4 Surface water drift at the vicinity of the proposed site is predominantly offshore to the west away from the island.

EPA Region IX has made a determination, based upon scientific and other data, that the material proposed for dumping is in compliance with the criteria and the dumping will not result in significant impact on the marine environment.

On Wednesday, February 8, 1978, EPA published a proposed designation as an EPA-approved ocean dumping site, a site 2.1 miles west of Kwajalein Atoll south pass, Marshall Islands Trust Territories of the Pacific Islands (43 FR 5391). The proposed site has a 1,000-yard radius with a center point of 08° 46′ north latitude and 167° 36′ east longitude. The depth at the proposed site is 1,655 fathoms (9,930 feet).

A number of comments were received on the proposed site designation suggesting that EPA consider the availability of alternatives to ocean dumping in making its final site designation determination. The availability of alternatives to ocean dumping is more appropriately considered in the permit application review process as part of the evaluation required by §§ 227.15 and 227.16 of the criteria. Accordingly, these comments have been referred to EPA Region IX for their consideration in determining whether a permit should be issued for dumping at the Kwajalein Atoll site.

One commenter suggested that a specific requirement specifying screening and cleaning procedures be included in the site designation. Since this is more appropriately a permit condition, it also was referred to the Region for inclusion in any permit that might issue.

Management authority for this site will be delegated to the Regional Administrator of Region IX, EPA.

The proposed site designation is hereby promulgated without change, as set forth below.

(33 U.S.C. 1412, 1418.)

Dated: July 25, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, paragraph (b) of § 228.12 is amended by adding subparagraph (3), an ocean dumping site, as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(3) Kwajalein Ocean dumping site—Region IX. Location—Latitude and Longitude—08° 47′ north latitude, 167° 36′ east longitude.
Size—1,000 yard radius.
Depth—1,655 fathoms (9,930 feet).
Primary use—waste materials resulting from the operation of the Kwajalein Missile Range.
Period of use—Three years after issuance of an ocean dumping permit for use of this site.

[FR Doc. 78-21157 Filed 7-31-78; 8:45 am]

[4110-12]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-1—GENERAL

Subpart 3-1.7—Small Business Concerns

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary is amending its regulations on contracts with the Small Business Administration, to provide guidance in regard to the procurement of technical requirements. The purpose of the amendment is to establish standardized policy and procedures which specify how the Department conducts source selection and debriefing activities in its minority business program.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Willie E. Boyd, Department of Health, Education, and Welfare, Room 513D, 200 Independence Avenue SW., Washington, D.C. 20201, 202-245-7565.

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Department of Health, Education, and Welfare published a proposed rule (42 FR 1273) to revise 41 CFR Subpart 3-1.7, § 3-1.713, Contracts with the Small Business Administration. Comments were received from two organizations, and both, while agreeing in principle with the proposal, made several suggestions which the Department has incorporated.

The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Date: July 14, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

Section 3-1.713 is deleted in its entirety and the following substituted:

Subpart 3-1.7—Small Business Concerns

§ 3-1.713 Contracts with the Small Business Administration.

§ 3-1.713-50 Procurement of technical requirements.

(a) *Source selection.* (1) The section 8(a) program is a business development program, and the policy expressed in § 1-3.101(d) does not apply. Additionally, the Small Business Administration (SBA) has ultimate responsibility for nomination of an 8(a) subcontractor for a proposed 8(a) requirement and may elect to deviate from usual source nomination procedures.

(2) Except in the case where SBA selects a firm for an 8(a) award, or as provided in subparagraph (3) below, limited technical competition shall be conducted for requirements for consulting services, computer science and related services, research, development, test, evaluation, demonstration, and technical and professional services, where technical aspects, methodology, or approach are of primary importance rather than price. At the request of the program director, the procuring activity may, in consultation with the SBA, require that written technical proposals be submitted by the firms participating in the limited technical competition.

(3) There may be circumstances where one 8(a) firm has exclusive or predominant capability among 8(a) firms by reason of experience, specialized facilities, or technical competence to perform the work within the time required. In such circumstances, after coordinating with the Minority Business Coordinator (MBC), the initiating program office may recommend, for approval by the contracting officer, that only that 8(a) firm be considered for nomination to SBA. This recommendation shall be in writing, setting forth full and complete justification for the nomination. The justification shall be submitted to the appropriate contracting officer, through the minority business coordinator, for concurrence. In addition, the justification shall be included in the offering letter to SBA.

(4) Where limited technical competition is required or is determined to be appropriate, the sources (i.e., firms) which are to be included will be decided by the procuring activity in consultation with SBA. Consultation will be initiated by nomination of sources rec-

ommended by program officials and MBC's and, if SBA elects, by SBA.

(5) Each 8(a) firm or group of firms nominated for a specific 8(a) requirement shall have been approved by SBA for that particular requirement prior to any discussion with the firm(s) about the requirement.

(6) It is conceivable that limited technical competition will assist in the development of 8(a) firms. However, procuring activities should recognize that the policy expressed in § 1-3.101 does not apply to the process of identifying potential contractors to be nominated to SBA under the 8(a) program, and that to involve a large number of 8(a) firms in a limited technical competition may have an adverse impact on the limited financial resources of these firms. Usually three to five sources should be nominated, depending on the intended contract, and subject to SBA's approval.

(b) *Debriefing.* A debriefing, when requested in writing, shall be provided by the cognizant contracting officer to an 8(a) firm that has been unsuccessful in an 8(a) limited technical competition.

[FR Doc. 78-21269 Filed 7-31-78; 8:45 am]

[6820-24]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Temp. Reg. E-21, Supp. 3]

APPENDIX—TEMPORARY REGULATIONS

Revised Policy on Reporting Discrepancies in Shipments

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement establishes an expiration date for FPMR Temporary Regulation E-21—Revised policy on reporting discrepancies in shipments. The policy and instructions in FPMR Temporary Regulation E-21 will be incorporated into the GSA Handbook, discrepancies or deficiencies in GSA or DOD shipments, material, or billings (FPMR 101-26.8), on or before December 31, 1978.

DATES: Effective date: August 1, 1978. Expiration date: December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, 703-557-1914, Director, Regulations and Management Control Division.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of subchapter E.

FEDERAL PROPERTY MANAGEMENT REGULATIONS TEMPORARY REGULATION E-21 SUPPLEMENT

TO: Heads of Federal agencies.

SUBJECT: Revised policy on reporting discrepancies in shipments.

1. Purpose. This supplement establishes an expiration date for FPMR Temporary Regulation E-21.

2. Effective date. This regulation is effective August 1, 1978.

3. Expiration date. This regulation expires December 31, 1978.

4. Background. FPMR Temporary Regulation E-21, dated January 24, 1972, provided revised policy and instructions on reporting discrepancies or deficiencies in shipments from, or directed by, GSA or the Department of Defense (DOD). The policy and instructions in FPMR Temporary Regulation E-21 will be incorporated into the GSA Handbook, discrepancies or deficiencies in GSA or DOD shipments, material, or billings (FPMR 101-26.8), on or before December 31, 1978. Therefore, FPMR Temporary Regulation E-21 will be canceled at that time.

5. Explanation of change. The expiration date for FPMR Temporary Regulation E-21, as provided for in paragraph 3 of supplement 2 thereto, is hereby established as December 31, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

JULY 14, 1978.

[FR Doc. 78-21169 Filed 7-31-78; 8:45 am]

[4110-87]

Title 42—Public Health Service

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINES

Subpart—Chest Roentgenographic Examinations

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Final rule.

SUMMARY: These rules revise and update specifications governing the chest roentgenograms (X-rays) required to be given to underground coal miners by section 203 of the Federal Mine Safety and Health Act of 1977. The program was formerly conducted under section 203 of the Federal Coal Mine Health and Safety Act of 1969.

DATES: Effective Date August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harlan Amandus, Chief, Examinations Processing Branch or Mrs. Phyllis Popovich, Chief, Receiving Center Section, Examinations Processing Branch, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505, phone: 304-599-7306 or FTS 923-7306.

SUPPLEMENTARY INFORMATION: On December 27, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 64643) to revise the subpart of part 37, Title 42, Code of Federal Regulations, entitled "Chest Roentgenographic Examinations." The proposal set forth the specifications for giving, reading, classifying, and submitting to NIOSH chest roentgenograms (X-rays) required for underground coal miners by section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843).

Interested persons were invited to comment on the proposed specifications. Comments were received from the United Mine Workers of America (UMWA), the Bituminous Coal Operators' Association (BCOA), the Association of Bituminous Contractors (ABC), the American College of Radiology (ACR), this Department's Bureau of Radiological Health in the Food and Drug Administration, the Department of Labor's Mine Safety and Health Adminstration (MSHA) (formerly the Mining Enforcement and Safety Administration (MESA)), coal mine operators, coal mine construction companies, physicians, hospitals, clinics and other interested parties.

DISCUSSION OF COMMENTS

The ABC and several construction contractors argued that the intent of the Federal Coal Mine Health and Safety Act of 1969 was to apply only to underground coal miners and not to construction workers who work at the surface of underground mines. As noted in the preamble to the proposed regulations, part 37 was revised to apply to those contractors who construct underground coal mines and to

certain employees of the contractors to reflect the decision in "Bituminous Coal Operators' Association Inc. v. Secretary of the Interior, 547 F.2d 240 (4th Cir. 1977)". Moreover, since the proposal, the Federal Mine Safety and Health Act of 1977 was enacted and expressly defines operators to include construction contractors who work at an underground coal mine. Therefore, construction companies must comply with the regulations and afford their employees the opportunity for chest X-rays. NIOSH recognizes that there are special problems in applying these regulations to coal mine construction employees and contractors, and seeks to clarify the procedures of part 37 as applied to the construction industry:

1. *Scope.* The regulations do not attempt to distinguish between underground coal miners and coal mine construction workers who work underground. Regardless of duration of exposure to coal dust, all employees who work underground come within the definition of "miner" and must be afforded the examinations as specified in § 37.3. Similarly, the language of § 37.2(g), excluding certain "surface workers" from the definition of "miner", applies equally to all surface workers, including construction workers, who do not have direct contact with underground coal mining or with coal processing operations. Under the definition, any person who works exclusively at the surface of an underground coal mine prior to any coal mining operation would not be a miner.

2. *Examination Plans.* Coal mine construction contractors who have no employees who come within the definition of "miner" in § 37.2(g) would, of course, not be expected to submit plans for chest X-ray examinations under § 37.4. For those contractors who are required to provide the X-ray examinations, the regulations provide that all plans for the provision of examinations shall be posted on a bulletin board at the mine site. In the event the contractor does not have a bulletin board at the mine site, the construction contractor must otherwise notify its employees of the examination arrangement; and, upon request, show NIOSH written evidence that its employees have been so notified. Finally, NIOSH understands that in the course of its business a mine construction contractor may be involved in a substantial number of construction sites at which local workers are hired. Thus, for each contractor submitting a plan to NIOSH, it will be necessary to submit a separate plan for each mine or mine site where the contractor's miners are working. A new plan, which consists of filing a one page form (indicating the facility, physician, and dates for the examinations), must be submitted upon the contractor's moving to a new site where its workers will be subject to this subpart.

The ARC and several others recommend that the definition of ILO U/C classification (§ 37.2(f)) include future revisions of the classification. The ACR, together with NIOSH, plans to conduct an international meeting of experts to review and, if necessary, recommend changes to the classification. When and if the classification is revised, NIOSH will move to adopt it.

Several contractors, coal operators, and the UMWA suggested that the definitions in § 37.2(a), (h), and (1) be revised to reflect the definition of these terms in the new Act. The definition of "Act" and "operator" are revised accordingly. Throughout the text, the term "MESA" is changed to "MSHA" which is now part of the Department of Labor.

NIOSH has adopted the UMWA suggestion that, to insure medical confidentiality, the provisions of § 37.3(c) should include the prohibition that the notice to the coal mine operator concerning a miner's third mandatory examination (which is only sent if the miner provides written consent) shall not state the medical reason for the examination nor that the examination is the third of the series. Section 37.3(c) has also been revised to make clear that if the operator is not notified of the examination and the X-ray examination is available under the operator's plan, availability of the examination shall constitute the operator's compliance with the requirement to provide a third mandatory examination even if the miner refuses to take the examination.

Coal mine operators, coal mine construction contractors, and the BCOA objected to the requirement as burdensome that coal mine operators notify contractors that they must submit a plan to NIOSH for the examination of the contractor's workers (§ 37.4(a)). Based on the comments, this requirement is deleted. Information concerning the status of contractors at coal mines will be obtained from MSHA. MSHA has agreed to periodically notify NIOSH when contractors develop a mine site for a coal mine or begin work at a coal mine. NIOSH will then notify the contractor to either submit a plan or amend its plan as necessary to provide examinations for its workers.

The Bureau of Radiological Health recommended that in § 37.42(c)(1), the term "qualified consultant" be changed to "qualified expert" which is defined in the NCRP Report No. 33, "Medical X-ray by Gamma Ray Protection for Energies Up to 10 MeV—Equipment Design and Use" (issued February 1, 1968). This suggestion is incorporated.

The UMWA requested that NIOSH notify the miner to see his or her physician when findings other than pneumoconiosis are found on the miner's X-ray. Since this has been NIOSH's policy since the beginning of the examinations program in 1970, language is inserted in § 37.53(a) to clarify this procedure.

Coal operators, X-ray facilities, and physicians argued that the proposed 10-day limit in which to submit examinations is too short (§ 37.60(a)). Facilities in remote areas stated that they would have difficulty in having the films interpreted and submitted to NIOSH within 10 days. The time requirement is changed to 14 days.

Section 37.70(b) of the proposal provided a procedure for an operator to seek review of an X-ray interpretation regarding a miner that the operator has been directed by MSHA to transfer to a less dusty area. The language of § 37.70(b) is revised to clarify that it will be applied prospectively, i.e., the operator may seek review only of a miner's most recent examination made subsequent to the effective date of the regulations. The review procedure provided in § 37.70(b) will not apply to transfer options afforded to miners based on examinations in previous rounds.

The Bureau of Radiological Health commented that each X-ray facility should establish a formal quality assurance program to insure consistent quality radiographs. The Institute supports the Bureau's recommended quality assurance program (43 FR 18207) for diagnostic radiology facilities and has added this requirement to its regulations in § 37.41(h)(9). In regard to examinations of pregnant miners (§ 37.41(n)), the Bureau commented that a well collimated radiograph does not subject the fetus to an increased risk and that the mother should not be denied the benefit of an X-ray. The Bureau also commented that in a well collimated radiograph gonadal shielding is not necessary and should not be part of the chest roentgenogram specifications. The Institute thus decided to delete § 37.41(n) of the proposed regulations.

The Bureau also recommended specifications for beam limiting devices (§ 37.41(g)) and that applicable Federal Regulations for the protection against radiation emitted by X-ray equipment (§ 37.43) be amended to include Report No. 48 of the National Council on Radiation Protection and Measurements. NIOSH agrees with those recommendations and has revised the relevant sections in accordance with them.

On January 26, 1978, the President approved the Radiation and Protection Guidance for Diagnostic X-rays (43 FR 4377). The Bureau of Radiolo-

gical Health (BRH), the American College of Radiology's (ACR) Task Force on Pneumoconiosis, and NIOSH have reviewed the specifications in § 37.41 and acknowledge that, when chest roentgenograms are made in accordance with these specifications, the entrance skin exposure to some miners may exceed the 30 milliroentgen exposure guide approved by the President for nonspecialty chest PA X-ray projections. The BRH, ACR, and NIOSH believe that the specifications for the performance of chest roentgenograms in § 37.41 are designed to insure both acceptable quality and consistency of roentgenographic images in order to detect coalworkers' pneumoconiosis at the lowest exposure necessary and reflect sound medical practices. These technical factors are specific for the purpose of this X-ray examinations program (coalworkers' pneumoconiosis) and are not appropriate for all radiography

The subpart of part 37 of title 42, Code of Federal Regulations, entitled 'Chest Roentgenographic Examinations' is revised as set forth below:

NOTE The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: June 8, 1978.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: July 25, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart—Chest Roentgenographic Examinations

AUTHORITY: Sec. 203, 83 Stat. 763; 30 U.S.C. 843.

Subpart—Chest Roentgenographic Examinations

§ 37.1 Scope.

The provisions of this subpart set forth the specifications for giving, interpreting, classifying, and submitting chest roentgenograms required by section 203 of the act to be given to underground coal miners and new miners.

§ 37.2 Definitions.

Any term defined in the Federal Mine Safety and Health Act of 1977 and not defined below shall have the meaning given it in the act. As used in this subpart:

(a) "Act" means the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, et seq.).

(b) "ALOSH" means the Appalachian Laboratory for Occupational Safety and Health, Box 4258, Morgantown, W. Va. 26505. Although the Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, has programmatic responsibility for the chest roentgenographic examination program, the Institute's facility in Morgantown—ALOSH—is used throughout this subpart in referring to the administration of the program.

(c) "Chest roentgenogram" means a single posteroanterior roentgenographic projection or radiograph of the chest at full inspiration recorded on roentgenographic film.

(d) "Convenient time and place" with respect to the conduct of any examination under this subpart means that the examination must be given at a reasonable hour in the locality in which the miner resides or a location that is equally accessible to the miner. For example, examinations at the mine during, immediately preceding, or immediately following work and a "no appointment" examination at a medical facility in a community easily accessible to the residences of a majority of the miners working at the mine, shall be considered of equivalent convenience for purposes of this paragraph.

(e) "Institute" and "NIOSH" mean the National Institute for Occupational Safety and Health Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

(f) "ILO-U/C 1971 International Classification of Radiographs of Pneumoconioses" or "ILO-U/C Classification" means the classification of the pneumoconioses devised in 1971 by an international committee of the International Labour Office and described in "Medical Radiography and Photography," volume 48, No. 3, December 1972.

(g) "Miner" means any individual including any coal mine construction worker who is working in or at any underground coal mine, but does not include any surface worker who does not have direct contact with underground coal mining or with coal processing operations.

(h) "Operator" means any owner, lessee, or other person who operates, controls, or supervises an underground coal mine or any independent contractor performing services or construction at such mine.

(i) "Panel of 'B' Readers" means the U.S. Public Health Service Consultant Panel of "B" Readers, c/o ALOSH, P.O. Box 4258, Morgantown, W. Va. 26505.

(j) "Preemployment physical examination" means any medical examination which includes a chest roentgenographic examination given in accordance with the specifications of this subpart to a person not previously employed by the same operator or at the same mine for which that person is being considered for employment.

(k) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health Education, and Welfare to whom the authority involved may be delegated.

(l) "MSHA" means the Mine Safety and Health Administration, Department of Labor.

§ 37.3 Chest roentgenograms required for miners.

(a) *Voluntary examinations.* Every operator shall provide to each miner who is employed in or at any of its underground coal mines and who was employed in underground coal mining prior to December 30, 1969, or who has completed the required examinations under § 37.3(b) an opportunity for a chest roentgenogram in accordance with this subpart:

(1) Following (insert the effective date of these regulations) ALOSH will notify the operator of each underground coal mine of a period within

which the operator may provide examinations to each miner employed at its coal mine. The period shall begin no sooner than the effective date of these regulations and end no later than a date specified by ALOSH separately for each coal mine. The termination date of the period will be approximately 5 years from the date of the first examination which was made on a miner employed by the operator in its coal mine under the former regulations of this subpart adopted July 27, 1973. Within the period specified by ALOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.5.

EXAMPLE: ALOSH finds that between July 27, 1973, and March 31, 1975, the first roentgenogram for a miner who was employed at mine Y and who was employed in underground coal mining prior to December 30, 1969, was made on January 1, 1974. ALOSH will notify the operator of mine Y that the operator may select and designate on its plan a 6-month period within which to offer its examinations to its miners employed at mine Y. The 6-month period shall be scheduled between (insert the effective date of these regulations) and January 1, 1979 (5 years after January 1, 1974).

(2) For all future voluntary examinations, ALOSH will notify the operator of each underground coal mine when sufficient time has elapsed since the end of the previous 6-month period of examinations. ALOSH will specify to the operator of each mine a period within which the operator may provide examinations to its miners employed at its coal mine. The period shall begin no sooner than 3½ years and end no later than 4½ years subsequent to the ending date of the previous 6-month period specified for a coal mine either by the operator on an approved plan or by ALOSH if the operator did not submit an approved plan. Within the period specified by ALOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.5.

EXAMPLE: ALOSH finds that examinations were previously provided to miners employed at mine Y in a 6-month period from July 1, 1979, to December 31, 1979. ALOSH notifies the operator at least 3 months before July 1, 1983 (3½ years after December 31, 1979) that the operator may select and designate on its plan the next 6-month period within which to offer examinations to its miners employed at mine Y. The 6-month period shall be scheduled between July 1, 1983, and July 1, 1984 (between 3½ and 4½ years after December 31, 1979).

(3) Within either the next or future period(s) specified by ALOSH to the operator for each of its coal mines, the operator of the coal mine may select a different 6-month period for each of its mines within which to offer examinations. In the event the operator does not submit an approved plan, ALOSH will specify a 6-month period to the operator within which miners shall have the opportunity for examinations.

(b) *Mandatory examinations.* Every operator shall provide to each miner who begins working in or at a coal mine for the first time after December 30, 1969:

(1) An initial chest roentgenogram as soon as possible, but in no event later than 6 months after commencement of employment. A preemployment physical examination which was made within the 6 months prior to the date on which the miner started to work will be considered as fulfilling this requirement. An initial chest roentgenogram given to a miner according to former regulations for this subpart prior to (Insert the effective date of these regulations) will also be considered as fulfilling this requirement.

(2) A second chest roentgenogram, in accordance with this subpart, 3 years following the initial examination if the miner is still engaged in underground coal mining. A second roentgenogram given to a miner according to former regulations under this subpart prior to (Insert the effective date of these regulations) will be considered as fulfilling this requirement.

(3) A third chest roentgenogram 2 years following the second chest roentgenogram if the miner is still engaged in underground coal mining and if the second roentgenogram shows evidence of category 1, category 2, category 3 simple pheumoconiosis, or complicated pheumoconiosis (ILO-U/C classification).

(c) ALOSH will notify the miner when he or she is due to receive the second or third mandatory examination under (b) of this section. Similarly, ALOSH will notify the coal mine operator when the miner is to be given a second examination. The operator will be notified concerning a miner's third examination only with the miner's written consent, and the notice to the operator shall not state the medical reason for the examination nor that it is the third examination in the series. If the miner is notified by ALOSH that the third mandatory examination is due and the operator is not so notified, availability of the roentgenographic examination under the operator's plan shall constitute the operator's compliance with the requirement to provide a third mandatory examination even if the miner refuses to take the examination.

(d) The opportunity for chest roentgenograms to be available by an operator for purposes of this subpart shall be provided in accordance with a plan which has been submitted and approved in accordance with this subpart.

(e) Any examinations conducted by the Secretary in the National Study of Coal Workers' Pheumoconiosis after January 1, 1977, but before (Insert effective date of these regulations) shall satisfy the requirements of this section with respect to the specific examination given (see § 37.6(d)).

§ 37.4 Plans for chest roentgenographic examinations.

(a) Every plan for chest roentgenographic examinations of miners shall be submitted on forms prescribed by the Secretary to ALOSH within 120 calendar days after (insert the effective date of these regulations). In the case of a person who after August 1, 1978, becomes an operator of a mine for which no plan has been approved, that person shall submit a plan within 60 days after such event occurs. A separate plan shall be submitted by the operator and by each construction contractor for each underground coal mine which has a MSHA identification number. The plan shall include:

(1) The name, address, and telephone number of the operator(s) submitting the plan;

(2) The name, MSHA identification number for respirable dust measurements, and address of the mine included in the plan;

(3) The proposed beginning and ending date of the 6-month period for voluntary examinations (see § 37.3(a)) and the estimated number of miners to be given or offered examinations during the 6-month period under the plan;

(4) The name and location of the approved X-ray facility or facilities, and the approximate date(s) and time(s) of day during which the roentgenograms will be given to miners to enable a determination of whether the examinations will be conducted at a convenient time and place;

(5) If a mobile facility is proposed, the plan shall provide that each miner be given adequate notice of the opportunity to have the examination and that no miner shall have to wait for an examination more than 1 hour before or after his or her work shift. In addition, the plan shall include:

(i) The number of change houses at the mine.

(ii) One or more alternate nonmobile approved facilities for the reexamination of miners and for the mandatory examination of miners when necessary (see § 37.3(b)), or an assurance that the mobile facility will return to the location(s) specified in the plan as frequently as necessary to provide for examinations in accordance with these regulations.

(iii) The name and location of each change house at which examinations

will be given. For mines with more than one change house, the examinations shall be given at each change house or at a change house located at a convenient place for each miner.

(6) The name and address of the "A" or "B" reader who will interpret and classify the chest roentgenograms.

(7) Assurances that: (i) The operator will not solicit a physician's roentgenographic or other findings concerning any miner employed by the operator, (ii) instructions have been given to the person(s) giving the examinations that duplicate roentgenograms or copies of roentgenograms will not be made and that (except as may be necessary for the purpose of this subpart) the physician's roentgenographic and other findings, as well as the occupational history information obtained from a miner unless obtained prior to employment in a preemployment examination, and disclosed prior to employment, will not be disclosed in a manner which will permit identification of the employee with the information about him, and (iii) the roentgenographic examinations will be made at no charge to the miner.

(b) Operators may provide for alternate facilities and "A" or "B" readers in plans submitted for approval.

(c) The change of operators of any mine operating under a plan approved pursuant to § 37.5 shall not affect the plan of the operator which has transferred responsibility for the mine. Every plan shall be subject to revision in accordance with paragraph (d) of this section.

(d) The operator shall advise ALOSH of any change in its plan. Each change in an approved plan is subject to the same review and approval as the originally approved plan.

(e) The operator shall promptly display in a visible location on the bulletin board at the mine its proposed plan or proposed change in plan when it is submitted to ALOSH. The proposed plan or change in plan shall remain posted in a visible location on the bulletin board until ALOSH either grants or denies approval of it at which time the approved plan or denial of approval shall be permanently posted. In the case of an operator who is a construction contractor and who does not have a bulletin board, the construction contractor must otherwise notify its employees of the examination arrangements. Upon request, the contractor must show ALOSH written evidence that its employees have been notified.

(f) Upon notification from ALOSH that sufficient time has elapsed since the previous period of examinations, the operator will resubmit its plan for each of its coal mines to ALOSH for approval for the next period of examinations (see § 37.3(a)(2)). The plan shall include the proposed beginning and ending dates of the next period of examinations and all information required by paragraph (a) of this section.

§ 37.5 Approval of plans.

(a) Approval of plans granted prior to (insert effective date of these regulations) is no longer effective.

(b) If, after review of any plan submitted pursuant to this subpart, the Secretary determines that the action to be taken under the plan by the operator meets the specifications of this subpart and will effectively achieve its purpose, the Secretary will approve the plan and notify the operator(s) submitting the plan of the approval. Approval may be conditioned upon such terms as the Secretary deems necessary to carry out the purpose of section 203 of the act.

(c) Where the Secretary has reason to believe that he will deny approval of a plan he will, prior to the denial, give reasonable notice in writing to the operator(s) of an opportunity to amend the plan. The notice shall specify the ground upon which approval is proposed to be denied.

(d) If a plan is denied approval, the Secretary shall advise the operator(s) in writing of the reasons for the denial.

§ 37.6 Chest roentgenographic examinations conducted by the Secretary.

(a) The Secretary will give chest roentgenograms or make arrangements with an appropriate person, agency, or institution to give the chest roentgenograms and with "A" or "B" readers to interpret the roentgenograms required under this subpart in the locality where the miner resides, at the mine, or at a medical facility easily accessible to a mining community or mining communities, under the following circumstances:

(1) Where, in the judgment of the Secretary, due to the lack of adequate medical or other necessary facilities or personnel at the mine or in the locality where the miner resides, the required roentgenographic examination cannot be given.

(2) Where the operator has not submitted an approvable plan.

(3) Where, after commencement of an operator's program pursuant to an approved plan and after notice to the operator of his failure to follow the approved plan and, after allowing 15 calendar days to bring the program into compliance, the Secretary determines and notifies the operator in writing that the operator's program still fails to comply with the approved plan.

(b) The operator of the mine shall reimburse the Secretary or other person, agency, or institution as the Secretary may direct, for the cost of conducting each examination made in accordance with this section.

(c) All examinations given or arranged by the Secretary will comply with the time requirements of § 37.3. Whenever the Secretary gives or arranges for the examinations of miners at a time, a written notice of the arrangements will be sent to the operator who shall post the notice on the mine bulletin board.

(d) Operators of mines selected by ALOSH to participate in the National Study of Coal Workers' Pneumoconiosis (an epidemiological study of respiratory diseases in coal miners) and who agree to cooperate will have all their miners afforded the opportunity to have a chest roentgenogram required hereunder at no cost to the operator. For future examinations and for mandatory examinations each participating operator shall submit an approvable plan.

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon the interpretation of one or more chest roentgenograms, shows category 2 (2/1, 2/2, 2/3) or category 3 (3/2, 3/3, 3/4) simple pneumoconiosis, or complicated pneumoconiosis, or the development of category 1 (1/0, 1/1, 1/2) simple pneumoconiosis in less than 10 years since first entering the coal mining industry (ILO-U/C classification) shall be afforded the option by the operator of transferring from his position to another position in an area of the mine where the concentration of respirable dust in the mine atmosphere is not more than 1.0 mg/m^3 of air, or, if such level is not attainable in such mine, to a position in the mine where the concentration or respirable dust is the lowest attainable below 2.0 mg/m^3 of air.

(b) Any transfer under this section shall be in accordance with the procedures specified in Part 90 of Title 30, Code of Federal Regulations.

§ 37.8 Roentgenographic examination at miner's expense.

Any miner who wishes to obtain an examination at his or her own expense at an approved facility and to have submitted to NIOSH for him or her a complete examination may do so, provided that the examination is made no sooner than 6 months after the most recent examination of the miner submitted to ALOSH. ALOSH will provide an interpretation and report of the examinations made at the miner's expense in the same manner as if it were submitted under an operator's plan. Any change in the miner's transfer rights under the act which may result

from this examination will be subject to the terms of § 37.7.

§ 37.20 Miner identification document.

As part of the roentgenographic examination, a miner identification document which includes an occupational history questionnaire shall be completed for each miner at the facility where the roentgenogram is made at the same time the chest roentgenogram required by this subpart is given.

SPECIFICATIONS FOR PERFORMING CHEST ROENTGENOGRAPHIC EXAMINATIONS

§ 37.40 General provisions.

(a) The chest roentgenographic examination shall be given at a convenient time and place.

(b) The chest roentgenographic examination consists of the chest roentgenogram, and a complete Roentgenographic Interpretation Form (Form CDC/NIOSH (M) 2.8), and miner identification document.

(c) A roentgenographic examination shall be made in a facility approved in accordance with § 37.42 by or under the supervision of a physician who regularly makes chest roentgenograms and who has demonstrated ability to make chest roentgenograms of a quality to best ascertain the presence of pneumoconiosis.

§ 37.41 Chest roentgenogram specifications.

(a) Every chest roentgenogram shall be a single posteroanterior projection at full inspiration on a 14- by 17-inch film. The film and cassette shall be capable of being positioned both vertically and horizontally so that the chest roentgenogram will include both apices and costophrenic angles. If a miner is too large to permit the above requirements, then the projection shall include both apices with minimum loss of the costophrenic angle.

(b) Miners shall be disrobed from the waist up at the time the roentgenogram is given. The facility shall provide a dressing area and for those miners who wish to use one, the facility shall provide a clean gown. Facilities shall be heated to a comfortable temperature.

(c) Roentgenograms shall be made only with a diagnostic X-ray machine having a rotating anode tube with a maximum of a 2 mm. source (focal spot).

(d) Except as provided in paragraph (e) of this section, roentgenograms shall be made with units having generators which comply with the following: (1) The generators of existing roentgenographic units acquired by the examining facility prior to July 27, 1973, shall have a minimum rating of 200 mA at 100 kVp.; (2) generators of units acquired subsequent to that date shall have a minimum rating of 300 mA at 125 kVp.

NOTE.—A generator with a rating of 150 kVp. is recommended.

(e) Roentgenograms made with battery-powered mobile or portable equipment shall be made with units having a minimum rating of 100 mA at 110 kVp. at 500 Hz, or of 200 mA at 110 kVp. at 60 Hz.

(f) Capacitor discharge and field emission units may be used if the model of such units is approved by ALOSH for quality, performance, and safety. ALOSH will consider such units for approval when listed by a facility seeking approval under § 37.42 of this subpart.

(g) Roentgenograms shall be given only with equipment having a beam-limiting device which does not cause large unexposed boundaries. The beam limiting device shall provide rectangular collimation and shall be of the type described in part F of the suggested State regulations for the control of radiation or (for beam limiting devices manufactured after August 1, 1974) of the type specified in 21 CFR 1020.31. The use of such a device shall be discernible from an examination of the roentgenogram.

(h) to insure high quality chest roentgenograms:

(1) The maximum exposure time shall not exceed $\frac{1}{20}$ of a second except that with single phase units with a rating less than 300 mA at 125 kVp. and subjects with chests over 28 cm. posteroanterior, the exposure may be increased to not more than $\frac{1}{10}$ of a second;

(2) The source or focal spot to film distance shall be at least 6 feet;

(3) Medium-speed film and medium speed intensifying screens shall be used;

(4) Film-screen contact shall be maintained and verified at 6 month or shorter intervals;

(5) Intensifying screens shall be inspected at least once a month and cleaned when necessary by the method recommended by the manufacturer;

(6) All intensifying screens in a cassette shall be of the same type and made by the same manufacturer;

(7) When using over 90 kV., a suitable grid or other means of reducing scattered radiation shall be used;

(8) The geometry of the radiographic system shall insure that the central axis (ray) of the primary beam is perpendicular to the plane of the film surface and impinges on the center of the film;

(9) A formal quality assurance program shall be established at each facility.

(i) Radiographic processing:

(1) Either automatic or manual film processing is acceptable. A constant time-temperature technique shall be meticulously employed for manual processing.

(2) If mineral or other impurities in the processing water introduce difficulty in obtaining a high-quality roentgenogram, a suitable filter or purification system shall be used.

(j) Before the miner is advised that the examination is concluded, the roentgenogram shall be processed and inspected and accepted for quality by the physician, or if the physician is not available, acceptance may be made by the radiologic technologist. In a case of a substandard roentgenogram, another shall be immediately made. All substandard roentgenograms shall be clearly marked as rejected and promptly sent to ALOSH for disposal.

(k) An electric power supply shall be used which complies with the voltage, current, and regulation specified by the manufacturer of the machine.

(l) A densitometric test object may be required on each roentgenogram for an objective evaluation of film quality at the discretion of ALOSH.

(m) Each roentgenogram made hereunder shall be permanently and legibly marked with the name and address or ALOSH approval number of the facility at which it is made, the social security number of the miner, and the date of the roentgenogram. No other identifying markings shall be recorded on the roentgenogram.

§ 37.42 Approval of roentgenographic facilities.

(a) Approval of roentgenographic facilities given prior to January 1, 1976, shall terminate upon (Insert effective date of these regulations) unless each of the following conditions have been met:

(1) The facility must verify that it still meets the requirements set forth in the regulations for the second round of roentgenographic examinations (38 FR 20076) and it has not changed equipment since it was approved by NIOSH.

(2) From July 27, 1973, to January 1, 1976, the facility submitted to ALOSH at least 50 roentgenograms which were interpreted by one or more "B" readers not employed by the facility who found no more than 5 percent of all the roentgenograms unreadable.

(b) Other facilities will be eligible to participate in this program when they demonstrate their ability to make high quality diagnostic chest roentgenograms by submitting to ALOSH six or more sample chest roentgenograms made and processed at the applicant facility and which are of acceptable quality to the Panel of "B" readers. Applicants shall also submit a roentgenogram of a plastic step-wedge object (available on loan from ALOSH) which was made and pro-

cessed at the same time with the same technique as the roentgenograms submitted and processed at the facility for which approval is sought. At least one chest roentgenogram and one test object roentgenogram shall have been made with each unit to be used hereunder. All roentgenograms shall have been made within 15 calendar days prior to submission and shall be marked to identify the facility where each roentgenogram was made, the X-ray machine used, and the date each was made. The chest roentgenograms will be returned and may be the same roentgenograms submitted pursuant to § 37.51.

NOTE.—The plastic step-wedge object is described in an article by E. Dale Trout and John P. Kelley appearing in "The American Journal of Roentgenology, Radium Therapy and Nuclear Medicine," Vol. 117, No. 4, April 1973.

(c) Each roentgenographic facility submitting chest roentgenograms for approval under this section shall complete and include an X-ray facility document describing each X-ray unit to be used to make chest roentgenograms under the act. The form shall include: (1) The date of the last radiation safety inspection by an appropriate licensing agency or, if no such agency exists, by a qualified expert as defined in NCRP Report No. 33 (see § 37.43); (2) the deficiencies found; (3) a statement that all the deficiencies have been corrected; and (4) the date of acquisition of the X-ray unit. To be acceptable, the radiation safety inspection shall have been made within 1 year preceding the date of application.

(d) Roentgenograms submitted with applications for approval under this section will be evaluated by the panel of "B" Readers or by a qualified radiological physicist or consultant. Applicants will be advised of any reasons for denial of approval.

(e) ALOSH or its representatives may make a physical inspection of the applicant's facility and any approved roentgenographic facility at any reasonable time to determine if the requirements of this subpart are being met.

(f) ALOSH may require a facility periodically to resubmit roentgenograms of a plastic step-wedge object, sample roentgenograms, or a Roentgenographic Facility Document for quality control purposes. Approvals granted hereunder may be suspended or withdrawn by notice in writing when in the opinion of ALOSH the quality of roentgenograms or information submitted under this section warrants such action. A copy of a notice withdrawing approval will be sent to each operator who has listed the facility as its facility for giving chest roentgenograms and shall be displayed on the mine bulletin board adjacent to the operator's approved plan. The approved plan will be reevaluated by ALOSH in light of this change.

§ 37.43 Protection against radiation emitted by roentgenographic equipment.

Except as otherwise specified in section 37.41, roentgenographic equipment, its use and the facilities (including mobile facilities) in which such equipment is used, shall conform to applicable State and Federal regulations (See 21 CFR Part 1000). Where no applicable regulations exist, roentgenographic equipment, its use and the facilities (including mobile facilities) in which such equipment is used shall conform to the recommendations of the National Council on Radiation Protection and Measurements in NCRP Report No. 33 "Medical X-ray and Gamma-Ray Protection for Energies up to 10 MeV—Equipment Design and Use" (issued February 1, 1968), in NCRP Report No. 48, "Medical Radiation Protection for Medical and Allied Health Personnel" (issued August 1, 1976), and in NCRP Report No. 49, "Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of up to 10 MeV" (issued September 15, 1976). These documents are hereby incorporated by reference and made a part of this subpart. These documents are available for examination at ALOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505, and at the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md. 20857. Copies of NCRP Reports Nos. 33, 48, and 49 may be purchased for $3, $4.50, and $3.50 each, respectively, from NCRP Publications, P.O. Box 30175, Washington, D.C. 20014.

SPECIFICATIONS FOR INTERPRETATION, CLASSIFICATION, AND SUBMISSION OF CHEST ROENTGENOGRAMS

§ 37.50 Interpreting and classifying chest roentgenograms.

(a) Chest roentgenograms shall be interpreted and classified in accordance with the ILO-U/C classification system and recorded on a Roentgenographic Interpretation Form (Form CDC/NIOSH (M) 2.8).

(b) Roentgenograms shall be interpreted and classified only by a physician who regularly reads chest roentgenograms and who has demonstrated proficiency in the use of the ILO-U/C classification system in accordance with § 37.51.

(c) All interpreters, whenever interpreting chest roentgenograms made under the act, shall have immediately available for reference a complete set of the ILO-U/C International Classification of Radiographs for Pneumoconioses, 1971.

NOTE.—This set is available from the International Labour Office, Occupational Safety and Health Branch, CH 1211, Geneva 22, Switzerland.

(d) In all view boxes used for making interpretations:

(1) Fluorescent lamps shall be simultaneously replaced with new lamps at 6-month intervals;

(2) All the fluorescent lamps in a panel of boxes shall have identical manufacturer's ratings as to intensity and color;

(3) The glass, internal reflective surfaces, and the lamps shall be kept clean;

(4) The unit shall be so situated as to minimize front surface glare.

§ 37.51 Proficiency in the use of the ILO-U/C classification.

(a) First or "A" readers:

(1) Approval as an "A" reader shall continue if established prior to (insert) effective date of these regulations).

(2) Proficiency in the use of the ILO-U/C classification system shall be demonstrated by those physicians who desire to be "A" readers by either:

(i) Submitting to ALOSH from the physician's files six sample chest roentgenograms which are considered properly classified by the Panel of "B" readers. The six roentgenograms shall consist of two without pneumoconiosis, two with simple pneumoconiosis, and two with complicated pneumoconiosis. The films will be returned to the physician. The interpretations shall be on the Roentgenographic Interpretation Form (Form CDC/NIOSH (M) 2.8) (These may be the same roentgenograms submitted pursuant to § 37.42), or;

(ii) Satisfactory completion, since June 15, 1970, of a course approved by ALOSH on the ILO-U/C classification system or the UICC/Cincinnati classification system. As used in this subparagraph "UICC/Cincinnati classification" means the classification of the pneumoconioses devised in 1968 by a Working Committee of the International Union Against Cancer.

(b) Final or "B" readers:

(1) Approval as a "B" reader established prior to October 1, 1976, shall hereby be terminated.

(2) Proficiency in evaluating chest roentgenograms for roentgenographic quality and in the use of the ILO-U/C classification for interpreting chest roentgenograms for pneumoconiosis and other diseases shall be demonstrated by those physicians who desire to be "B" readers by taking and passing a specially designed proficiency examination given on behalf of or by ALOSH at a time and place specified by ALOSH. Each physician must bring a complete set of the ILO-U/C standard reference radiographs when taking the examination. Physicians who qual-

ify under this provision need not be qualified under paragraph (a) of this section.

(c) Physicians who wish to participate in the program shall make application on an Interpreting Physician Certification Document (Form CDC/NIOSH (M) 2.12).

§ 37.52 Method of obtaining definitive interpretations.

(a) All chest roentgenograms which are first interpreted by an "A" or "B" reader will be submitted by ALOSH to a "B" reader qualified as described in § 37.51. If there is agreement between the two interpreters as defined in paragraph (b) of this section the result shall be considered final and reported to MSHA for transmittal to the miner. When in the opinion of ALOSH substantial agreement is lacking, ALOSH shall obtain additional interpretations from the Panel of "B" readers. If interpretations are obtained from two or more "B" readers, and if two or more are in agreement then the highest major category shall be reported.

(b) Two interpreters shall be considered to be in agreement when they both find either stage A, B, or C complicated pneumoconiosis, or their findings with regard to simple pneumoconiosis are both in the same major category, or are within one minor (ILO-U/C 12-point scale) category of each other. The higher of the two interpretations shall be reported.

§ 37.53 Notification of abnormal roentgenographic findings.

(a) Findings of, or findings suggesting, enlarged heart, tuberculosis, lung cancer, or any other significant abnormal findings other than pneumoconiosis shall be communicated by the first physician to interpret and classify the roentgenogram to the designated physician of the miner indicated on the miner's identifcation document. A copy of the communication shall be submitted to ALOSH. ALOSH will notify the miner to contact his or her physician when any physician who interprets and classifies the miner's roentgenogram reports significant abnormal findings other than pneumoconiosis.

(b) In addition, when ALOSH has more than one roentgenogram of a miner in its files and the most recent examination was interpreted to show enlarged heart, tuberculosis, cancer, complicated pneumoconiosis, and any other significant abnormal findings, ALOSH will submit all of the miner's roentgenograms in its files with their respective interprtations to a "B" reader. The "B" reader will report any significant changes or progression of disease or other comments to ALOSH and ALOSH shall submit a copy of the report to the miner's designated physician.

(c) All final findings regarding pneumoconiosis will be sent to the miner by MSHA in accordance with section 203 of the act (see 30 CFR Part 90). Positive findings with regard to pneumoconiosis will be reported to the miner's designated physician by ALOSH.

(d) ALOSH will make every reasonable effort to process the findings described in paragraph (c) of this section within 60 days of receipt of the information described in § 37.60 in a complete and acceptable form. The information forwarded to MSHA will be in a form intended to facilitate prompt dispatch of the findings to the miner. The results of an examination made of a miner will not be processed by ALOSH if the examination was made within 6 months of the date of a previous acceptable examination.

§ 37.60 Submitting required chest roentgenograms and miner identification documents.

(a) Each chest roentgenogram required to be made under this subpart, together with the completed roentgenographic interpretation form and the completed miner identification document, shall be sumitted together for each miner to ALOSH within 14 calendar days after the roentgenographic examination is given and become the property of ALOSH.

(b) If ALOSH deems any part submitted under paragraph (a) of this section inadequate, it will notify the operator of the deficiency. The operator shall promptly make appropriate arrangements for the necessary reexamination.

(c) Failure to comply with paragraph (a) or (b) of this section shall be cause to revoke approval of a plan or any other approval as may be appropriate. An approval which has been revoked may be reinstated at the discretion of ALOSH after it receives satisfactory assurances and evidence that all deficiencies have been corrected and that effective controls have been instituted to prevent a recurrence.

(d) Chest roentgenograms and other required documents shall be submitted only for miners. Results of preemployment physical examinations of persons who are not hired shall not be submitted.

(e) If a miner refuses to participate in all phases of the examination prescribed in this subpart, no report need be made. If a miner refuses to participate in any phase of the examination prescribed in this subpart, all the forms shall be submitted with his or her name and social security account number on each. If any of the forms cannot be completed because of the miner's refusal, it shall be marked "Miner Refuses," and shall be submitted. No submission shall be made, however, without a completed miner identification document containing the miner's name, address, social security number and place of employment.

REVIEW AND AVAILABILITY OF RECORDS

§ 37.70 Review of interpretations.

(a) Any miner who believes the interpretation for pneumoconiosis reported to him or her by MSHA is in error may file a written request with ALOSH that his or her roentgenogram be reevaluated. If the interpretation was based on agreement between an "A" reader and a "B" reader, ALOSH will obtain one or more additional interpretations by "B" readers as necessary to obtain agreement in accord with § 37.52(b), and MSHA shall report the results to the miner together with any rights which may accrue to the miner in accordance with § 37.7. If the reported interpretation was based on agreement between two (or more) "B" readers, the reading will be accepted as conclusive and the miner shall be so informed by MSHA.

(b) Any operator who is directed by MSHA to transfer a miner to a less dusty atmosphere based on the most recent examination made subsequent to August 1, 1978, may file a written request with ALOSH to review its findings. The standards set forth in paragraph (a) of this section apply and the operator and miner will be notified by MSHA whether the miner is entitled to the option to transfer.

§ 37.80 Availability of records.

(a) Medical information and roentgenograms on miners will be released by ALOSH only with the written consent from the miner, or if the miner is deceased, written consent from the miner's widow, next of kin, or legal representative.

(b) To the extent authorized, roentgenograms will be made available for examination only at ALOSH.

NOTE.—The incorporation by reference provision in this document was approved by the Director of the Federal Register on June 1, 1973, and July 6, 1978, and the reference material is on file in the Federal Register Library.

[FR Doc. 78-21226 Filed 7-31-78; 8:45 am]