

## Title 12—Banks and Banking

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

## SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

(No. 73-1601)

## PART 525—ADVANCES

## Short Term Advances

OCTOBER 25, 1973.

The Federal Home Loan Bank Board considers it desirable to amend § 525.32 of the Regulations for the Federal Home Loan Bank System (12 CFR 525.32) for the purpose of deleting the clause at the end of the second sentence relating to the two options of lending Banks upon maturity of unsecured advances. It is intended thereby to provide added flexibility for such Banks. Accordingly, on the basis of such consideration, the Board hereby amends said § 525.32 to read as set forth below, effective October 25, 1973.

The present § 525.32 requires either payment or refunding with eligible collateral of unsecured advances at their maturity. As a result of the amendment, instead of being limited solely to the options just referred to, lending Banks, for example, if circumstances justify such action, could elect at any maturity to renew an unsecured advance for an additional period not to exceed five years.

Since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

## § 525.32 Short term advances.

In addition to unsecured or secured advances with a maturity of not to exceed one year which may be made under the provisions of § 11(g)(4) of the act, advances on an unsecured basis or on any kind of security that may be readily available may be made to members under the provisions of § 11(g)(3) of the act. Such advances must have been unanimously approved by the executive committee of the Bank or by a majority of the directors or by 2 officers of the Bank. Except with the prior approval of the Board, the resulting aggregate of advances made under this section, together with the unpaid principal of any other advances having an unexpired maturity of more than 30 days, excluding advances made in accordance with or secured as provided in § 525.10, § 525.25 or § 525.26, shall not exceed 5 per centum of the member's withdrawable accounts.

(Secs. 10, 17, 47 Stat. 731, 736, as amended (12 U.S.C. 1430, 1437); Reorg. Plan No. 3 of

1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,  
Assistant Secretary.

[FR Doc. 73-23212 Filed 10-30-73; 8:45 am]

## Title 15—Commerce and Foreign Trade

## CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

[13th Gen. Rev. Export Regs., Amdt.]

## PART 379—TECHNICAL DATA

## Revision of General License GTDR

The provisions of General License GTDR are hereby revised in the manner indicated below:

A. *Written assurance required.* Before exporting technical data relating to certain materials and equipment under the provisions of General License GTDR, the exporter must obtain from the importer a written assurance that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to a destination in Country Group Q, W, Y or Z.

The list of materials and equipment subject to this requirement for a written assurance is revised to include technical data relating to certain artificial graphite and products thereof as follows: (1) Other artificial graphite, whether or not coated or composited with other materials to improve its performance at elevated temperatures or to reduce its permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60°F (15.5°C), and with a particle grain size of less than 0.001 inch (1 mil) (ECC No. 59); (2) Other artificial graphite products, n.e.c., including refractory, whether or not coated or composited with other materials to improve their performance at elevated temperatures or to reduce their permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60°F (15.5°C), and with a particle grain size of less than 0.001 inch (1 mil) (ECC No. 66); and (3) Other electrodes and electrical carbons made of artificial graphite, whether or not coated or composited with other materials to improve their performance at elevated temperatures or to reduce their permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60°F (15.5°C), and with a particle grain size of less than 0.001 inch (1 mil) (ECC No. 7299).

Effective date of action: October 29, 1973.

B. *Written assurance no longer required.* 1. Before exporting technical data relating to certain materials and equipment under the provisions of General License GTDR, the exporter must obtain from the importer a written assurance that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to a des-

ination in Country Group Q, W, Y, or Z. The list of materials and equipment subject to this provision is revised so that a written assurance is no longer required for the following:

(a) Cementing equipment; sidewall coring equipment; blowout preventers; fishing tools incorporating integral moving parts, casing cutters, and casing pullers; drilling control and surveying instruments; safety joints; jars, back-off tools, slip or telescopic joints; pipe and casing tongs, power type; percussion or vibratory attachments for rotary drilling; and drawworks and rotary tables designed for an input of 150 hp and over (ECC No. 718);

(b) Rotary drill rigs incorporating rotary tables and with drawworks designed for an input of 150 hp and over (other than truck-mounted drill rigs incorporating rotary tables with drawworks designed for an input of up to 900 horsepower), work-over rigs and drift indicators containing gyroscopes or cameras (ECC Nos. 718 and 732);

(c) Casing head and Christmas tree assemblies, over 10,000 psi, chokes and components; perforating equipment; formation and production testers, and packers; gas lift equipment; bottom hole pumps; and work-over rigs (ECC Nos. 7192, 71980, 7199, and 732);

(d) Well logging instruments and equipment, and seismograph equipment (ECC No. 7295);

(e) Filament winding machines, n.e.c., designed for or modified for the manufacture of rigid structural forms by precisely controlled tensioning and positioning of filament yarns, tapes, or rovings; and specially designed parts, controls, and accessories, n.e.c. (ECC No. 71980);

(f) Silicon carbide, 99 percent purity and over (ECC No. 514);

(g) Other hot or cold isostatic presses, n.e.c.; and specially designed parts and accessories (ECC No. 71980);

(h) Pyromellitic acid and dianhydrides (ECC No. 512);

(i) Polyimide-polyamide resins, n.e.c., and products made therefrom (ECC Nos. 53, 581, 59, 66, and 89300);

(j) Bonded, brazed, or welded structural sandwich constructions, including cores, face sheets, and attachment materials, manufactured in whole or in part from precipitation hardened stainless steel, beryllium, molybdenum, niobium (columbium), tantalum, titanium, tungsten, and their alloys, or any combination of such materials (ECC Nos. 691 and 6989);

(k) Proton magnetometers, n.e.c. (ECC No. 7295);

(l) Nickel-based alloys (i.e., containing a higher percentage, by weight, of nickel than any other element), including scrap, tube fittings, and pipe fittings thereof, containing: (i) 3 to 11 percent (by weight) of titanium and/or aluminum in any combination; or (ii) more than 8 percent (by weight) of molybdenum, tungsten, and/or niobium in any combination (ECC Nos. 28, 683, 6988, 6989, 723, and 7299);

(m) Cobalt-based alloys (i.e., containing a higher percentage, by weight, of cobalt than any other element), including scrap thereof, containing: (i) more than 5 percent (by weight) of tungsten and/or molybdenum, separately or in any combination; and (ii) not more than 1 percent (by weight) of carbon (ECC Nos. 6895, 6988, and 6989); and

(n) Magnetic materials, other than those specified in Interpretation 6, that meet all of the following: (i) consist principally of aluminum, nickel, and cobalt; (ii) are capable of an energy product in the range of 4.0 times  $10^4$  gauss-oersteds; and (iii) have a coercive force in the range of from 1,500 oersteds up to and including 1,800 oersteds (ECC Nos. 28, 683, 6895, 6989, and 7299).

In addition, those entries identified by the code letter "A" following the ECC number on the Commodity Control List are deleted from this list. Technical data relating to these commodities are subject to the provisions of § 379.4(b)(2)(i)(c).

2. Before exporting technical data relating to certain materials and equipment listed in § 379.4(e)(1)(v) under the provisions of General License GTDR, the exporter was previously required to obtain from the importer a written assurance that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to a destination in Country Group W, Y, or Z.

The list of materials and equipment subject to this provision is now being deleted since a written assurance applicable to Country Group W, Y, or Z is no longer required for technical data relating to: (a) activated carbon catalysts usable in petroleum and chemical processing operations (ECC No. 59) and catalysts usable in petroleum and chemical processing operations, except hydrocracking catalysts and catalysts usable in the ultrapurification of hydrogen (ECC Nos. 512, 513, and 514); (b) fractionating columns having, or having provisions for, 25 or more trays, and parts, n.e.c. (ECC Nos. 7191 and 71980); (c) pipe valves specially designed for use in the processing of petroleum, petrochemicals, natural gas, or their fractions (ECC No. 7199); and (d) pipe valves incorporating 90 percent or more tantalum, titanium, or zirconium, either separately or combined, and parts, n.e.c. (ECC No. 7199).

3. Before exporting technical data relating to certain commodities usable in the following processes: (1) alkylation of isobutane, (2) catalytic cracking, and (3) hydrocracking, under the provisions of General License GTDR, the exporter is required to obtain from the importer a written assurance that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to a destination in Country Group Q, W, Y, or Z.

The list of commodities subject to this provision is now being revised to delete the following commodities usable in these treatment processes: (1) pumps (ECC No. 7192), (2) valves (ECC No. 7199), and (3) parts and accessories for these

pumps and valves. Therefore, a written assurance is no longer required for the export of technical data relating to these commodities. However, the written assurance requirement for technical data relating to "processing vessels (such as reactors and regenerators) and parts and accessories (ECC No. 7191)" remains in effect under this provision.

Effective date of action: October 15, 1973.

Accordingly, § 379.4(e)(1) of the Export Control Regulations (15 CFR Part 379) is amended to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

(e) *Written assurance requirements—*  
 (1) *Requirement of written assurance for certain data, services, and materials.* No export of technical data of the kind described in paragraph (e)(1)(i), (ii), and (iii) of this section, may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product<sup>2</sup> thereof is intended to be shipped, either directly or indirectly, to Country Group Q, W, Y, or Z, except as provided in paragraph (e)(1)(iv) of this section. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group Q, W, Y, or Z, and prohibits shipment of the direct product<sup>2</sup> thereof by the licensee to Country Group Q, W, Y, or Z. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such as-

<sup>2</sup> The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

<sup>4</sup> Effective April 26, 1971, Country Group W no longer includes Romania. For purposes of assurances executed prior to that date, however, all references to Country Group W continue to apply to Romania as well as to Poland, and all conditions and responsibilities undertaken with respect to Romania remain unchanged.

insurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in paragraph (d)(1)(i), (ii), and (iii) of this section if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported, directly, or indirectly, to Country Group Q, W, Y, or Z.

(i) Technical data and services listed in paragraph (a) below for the plants, processes, and equipment listed in paragraph (b) below:

(a) Types of technical data and services:

- (1) Proprietary research and the results therefrom;
- (2) Processes developed pursuant to research (including technology with regard to component equipment items);
- (3) Catalyst production, activation, utilization, reactivation, and recovery;
- (4) Plant and equipment design and layout to implement the processes; and
- (5) Construction and operation of plant and equipment.

(b) Types of plants and processes:

The following plants or processes usable in the treatment of petroleum or natural gas fractions or of products derived directly or indirectly therefrom:<sup>1</sup>

- (1) Alkylation of isobutane;
- (2) Catalytic cracking; and
- (3) Hydrocracking.

(ii) Technical data relating to processing vessels (such as reactors and regenerators) and parts and accessories (ECC No. 7191) usable in processes listed in § 379.4(e)(1)(i)(b) above.

(iii) Technical data relating to the following materials and equipment:

(a) Other artificial graphite, and electrodes, electrical carbons, and other products made thereof, whether or not coated or composited with other materials to improve its performance at elevated temperatures or to reduce its permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60° F. 15.5° C.), and with a particle grain size of less than 0.001 inch (1 mil) (ECC Nos. 59, 66, and 7299);

(b) Electric furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites whether as standing bodies, coatings, linings or substrates (ECC No. 7299);

(c) Other gravity meters (gravimeters); and parts and accessories, n.e.c. (ECC No. 8619);

<sup>1</sup> This includes plants or processes for the production, extraction, and purification of petroleum products, and products derived therefrom.

(d) Other transonic, supersonic, hypersonic and hypervelocity wind tunnels and devices; and parts and accessories, n.e.c. (ECC Nos. 71980, 7295, 8618, and 8619);

(e) Off-shore drilling platforms (except fixed, non-floating types); specially designed parts and components (Export Control Commodity No. 735)<sup>2</sup>;

(f) Watercraft of 65 feet and over in overall length, designed to include motors or engines of 600 horsepower or over and greater than 45 displacement tons (Export Control Commodity No. 735)<sup>2</sup>;

(g) Methyl methacrylate, cross-linked, hot stretched, clear, film, sheeting, or laminates (Export Control Commodity No. 581);

(h) Doppler sonar navigation systems (Export Control Commodity No. 7295);

(i) Aerial and instrumentation film and plates and continuous tone aerial and instrumentation duplicating film and plates, sensitized, unexposed, or exposed but not developed, n.e.c., as follows: Having a spectral sensitivity extending above 7,200 or below 2,000 Angstroms, capable of a resolution (when measured with a 1,000:1 high contrast test object) of 100 or more line pairs/mm. for aerial and instrumentation camera film and plates or more than 300 line pairs/mm. for aerial and instrumentation duplicating film and plates, or having a base thickness before coating of less than .004 inches (ECC No. 862).

(j) Maraging steels containing all of the following: 12 percent or more nickel, more than 3 percent molybdenum, more than 5 percent cobalt, and less than 0.5 percent carbon (ECC Nos. 28 and 67); and

(k) Transformation Induced Plasticity (TRIP) steels or pental-alloy austenforming stainless steels of the following composition: 8 to 14 percent chromium, 6 to 10 percent nickel, 2 to 5 percent molybdenum, 1 to 3 percent silicon, 0.75 to 3 percent manganese, and 0.15 to 0.35 percent carbon (ECC Nos. 67 and 69).

(iv) The limitations set forth in this § 379.4(e) (1) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(b) Technical data supporting a price quotation as described in § 379.4(b) (2) above.

RAUER H. MEYER,  
Director,  
Office of Export Control.

[FR Doc. 73-23183 Filed 10-30-73; 8:45 am]

<sup>2</sup> This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Control.

## Title 17—Commodities and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10439]

#### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

##### Prohibition of Certain Reciprocal Portfolio Brokerage Practices

On June 27, 1973, in Securities Exchange Act Release No. 10246, (FEDERAL REGISTER of July 3, 1973, at 38 FR 17739) the Securities and Exchange Commission announced a proposal to adopt Rule 15b10-10 (17 CFR 240.15b10-10) under the Securities Exchange Act of 1934 (the Act). The Commission has considered the comments and suggestions received and has adopted the rule as set forth below effective November 30, 1973.

The rule, like subsection (k) under section 26 of Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (NASD), is intended to prohibit broker-dealers, in this case nonmembers of the NASD, from favoring or disfavoring the distribution of shares of open-end investment companies on the basis of brokerage commissions received,<sup>1</sup> soliciting or making promises of an amount or percentage of brokerage commissions in connection with the distribution of investment company shares, and seeking orders for the execution of fund portfolio transactions on the basis of their sales of fund shares. The rule would apply to the distribution of mutual fund contractual plans and variable annuity plans organized as unit investment trusts since sales of such plans are (for purposes of this rule) indirect sales of the underlying mutual fund shares included in trust portfolios.

The reciprocal brokerage practices of investment company managers has been the concern of the Commission for a number of years. In this connection, the Commission issued on February 2, 1972, its *Statement on the Future Structure of the Securities Markets* (FEDERAL REGISTER of March 14, 1972, at 37 FR 5286) in which it discussed its extensive studies on the subject and urged the NASD to initiate measures designed to prevent such practices by its members. Subsequently, on May 14, 1973, the Commission announced that it had reviewed and did not disapprove proposed amendments to the NASD's Rules of Fair Practice prohibiting these reciprocal practices.<sup>2</sup> The NASD's new provisions became effective on July 15, 1973.

<sup>1</sup> The term "brokerage commissions" as defined in the rule, would include compensation for all types of securities transactions except, of course, for the portion of sales loads paid directly to dealers in connection with the distribution of the shares of the open-end investment company itself.

<sup>2</sup> See Securities Exchange Act Release No. 10147. Copies of this release may be obtained on request to the Publications Office, Securities and Exchange Commission, Washington, D.C. 20549.

1. The text of the rule, which is being adopted pursuant to the Securities Exchange Act of 1934, particularly sections 15(b)(10) and 23(a) of that Act is as follows:

#### § 240.15b10-10 Execution of investment company portfolio transactions.

(a) No nonmember broker-dealer shall, directly or indirectly, favor or disfavor the distribution of shares of any open-end investment company on the basis of brokerage commissions received or excepted by such nonmember from any source, including such investment company, or any covered account.

(b) No nonmember broker-dealer shall, directly or indirectly, demand, require, or solicit an offer or promise of an amount or percentage of brokerage commissions from any source in connection with, or as a condition to, the sale of shares of an open-end investment company.

(c) No nonmember broker-dealer shall, directly or indirectly, offer or promise to another broker-dealer, or request or arrange for the direction to any broker-dealer of, an amount or percentage of brokerage commissions from any source as an inducement or reward for the sale of shares of an open-end investment company.

(d) No nonmember broker-dealer shall circulate any information regarding the amount or level of brokerage commissions received by the nonmember from any investment company or covered account to other than management personnel who are required, in the overall management of the nonmember's business, to have access to such information.

(e) Nothing herein shall be deemed to prohibit the execution of portfolio transactions of any open-end investment company or covered account by nonmember broker-dealers who also sell shares of such investment company; *Provided, however,* That such nonmembers shall seek orders for execution on the basis of the value and quality of their brokerage services and not on the basis of their sales of investment company shares.

(f) For purposes of this rule:

(1) "Covered account" shall mean (i) any other investment company or other account managed by the investment adviser of such investment company, or (ii) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person of such investment company or of such principal underwriter, or of any affiliated person of an affiliated person of such investment company.

(2) "Brokerage commissions," as used herein, shall include all compensation paid for or in connection with the effecting of securities transactions and shall include commissions on agency transactions, underwriting discounts, or

concessions, mark-ups or mark-downs on principal transactions, and fees paid in connection with tender offers.

(3) Other terms used in this rule that are not defined in the Act or Rule 15b10-1 shall have the same meanings as in the Investment Company Act of 1940, as amended, except that the term "open-end investment company" shall not include insurance company separate accounts.

2. The introductory clause of § 240.15b10-1 is revised, pursuant to section 15(b)(10) and Section 23(a) of the Securities Exchange Act of 1934, to read as follows:

§ 240.15b10-1 Definitions.

For the purposes of all sections in §§ 240.15b10-2 through 240.15b10-10 inclusive, the following definitions shall apply except where a particular rule in such series contains a separate definition of the same term for the purposes of that rule:

By the Commission,

OCTOBER 19, 1973.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-23159 Filed 10-30-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart E—Listing of Color Additives for Drug Use Subject to Certification

D&C GREEN NO. 5; CONFIRMATION OF EFFECTIVE DATE OF ORDER LISTING FOR USE IN SUTURES

In the matter of listing D&C Green No. 5 as a safe and suitable color additive for use in nylon surgical sutures and subject to certification:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for hearing were filed in response to the order in above-identified matter published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20614). Accordingly, the regulation (§ 8.4069) promulgated thereby became effective October 1, 1973.

Dated October 23, 1973.

SAM D. FINE,  
Associate Commissioner for Compliance.

[FR Doc.73-23165 Filed 10-30-73;8:45 am]

PART 8—COLOR ADDITIVES

Subpart F—Listing of Color Additives for Drug Use Exempt From Certification

Subpart H—Listing of Color Additives for Cosmetic Use Exempt From Certification

DIHYDROXYACETONE; CONFIRMATION OF EFFECTIVE DATE OF ORDER LISTING FOR USE IN DRUGS OR COSMETICS

In the matter of listing dihydroxyacetone as a safe and suitable color additive for use in externally applied drugs or cosmetics which color the human body, and exempting it from certification:

1. Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for hearing were filed in response to the order in the above-identified matter published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20615). Accordingly, the regulations (§ 8.6016 and § 8.8005) promulgated thereby became effective October 1, 1973.

2. Effective on October 1, 1973, § 8.501. Provisional lists of color additives, is amended in the table in paragraph (g) by deleting "Dihydroxyacetone" from the list of color additives.

Dated: October 23, 1973.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.73-23166 Filed 10-30-73;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Miscellaneous Amendments

*Background.* Pursuant to the authority contained in section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 745; 30 U.S.C. 811(a)), there was published, as proposed rule-making, in the FEDERAL REGISTER for December 12, 1972 (37 FR 26422), §§ 75.524, 75.1001-1, 75.1003-2, 75.1101-23, 75.1600-1, 75.1600-2, and 75.1704-2 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, setting forth mandatory standards which would: (1) Establish a requirement that electric current permitted to exist between frames of electric face equipment be limited to not more than one ampere; (2) provide for frequent testing and calibration of devices for over-current protection; (3) specify requirements for movement of off-track mining equipment in areas

where energized trolley wires or trolley feeder wires are present; (4) provide for instruction in the location and use of fire fighting equipment, escapeways, exits, routes of travel and for fire drills; (5) improve two-way communication between working sections and the surface; and (6) require improved escapeways and periodic drills in their use.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to these proposed mandatory safety standards, stating the grounds therefor, and to request a public hearing on such objections.

Written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a public hearing on proposed §§ 75.524, 75.1001-1, 75.1003-2, 75.1101-23, 75.1600-1, 75.1600-2, and 75.1704-2 of Part 75. In accordance with section 101 (f) of the Act, a Notice of Objections Filed and Hearing Requested was published in the FEDERAL REGISTER for March 14, 1973 (38 FR 6900).

Following this notice, there was published in the FEDERAL REGISTER for March 22, 1973 (38 FR 7465), a notice of public hearing to be held for the purpose of receiving relevant evidence on the issues raised by the objections.

The public hearing was held on April 10, 1973, in the Law Building, University of Kentucky, Lexington, Kentucky. Presentations were made by representatives of the U.S. Bureau of Mines, Bituminous Coal Operators' Association, Inc., Harlan County Coal Operators' Association, Eastover Mining Company, and North American Coal Company. The record remained open for a period of 14 days after April 10, 1973, to permit submission of additional data.

A verbatim transcript of the hearing is available for public inspection in the Office of the Deputy Administrator, Health and Safety, Room 4512, Mining Enforcement and Safety Administration, Department of the Interior, Washington, D.C. 20240.

Section 101(g) of the Act (83 Stat. 747; 30 U.S.C. 811(g)), provides, in part, that within 60 days after completion of any public hearing on proposed mandatory safety standards, the Secretary of the Interior shall make findings of fact which shall be public. On the basis of evidence presented at the hearing and on other information available to the Department, the findings of fact were made and were published in the FEDERAL REGISTER for June 27, 1973 (38 FR 16922).

Section 101(g) of the Act also provides that in the event the Secretary determines that a proposed safety standard should not be promulgated or should be modified he shall within a reasonable time publish his reasons for his deter-

mination. Reasons for modifying several of the proposed standards, as well as certain explanations of the standards not treated in the previously published findings of fact, are set forth below.

(1) While the technology is available to allow compliance with the requirement that electric current permitted to exist between frames of electric face equipment be limited to not more than one ampere as specified in § 75.524, it is not readily available to all operators. Further, it will take time for operators to secure the necessary hardware to allow compliance. Therefore, a technical report detailing how to comply with the standard will be available to the operators at all Coal Mine Health and Safety District and Subdistrict Offices of the Mining Enforcement and Safety Administration (MESA) in the near future, and operators shall have a period of 180 days from the effective date of the standard within which to acquire and install the hardware necessary to bring their equipment into compliance. During such period of 180 days operators will be advised by means of "safeguard notices" of failures to comply. After 180 days from the effective date operators who fail to comply will be subject to the issuance of notices, orders and assessment of penalties pursuant to the Act.

(2) As proposed, § 75.1003-2(f) (1) would have required that during certain off-track equipment moves electric power shall be supplied to trolley wires or trolley feeder wires only from outby the unit of equipment being moved or transported. Because this is impossible in some mines which use direct current an exception shall be permitted where direct current electric power is used and such power can be supplied only from inby the equipment being moved, provided that a miner with the means to cut off the power, and in direct communication with persons actually engaged in the moving or transporting operation, is stationed outby the equipment being moved.

(3) As proposed, § 75.1003-2(f) (3) would have required that during certain off-track equipment moves, a miner shall be stationed at the first cutout switch outby the equipment. Because use of the cutout switch could draw a large electric arc presenting burn and explosion hazards, the requirement has been modified so that the miner shall be stationed at the first automatic circuit breaker outby the equipment.

(4) As proposed, § 75.1101-23(a) (1) (i) required the evacuation of "all persons not actively engaged in firefighting activities." To better express the intent of the standard this has been changed to require the evacuation of "all miners not required for firefighting activities."

(5) As proposed, § 75.1600-1 required a telephone or equivalent two-way communication facility to be located on the surface within 200 feet of all main portals. This has been changed to within 500 feet of all main portals because this is no less safe and will allow the use of many existing facilities.

(6) As proposed, § 75.1600-2 required that telephones or equivalent two-way

communication facilities provided at each working section to be located not more than 300 feet outby the last open crosscut and not more than 700 feet from the farthest point of penetration of the working places on such section. The stated distances have been changed to 500 feet and 500 feet respectively because the original distances were impractical in some mines using track haulage loops. The new distances place the communication facilities at advantageous places without any loss in safety.

(7) As proposed, § 75.1704-2(a) required that designated escapeways in mines and working sections opened on and after the effective date of this section follow the most direct route of travel to the nearest mine opening. This has been changed to require the designated escapeways to follow, as determined by an authorized representative of the Secretary, the safest, direct practical route to the nearest mine opening suitable for the safe evacuation of miners. This change was made to emphasize that not only the most direct route but also the safest route must be considered in establishing escapeways. A similar change has been made in § 75.1704-2(b) in regard to working sections in existence on the effective date of the standard.

(8) As proposed, § 75.1704-2(d) required that a map of the mine showing the escape system of the entire mine be posted at a location where all miners could acquaint themselves with the escapeway from any part of the mine. This has been changed to require that a map showing the main escape system be so posted and that a map be posted in each working section showing the designated escapeways from that section to the main escape system. This change was made to allow miners to more easily and more quickly acquaint themselves with the designated escapeways from their working sections. A map of the entire escape system might cause confusion particularly in an emergency.

(9) As proposed, § 75.1704-2(e) required that each miner travel the escapeways through his working section to the main escapeways at least once every 10 weeks. This has been changed to at least once every 90 days in order to conform to § 75.1101-23(c) regarding fire drills.

Based on evidence received at the public hearing of April 10, 1973, and in view of the foregoing reasons §§ 75.524, 75.1001-1, 75.1003-2, 75.1101-23, 75.1600-1, 75.1600-2, and 75.1704-2 are modified and revised as set forth below.

**Effective date.** These amendments shall be effective on January 1, 1974, provided, however that operators shall have a period of 180 days after the effective date of the amendments to § 75.524 to acquire and install equipment or devices necessary to comply with the standard.

(Sec. 101(a) Federal Coal Mine Health and Safety Act of 1969, as amended; 83 Stat. 745 (30 U.S.C. 811(a)).)

JOHN B. RIGG,  
Deputy Assistant Secretary  
of the Interior.

OCTOBER 26, 1973.

Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations is amended as follows:

1. A new § 75.524 is added to Part 75 to read as follows:

§ 75.524 Electric face equipment; electric equipment used in return air outby the last open crosscut; maximum level of alternating or direct electric current between frames of equipment.

The maximum level of alternating or direct electric current that exists between the frames of any two units of electric face equipment that come in contact with each other in the working places of a coal mine, or between the frames of any two units of electric equipment that come in contact with each other in return air outby the last open crosscut, shall not exceed one ampere as determined from the voltage measured across a 0.1 ohm resistor connected between the frames of such equipment.

2. Section 75.1001-1 is amended to read as follows:

§ 75.1001-1 Devices for overcurrent protection; testing and calibration requirements; records.

(a) Automatic circuit interrupting devices that will deenergize the affected circuit upon occurrence of a short circuit at any point in the system will meet the requirements of § 75.1001.

(b) Automatic circuit interrupting devices described in paragraph (a) of this section shall be tested and calibrated at intervals not to exceed six months. Testing of such devices shall include passing the necessary amount of electric current through the device to cause activation. Calibration of such devices shall include adjustment of all associated relays to  $\pm 15$  percent of the indicated value. An authorized representative of the Secretary may require additional testing or calibration of these devices.

(c) A record of the tests and calibrations required by paragraph (b) of this section shall be kept, and shall be made available, upon request, to an authorized representative of the Secretary.

3. A new § 75.1003-2 is added to Part 75 as follows:

§ 75.1003-2 Requirements for movement of off-track mining equipment in areas of active workings where energized trolley wires or trolley feeder wires are present; pre-movement requirements; certified and qualified persons.

(a) Prior to moving or transporting any unit of off-track mining equipment in areas of the active workings where energized trolley wires or trolley feeder wires are present:

(1) The unit of equipment shall be examined by a certified person to ensure that coal dust, float coal dust, loose coal, oil, grease, and other combustible materials have been cleaned up and have not been permitted to accumulate on such unit of equipment; and,

(2) A qualified person, as specified in § 75.153 of this part, shall examine the

trolley wires, trolley feeder wires, and the associated automatic circuit interrupting devices provided for short circuit protection to ensure that proper short circuit protection exists.

(b) A record shall be kept of the examinations required by paragraph (a) of this section, and shall be made available, upon request, to an authorized representative of the Secretary.

(c) Off-track mining equipment shall be moved or transported in areas of the active workings where energized trolley wires or trolley feeder wires are present only under the direct supervision of a certified person who shall be physically present at all times during moving or transporting operations.

(d) The frames of off-track mining equipment being moved or transported, in accordance with this section, shall be covered on the top and on the trolley wire side with fire-resistant material which has met the applicable requirements of Part 18 of Subchapter D of this Chapter (Bureau of Mines Schedule 2G).

(e) Electrical contact shall be maintained between the mine track and the frames of off-track mining equipment being moved in-track and trolley entries, except that rubber-tired equipment need not be grounded to a transporting vehicle if no metal part of such rubber-tired equipment can come into contact with the transporting vehicle.

(f) A minimum vertical clearance of 12 inches shall be maintained between the farthest projection of the unit of equipment which is being moved and the energized trolley wires or trolley feeder wires at all times during the movement or transportation of such equipment; provided, however, that if the height of the coal seam does not permit 12 inches of vertical clearance to be so maintained, the following additional precautions shall be taken:

(1) (i) Except as provided in paragraph (f) (1) (ii) of this section electric power shall be supplied to the trolley wires or trolley feeder wires only from outby the unit of equipment being moved or transported. (ii) Where direct current electric power is used and such electric power can be supplied only from inby the equipment being moved or transported, power may be supplied from inby such equipment provided a miner with the means to cut off the power, and in direct communication with persons actually engaged in the moving or transporting operation, is stationed outby the equipment being moved.

(2) The settings of automatic circuit interrupting devices used to provide short circuit protection for the trolley circuit shall be reduced to not more than one-half of the maximum current that could flow if the equipment being moved or transported were to come into contact with the trolley wire or trolley feeder wire;

(3) At all times the unit of equipment is being moved or transported, a miner shall be stationed at the first automatic circuit breaker outby the equipment being moved and such miner shall be: (1)

In direct communication with persons actually engaged in the moving or transporting operation, and (ii) capable of communicating with the responsible person on the surface required to be on duty in accordance with § 75.1600-1 of this part;

(4) Where trolley phones are utilized to satisfy the requirements of paragraph (f) (3) of this section, telephones or other equivalent two-way communication devices that can readily be connected with the mine communication system shall be carried by the miner stationed at the first automatic circuit breaker outby the equipment being moved and by a miner actually engaged in the moving or transporting operation; and,

(5) No person shall be permitted to be inby the unit of equipment being moved or transported, in the ventilating current of air that is passing over such equipment, except those persons directly engaged in moving such equipment.

(g) The provisions of paragraphs (a) through (f) of this section shall not apply to units of mining equipment that are transported in mine cars, provided that no part of the equipment extends above or over the sides of the mine car.

4. A new § 75.1101-23 is added to Part 75 as follows:

§ 75.1101-23 Program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel; evacuation procedures; fire drills.

(a) Each operator of an underground coal mine shall adopt a program for the instruction of all miners in the location and use of fire fighting equipment, location of escapeways, exits, and routes of travel to the surface, and proper evacuation procedures to be followed in the event of an emergency. Such program shall be submitted for approval to the District Manager of the Coal Mine Health and Safety District in which the mine is located no later than June 30, 1974.

(1) The approved program of instruction shall include a specific fire fighting and evacuation plan designed to acquaint miners on all shifts with procedures for:

(i) Evacuation of all miners not required for fire fighting activities;

(ii) Rapid assembly and transportation of necessary men, fire suppression equipment, and rescue apparatus to the scene of the fire; and,

(iii) Operation of the fire suppression equipment available in the mine.

(2) The approved program of instruction shall be given to all miners annually, and to newly employed miners within six months after the date of employment.

(b) In addition to the approved program of instruction required by paragraph (a) of this section, each operator of an underground coal mine shall ensure that:

(1) At least two miners in each working section on each production shift are proficient in the use of all fire suppression equipment available on such working section, and know the location of such fire suppression equipment;

(2) Each operator of attended equipment specified in § 75.1107-1(c) (1) of this subpart, and each miner assigned to perform job duties at the job site in the direct line of sight of attended equipment as described in § 75.1107-1(c) (2) of this subpart, is proficient in the use of fire suppression devices installed on such attended equipment; and,

(3) The shift foreman and at least one miner for every five miners working underground on a maintenance shift are proficient in the use of fire suppression equipment available in the mine, and know the location of such fire suppression equipment.

(c) Each operator of an underground coal mine shall require all miners to participate in fire drills, which shall be held at periods of time so as to ensure that all miners participate in such a drill no later than January 31, 1974, and at intervals of not more than 90 days thereafter.

(1) A record of such fire drills shall be kept at the mine, and shall include the date on which the drill was held, the number of persons participating, the area of the mine involved in the drill, the procedures followed, and the equipment used.

(2) For purposes of this paragraph (c), a fire drill shall consist of a simulation of the actions required by the approved fire fighting and evacuation plan described in subparagraph (a) (1) of this section.

5. New §§ 75.1600-1 and 75.1600-2 are added to Part 75 as follows:

§ 75.1600-1 Communication facilities; main portals; installation requirements.

A telephone or equivalent two-way communication facility shall be located on the surface within 500 feet of all main portals, and shall be installed either in a building or in a box-like structure designed to protect the facilities from damage by inclement weather. At least one of these communication facilities shall be at a location where a responsible person who is always on duty when men are underground can hear the facility and respond immediately in the event of an emergency.

§ 75.1600-2 Communication facilities; working sections; installation and maintenance requirements; audible or visual alarms.

(a) Telephones or equivalent two-way communication facilities provided at each working section shall be located not more than 500 feet outby the last open crosscut and not more than 800 feet from the farthest point of penetration of the working places on such section.

(b) The incoming communication signal shall activate an audible alarm, distinguishable from the surrounding noise level or a visual alarm that can be seen by a miner regularly employed on the working section.

(c) If a communication system other than telephones is used and its operation depends entirely upon power from the mine electric system, means shall be

provided to permit continued communication in the event the mine electric power fails or is cut off; provided, however, that where trolley phones and telephones are both used, an alternate source of power for the trolley phone system is not required.

(d) Trolley phones connected to the trolley wire shall be grounded in accordance with Subpart H of this part.

(e) Telephones or equivalent two-way communication facilities shall be maintained in good operating condition at all times. In the event of any failure in the system that results in loss of communication, repairs shall be started immediately, and the system restored to operating condition as soon as possible.

6. A new § 75.1704-2 is added to Part 75 as follows:

**§ 75.1704-2 Escapeway routes; examination; escapeway maps; drills.**

(a) In mines and working sections opened on and after January 1, 1974, all travelable passageways designated as escapeways in accordance with § 75.1704 shall be located to follow, as determined by an authorized representative of the Secretary, the safest direct practical route to the nearest mine opening suitable for the safe evacuation of miners. Escapeways from working sections may be located through existing entries, rooms, or crosscuts.

(b) In mines and working sections in existence prior to January 1, 1974, all travelable passageways designated as escapeways in accordance with § 75.1704 shall, no later than June 30, 1974, be located to follow, as determined by an authorized representative of the Secretary, the safest, direct practical route to the nearest mine opening suitable for the safe evacuation of miners. Escapeways from working sections may be located through existing entries, rooms and crosscuts.

(c) (1) All escapeways shall be examined in their entirety at least once each week by a certified person. Such weekly examination need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any miner other than the certified person returns to the mine. The phrase "once each week" shall mean at intervals not exceeding seven days.

(2) The certified person making such examination shall place his initials, the date, and time at various locations along the passageways and, if any hazardous conditions are found, such conditions shall be reported promptly to the operator. The results of the examinations shall be recorded in the book specified in § 75.1801 relating to the examination of emergency escapeways. Any hazardous conditions observed shall be corrected immediately.

(d) A map of the mine, showing the main escape system, shall be posted at a location where all miners can acquaint themselves with the main escape system. A map showing the designated escapeways from the working section to the main escape system, shall be posted in each working section, in order that the

miners in the section can acquaint themselves with the designated escapeways from the section to the main escape system. All maps shall be kept up to date, and any changes in routes of travel, location of doors, or direction of air-flow shall be promptly shown on the maps when the changes are made and shall be promptly brought to the attention of all miners.

(e) Practice escapeway drills shall be conducted so that all miners are kept informed of the route of escape, any necessary ventilation changes, the location of fire doors, check curtains, or smoke-retarding doors, and plans for diverting smoke from escapeways. Such practice drills shall ensure that each miner travels the escapeways through his respective working section up to the main escapeways at least once every 90 days, and that at least two miners, including the supervisor, on each producing section travel through the main escapeways up to the portal at least once every six weeks.

(f) The practice escapeway drills may be utilized to satisfy the evacuation specifications of the fire drills required by § 75.1101-23.

[FR Doc.73-23221 Filed 10-30-73;8:45 am]

**Title 33—Navigation and Navigable Waters**

**CHAPTER I—COAST GUARD,  
DEPARTMENT OF TRANSPORTATION**

[CGD 73-126 R]

**PART 110—ANCHORAGE REGULATIONS**

**Special Anchorage Area, Oyster Bay,  
New York**

This amendment to the anchorage regulations establishes a special anchorage area in Oyster Bay Harbor, New York. In special anchorage areas vessels under 65 feet in length when at anchor are not required to carry or exhibit anchor lights.

This amendment is based on a notice of proposed rulemaking published in the Tuesday, June 19, 1973, issue of the FEDERAL REGISTER (38 FR 15970).

The only comment received came from the National Oceanic and Atmospheric Administration. Their comment provided corrections for errors in the coordinates of latitude. These errors were minor in nature, and the location and description of the anchorage in the notice of proposed rulemaking was otherwise sufficiently clear. The corrections to the coordinates of latitude have been incorporated in this amendment.

In consideration of the foregoing, Part 110 of Chapter I of Title 33 of the Code of Federal Regulations is amended by adding a new § 110.60(u-2) to read as follows:

**§ 110.60 Port of New York and vicinity.**

(u-2) Harbor of Oyster Bay, Oyster Bay, New York. The water area north of the town of Oyster Bay enclosed by a line beginning on the shoreline at latitude 40°52'35.5" N., longitude 73°32'17" W.; thence to latitude 40°52'59.5" N., longitude 73°32'18" W.; thence to latitude 40°53'00" N., longitude 73°30'53" W.; thence to latitude 40°52'39" N., lon-

gitude 73°30'54" W.; thence to the shoreline at latitude 40°52'25" N., longitude 73°31'18" W.; thence following the shoreline to the point of beginning.

NOTE.—An ordinance of the Town of Oyster Bay, New York prescribes rules for anchoring in this special anchorage area.

(Sec. 1, 30 Stat. 98, as amended; sec. 6(g) (1) (B), 80 Stat. 937 (33 U.S.C. 180) (49 U.S.C. 1655(g) (1) (B)); 49 CFR 1.46(c) (2).)

Effective date. This amendment shall become effective on November 30, 1973.

Dated: October 25, 1973.

R. I. PRICE,  
Captain, U.S. Coast Guard, Acting  
Chief, Office of Marine  
Environment and Systems.

[FR Doc.73-23131 Filed 10-30-73;8:45 am]

[CGD 73 250R]

**PART 117—DRAWBRIDGE OPERATION  
REGULATIONS**

**Laguna Madre, Texas**

This amendment revokes the regulations for the highway bridge across Laguna Madre, Texas, because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking paragraph (j) (40) of § 117.245.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1(c) (4).)

Effective date. This revision shall become effective October 31, 1973.

Dated October 17, 1973.

R. I. PRICE,  
Captain, U.S. Coast Guard, Acting  
Chief, Office of Marine  
Environment and Systems.

[FR Doc.73-23132 Filed 10-30-73;8:45 am]

**Title 41—Public Contracts and Property  
Management**

**CHAPTER 101—FEDERAL PROPERTY  
MANAGEMENT REGULATIONS**

**SUBCHAPTER D—PUBLIC BUILDINGS AND  
SPACE**

[FPMR Amendment D-45]

**PART 101-19—MANAGEMENT OF  
BUILDINGS AND GROUNDS**

**Subpart 101-19.1—Operation and  
Maintenance**

**FIRE SAFETY**

Section 101-19.109-1 is amended to change the definition of the term "non-combustible." The fire hazard rating for smoke development is increased from 100 to 150. Section 101-19.109-7(a) is revised to include a cross-reference to the definition of noncombustible.

Section 101-19.109-1 is amended to read as follows:

**§ 101-19.109-1 Definitions.**

(b) (2) Rigid materials, all surfaces of which have fire hazard ratings not exceeding 25 for flame spread and 150 for