). Interpret or apply secs. 2, 3, 36 Stat. 370, as amended, secs. 201, 209, 66 Stat. 692, 703; 30 U.S.C. 3, 5, 471, 479.

Subpart A—General Provisions

§ 35.1 Purpose.

The regulations in this part set forth the requirements for fire-resistant hydraulic fluids and concentrates for the production thereof to procure their certification as approved for use in machines and devices that are operated in coal mines; procedures for applying for such certification; and fees.

§ 35.2 Definitions.

As used in this part—

(a) "Permissible," as applied to hydraulic fluids, means that the fluid conforms to the requirements of this part, and that a certificate of approval to that effect has been issued.

(b) "Bureau" means the United States Bureau of Mines.

(c) "Certificate of approval" means a formal document issued by the Bureau stating that the fluid has met the requirements of this part for fire-resistant hydraulic fluids and authorizing the use of an official identifying marking so indicating.

(d) "Fire-resistant hydraulic fluid" means a fluid of such chemical composition and physical characteristics that it will resist the propagation of flame.

(e) "Concentrate" means a substance in concentrated form that might not be fire resistant as such but when mixed with water or other vehicle in accordance with instructions furnished by the applicant will constitute a fire-resistant hydraulic fluid.

(f) "Applicant" means an individual, partnership, company, corporation, association, or other organization that manufactures, compounds, refines, or otherwise produces, a fire-resistant hydraulic fluid or a concentrate for the production thereof, and seeks a certificate of approval.

§ 35.3 Consultation.

By appointment, applicants or their representatives may visit the Bureau's Central Experiment Station, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania, to discuss with qualified Bureau personnel proposed fluids to be submitted in accordance with the regulations of this

part. No charge is made for such consultation and no written report thereof will be submitted to the applicant.

§ 35.4 Types of hydraulic fluid for which certificates of approval may be granted.

Certificates of approval will be granted for completely compounded or mixed fluids and not for individual ingredients; except that when a concentrate is submitted for testing, complete instructions for mixing with water or other vehicle shall be furnished to the Bureau, together with the vehicle other than water, and the approval will cover only the specific mixture that constitutes the hydraulic fluid for use in coal mines.

§ 35.5 Fees for investigation.

(a) The full fee must accompany an application for testing a hydraulic fluid or for retesting a fluid that has been previously tested and disapproved. If less work is involved than for a complete investigation, the charge will be in proportion to the work done. Any surplus will be refunded to the applicant.

(b) The fee for tests covering only part of a complete investigation will be charged according to the work involved and will be in proportion to that charged for a complete investigation. The fee for such tests shall be determined in advance by the Bureau and the applicant notified accordingly in writing.

(c) The fee for an extension of certification will be determined according to the work required and the applicant will be notified accordingly. The fee must be paid in advance before the investigation will be undertaken.

(d) The following fees are charged for testing a hydraulic fluid—concentrate or emulsion:

| | |
|---|---------|
| 1. Autogenous-ignition temperature test, each..... | \$25.00 |
| 2. Temperature-pressure spray-ignition test, each..... | 45.00 |
| 3. Test to determine effect of evaporation on flammability, each..... | 30.00 |
| 4. Fees for other tests not included in the above list will be determined in advance by the Bureau. The applicant will be notified accordingly in writing; and the fee shall be paid before such tests are begun. | |

§ 35.6 Applications.

(a) No investigation or testing will be undertaken by the Bureau except pursuant to a written application, in duplicate, accompanied by a check, bank draft, or money order, payable to the United States Bureau of Mines, to cover the fees; and all descriptions, specifications, test samples, and related materials. The application and all related matters and correspondence concerning it shall be sent to the Central Experiment Station, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania, Attention: District Supervisor, Health and Safety District B.

(b) Descriptions and specifications shall be adequate in detail to identify fully the composition of the hydraulic fluid and to disclose its characteristics. Descriptions and specifications shall include:

RULES AND REGULATIONS

(1) An identifying name or number of the fluid or concentrate for the production thereof.

(2) Pour point, ° F.; freezing point, ° F.; color; neutralization number or pH; viscosity at 100° F., 150° F., 175° F. (Saybolt or Furol); viscosity index; specific gravity.

(3) A statement of the water or other vehicle content in percent by weight or volume and how it affects fire resistance of the hydraulic fluid. If water is the vehicle, the statement shall include the applicant's method for determining water content quickly in the field.

(c) The application shall state whether the fluid submitted for test is toxic or irritating to the skin and what precautions are necessary in handling it.

(d) The application shall state that the applicant has tested the fluid which he believes to have fire-resistant properties, the basis for such determination, and submit with his application the data resulting from the applicant's use or laboratory tests to determine the fire-resistant properties of the fluid.

(e) The application shall contain evidence that the fluid has lubricating and hydraulic properties and is satisfactory for use in underground mining machinery; and shall state that the fluid, or concentrate for the production thereof, is fully developed and is of the composition that the applicant believes to be a suitable marketable product.

(f) The application shall state the nature, adequacy, and continuity of control of the constituents of the fluid to maintain its fire-resistant characteristics and how each lot will be sampled and tested to maintain its protective qualities. The Bureau reserves the right to have its qualified representative(s) inspect the applicant's control-test equipment, procedures, and records, and to interview the personnel who conduct the control tests to satisfy the Bureau that the proper procedure is being followed to insure that the fire-resistant qualities of the hydraulic fluid are maintained.

(g) When the Bureau notifies the applicant that the application will be accepted, it will also notify him as to the number of samples and related materials that will be required for testing. Ordinarily a 5-gallon sample of hydraulic fluid will be required provided that it is a finished product or, if in concentrate form, enough shall be furnished to make a 5-gallon sample when mixed with water or other vehicle according to the applicant's instructions. All samples and related materials required for testing must be delivered (charges prepaid) to the Central Experiment Station, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh 13, Pennsylvania.

§ 35.7 Date for conducting tests.

The date of acceptance of an application will determine the order of precedence for testing when more than one application is pending, and the applicant will be notified of the date on which tests will begin. However, not more than two fluids will be tested consecutively for one applicant provided other

applications are pending. If a fluid fails to meet any of the requirements, it shall lose its order of precedence. If an application is submitted to resume testing after correction of the cause of failure, it will be treated as a new application and the order of precedence for testing will be so determined.

§ 35.8 Conduct of investigations, tests, and demonstrations.

Prior to the issuance of a certificate of approval, only Bureau personnel, representatives of the applicant, and such other persons as may be mutually agreed upon, may observe the investigations or tests. The Bureau shall hold as confidential and shall not disclose features of the hydraulic fluid such as the chemical analysis, specifications, descriptions, and related material. After issuing a certificate of approval, the Bureau may conduct such public demonstrations and tests of the approved hydraulic fluid as it deems appropriate. The conduct of all investigations, tests, and demonstrations shall be under the sole direction and control of the Bureau, and any other persons shall be present only as observers.

§ 35.9 Certificates of approval.

(a) Upon completion of an investigation of a hydraulic fluid, the Bureau will issue to the applicant either a certificate of approval or a written notice of disapproval, as the case may require. No informal notification of approval will be issued. If a certificate of approval is issued, no test data or detailed results of tests will accompany it. If a notice of disapproval is issued, it will be accompanied by details of the defect(s), with a view to possible correction. The Bureau will not disclose, except to the applicant, any information on a fluid upon which a notice of disapproval has been issued.

(b) A certificate of approval will be accompanied by a list of specifications covering the characteristics of a hydraulic fluid upon which the certificate of approval is based. In addition to the applicant's record of control in maintaining the fire-resistant characteristics, applicants shall keep exact duplicates of the specifications that have been submitted to the Bureau and that relate to any fluid which has received a certificate of approval; and these are to be adhered to exactly in production of the certified fluid for commercial purposes.

§ 35.10 Approval labels or markings.

(a) A certificate of approval will be accompanied by a photograph of a design for an approval label or marking, which shall bear the seal of the Bureau of Mines and shall be inscribed substantially as follows:

PERMISSIBLE FIRE-RESISTANT HYDRAULIC FLUID
U.S.B.M. Approval No. _____
Issued to _____
(Name of Applicant)

(b) A label so inscribed shall be attached to each fluid container in such a manner that it cannot be easily removed or containers may be so marked with a metal stencil. The letters and numbers shall be at least 1/2 inch in height and

of a color which contrasts with that of the container.

(c) For a concentrate the label or marking shall clearly indicate that the certification thereof applies only when the concentrate is used in exact conformance with the instructions on such label or marking. The label or marking shall clearly indicate the exact amount of water or other vehicle to make the fire-resistant hydraulic fluid upon which the certificate of approval was based.

(d) Appropriate instructions and caution statements on the handling of the hydraulic fluid or concentrate shall be included on the approval label or marking.

(e) Use of the Bureau's approval label or marking obligates the applicant to whom the certificate of approval was granted to maintain the fire-resistant characteristics of the hydraulic fluid and guarantees that it is manufactured according to the specifications upon which the certificate of approval was based. Use of the approval label or marking is not authorized except on containers of hydraulic fluids that conform strictly with the specifications and characteristics upon which the certificate of approval was based.

§ 35.11 Material required for record.

The Bureau may retain for record all or part of the material submitted for testing. Any material that the Bureau does not require will be returned to the applicant at his expense upon receipt of his written request and shipping instructions not more than 6 months after the termination or completion of the tests. Thereafter the Bureau will dispose of such surplus material as it deems appropriate.

§ 35.12 Changes after certification.

If an applicant desires to change any specification or characteristic of a certified hydraulic fluid, he shall first obtain the Bureau's approval of the change, pursuant to the following procedures:

(a) Application shall be made, as for an original certificate of approval, requesting that the existing certification be extended to cover the proposed change. The application shall be accompanied by specifications and related material(s) as in the case of an original application.

(b) The application and related material(s) will be examined by the Bureau to determine whether testing of the modified hydraulic fluid will be required. Testing will be necessary if there is a possibility that the modification may affect adversely the performance characteristics of the fluid. The Bureau will inform the applicant in writing whether such testing is required, and the fee.

(c) If the proposed modification meets the requirements of this part, a formal extension of certification will be issued, accompanied by a list of new and corrected specifications to be added to those already on file, as the basis for the extension of certification.

§ 35.13 Withdrawal of certification.

The Bureau reserves the right to rescind for cause, at any time, any certi-

ficate of approval granted under this part.

Subpart B—Test Requirements

§ 35.20 Autogenous-ignition temperature test.

(a) *Purpose.* The purpose of this test, referred to hereinafter as the ignition-temperature test, is to determine the lowest autogenous-ignition temperature of a hydraulic fluid at atmospheric pressure when using the syringe-injection method.

(b) *Description of apparatus—(1) Test flask.* The test flask, which is heated and into which the test sample is injected, shall be a commercial 200 ml. borosilicate glass Erlenmeyer flask.

(2) *Thermocouples.* Calibrated thermocouples—iron-constantan or chromel-alumel—and a potentiometer shall be used for all temperature measurements.

(3) *Syringe.* A hypodermic syringe (0.25 or 1 cc. capacity) equipped with a 2-inch No. 18 stainless steel needle and calibrated in hundredths of a cubic centimeter (0.01 cc.) shall be used to inject samples into the heated test flask.

(4) *Timer.* An electric timer or stopwatch calibrated in not more than 0.2 second intervals shall be used to determine the time lag before ignition.

NOTE: Time lag is the time that elapses between the instant of injection and that of ignition of the test sample, as evidenced by flame.

(5) *Furnace.* The furnace in which the ignition-temperature test is conducted shall consist of a refractory (alundum or equivalent) cylinder 5 inches in internal diameter and 5 inches in height; a transite-ring top and a transite-disk bottom, each of which is attached to a metal cylinder. The furnace is heated by three elements as follows: (i) A circumferential heater embedded in the refractory cylinder; (ii) a top or toroidal-neck heater that surrounds the neck of the test flask; and (iii) a flat base heater on which the test flask rests. The temperature of each heating element shall be controlled independently by an autotransformer. Means shall be provided for applying thermocouples at the neck, mid-section, and base of the test flask, which shall be inserted upright in the furnace.

(c) *Test procedures—(1) Temperature control.* Each autotransformer shall be so adjusted that the temperature at the neck, mid-section, and base of the test flask is uniform within $\pm 2^\circ$ F. of the desired test temperature.

(2) *Sample injection and timing.* A 0.07 cc. test sample shall be injected into the heated test flask with the hypodermic syringe, and the syringe shall be withdrawn immediately. Measurement of time shall start at the instant the sample is injected.

(3) *Observations.* (i) If flame does not result in 5 minutes or more after injection of the test sample, the sample shall be considered nonflammable at the test temperature, and the timer shall be stopped. The test flask shall then be flushed well with clean dry air and, after a lapse of 15 minutes or more, the test shall be repeated with the test flask

temperature raised 50° F. $\pm 2^\circ$ F. above the first test temperature.

(ii) If ignition (flame) is observed in 5 minutes or less after the injection of the test sample (0.07 cc.), the time lag (time interval) shall be noted. After an ignition occurs the temperature of the test flask shall be reduced 5° F., and the test procedure repeated in decrements of 5° F. until ignition no longer occurs and this temperature shall be noted as the first nonignition test temperature for the 0.07 cc. sample.

(iii) The temperature shall be increased 50° F. $\pm 2^\circ$ F. above the first nonignition test temperature, and the ignition-temperature test procedure shall be repeated with a 0.10 cc. test sample injected into the heated test flask.

(iv) If the lowest temperature at which ignition occurs with the 0.10 cc. sample (in decrements of 5° F.) is lower than that obtained with the 0.07 cc. sample, the ignition-temperature test procedure shall be repeated using a test sample of 0.12 cc., then 0.15 cc., and so on by increments of 0.03 cc. until the lowest ignition temperature is obtained.

(v) If the lowest temperature at which ignition is obtained with the 0.10 cc. sample is greater than that obtained with the 0.07 cc. sample, the ignition temperature test procedure shall be repeated by reducing the test sample to 0.05 cc. and then to 0.03 cc. until the lowest ignition temperature is obtained.

(d) *Appraisal of tests.* A fluid shall be considered fire-resistant, according to the test requirements of this section: *Provided,* That in no instance of the ignition-temperature test procedure, as stated in this section, shall the ignition temperature of the test sample be less than 600° F.

§ 35.21 Temperature-pressure spray-ignition test.

(a) *Purpose.* The purpose of this test shall be to determine the flammability of a hydraulic fluid when it is sprayed over three different sources of ignition which are described in subparagraph (4) of paragraph (b) of this section.

(b) *Description of apparatus.* (1) A 3-quart pressure vessel, with the necessary connections, valves, and heating elements, shall be used for containing and heating the fluid under the test conditions as specified hereinafter.

(2) An atomizing round-spray nozzle, having a discharge orifice of 0.025-inch diameter, capable of discharging 3.28 gallons of water per hour with a spray angle of 90 degrees at a pressure of 100 p.s.i., shall be connected to the pressure vessel.

(3) A commercial pressurized cylinder, containing nitrogen with the customary regulators, valves, tubing, and connectors, shall be used to supply nitrogen to the pressure vessel described in subparagraph (1) of this paragraph.

(4) Three igniting devices shall provide three different sources of ignition as follows:

(i) A metal trough with a metal cover in which cotton waste soaked in kerosene is ignited.

(ii) An electric arcing device in which the arc is produced by a 12,000-volt transformer.

(iii) A propane torch—Bernzomatic or equivalent.

(5) A means of measuring distances from the nozzle tip to the igniting device shall be provided.

(c) *Test procedures.* (1) A 2½-quart sample of the fluid shall be poured into the pressure vessel and heated to a temperature of 150° F. The temperature shall be maintained at not less than 145° F. or not more than 155° F. during the test.

(2) Nitrogen shall be introduced into the vessel at 150 p.s.i.g.

(3) The fluid shall be sprayed at each igniting device, described in subparagraph (4) of paragraph (b) of this section, which is moved along the trajectory of the spray. Each igniting device shall be held in the spray at different distances from the nozzle tip for one minute or until the flame or arc is extinguished (if less than one minute) to determine this fire-resistant characteristic of the fluid.

(d) *Appraisal of tests.* If the test procedures in paragraph (c) of this section do not result in an ignition of any sample of fluid or if an ignition of a sample does not result in flame propagation for a time interval not exceeding 6 seconds at a distance of 18 inches or more from the nozzle tip to the center of each igniting device, it shall be considered fire resistant, according to the test requirements of this section.

§ 35.22 Test to determine effect of evaporation on flammability.

(a) *Purpose.* The purpose of this test shall be to determine the effect of evaporation on the reduction of fire resistance of a hydraulic fluid.

(b) *Description of apparatus—(1) Petri dish.* Standard laboratory Petri dishes, approximately 90 mm. by 16 mm., shall be used to contain the test samples.

(2) *Oven.* A gravity convection air oven, capable of maintaining the specified evaporation temperature constant within $\pm 2^\circ$ F., shall be used in the test.

(3) *Pipe cleaner.* An ordinary smoker's pipe cleaner (U.S. Tobacco Co., Dill's or equivalent) shall be used in the test procedure, described in paragraph (c) of this section.

(c) *Test procedures.* (1) Three 30-milliliter samples of the fluid shall be placed in uncovered Petri dishes. Two of these samples shall be inserted in the oven, that shall have been heated to a temperature of 150° F., $\pm 2^\circ$ F., which shall be maintained throughout this test. The third sample shall remain at room temperature.

(2) An electrically operated cycling device, such as an automobile windshield wiper mechanism, shall be oscillated in a horizontal plane, 25 ± 2 cycles per minute. A pipe cleaner shall be attached to the device so that it will enter and leave a flame of a standard (Bunsen or equivalent) laboratory burner, which is adjusted to provide a nonluminous flame approximately 4 inches in height without forming a sharp inner cone. The

cycling device shall be so arranged that when a 2-inch length of pipe cleaner is attached thereto the exposed end shall describe an arc with a radius of 4 inches $\pm \frac{1}{8}$ inch. The cycling device shall be so arranged that when the 2-inch length of pipe cleaner is attached thereto, its midpoint shall be in the center of the flame at one extreme end of the cycle.

(3) Each of five 2-inch lengths of pipe cleaner shall be soaked separately for a period of 2 minutes in the test sample that remained at room temperature. Each pipe cleaner shall then be removed from the test sample and permitted to drain freely until all excess fluid is expelled from it. Each soaked pipe cleaner shall be attached to the cycling device, the mechanism started, and the pipe cleaner permitted to enter and leave the burner flame, as described in subparagraph (2) of this paragraph, until a self-sustaining flame shall be observed on the pipe cleaner. The number of cycles necessary to obtain a self-sustaining flame shall be noted and averaged for each of the five soaked pipe cleaners.

(4) After one test sample has remained in the oven for a period of 2 hours, the Petri dish containing it shall be removed from the oven and allowed to cool to room temperature, after which 5 lengths of 2-inch pipe cleaner shall be soaked separately in the test sample for a period of 2 minutes. Then the test procedure stated in subparagraph (3) of this paragraph shall be repeated.

(5) After one test sample has remained in the oven for a period of 4 hours, the Petri dish containing it shall be removed from the oven and allowed to cool to room temperature, after which 5 lengths of 2-inch pipe cleaner shall be soaked separately in the test sample for a period of 2 minutes. Then the test procedure stated in subparagraph (3) of this paragraph shall be repeated.

(d) *Appraisal of tests.* To be determined as fire resistant according to the test requirements of this section, the three following results shall be achieved:

(1) The average number of cycles before attaining a self-sustaining flame in the test described in subparagraph (3) of paragraph (c) of this section shall be 24 or more.

(2) The average number of cycles before attaining a self-sustaining flame in the test described in subparagraph (4) of paragraph (c) of this section shall be 18 or more.

(3) The average number of cycles before attaining a self-sustaining flame in the test described in subparagraph (5) of paragraph (c) of this section shall be 12 or more.

§ 35.23 Performance required for certification.

To qualify as fire-resistant under the regulations of this part, a hydraulic fluid shall meet each performance requirement as stated in paragraph (d) of § 35.20, paragraph (d) of § 35.21, and paragraph (d) of § 35.22.

[F.R. Doc. 59-10669; Filed, Dec. 16, 1959; 8:46 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration PART 3—VETERANS CLAIMS

Instructions Relating to Assistance in Acquiring Specially Adapted Housing to Seriously Disabled Veterans

Part 3, Chapter I of Title 38 of the Code of Federal Regulations is amended by adding a new § 3.1535 as follows:

§ 3.1535 Instructions relating to assistance in acquiring specially adapted housing to seriously disabled veterans.

(a) *Provisions of the law.* Section 801, Title 38, United States Code was amended by Public Law 86-239 to provide assistance in acquiring specially adapted housing to any veteran, who is entitled to compensation under 38 U.S.C. Ch. 11 based on service after April 20, 1898, for permanent and total service-connected disability:

(1) Due to the loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) Which includes, (i) blindness in both eyes, having only light perception, plus (ii) loss or loss of use of one lower extremity, and such permanent and total disability is such as to preclude locomotion without the aid of a wheelchair.

(b) *Effects of the act.* Benefits are not restricted to veterans of wartime service.

(1) The act adds a new eligibility category set forth in paragraph (a) (2) of this section, to the laws providing specially adapted housing to veterans entitled to compensation under 38 U.S.C. ch. 11 for peacetime or wartime permanent and total service-connected disability.

(2) The act also eliminates the former requirement that inability to locomote be due to loss, or loss of use by reason of amputation, ankylosis, progressive muscular dystrophies or paralysis of both lower extremities. It will be sufficient for purposes of the act if locomotion without the aid of braces, crutches, canes, or a wheelchair is precluded by the permanent and total service-connected conditions, without regard to etiology of the disabilities enumerated in paragraph (a) of this section.

(3) A veteran entitled to compensation for permanent and total service-connected disability which includes blindness in both eyes, having only light perception and the loss or loss of use of one lower extremity is entitled to assistance under this act if his permanent and total disability precludes locomotion without the aid of a wheelchair. This requirement is in effect threefold: (i) There must be blindness in both eyes having only light perception, (ii) there must be an anatomical loss or loss of use of one lower extremity, (iii) locomotion by means other than a wheelchair must be precluded. When these three ele-

ments are present, the veteran is eligible for assistance under this act.

(4) The term "preclude locomotion" is not meant to signify that if motion by any other means is possible, the veteran would be ineligible for benefits under this act. If rare and occasional locomotion by other means is possible, but generally not feasible or recommended, benefits may be in order. It is sufficient for purposes of this act if resort to a wheelchair or other mechanical aid or contrivance is necessary, regular and constant. However, to qualify for assistance locomotion must be prevented by the disability; mere precautionary inactivity will be excluded from consideration.

(c) *Effective Date.* This act is effective September 8, 1959. (Instruction 1, 38 U.S.C. 801, Public Law 86-239).

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

This regulation is effective December 17, 1959.

[SEAL]

BRADFORD MORSE,
Deputy Administrator.

[F.R. Doc. 59-10688; Filed, Dec. 16, 1959; 8:48 a.m.]

Title 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[Gen. Order 82, Rev., Amdt. 1]

PART 309—VESSEL VALUES FOR WAR RISK INSURANCE

Miscellaneous Amendments

Part 309 is hereby amended by deleting the sentence at the end of § 309.2(b) and substituting therefor the words "Values for vessels excluded from this part shall be specially determined by the Maritime Administrator and set forth in § 309.101."; and by adding the following new center heading and section:

VALUES FOR INDIVIDUAL VESSELS

§ 309.101 Determination of values.

(a) *Vessels covered by §§ 309.1 through 309.8.* (1) Whereas, the Maritime Administrator has found that the values provided in Part 309 (General Order 82, Revised) (24 F.R. 8260) constitute just compensation for the vessels to which they apply, computed in accordance with section 902(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242); and section 1209(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1289), Public Law 958-84th Congress, (70 Stat. 984); and pursuant thereto has determined the values of vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed by Part 308 of this chapter (General Order 75 (Revised), 22 F.R. 1175, as amended, 24 F.R. 8093).

(2) Therefore, it is ordered that the interim binders listed below shall be deemed to have been amended as of July 1, 1959, by inserting in the space provided therefor or in substitution for any value