6. The words "to be distributed currently to X University." should be inserted after the words "the end of each quarter of the fiscal year is" appearing on the 18th line of example (3) in paragraph (c) (4) of § 1.642(c)-5.

7. A comma should be added after the year "1971" on the 3d line in paragraph (a) (2) of § 1.642(c)-7.

8. The sentence "A fund which is established as a separate fund * * *" commencing on the 12th line in paragraph (a) (2) of § 1.642(c)-7 should be revised to read "A separate fund which is established pursuant to this subparagraph shall be treated as provided in paragraph (d) of this section for the period beginning on the day of the first transfer of property which becomes part of the separate fund and ending the day before the day on which the separate fund meets the requirements of section 642(c) (5) and § 1.642(c)-5."

9. The word "begun" appearing on the 12th line in paragraph (c) (1) of § 1.642 (c)-7 should be changed to read "commenced".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.71-5130 Filed 4-12-71;8:50 am]

[T.D. 7108]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Period for Termination of Private Foundation Status by Transfer to, or Operation as, Public Charity

The following regulations relate to the application of section 507(b) (1) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492) to the requirements for termination of private foundation status by transfer to, or operation as, a public charity.

The regulations set forth herein are temporary and are designed to amend Temporary Treasury Regulation § 13.12, added by T.D. 7063, 35 F.R. 15913 (1970), as modified by T.D. 7085, 36 F.R. 150 (1971), in order to provide certain organizations which have not terminated their private foundation status under section 507(b) (1) (A) or (B) by May 15, 1971, certain alternatives with respect to the payment of the tax imposed under section 4940.

In order to provide such temporary regulations under section 507(b) (1) of the Internal Revenue Code of 1954, the regulations are amended as follows:

Temporary Treasury Regulation § 13.12 is amended by revising paragraph (a) (4) (iii) and adding a new paragraph (k), as follows:

§ 13.12 Termination of private foundation status by transfer to, or operation as, public charity.

(a) * * *

(4) * * *

(iii) If the period described in subdivision (ii) of this subparagraph has not expired prior to the due date for the organization's Form 990 (determined with regard to any extension of time for filing the return) for its first taxable year which begins after December 31, 1969, and if the organization has not terminated its private foundation status under section 507(b) (1) (A) by such date, then notwithstanding the provisions of subdivision (ii) of this subparagraph, the organization must take either of the following courses of action:

(*a*) Complete and file its Form 990, including the line entitled "Tax on investment income from Part III", by such date, and pay the tax on investment income imposed under section 4940 at the time it files its Form 990. If such organization subsequently terminates its private foundation status under section 507(b) (1) (A) within the period specified in subdivision (ii) of this subparagraph, it may file a claim for refund of the tax paid under section 4940; or

(*b*) Complete and file its Form 990, except for the line entitled "Tax on investment income from Part III", by such date, and, in lieu of paying the tax on investment income imposed under section 4940, file a statement with its Form 990 which establishes to the satisfaction of the Commissioner that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b) (1) (A). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b) (1) (A). Such affirmative action may include making application to the appropriate State court for approval of the distribution of all net assets pursuant to section 507(b) (1) (A) in the case of a charitable trust, or the passage of a resolution by the organization's governing body directing the distribution of all net assets pursuant to section 507(b) (1) (A) in the case of a not-for-profit corporation. A written commitment or letter of agreement by the trustees or governing body to one or more section 509(a) (1) distributees indicating an intent to distribute all of the organization's net assets to such distributees will also constitute appropriate affirmative action for purposes of this subdivision. An organization may take such affirmative action and may terminate its private foundation status under section 507(b) (1) (A) in reliance upon Temporary Treasury Regulation § 13.12 and upon the provisions of the notices of proposed rule making under sections 170(b) (1) (A), 507(b) (1), and 509. Thus, if a distributee organization meets the requirements of the provisions of the notices of proposed rule making under sections 170(b) (1) (A), 507, or 509 as a distributee under section 507(b) (1) (A), the distributor organization may terminate its private foundation status under section 507(b) (1) (A) in reliance upon such provisions prior to the expiration of the period described in subdivision (ii) of this subparagraph. If such organization, however, fails to terminate its private foundation status under section 507(b) (1) (A) within the period specified in subdivision (ii) of this subparagraph, pursuant either to the provisions of the notices of proposed rule making under section 170(b) (1) (A), 507(b) (1), or 509 or to the final regulations published under these code sections, the tax imposed under section 4940 shall be treated as if due from the due date for its Form 990 (determined without regard to any extension of time for filing its return).

The provisions of this subdivision are applicable only to an organization terminating its private foundation status under section 507(b) (1) (A) and may not be relied upon by any other organization with respect to its own classification under section 509(a) (1) (except as to its status as a distributee under section 507 (b) (1) (A)).

* * * * *

(k) *Special transitional rules for organizations operating as public charities.* In the case of an organization seeking to terminate its private foundation status under section 507(b) (1) (B), if the period described in paragraph (j) (1) of this section has not expired prior to the due date for the organization's Form 990 (determined with regard to any extension of time for filing the return) for its first taxable year which begins after December 31, 1969, and if the organization has not terminated its private foundation status under section 507(b) (1) (B) by such date, then notwithstanding the provisions of paragraph (j) of this section, the organization must take either of the following courses of action:

(1) Complete its Form 990, including the line entitled "Tax on investment income from Part III", by such date, and pay the tax on investment income imposed under section 4940 at the time it files its Form 990. If such organization subsequently terminates its private foundation status under section 507(b) (1) (B) within the period specified in paragraph (j) of this section, it may file a claim for refund of the tax paid under section 4940; or

(2) Complete and file its Form 990, except for the line entitled "Tax on investment income from Part III", by such date, and, in lieu of paying the tax on investment income imposed under section 4940, file a statement with its Form 990 which establishes to the satisfaction of the Commissioner that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b) (1) (B). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b) (1) (B). Such affirmative action may include making application to the appropriate State court for approval to amend the provisions of the organization's trust instrument to limit payments to specified section 509(a) (1)

or (2) beneficiaries pursuant to section 509(a)(3) in the case of a charitable trust; commencing a fund raising drive among the general public in the case of an organization seeking to become a section 170(b)(1)(A)(vi) or 509(a)(2) organization; or the passage of a resolution by the organization's governing body or the filing of an amendment to the organization's Articles of Incorporation permitting a change in the operations of the organization to enable it to conform to the provisions of section 509(a) (1), (2), or (3) in the case of a not-for-profit corporation. An organization may take such affirmative action and may terminate its private foundation status under section 507(b)(1)(B) in reliance upon Temporary Treasury Regulation § 13.12 and upon the provisions of the notices of proposed rule making under sections 170 (b)(1)(A), 507(b)(1), and 509. Thus, if an organization meets the requirements of the provisions of the notice of proposed rule making as a section 509(a)(3) organization, such organization may terminate its private foundation status under section 507(b)(1)(B) in reliance upon such provisions prior to the expiration of the period described in paragraph (j) of this section. If such organization, however, fails to terminate its private foundation status under section 507(b) (1)(B) within the period specified in paragraph (j) of this section, pursuant either to the provisions of the notices of proposed rule making under section 170 (b)(1)(A), 507(b)(1), or 509 or to the final regulations published under these code sections, the tax imposed under section 4940 shall be treated as if due from the due date for its Form 990 (determined without regard to any extension of time for filing its return).

While an organization can terminate its private foundation status under section 507(b)(1)(B) by operation as a section 509(a) (1), (2), or (3 organization in reliance upon the provisions of this paragraph, it will retain its status as a section 509(a) (1), (2), or (3) organization after the publication of final regulations under sections 170(b)(1)(A), 507, and 509 only if it meets the requirements of such final regulations.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

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

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

Approved: April 8, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.7-5131 Filed 4-12-71;8:50 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1901—PROCEDURES FOR STATE AGREEMENTS

Title 29 of the Code of Federal Regulations is hereby amended by adding thereto a new chapter, designated Chapter XVII. Occupational Safety and Health Administration. The rules published therein by this document consist of rules of procedure for implementing section 18(h) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1609). Section 18(h) provides that the Secretary of Labor may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State. An agreement under section 18(h) may remain in effect until final action is taken by the Secretary of Labor under section 18(c) of the Act with respect to a State plan submitted under section 18(b) of the Act, for 2 years from the date of enactment of the Act (December 28, 1972), whichever is earlier.

The amendments shall be effective immediately.

The new Chapter XVII of Title 29, Code of Federal Regulations, reads as follows:

AUTHORITY: The provisions of this Part 1901 issued under secs. 8(g), 18(h), 84 Stat. 1600, 1609; 29 U.S.C. 1667.

§ 1901.1 Purpose and scope.

(a) This part interprets and applies section 18(h) of the Williams-Steiger Occupational Safety and Health Act of 1970. Section 18(h) provides that the Secretary of Labor may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State until final action is taken by the Secretary with respect to a plan submitted by a State under section 18(b), or 2 years from the date of enactment (which will be December 28, 1972), whichever is earlier.

(b) Under this part, agreements for temporary periods are permitted with any State which desires to continue to enforce any State occupational safety for health standard or standards that are in effect when a Federal standard or standards covering the same issues become effective or which become effective thereafter. Continuance of enforcement pursuant to an agreement under this part means a maintenance of State enforcement without any diminution in the level of enforcement activity. Thus, a State party to an agreement under section 18 (h) may not diminish its level of enforcement activity respecting standards covered by the agreement below that existing at the time of agreement.

(c) The requirements of this part shall be considered incorporated by reference in any agreement entered into under section 18(h) of the Act.

§ 1901.2 Alternative to Federal preemption.

Section 18(a) of the Act is read as preventing any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which a Federal standard has been issued under section 6 of the Act. Section 18(h) permits the Secretary to provide an alternative to the exclusive Federal jurisdiction on such occupational safety or health issue. This alternative is temporary and may be considered a step toward the more permanent alternative to exclusive Federal jurisdiction provided by sections 18 (b) and (c) following submission and approval of a plan submitted by a State for the development and enforcement of occupational safety and health standards. Agreements under section 18(h) are temporary in that they cannot continue beyond December 28, 1972, or the date of approval of the State plan under section 18(c), whichever occurs first.

§ 1901.3 Making of agreements.

(a) *Who may make agreements.* The Secretary may make an agreement under section 18(h) of the Act with any State agency designated for that purpose by the Governor. Where other State agencies or agencies of political subdivisions of the State have responsibility for enforcement of State occupational safety and health standards covered by the agreement, the State agency designated under this paragraph shall take the necessary action to insure that such other agencies will implement and adhere to the agreement.

(b) *Commencement of negotiations.* Negotiations for making an agreement may be commenced by the Governor of the State, or a State agency which may be designated for this purpose under paragraph (a) of this section, by filing an application in writing with the Secretary. No particular form of application is required. The contents of the application shall be those described in subparagraphs (1) through (5) of paragraph (c) of this section.

(c) *Contents of the agreement.* Any agreement, including any modification thereof, shall be in writing and shall contain the following:

(1) A brief description of each State standard or standards which are the subject of the agreement, including any pertinent legislative or regulatory citations. The description shall include a statement of the occupational safety or health issue covered by each standard,

and shall specify the coverage of the standard (e.g., as to such matters as covered industries, hazards, establishments, etc.).

(2) The names, addresses, and telephone numbers of the agency or agencies of the State, including any political subdivisions of the State, which have any responsibility for administering and enforcing the State standard or standards. The names, addresses, and telephone numbers of the heads of such agencies shall also be listed. The requirements of this paragraph shall not apply to any agency having only judicial or quasi-judicial responsibilities.

(3) A description of the enforcement program and procedures used by each agency administering the standard or standards. In his discretion, the Secretary may require detailed information concerning such programs and procedures, with the degree of specificity turning upon the nature of the standard or standards involved, the number of employees covered by such standards, and any other pertinent considerations.

(4) The dollars and approximate man-years allocated within each agency having responsibilities for the administration and enforcement of each State standard covered by the agreement during the previous fiscal period, and current fiscal period, and a description of the fiscal period.

(5) Notice of intention to submit plan under section 18(b): The State agency shall agree (i) to submit a notice of intention to file a section 18(b) plan within sixty (60) days following publication in the FEDERAL REGISTER of procedures for the submission of such plan under section 18(b) and for their approval under section 18(c); and (ii) to submit such a plan under section 18(b) within nine (9) months following the filing of a notice of intention. In lieu of submitting the notice, the State agency may agree to submit a plan under section 18(b) within the prescribed 60-day period, which plan may be expected to meet the requirements established under section 18 (b) and (c) with little or no modification thereof.

(6) A brief description of the Federal occupational safety or health standards dealing with the same issues as the State standards which are the subject of the agreement.

(7) The agreement shall include provisions whereunder the Secretary shall inform the State agency of his enforcement activities within the State with respect to Federal standards referred to in any agreement. (See § 1901.6.) Similarly, the agreement shall also provide that the State agency be required to make such reports to the Secretary regarding activities performed under the terms of the agreement as he shall require.

(8) The Secretary may add such further provisions as he may consider appropriate under the circumstances of the standards issue involved.

(d) *When agreements will be made.* (1) The commencement of negotiations for the making of an agreement concerning any pertinent standard should be undertaken as early as is practical before the effective date of the Federal standard involved.

(2) In view of the directive to the Secretary under section 6(a) for the adoption of established Federal standards and national consensus standards as promptly as possible after the effective date of the Act, agreements may be entered into before the issuance of such standards, which agreements shall be contingent upon their adoption.

(3) Negotiations for making an agreement may be commenced before the effective date of the Act, but any agreement resulting from such negotiations shall not be valid or adopted until that effective date.

(e) *Restriction.* As a matter of policy, in making agreements under this part the Secretary shall be mindful of the restriction on making plans, contained in section 18(c)(2) of the Act, to the effect that plans will not be approved concerning standards which unduly burden interstate commerce when applied to products which are distributed or used in interstate commerce.

§ 1901.4 Action upon requests for agreements.

The State shall be notified within a reasonable time of any decision concerning a request for agreement. If a request is denied, the State shall be informed in writing of the reasons therefor. If a request is granted or an agreement is otherwise made, notification to that effect shall be published in the FEDERAL REGISTER.

§ 1901.5 Termination of agreements.

(a) Either the Secretary or the State agency which is a party to the agreement may terminate the agreement upon the delivery of written notification to that effect not later than 10 days before the date of termination. Any termination under this paragraph shall not affect the disposition of any pending State cases.

(b) In no event shall an agreement under this part continue in effect beyond the time when final action is taken by the Secretary with respect to a plan submitted by a State under section 18(b) of the Act or December 28, 1972, whichever is earlier.

(c) The Secretary may terminate any agreement where a State fails to comply with the requirements of paragraph (c)(5) of § 1901.3.

§ 1901.6 Exclusion.

This agreement does not restrict in any way the authority and responsibility of the Secretary under sections 8, 9, 10, 13, and 17 of the Act with respect to the Federal standards referred to in any agreement.

§ 1901.7 Delegation of authority.

The powers of the Secretary under this part shall be exercised by the Assistant Secretary of Labor for Occupational Safety and Health who is empowered to subdelegate such powers. The Assistant Secretary may, at any time, upon his own motion or upon petition by any interested persons, amend any of the rules in this part.

Signed at Washington, D.C., this 8th day of April 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-5129 Filed 4-12-71;8:50 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER D—ELECTRICAL EQUIPMENT, LAMPS, METHANE DETECTORS; TESTS FOR PERMISSIBILITY; FEES

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

Subpart E—Field Approval of Electrically Operated Mining Equipment

Pursuant to the authority vested in the Secretary of the Interior under section 508 of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), and in accordance with the provisions of section 318(i) of the Act which directs the Secretary to provide procedures including, where feasible, testing, approval, certification, and acceptance in the field of electrically operated equipment taken into or used in by the last open crosscut of any entry or room of any coal mine, there was published in the FEDERAL REGISTER for December 30, 1970 (35 F.R. 19790), a notice of proposed rule making setting forth a new Subpart E, "Field Approval of Electrically Operated Mining Equipment," to Part 18 of Title 30, Code of Federal Regulations.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed new Subpart E. No written comments, suggestions, or objections were submitted. Therefore Subpart E of Part 18, Subchapter D, Chapter I, Title 30, Code of Federal Regulations is herewith promulgated as set forth below and shall become effective upon publication in the FEDERAL REGISTER (4-13-71).

ROGERS C. B. MORTON,
Secretary of the Interior.

APRIL 6, 1971.

Subpart E—Field Approval of Electrically Operated Mining Equipment

AUTHORITY: The provision of this Subpart E issued pursuant to the authority vested in the Secretary of the Interior under sections 318(i) and 508 of the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173, 83 Stat. 742, 30 U.S.C. 801.

Subpart E—Field Approval of Electrically Operated Mining Equipment

§ 18.90 Purpose.

The regulations of this Subpart E set forth the procedures and requirements for permissibility which must be met to obtain Bureau of Mines field approval of electrically operated machinery used or intended for use in by the last open crosscut of a coal mine which has not been otherwise approved, certified or accepted under the provisions of this Part 18, Chapter I, Title 30, Code of Federal Regulations (Bureau of Mines Schedule 2G).

§ 18.91 Electric equipment for which field approvals will be issued.

(a) Individual field approvals will be issued by the Bureau of Mines under the provisions of this Subpart E for electrically operated machines commercially built, or constructed, by the owner-coal mine operator of such machines including any associated electrical equipment, electrical components, and electrical accessories.

(b) Approvals will not be issued under the provisions of this Subpart E for electrically operated mining equipment manufactured or rebuilt primarily for sale or resale to any operator of a coal mine, or for small electrically operated equipment which consumes less than 2,250 watts of electricity, or for instruments and other small devices which employ electric power.

§ 18.92 Quality of material and design.

(a) Electrically operated machinery approved under the provisions of this Subpart E shall be rugged in construction and shall be designed to facilitate maintenance and inspection.

(b) The Bureau of Mines shall conduct field investigations and, where necessary, field test electric machinery only where such machinery is found to be constructed of suitable materials and safe for its intended use.

§ 18.93 Application for field approval; filing procedures.

(a) (1) Investigation and testing leading to field approval shall be undertaken by the Bureau of Mines only pursuant to individual written applications for each machine submitted in triplicate on Bureau of Mines Form No. 6–1481, by the owner-coal mine operator of the machine.

(2) Except as provided in paragraph (b) of this section, each application shall be accompanied by appropriate photographs, drawings, specifications, and descriptions as required under the provisions of § 18.94 and each such application shall be filed with the Coal Mine Health and Safety District Manager for the District in which such machine will be employed.

(b) The Coal Mine Health and Safety District Manager may, upon receipt of any application filed pursuant to paragraph (a) of this section, waive the requirements of § 18.94 with respect to such application if he determines that the submission of photographs, drawings, specifications, or descriptions will place an undue financial burden upon the applicant. In the event a waiver is granted in accordance with this paragraph (b), initial review of the application will be waived and the applicant shall be notified on Bureau of Mines Form 6–1481 of such waiver and the date, time, and location at which field inspection of the equipment described in the application will be conducted.

(c) Following receipt of an application filed in accordance with paragraph (a) of this section, the Coal Mine Health and Safety District Manager shall determine whether the application has been filed in accordance with § 18.91, and cause the application to be reviewed by a qualified electrical representative to determine compliance with § 18.92:

(1) If it is determined on the basis of the application or the data submitted in accordance with § 18.94 that further consideration of a field approval is warranted under this Subpart E or that the machine appears suitable and safe for its intended use, the Coal Mine Health and Safety District Manager shall advise the applicant in writing that further investigation and inspection of the machine will be necessary. The notice issued by the Coal Mine Health and Safety District Manager shall set forth the time and place at which such inspection will be conducted and specify the location and size of any tapped holes required to be made by the applicant to facilitate the pressure testing of enclosures.

(2) If it is determined on the basis of data submitted in accordance with § 18.94 that the applicant is not qualified to receive an approval or that the machine does not appear to be suitable and safe for its intended use, the Coal Mine Health and Safety District Manager shall so advise the applicant in writing, setting forth the reasons for his denial of the application, and where applicable, the deficiencies in the machine which rendered it unsuitable or unsafe for use.

(3) Rejected applications, together with attached photographs, drawings, specifications and descriptions shall be forwarded by the Coal Mine Health and Safety District Manager to Approval and Testing which shall record all pertinent data with respect to the machine for which field approval was sought.

§ 18.94 Application for field approval; contents of application.

(a) Each application for field approval shall, except as provided in § 18.93(b), include the following information with respect to the electrically operated machine for which field approval is sought:

(1) The trade name and the certification number or other means of identifying any explosion-proof compartment or intrinsically-safe component installed on the machine for which a prior approval or certification has been issued under the provisions of Bureau of Mines Schedules 2D, 2E, 2F, or 2G.

(2) The trade name and the flame resistance acceptance number of any cable, cord, hose, or conveyor belt installed on the machine for which a prior acceptance has been issued under the provisions of § 18.36, § 18.39, § 18.64, or § 18.65.

(b) Each application for field approval shall be accompanied by:

(1) If the machine is constructed or assembled entirely from components which have been certified or removed from machines approved under Bureau of Mines Schedule 2D, 2E, 2F, or 2G, photographs or a single layout drawing which clearly depicts and identifies each of the permissible components and its location on the machine.

(2) If the machine contains one or more components required to be permissible which has not been approved or certified under Bureau of Mines Schedule 2D, 2E, 2F, or 2G, a single layout drawing which clearly identifies all of the components from which it was assembled.

(3) All applications shall include specifications for:

(i) Overcurrent protection of motors:

(ii) All wiring between components, including mechanical protection such as hose conduit and clamps;

(iii) Portable trailing cable for use with the machine, including the type, length, diameter, and number and size of conductors;

(iv) Insulated strain clamp for machine end of portable trailing cable;

(v) Short-circuit protection to be provided at outby end of portable trailing cable.

§ 18.95 Approval of machines constructed of components approved, accepted or certified under Bureau of Mines Schedule 2D, 2E, 2F, or 2G.

Machines for which field approval is sought which are constructed entirely from properly identified components that have been investigated and accepted or certified for applications on approved machines under the Bureau of Mines Schedule 2D, 2E, 2F, or 2G, shall be approved following a determination by the electrical representative that the construction of the entire machine is permissible and conforms to the data submitted in accordance with § 18.94.

§ 18.96 Preparation of machines for inspection; requirements.

(a) Upon receipt of written notice from the Health and Safety District Manager of the time and place at which a field approval investigation will be conducted with respect to any machine, the applicant will prepare the machine for inspection in the following manner:

(1) The machine shall be in fresh air out by the last open crosscut and free from obstructions, or, if the machine is

located on the surface, moved to a clear area;

(2) All enclosure covers shall be removed;

(3) The flanges and interior of each enclosure, including the cover, shall be cleaned thoroughly;

(4) All hoses, cables, cord, and conveyor belts shall be wiped clean to expose surface markings;

(5) All electrical components shall be cleaned to reveal all stampings, identification plates, certification numbers, or explosion test markings.

§ 18.97 Inspection of machines; minimum requirements.

(a) Except as provided in § 18.95, all machines approved under the provisions of this Subpart E shall, where practicable, meet the minimum design and performance requirements set forth in Subpart B of this Part 18 and, where necessary, the requirements of § 18.98.

(b) The inspection of each machine shall be conducted by an electrical representative and such inspection shall include:

(1) Examination of all electrical components for materials, workmanship, design, and construction;

(2) Examination of all components of the machine which have been approved or certified under Bureau of Mines Schedule 2D, 2E, 2F, or 2G to determine whether such components have been maintained in permissible conditions;

(3) Comparison of the location of components on the machine with the drawings or photographs submitted to determine that each of them is properly located, identified and marked;

(4) Pressure testing of explosion-proof compartments, when necessary, shall be conducted in accordance with § 18.98, and;

(i) Where the results of pressure testing are acceptable, the applicant shall be advised;

(ii) Where the explosion-proof enclosure is found unacceptable, the applicant shall be so informed;

(iii) If the performance of the explosion-proof enclosure is questionable, the qualified electrical representative may, at the request of the applicant, conduct a further detailed examination of the enclosure after disassembly and record his additional findings on Bureau of Mines Form No. 6-1481 under Results of Field Inspections.

§ 18.98 Enclosures, joints, and fastenings; pressure testing.

(a) Cast or welded enclosures shall be designed to withstand a minimum internal pressure of 150 pounds per square inch (gage). Castings shall be free from blowholes.

(b) Pneumatic field testing of explosion-proof enclosures shall be conducted by determining:

(1) Leak performance with a peak dynamic or static pressure of 150 pounds per square inch (gage); or,

(2) A pressure rise and rate of decay consistent with unyielding components during a pressure-time history as derived from a series of oscillograms.

(c) Welded joints forming an enclosure shall have continuous gastight welds.

§ 18.99 Notice of approval or disapproval; letters of approval and approval plates.

Upon completion of each inspection conducted in accordance with § 18.97 (b), the electrical representative conducting such inspection shall record his findings with respect to the machine examined on Bureau of Mines Form No. 6-1481 together with his recommendation of approval or disapproval of the machine.

(a) If the qualified electrical representative recommends field approval of the machine, the Coal Mine Health and Safety District Manager shall forward the completed application form together with all attached photographs, drawings, specifications, and descriptions to Approval and Testing. Approval and Testing shall record all pertinent data with respect to such machine, issue a letter of approval with a copy to the Coal Mine Health and Safety District Manager who authorized its issuance and send the field approval plate to the applicant. The approval plate shall be affixed to the machine by the applicant in such a manner so as not to impair its explosion-proof characteristics.

(b) If the electrical representative recommends disapproval of the machine, he shall record the reasons for such disapproval and the Coal Mine Health and Safety District Manager shall forward the completed application form and other data to Approval and Testing which shall record all pertinent data with respect to such machine and notify the applicant that the application for approval has been rejected and the reasons for the rejection.

[FR Doc.71-5103 Filed 4-12-71;8:48 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER O—POLLUTION

[CGFR 70-126]

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

Pollution Fund

1. The purpose of this amendment to Title 33, Code of Federal Regulations, Part 153, is to set forth policies and procedures and prescribe reporting requirements applicable to the special fund established by the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970.

2. Subsection 11(c) of the Act provides that whenever any oil is discharged into or upon the navigable waters of the United States, or adjoining shorelines, or waters of the contiguous zone, the President is authorized to act to remove such oil at any time. Subsection 11(i) provides for the recovery of reasonable costs incurred by the owner or operator of a vessel, onshore facility, or offshore facility in removing an oil discharge in certain cases. Section 12 of the Act pertains to control of hazardous polluting substances other than oil and requires that the President, if appropriate, shall remove any substance designated a hazardous polluting substance that is discharged into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, unless removal is immediately undertaken by the owner or operator of the vessel or onshore or offshore facility from which the discharge occurs.

3. Section 11(k) of the Act authorizes an appropriation to a special fund of not to exceed $35 million to be established in the Treasury to carry out the provisions in subsection 11(c), (i) and (l) and sections 12 of the Act. Section 11(l) of the Act, provides that the President may delegate the administration of section 11 to appropriate Federal departments, agencies, and instrumentalities. Executive Order No. 11548 (35 F.R. 11677) delegates to the Secretary of Transportation, among other things, the responsibility and authority to administer the fund established pursuant to subsection 11(k) of the Act. The Secretary has redelegated the responsibility and authority for the fund to the Commandant in 49 CFR 1.46 (35 F.R. 14509).

4. These amendments add a new Subpart D to Part 153. Subpart C is reserved for rules for removing oil or hazardous substances. New § 153.303 indicates the kinds of costs that may be paid or reimbursed from the fund under the Act. The National Contingency Plan separates the actions taken to respond to a spill or pollution incident into five phases: Phase I, Discovery and Notification; Phase II, Containment and Countermeasures; Phase III, Cleanup and Disposal; Phase IV, Restoration; and Phase V, Recovery of Damages and Enforcement. Only Phase II and III actions taken in response to a spill or pollution incident are considered to be eligible costs to be charged to the fund.

5. Phase II actions are defensive actions and may include source control procedures, public health protection activities, salvage operations, placement of physical barriers to halt or slow the spread of a pollutant, emplacement or activation of booms or barriers to protect specific installations or areas, control of the water discharge from upstream impoundments and the employment of chemicals and other materials to restrain the pollutant and its effect on water related resources. Phase III includes actions taken to remove the pollutant from the water and related onshore areas such as the collection of oil through the use of sorbers, skimmers, or other collection devices, the removal of beach sand, and safe, nonpolluting disposal of the pollutants that are recovered in the cleanup process.

6. Actions described in the other phases of the plan, that is, notification,