AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Part II begins on page 11103

PART I

FEDERAL REGISTER

VOLUME 22 NUMBER 252

Washington, Tuesday, December 31, 1957

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

Subchapter M—International Traffic in Arms

[Departmental Reg. 108.354]

MISCELLANEOUS AMENDMENTS

The regulations of the Secretary of State, issued August 26, 1955, as amended May 24, 1956, November 14, 1956, August 30, 1957, September 30, 1957, November 29, 1957, and December 27, 1957, are amended as follows:

PART 121—ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

1. Section 121.21 is amended to read:

§ 121.21 *United States Munitions List.* Pursuant to the authority cited *supra* the following articles are hereby designated as arms, ammunition, and implements of war.

CATEGORY I—SMALL ARMS AND MACHINE GUNS

(a) Rifles, carbines, revolvers, pistols, machine pistols and machine guns using ammunition of caliber .22 or over, except weapons using only caliber .22 rim-fire ammunition. (See also § 121.23.)

(b) All components and parts for machine guns and fully automatic rifles. Barrels and breech mechanisms for rifles, carbines, pistols and revolvers.

(c) Ammunition belting machines for machine guns.

(d) Firearm silencers.

CATEGORY II—ARTILLERY AND PROJECTORS

(a) Guns, howitzers, cannon, mortars, tank destroyers, rocket launchers, military flame throwers, military smoke projectors, and recoilless rifles.

(b) Components and parts, including but not limited to mounts and carriers.

CATEGORY III—AMMUNITION

(a) Ammunition of caliber .22 or over for the arms enumerated in Categories I and II hereof, except caliber .22 rim-fire ammunition.

(b) The following components, parts, accessories, and attachments: cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun), projectiles, boosters, percussion caps, fuses or fuzes and components thereof, primers, and other detonating devices for such ammunition.

This issue includes two parts bound together. Part II contains a republication of 46 CFR Part 299, Federal Maritime Board, Maritime Administration, Department of Commerce.

CATEGORY IV—BOMBS, TORPEDOES, ROCKETS, MINES, AND GUIDED MISSILES

(a) Bombs, torpedoes, grenades (including smoke grenades), smoke canisters, rockets, guided missiles, depth charges, chemical and incendiary bombs.

(b) Apparatus and devices for the handling, control, activation, discharge, detonation or detection of items enumerated in paragraph (a) of this category, including *inter alia* the following components and parts: fuses or fuzes and components thereof; bomb racks and shackles; bomb shackle release units; bomb ejectors; torpedo tubes; torpedo and guided missile boosters; launching racks and projectors; control mechanisms and control systems; pistols (exploders); igniters; fuze or fuse arming devices; and the following items related thereto: intervalometers and components thereof; bomb lift trucks; bomb and torpedo handling trucks; trailers, hoists, and skids for handling bombs; guided missile launchers, and specialized handling equipment.

(c) Land and naval mines and equipment for the laying, detection, detonation, and sweeping of mines. Components, parts, attachments, and accessories specifically designed for mine laying, mine detection and detonation, and mine sweeping equipment.

(d) Missile power plants and components and parts specifically designed therefor.

CATEGORY V—FIRE CONTROL EQUIPMENT AND RANGE FINDERS

(a) Fire control, gun and missile tracking and guidance, infrared, and other night-sighting equipment; range, position, and height finders, and spotting instruments; aiming devices (electronic, gyroscopic, optic, and acoustic); bomb sights; bombing computers, military television sighting units, inertial platforms; gun sights, and periscopes for the articles enumerated throughout this List.

(b) Components, parts, accessories, and attachments specifically designed for the articles enumerated in paragraph (a) of this category.

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CATEGORY VI—TANKS AND ORDNANCE VEHICLES

(a) Tanks;

(b) Military type armed or armored vehicles, and vehicles fitted with mountings for arms and other specifically designed military vehicles;

(c) Military half tracks;

(d) Military type tank recovery vehicles;

(e) Gun carriers;

(f) Trailers specifically designed to carry ammunition;

(g) Amphibious vehicles (See § 121.24);

(h) All specifically designed components, parts and attachments for the foregoing;

(i) Military mobile repair shops specifically designed to service military equipment.

CATEGORY VII—TOXICOLOGICAL AGENTS

(a) Chemical agents, including tear gas (See § 121.25);

(b) Biological agents adapted for use in war to produce death or disablement in human beings or animals or to damage crops;

(c) Equiment for the dissemination, detection, and identification of, and defense against, the items in paragraphs (a) and (b) of this category;

(d) Components, parts, attachments, and accessories specifically designed for the equipment described in paragraph (c) above.

CATEGORY VIII—PROPELLANTS, EXPLOSIVES AND INCENDIARY AGENTS

(a) Propellants for the articles enumerated in Categories III and IV hereof (See § 121.26);

(b) Military high explosives (See § 121.26);

(c) Military fuel thickeners (See § 121.26);

(d) Military pyrotechnics, including projectors therefor.

CATEGORY IX—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

(a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels, service craft, floating dry docks, and experimental types of naval ships. Turrets and gun mounts, missile systems, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments and accessories specifically designed for the following types of combatant vessels: battle ships, command ships, guided missile ships, cruisers, aircraft carriers, destroyers, frigates, escorts, and submarines. (See § 121.27)

(b) Submarine and torpedo nets. Components, parts, attachments and accessories specifically designed for these articles.

(c) Harbor entrance magnetic pressure acoustic detection devices, controls and components thereof.

CATEGORY X—AIRCRAFT

(a) Aircraft and airborne equipment (See § 121.5);

(b) All components, parts and accessories for aircraft. This does not include ground handling and maintenance equipment or bulk materials, such as dopes, paints, oils, cable, wire, tubing, hose, and aluminum sheets.

(c) Miscellaneous equipment used with aircraft, as follows:

(1) Catapults and cartridge-actuated devices utilized in emergency escape of personnel from aircraft;

(2) Pressurized breathing equipment and partial pressure suits for use in aircraft, anti "G" suits, military crash helmets, aircraft liquid oxygen converters, complete parachutes utilized for personnel, cargo, or deceleration purposes and complete harnesses and platforms therefor. Components and parts specifically designed for such articles.

(3) Aircraft landing mats, launching and recovery equipment.

CATEGORY XI—MILITARY ELECTRONICS

(a) Electronics equipment specially designed for military use, including equipment specially designed for altitudes above 50,000 feet or at temperatures of 500° centigrade or above;

(b) Radar of all types;

(c) Electronic countermeasure and jamming equipment;

(d) Military underwater sound equipment;

(e) Military communications-electronics equipment bearing a military designation;

(f) Electronic navigation and location-finding aids (see § 121.28);

(g) Radio distance measuring systems such as Shoran; and hyperbolic grid systems, such as Raydist, Loran, and Decca;

(h) Components, parts, accessories and attachments specifically designed for use with equipment enumerated above (see also § 121.29).

CATEGORY XII—PHOTOGRAPHIC EQUIPMENT

Aerial cameras and special purpose military cameras and specialized processing equipment therefor; military photointerpretation, stereoscopic plotting and photogrammetry equipment.

CATEGORY XIII—SPECIAL ARMORED EQUIPMENT

(a) Armor plate;

(b) Armored railway trains;

(c) Military steel and nylon helmets;

(d) Body armor and flak suits, and components and parts specifically designed for such articles.

CATEGORY XIV—SPECIALIZED MILITARY TRAINING EQUIPMENT

(a) Specialized military training equipment (See § 121.30);

(b) Components, parts, attachments, and accessories specifically designed for such equipment.

CATEGORY XV—HELIUM GAS

CATEGORY XVI—MISCELLANEOUS ARTICLES

(a) Cryptographic devices (encoding and decoding);

(b) Self-contained diving and underwater swimming apparatus and components and auxiliary equipment specifically designed therefor;

(c) Protective clothing for guided missile fuel handling.

CATEGORY XVII—CLASSIFIED MATERIAL

All material not enumerated herein which is classified from the standpoint of military security.

CATEGORY XVIII—TECHNICAL DATA

Unclassified technical data relating to the articles herein designated as arms, ammunition, and implements of war.

2. Sections 121.22 through 121.28 are deleted and replaced by the following sections:

INTERPRETATIONS

Sec.

121.22 Forgings, castings, and machine bodies.
121.23 Small arms.
121.24 Amphibious vehicles.
121.25 Chemical agents.
121.26 Propellants, explosives, and incendiary agents.
121.27 Vessels of war and special naval equipment.
121.28 Electronic navigation and location-finding aids.
121.29 Cathode ray tubes—quartz crystals.
121.30 Specialized military training equipment.

AUTHORITY: §§ 121.22 to 121.30 issued under sec. 414, 68 Stat. 848; 22 U. S. C. 1934, sec. 103, E. O. 10575, 19 F. R. 7251, 3 CFR, 1954 Supp.

INTERPRETATIONS

§ 121.22 *Forgings, castings, and machine bodies.* Items in a partially completed state, such as forgings, casting, extrusions, and machined bodies of any of the articles enumerated in the United States Munitions List which have

reached a stage in manufacture where they are clearly identifiable as arms, ammunition, and implements of war are so considered for the purposes of Section 414 of the Mutual Security Act.

§ 121.23 *Small arms.* Category I does not include shotguns, air-rifles or muzzle-loading guns, blunderbusses and stud drivers.

§ 121.24 *Amphibious vehicles.* As used in Category VI (g), the term "amphibious vehicles" includes but is not limited to, automotive vehicles or chassis embodying all-wheel drive and equipped, to meet special military requirements, with adaptation features for deep-water fording and sealed electrical systems.

§ 121.25 *Chemical agents.* (See Category VII.) The term "chemical agents" includes but is not limited to: cyanogen chloride, hydrogen cyanide, diphosgene, fluorine (but not fluorene), Lewisite gas, mustard gas (dichlorodiethyl sulfide), phenylcarbylamine chloride, phosgene, Chloracetophenone, phenyl chlomethyl hetone, adamsite (diphenylaminochloroarsine), dibromodimethyl ether, dichlorodimethyl ether, diphenylchloroarsine, diphenylcyanarsine, ethyldibromoarsine, ethyldichlorarsine, methyldichloroarsine, phenyldibromoarsine, phenyldichloroarsine, cyanodimethylaminoethyloxyphosphine oxide, fluoroisopropoxymethylphosphine oxide, fluoromethylpinaeolyloxyphosphine oxide, and related compounds.

§ 121.26 *Propellants, explosives, and incendiary agents.* (See Category VIII.)

(a) The term "propellants" includes but is not limited to the following:

Hydrazine.
Unsymmetrical dimethylhydrazine.
Hydrogen peroxide over 85 percent concentration.
Nitroguanadine or picrite.
Nitrocellulose with nitrogen content of over 12.20 percent.
Other solid propellant compositions, including but not limited to the following:
(1) Single base (nitrocellulose).
(2) Double base (nitrocellulose, nitroglycerin).
(3) Triple base (nitrocellulose, nitroglycerin, nitroguanadine).
(4) Composite (nitroglycerin, ammonium perchlorate, nitrocellulose with plastics or rubbers added).
(5) Special purpose chemical base high energy solid military fuels.
Other liquid propellant compositions, including but not limited to the following:
(1) Mono-propellants (hydrazine, nitrate, and water).
(2) Bi-propellants (hydrazine-fuming nitric acid (HNO_3)).
(3) Special purpose chemical base high energy liquid military fuels.

(b) The term "military high explosives" includes but is not limited to one or more of the following materials or mixtures with various powdered metals: ammonium picrate, black soda powder, postassium nitrate powder, hexanitrodiphenylamine, ammonium perchlorate, nitrocellulose, nitrostarch, nitroglycerin, pentaerythritol tetranitrate, (penthrite, pentrite or PETN), trinitrophenylmethyl-nitramine (tetryl), trinitrophenol (picric acid), ethylenedinitramine, cyclotrimethylene-trinitramine, (RDX, Cyclonite, Hexogen or T4), cyclotetramethylene-tetranitramine (HMX), hexanitrodiphenylamine, trinitroanisol, trinitronaphthalene, dinitronaphthalene, tetranitronaphthalene, trinitrotoluene (TNT), and trinitroxylene. Explosive mixtures or devices which are not listed above but which contain minor quantitites of the types of explosives listed here are not considered to be arms, ammunition, and implements of war.

(c) The term "military fuel thickeners" includes: compounds (e. g., octal) or mixtures of such compounds (e. g., napalm) specifically formulated for the purpose of producing materials which, when added to petroleum products, provide a jell-type incendiary material for use in bombs, projectiles, flame throwers or other implements of war.

§ 121.27 *Vessels of war and special naval equipment.* (See Category IX). The term "vessels of war" includes but is not limited to the following:

(a) *Combatant vessels and craft.*
(1) *Warships.*
Battleships (BB, BBG).
Command ships (CBC, CLC).
Cruisers (CA, CAG, CB, CL, CLAA, CLG, CG, CG (N).
Aircraft carriers (CVA, CVA (N), CVE, CVHE, CVL, CVS).
Destroyers (DD, DDC, DDE, DDG, DDR, DL, DLG).
Submarines (SS, SS (N), SSG, SSK, SSR, SSR (N), SST, ASSA, ASSP, AK (SS), AP (SS)).
(2) *Amphibious warfare vessels.*
Amphibious force flagship (AGC).
Attack cargo ship (AKA).
Transports (APA, APD).
Assault helicopter aircraft carrier (CVHA).
Control escort vessel (DEC).
Inshore fire support ship (IFS).
Landing ships (LSSL, LSD, LSM, LSMR, LST, SLFF, LSIL, LSV).
Amphibious assault ship (LPH).
(3) *Landing craft.* (LCI, LCT–A, LCC, LCM, LCU, LCVP, LVT, LVT–A, LCPL, LCPR).
(4) *Mine warfare vessels.*
Minelayers (DM, MMF, MMA, MMC, MM).
Minesweepers (IMS, MSA, MSC (O), MSC, MSF, MSO).
Mine warfare command and support ship (MCS).
Mine hunter (MRC).
(5) *Patrol vessels.*
Escort vessels (DE, DEC, DER, PCE, PCER, PCEC, PF).
Submarine chasers (PC, PCE, SC).
Gunboats (PR, PGM).
Converted yachts (PY).
Motor torpedo boat (PT).
(b) *Naval auxiliary and service vessels and craft.*
(1) Tenders (AD, AGP, ARST, AS, AV, AVP, YDT).
(2) Logistic support ships (AE, AF, AK, AKS, AO, AOG, AOR, AO (SS), AVS).
(3) Repair, salvage and rescue vessels (AR, ARB, ARG, ARH, ARI, ARS, ARSD, ARV, ARVA, ARVE, ASR).
(4) Floating dry docks, cranes, and associated workshops and lighters (AB, AFDB, AFDL, AFDM, ARD, YD, YFD, YFMD, YR, YRDM, YRDM, YRL, YSD).
(5) Degaussing vessel (ADG).
(6) Icebreaker (AGB).
(7) Survey ships (AGS, AGSC).
(8) Cable repairing or laying ship (ARC).
(9) Tugs (ATA, ATF, ATR, YTB, YTL, YTM).
(10) Net laying and tending ships (AKN, AN, YNG).
(11) Transports and barracks vessels (AP, APB, APC, APL, YHB, YRB, YRBM).
(12) Miscellaneous cargo ships (AKD, AKL, AKV).
(13) Auxiliary submarine (AG(SS)).
(14) Distilling ship (AW).
(15) Utility aircraft carrier (OVU).
(16) Minecraft (MSB, MSI, XMAP, YMP, YMS).
(17) Patrol craft (PT, YP, PYC).
(18) Ocean radar station ship (YAGR).
(19) Advanced base aviation ship (AVB).
(20) Guided missile ship (AVM).
(21) Naval barges and lighters (AVC, YC, YCF, YCK, YCV, YF, YFN, YFNB, YFNG, YFNX, YFP, YFR, YFRN, YFRT, YFT, YG, YGN, YO, YOG, YOGN, YON, YOS, YPK, YRL, YSR, YTT, YVC, YW, YWN, YFB).
(22) Target and Training Submarine (SST).
(23) Submersible craft (X).
(24) Naval dredge (YM).
(25) Floating pile drive (YPD).
(26) Drone aircraft catapult control craft (YV).
(27) Miscellaneous auxiliary (AG, IX, YAG).
(c) *Coast Guard patrol and service vessels and craft.*
(1) Submarine repair and berthing barge (YRB).
(2) Labor transportation barracks ship (APL).
(3) Coast Guard cutter (CGC).
(4) Gun boat (WPG).
(5) Patrol craft (WPC, WSC, WPG).
(6) Sea plane tender (WAVP).
(7) Ice breaker (WAGB).
(8) Cargo ship (WAK).
(9) Buoy tenders and boats (WAGL, WD).
(10) Cable layer (WARC).
(11) Lightship (WAL).
(12) CG tugs (WAT, WXT).
(13) Radio ship (WAGR).
(14) Special vessel (WIX).
(15) Auxiliary vessels (WAG, WAGE).
(16) Other Coast Guard patrol or rescue craft over 300 horsepower capacity.
(d) *Air Force craft.* Air Force crash rescue boat.
(e) *Army vessels and craft.*
(1) Transportation Corps tug-100 ft. (LT), 65 ft. (ST), T-boat, Q-boat, J-boat, B-boat.
(2) Barges (BG, BC, BR, BK, BSP, BSPI, BKI, BCF, BBL, BARC).
(3) Cranes, floating (BD).
(4) Dry dock, floating (FDL).
(5) Repair ship, floating (FMS).
(6) Trainer, amphibious 20 ton wheeled tow boat, inland waterway (LTI, STI).

§ 121.28 *Electronic navigation and location-finding aids.* In Category XI (f), the term "electronic navigation and location-finding aids" includes but is not limited to military radio direction-finding and doppler navigational equipment, gyro-magnetic and slaved-gyro compasses and heading reference systems; automatic astro compasses; star trackers; and remote sighting and photoelectric sextants.

§ 121.29 *Cathode ray tubes—quartz crystals.* Cathode ray tubes or quartz crystals are subject to the licensing jurisdiction of the Secretary of State only when intended for use with military electronics equipment and shipped with such items.

§ 121.30 *Specialized military training equipment.* (See Category XIV.) The term "specialized military training equipment" includes but is not limited to, link type trainers, attack trainers, operational flight trainers, radar target trainers, radar target generators, gunnery training devices, anti-submarine warfare trainers, flight simulators, radar trainers, instrument flight trainers, navi-

gation trainers, target equipment, drones and drone power plants, armament trainers, pilotless aircraft trainers, and mobile training units.

PART 123—LICENSING CONTROLS

Part 123 is revised to read as follows:

LICENSE PROCEDURES

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123.2 Export licenses.
123.3 Import licenses.
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123.9 Shipper's export declaration.
123.10 Shipment by mail.
123.11 Foreign trade zones.
123.12 Export of vessels of war.
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COUNTRY OF DESTINATION

123.21 Country of ultimate destination.
123.22 Shipments to or from certain countries.
123.23 Canadian shipments.
123.24 Exportation of arms, ammunition, and implements of war to Cuba.
123.25 Exportation of arms, ammunition, and implements of war to Honduras and Nicaragua.
123.26 United States territories.
123.27 Declaration of Destination.

SHIPMENTS FOR THE UNITED STATES GOVERNMENT

123.40 Shipment by or to the United States Government.
123.41 Aircraft parts and components to Armed Services.

EXEMPTION FOR ARMS AND AMMUNITION SHIPMENTS

123.51 Antique arms and implements of war.
123.52 Arms carried on person or in baggage.
123.53 Ammunition for personal use of consignee.
123.54 Arms for the individual use of members of the Armed Forces.

EXEMPTIONS FOR AIRCRAFT SHIPMENTS

123.61 United States scheduled transports.
123.62 Aircraft of foreign registry entering the United States.
123.63 Return of small United States civil aircraft for repair and reconditioning.
123.64 United States aircraft on temporary sojourn abroad.

MISCELLANEOUS EXEMPTIONS

123.71 Articles returned to the United States for repair or overhaul and re-export.
123.72 Certain helium gas exports.

MISCELLANEOUS PROVISIONS

123.81 Articles manufactured with Government-owned equipment.
123.82 National Firearms Act; Federal Firearms Act; Federal Explosives Act.

AUTHORITY: §§ 123.1 to 123.82 issued under sec. 414, 68 Stat. 848; 22 U. S. C. 1934, sec. 103, E. O. 10575, 19 F. R. 7251, 3 CFR, 1954 Supp.

LICENSE PROCEDURES

§ 123.1 *Application for license.* Persons who intend to export from or import into the United States, its territories or possessions any of the articles enumerated in the United States Munitions List shall make application for license to the Department of State on the forms prescribed by it unless an exemption from these requirements is authorized by this part. No such exports or imports shall be made until the application has been approved and the license issued. Applications for license to export helium gas should show the quantity to be exported in terms of cubic feet; the approximate net value of the helium gas; the number and type of containers and the approximate gross weight. Applications for written authorization from the Department of State to export technical data are required in accordance with the provisions of §§ 125.1–125.4 of this chapter.

§ 123.2 *Export licenses.* Licenses to export articles on the United States Munitions List including helium gas and related unclassified technical data must be applied for on form DSP–5. The Department of State will not issue export licenses if a proposed exportation is not considered to be in furtherance of the security and foreign policy of the United States. Prior to the issuance of an export license, the Department of State may also require documentary evidence pertinent to the proposed transaction. Licenses are applicable only to articles physically within the territorial jurisdiction of the United States.

§ 123.3 *Import licenses.* Licenses to import articles on the United States Munitions List must be applied for on form DSP–38. The Department of State will not issue import licenses if a proposed importation is not considered to be in furtherance of the security and foreign policy of the United States. Prior to the issuance of an import license, the Department of State may also require documentary evidence pertinent to the proposed transaction.

§ 123.4 *Intransit licenses.* (a) When articles are to be moved in transit through the United States, its territories or possessions, an intransit license must be obtained, except as provided in paragraphs (b) and (c) of this section, and an application for license must be submitted on form DSP–61. The Department of State will not issue intransit licenses if the proposed shipment is not considered to be in furtherance of the security and foreign policy of the United States.

(b) Collectors of customs are authorized on presentation of satisfactory evidence, to permit arms, ammunition, and implements of war to enter or leave the United States without the presentation of an import, export or intransit license if such articles are consigned from any place in a foreign country whose territory is contiguous to that of the United States to any other place in the same country.

(c) Collectors of customs may permit intransit shipments of sporting arms and ammunition, and of pistols and revolvers not larger than caliber .38, to enter and leave the United States without a license if such shipments are valued at not more than $300.

§ 123.5 *Validity and terms of licenses.* Licenses are valid for six months from the date of issuance unless a different period of validity is stated thereon. No extensions may be granted on licenses which have expired or are about to expire. If shipment cannot be made during the period of validity of a license, a new license may be applied for to authorize its exportation or importation. Licenses are not transferable and are subject to revocation, suspension or revision without notice. Licenses which have expired or have been revoked must be returned immediately to the Department of State.

§ 123.6 *Amendments and alterations.* No amendment or alteration of a license may be made except by the Department of State, or by collectors of customs or postmasters when specifically authorized to do so by the Department of State.

§ 123.7 *Ports of exit or entry.* Applications for license should show the proposed port or ports of exit or entry in the United States. If, subsequent to the issuance of a license, shipping arrangements necessitate a change of port, no amendment of the license is necessary but the Department of State should be notified of the change.

§ 123.8 *Licenses filed with collectors of customs.* (a) Prior to exportation or importation, export or import licenses shall be filed with the collector of customs at the port through which the shipment is being made. Shipper's export declarations (United States Department of Commerce Form 7525–V) must also be filed with and authenticated by the collector before the commodities are exported. (See also § 123.10.)

(b) Photostatic copies of licenses shall not be made unless specifically authorized by the Department of State on the face of the license or in a letter.

§ 123.9 *Shipper's export declaration.* The shipper's export declaration (United States Department of Commerce Form 7525–V), covering arms, ammunition, and implements of war for which an export license is required, must contain the same information in regard to the description, destination, and value of the articles to be exported as that which appears on the application for license. If the person designated on the export declaration as the actual shipper of the goods is not the person to whom the export license has been issued by the Department of State, the name of this shipper should appear on the export license as that of the consigner in the United States.

§ 123.10 *Shipment by mail.* Export licenses for articles which are being transported by mail shall be filed with the postmaster at the post office where the article is mailed. Import licenses shall be filed with the collector of customs at the port of entry. (See also § 123.8.)

§ 123.11. *Foreign trade zones.* For the purpose of this part, a foreign trade zone of the United States is considered an integral part of the United States. Accordingly, persons who intend to ship articles into a foreign trade zone of the United States, established pursuant to the Foreign Trade Zones Act (48 Stat. 998–1003; 19 U. S. C. 81a–81u, as amended) shall submit an application for import license described in § 123.1 and obtain a license prior to the entry

of such articles into the zone. Persons who intend to ship such articles from a foreign trade zone to a foreign destination, shall submit an application for export license, as described in § 123.1 and obtain a license prior to shipment. The provisions of § 123.4 with respect to intransit licenses are applicable to intransit shipments through a foreign trade zone.

§ 123.12 *Export of vessels of war.* (a) The transfer of a vessel of war, as defined in § 121.27 of this chapter, from United States registry to foreign registry or the registration of an undocumented vessel of war under a foreign flag is considered an exportation for which an approval or license from the Secretary of State is required. If the vessel to be exported is physically located in the United States, an export license must be obtained. If the vessel is located abroad, the Department's written approval in the form of a letter must be obtained prior to its transfer of registry.

(b) The provisions of this part shall be considered as binding in addition to the provisions of the United States Shipping Act of 1916, as amended (46 U. S. C. 835). United States Maritime Administration approval is required prior to the sale and/or transfer to alien ownership, registry, and/or flag of vessels of war. United States registry of a documented vessel is cancelled under the regulations of the United States Maritime Administration where such vessel is sold to a purchaser for use under foreign registry.

§ 123.13 *Repairs or alterations of vessels.* Operators of foreign vessels entering the territorial waters of the United States for repairs or alterations shall obtain an export license for articles enumerated in the United States Munitions List, which are required in connection with such repairs or alterations.

COUNTRY OF DESTINATION

§ 123.21 *Country of ultimate destination.* (a) The country designated on an application for export license as the country of ultimate destination must be the country wherein the articles being exported are to be used or consumed, not a country receiving the shipment in transit. If it is the intention of the exporter that the articles being exported and consigned to one country are to be transshipped to another country or to pass through the hands of an intermediate consignee, all facts relevant to such action must be clearly indicated on the license application.

(b) United States Munitions List articles which have been exported from the United States may not be sold, diverted, transferred, transshipped, reshipped or re-exported to, or used in, any of the countries named in § 123.22 without the specific prior approval of the Department of State.

§ 123.22 *Shipments to or from certain countries.* The exemptions provided by §§ 123.51 to 123.72 do not apply to shipments destined for or originating in the Soviet Union, Soviet bloc countries, Communist China, North Korea, and that part of Viet-Nam which lies north of the 17th parallel and any of the territories of free Viet-Nam or Laos which are under de facto control of the Communists, or any other area that may come under Communist control.

§ 123.23 *Canadian shipments.* (a) Collectors of customs may release shipments of arms, ammunition, and implements of war to or from Canada without a license or UAC Release Certificate.

(b) The provisions of paragraph (a) of this section do not apply to intransit shipments through the United States to or from Canada or to intransit shipments through Canada to or from the United States.

(c) The provisions of paragraph (a) of this section do not apply to shipments of helium gas. Applications for license to export helium gas to Canada shall be made in accordance with the provisions of §§ 123.1 and 123.2.

§ 123.24 *Exportation of arms, ammunition, and implements of war to Cuba.* In the case of a proposed export of United States Munitions List articles to Cuba, the application for license should be transmitted to the Cuban Embassy in Washington by the applicant. If the Cuban Embassy approves of the proposed export, it will place a stamp of approval thereon and forward it to the Department of State.

§ 123.25 *Exportation of arms, ammunition, and implements of war to Honduras and Nicaragua.* In the case of a proposed export of United States Munitions List articles to Honduras or Nicaragua, the applicant should transmit the application to the Department of State. Prior to or coincident with the submission of the application, the applicant should advise the Honduran or Nicaraguan Embassy in Washington as the case may be that such an exportation is proposed.

§ 123.26 *United States territories.* The territories of the United States (Alaska, Hawaii, Puerto Rico, and the Virgin Islands) are considered an integral part of the United States and, therefore, export and import licensing controls do not apply to shipments between those territories and the Continental United States. Licenses are required on shipments between the territories and foreign countries.

§ 123.27 *Declaration of Destination.* Some countries require the United States importer to produce evidence that the importation has been approved by the United States Government and that the shipment will not be diverted to a different country. The Declaration of Destination on Foreign Exports of Munitions Items to the United States, Form DSP–53, may be used to provide the exporting country with such evidence. When signed by an officer of the Department of State and bearing the Department's seal impression, the Declaration may be used as evidence to the exporting country that the United States importer has advised the United States Government under warranty of his intention of effecting the proposed importation into the United States and of not diverting or transshiping the material en route to the United States. Since it is the practice of the Department of State not to endorse the Declaration form until a United States import license is issued, the completed Declaration could also serve as evidence to the exporting country that the United States Government has approved the proposed importation.

SHIPMENTS FOR THE UNITED STATES GOVERNMENT

§ 123.40 *Shipment by or to the United States Government.* The exportation or importation of arms, ammunition, and implements of war by the United States Government is not subject to the provisions of section 414 of the Mutual Security Act. A license to import and export such articles is not required, therefore, when all aspects of the transaction are handled by a United States Government agency. A license is ordinarily required, however, when a private individual or firm is involved in any aspect of the transaction.

§ 123.41 *Aircraft parts and components to Armed Services.* Collectors of customs are authorized to permit the exportation of aircraft spare parts and components without a license on presentation of satisfactory evidence that the shipment is being made to the United States Armed Services abroad.

EXEMPTION FOR ARMS AND AMMUNITION SHIPMENTS

§ 123.51 *Antique arms and implements of war.* Collectors of customs are authorized on presentation of satisfactory evidence to permit the entry or departure without a license of antique arms and implements of war, components, parts, accessories, and attachments therefor, which are over one hundred years old (subject to the provisions of § 123.22).

§ 123.52 *Arms carried on person or in baggage.* Collectors of customs are authorized to permit rifles, carbines, revolvers, pistols, and ammunition therefor, to enter the United States or depart therefrom without a license (subject to the provisions of § 123.22) when these articles are on the person of an individual or in his baggage, and are intended exclusively for his personal use for sporting or scientific purposes or for personal protection. No more than three arms and no more than five hundred cartridges shall in any case be carried by an individual under the provisions of this section.

§ 123.53 *Ammunition for personal use of consignee.* Licenses will not be required for the exportation or importation of ammunition for rifles, carbines, revolvers, or pistols, provided the quantity does not exceed five hundred rounds in any shipment and the ammunition is for the personal use of the consignee and not for resale (subject to the provisions of § 123.22). A license is required however, for the exportation of such ammunition to Bahrein, Kuwait, Qatar, the Trucial States, and Muscat-and-Oman.

§ 123.54 *Arms for the individual use of members of the Armed Forces.* (a) Collectors of customs are authorized to permit members of the United States Armed Forces or United States civilian personnel employed by those Forces, presenting written authorization from their commanding officers to ship or bring into the United States without license, war trophies and souvenirs consisting of rifles, carbines, revolvers, pistols, and ammunition therefor.

(b) Collectors of customs are authorized to permit rifles, carbines, revolvers, pistols, and parts of such weapons to leave the United States without a license, provided they are consigned to servicemen's clubs overseas or to individual members of the Armed Forces of the United States, are accompanied by a written authorization from the commanding officer, and the parcel is plainly marked as to content.

(c) Collectors of customs are authorized to permit parts, components, and accessories of rifles, carbines, pistols, and revolvers to enter or leave the United States without a license when the shipment does not exceed $25.00 in value, is consigned to individual members of the Armed Forces of the United States, is for the consignee's own use and not for resale, and the parcel is plainly marked as to content.

EXEMPTIONS FOR AIRCRAFT SHIPMENTS

§ 123.61 *United States scheduled transports.* Customs officers are authorized to permit civil aircraft operated by commercial airlines and used on regular schedules between the United States and foreign countries under certificates of public convenience and necessity to depart from and enter into the United States without a license.

§ 123.62. *Aircraft of foreign registry entering the United States.* (a) Collectors of customs are authorized to permit aircraft of foreign registry to enter and depart from the United States without requiring the presentation of an individual license, provided it is established to their satisfaction that the country of ultimate destination is the same as the country of origin, that the airplane will not be sold or disposed of in the United States, and that it will not remain in the United States longer than six months.

(b) This section does not apply to aircraft returning to the United States for major overhaul or the installation of major components and re-export. The provisions of § 123.71 (b) are applicable to such aircraft.

§ 123.63 *Return of small United States civil aircraft for repair and reconditioning.* Collectors of customs are authorized to permit the importation without a license of personal or executive type civil aircraft with a seating capacity of no more than five passengers, and components thereof, if they were previously exported under license from the United States. An export license will, however, be required if the equipment is subsequently to be reexported.

§ 123.64 *United States aircraft on temporary sojourn abroad.* (a) Collectors of customs may permit the departure from the United States without a license of aircraft, except military aircraft, such as fighters and bombers, which are flown or shipped from the United States for a temporary sojourn abroad of not to exceed six months' duration, provided the collector of customs is satisfied that the conditions set forth in paragraph (b) of this section have been met.

(b) Owners or operators of aircraft departing from the United States for temporary sojourn abroad under the provisions of paragraph (a) of this section shall certify by written declaration submitted in duplicate in a form acceptable to the collectors of customs that (1) the aircraft will not be disposed of; (2) the aircraft will be returned to the United States within six months; (3) it will be operated only by a U. S. licensed pilot, except on demonstration flights; and (4) it will remain under U. S. registry while abroad. The provisions of § 126.2 of this chapter shall apply to such a written declaration.

(c) When a written declaration setting forth an intention to comply with the above provisions is accepted by a customs officer at the port of departure, he shall endorse it, return it to the owner or operator prior to the departure of the aircraft, and retain a copy for his records. Upon the return of the aircraft to the United States, the endorsed copy of the declaration must be surrendered to the collector of customs at the port of entry. If the port of entry is not the same as that from which the aircraft departed, the customs officer at the port of entry shall forward the surrendered copy of the declaration to the customs authorities at the port from which the aircraft originally departed, noting thereon the date of entry.

(d) Collectors of customs may permit an aircraft to make a series of flights to and from the United States under a temporary sojourn authorization not to exceed six months, provided a written declaration in duplicate is submitted to and endorsed by a customs officer certifying that the conditions set forth in paragraph (b) of this section will be observed. The provisions of § 126.2 of this chapter shall also apply to such a written declaration. A copy of the declaration shall be retained by the customs officer endorsing the original. In the case of an aircraft making a series of flights over a six months' period, the endorsed declaration shall be carried on the aircraft as evidence of the fact that the required permission has been granted. At the end of the six month period, the declaration shall be surrendered to the customs office which granted the permission.

(e) If, at the end of the six-month period, a temporary sojourn permit remains outstanding, the collector of customs at the port of exit should submit the matter to the Customs Agency Service for investigation.

(f) The collector of customs at the port of departure is authorized in appropriate instances, to grant one six-month extension in temporary sojourn cases. Requests for extensions beyond a year should be referred to the Department of State for comment.

MISCELLANEOUS EXEMPTIONS

§ 123.71 *Articles returned to the United States for repair or overhaul and re-export.* (a) Collectors of customs are authorized on presentation of satisfactory evidence to permit the entry into the United States without an import license of arms, ammunition, and implements of war which have been legally exported from the United States and which are being returned to the United States for repair and re-export to the country of origin (subject to the provisions of § 123.22. An individual export license, however, is required before such articles may be re-exported; for civil aircraft, see paragraph (b) of this section.

(b) The re-export of civil aircraft returned for repair is subject to the requirement of an export license only when it has undergone a major overhaul or when major components were installed therein during its stay in the United States. Major components of aircraft are defined in § 121.6 of this chapter.

§ 123.72 *Certain helium gas exports.* Collectors of customs are authorized to permit the export without a license of miniature cylinders containing helium gas in fractional cubic foot quantities mixed with other gases, provided:

(a) The gas is destined for medical use;

(b) The shipment to any consignee does not exceed ten cubic feet of "contained helium", as defined in § 121.7 of this chapter;

(c) The ultimate destination is not a country named in § 123.22; and

(d) The company has arranged to furnish the Department of State with periodic reports of such shipments.

MISCELLANEOUS PROVISIONS

§ 123.81 *Articles manufactured with Government-owned equipment.* It is the responsibility of the exporter of United States Munitions List articles to obtain the advance approval of the appropriate defense agency for the exportation of articles manufactured with equipment owned by the United States Government. If the exporter has failed to obtain such approval prior to the submission of an application for license to export, he must indicate this fact on his application for license to export.

§ 123.82 *National Firearms Act; Federal Firearms Act; Federal Explosives Act.* (a) The provisions of this subchapter shall be considered as binding in addition to and not in lieu of those established under the provisions of the National Firearms Act, approved by the President June 26, 1934, as amended, now known as ch. 53, Internal Revenue Code of 1954 (26 U. S. C. 5801–5862); under the provisions of the Federal Firearms Act, approved by the President June 30, 1958 (52 Stat. 1250; 15 U. S. C. sections 901–909), as amended March 10, 1947 (61 Stat. 11), August 6, 1939 (53 Stat. 1222), and February 7, 1950 (64 Stat. 3); and under the provisions of the Federal Explosives Act, approved by the President

October 6, 1917 (40 Stat. 385; 50 U. S. C. ch. 8), as amended December 26, 1941 (55 Stat. 863; 50 U. S. C. ch. 8).

(b) The National Firearms Act imposes certain taxes upon manufacturers, importers, and dealers in certain firearms; taxes upon the making of certain firearms, and taxes on transfers of certain firearms. The term "firearm", as used in this act, includes "a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearms whether or not such firearm is included within the foregoing definition, but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is sixteen inches or more in length."

(c) The Federal Firearms Act applies to manufacturers and dealers who are engaged in interstate or foreign commerce in firearms and ammunition. The term "firearm", as used in this Act, means "any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive and a firearm muffler or firearm silencer, or any part or parts of such weapon"; and the term "ammunition" includes "all pistol or revolver ammunition. It shall not include shotgun shells, metallic ammunition suitable for use only in rifles, or any .22 caliber rim fire ammunition."

(d) The Federal Explosives Act is applicable to the manufacture, distribution, storage, use, and possession of explosives in time of war. The term "explosives", as used in this Act, means "gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, and any chemical compounds or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound or mixture or any part thereof may cause an explosion."

(e) Rules and regulations for the enforcement of the National Firearms Act and Federal Firearms Act are prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Rules and regulations for the enforcement of the Federal Explosives Act are prescribed by the Director of the Bureau of Mines, Department of the Interior.

PART 124—LICENSING AGREEMENTS, TRANSMISSION OF INFORMATION

Section 124.3 (b) is amended as follows:

(b) Licensing agreements will be written in such a way that (1) the licensor may not include as a cost factor to the licensee a charge for technical data furnished or developed at the expense of the United States Government, (2) the licensee may not include as a cost factor in the sale of articles produced under the agreement a charge for technical data furnished or developed at the expense of the United States Government, and (3) new designs, processes or manufacturing techniques derived from such data will be made available on an unrestricted basis to the United States Government at reasonable cost by the licensee.

(Sec. 414, 68 Stat. 848; 22 U. S. C. 1934, sec. 103, E. O. 10575, 19 F. R. 7251, 3 CFR, 1954 Supp.)

PART 127—FOREIGN MILITARY AIRCARFT FLIGHTS

Sections 127.1 through 127.3 are deleted and replaced by the following sections:

§ 127.1 *Foreign military flight clearances.* Foreign governments desiring to overfly or land on United States territory are required to obtain written authorization to do so in advance from the Department of State. Such a request normally is made by the appropriate foreign government embassy in Washington in the form of a diplomatic note. The request should reach the Department no later than 72 hours before the overflight is to take place.

§ 127.2 *Use of military installations.* Requests by foreign governments for authorization to land their military aircraft at United States military installations should have the approval of the defense agency owning or leasing the military installations in addition to the required authorization of the Secretary of State for overflight of United States territory (See § 127.1). Requests for authorization to visit a military installation should be made to the defense agency concerned as far in advance as possible and no later than 72 hours before the arrival date. It should contain information outlined in § 127.3.

§ 127.3 *Required Information.* In regard to the information required in connection with §§ 127.1 and 127.2, foreign governments requesting permission for military aircraft to overfly and land should support the request with the following information:

(a) The purpose of the flight;

(b) The type and identity of the aircraft;

(c) Names of crew;

(d) Names and nationality of passengers;

(e) Dates of arrival and departure at each point;

(f) Special services and facilities desired.

(Sec. 414, 68 Stat. 848; 22 U. S. C. 1934; Sec. 103, E. O. 10575, 19 F. R. 7251, 3 CFR, 1954 Supp.)

PART 128—ADMINISTRATIVE PROCEDURES

Section 128.1 is amended as follows:

§ 128.1 *Administrative Procedures Act.* (a) The functions conferred by section 414 of the Mutual Security Act of 1954 are excluded from the operation of the Administrative Procedures Act (60 Stat. 237), as contemplated by sections 1003 and 1004 thereof.

(b) The functions conferred by section 6A of the Air Commerce Act of 1926 as amended are excluded from the operations of the Administrative Procedures Act as contemplated by sections 1003 and 1004 thereof.

(Sec. 414, 68 Stat. 848; 22 U. S. C. 1934, sec. 103, E. O. 10575, 19 F. R. 7251, 3 CFR, 1954 Supp.)

Dated: December 24, 1957.

For the Secretary of State.

RODERIC L. O'CONNOR,
Administrator,
Bureau of Security
and Consular Affairs.

[F. R. Doc. 57-10826; Filed, Dec. 30, 1957; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1958 AND SUCCEEDING CROP YEARS

COUNTIES DESIGNATED FOR CORN CROP INSURANCE

Correction

In Federal Register Document 57-9832, published on page 9515 of the issue for November 28, 1957, the county "Sauk" should be added in alphabetical position under "Wisconsin".

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 812]

PART 812—SUGAR REQUIREMENTS AND QUOTAS: HAWAII AND PUERTO RICO

CALENDAR YEAR 1958

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended) and the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001), these regulations are hereby made, prescribed, and published to be in force and effect for the calendar year 1958 or until amended or superseded by regulations hereafter made during the calendar year 1958.

Basis and purpose. The determinations and the sugar quotas set forth below have been made and established pursuant to section 203 of the Sugar Act of 1948, as amended (hereinafter called the "act"). The act provides for the Secretary of Agriculture to make such determinations and establish such quotas for the calendar year 1958 during December 1957. The determinations of the sugar requirements have been based insofar as required by section 201 of the act, on official statistics of the Department of Agriculture and statistics pub-

lished by other agencies of the Federal Government. The purpose of such determinations is to provide the amounts of sugar needed to meet the requirements of consumers in the Territory of Hawaii and in Puerto Rico for the calendar year 1958. The determinations provide the basis for the establishment of sugar quotas for such year for local consumption therein pursuant to section 203 of the act.

Prior to the issuance of these regulations, notice was given (22 F. R. 8540) that the Secretary of Agriculture was preparing, among other things, to determine the requirements and quotas for the calendar year 1958 for local consumption in Hawaii and Puerto Rico and that any interested person might present any data, views or arguments with respect thereto in writing not later than November 29, 1957. Due consideration has been given to the data, views and arguments submitted, in accordance with the Administrative Procedure Act.

Since the act provides that the Secretary of Agriculture determine sugar requirements and establish quotas for local consumption in Hawaii and in Puerto Rico during December 1957 to be applicable for the calendar year 1958, it is impracticable and not in the public interest to comply with the 30-day effective date requirements of the Administrative Procedure Act. Accordingly, these regulations shall be effective January 1, 1958.

§ 812.20 *Sugar requirements, Hawaii and Puerto Rico, 1958.* It is hereby determined, pursuant to section 203 of the act, that the amount of sugar needed to meet the requirements of consumers in the Territory of Hawaii for the calendar year 1958 is 45,000 short tons, of sugar, raw value, and that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1958 is 110,000 short tons, raw value.

§ 812.21 *Local consumption quotas.* There are hereby established, pursuant to section 203 of the act, for local consumption in the Territory of Hawaii and in Puerto Rico, for the calendar year 1958 the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Hawaii	45,000
Puerto Rico	110,000

§ 812.22 *Restrictions on marketing.* For the calendar year 1958 all persons are hereby forbidden, pursuant to section 209 of the act, from marketing in the Territory of Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1958 has been filled.

Statement of bases and considerations. Pursuant to section 203 of the act, the provisions of section 201 of the act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the twelve-month period ended October 31, 1957; (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and Puerto Rico, including that which was lost in refining after charge to the local quotas, during such twelve-month period were approximately 38,000 short tons of sugar, raw value, and 109,000 short tons of sugar, raw value, respectively.

No official estimate of population for either of these areas for 1957 or 1958 is available. Previous trends indicate a small annual increase in population may be expected.

In Hawaii sugar distribution for local consumption during the twelve-month period ended October 31, 1957, was approximately 38,000 tons, about 3,500 tons less than during the calendar year 1956. With distribution during 1957 expected to be substantially less than in 1956 but quota charges substantially greater in 1957 than in 1956, the amount of sugar available in 1958, without charge to the 1958 quota, will be substantially greater than a year earlier. In view of this greater carryover of sugar into 1958 and the fact that distribution for local consumption has not been in excess of 43,186 tons in any of the past ten years, it appears that a quota of 45,000 short tons, raw value, will provide an adequate supply of sugar for local consumption in Hawaii for 1958.

In Puerto Rico sugar distribution for local consumption plus the quantity of sugar charged to the local quota but lost in refining sugar locally, amounted to 105,487 short tons, raw value, in 1956 and for 1957 will likely exceed that quantity since local distribution during the first ten months was about 4,000 tons greater in 1957 than during the comparable period of 1956. If distribution for the last two months of 1957 parallels that for November and December of 1956, the amount of sugar available for distribution in early 1958, without charge to the 1958 quota, will exceed by about 3,000 tons the amount of sugar, previously charged to a quota, available a year earlier. Although there has been an increase in distribution in 1957, with the larger prospective supply of refined sugar stocks available for early 1958, it appears that a quota of 110,000 short tons, raw value, will provide an adequate supply of sugar for local consumption in Puerto Rico for 1958.

In accordance with the above, the quotas for local consumption in Hawaii and Puerto Rico for 1958 have been established at 45,000 and 110,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies secs. 201, 203, 209, 210; 61 Stat. 923, as amended, 925, 928; 7 U. S. C. 1111, 1113, 1119, 1120)

Done at Washington, D. C., this 26th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10857; Filed, Dec. 30, 1957; 8:52 a. m.]

[Sugar Reg. 814.25]

PART 814—ALLOTMENT OF SUGAR QUOTAS

MAINLAND CANE SUGAR AREA, 1958

Basis and purpose. This allotment order is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act"), for the purpose of establishing allotments of the 1958 sugar quota for the Mainland Cane Sugar Area for the period January 1, 1958, to the date allotments of such quota are prescribed for the full calendar year 1958.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that approximately 360,000 tons of 1957-crop sugar will remain to be marketed after January 1, 1958. This quantity of sugar, along with production of sugar from 1958-crop sugarcane, will result in a supply of sugar available for marketing in 1958 sufficiently in excess of the 1958 quota that may be expected for the area that disorderly marketing may occur and some interested persons may be prevented from having equitable opportunities to market sugar (R. 7). The inventories of sugar on January 1, 1958, together with production in early 1958, may make it possible for some allottees to market shortly after January 1, 1958, a quantity of sugar larger than the allotments established by this order. It, therefore, is necessary that such allotments, to be effective, be in effect on January 1, 1958. In view thereof and since this proceeding was instituted for the purpose of issuing allotments to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the act imperatively and unavoidably requires omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237), is impracticable and contrary to the public interest and, consequently, this order shall be effective on January 1, 1958.

Preliminary statement. Section 205 (a) of the act requires the Secretary to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons equitable opportunities to market sugar within the quota for the area. Section 205 (a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.) a preliminary finding was made that allotment of the quota is necessary, and a notice was published on October 23, 1957 (22 F. R. 8313), of a public hearing to be held at Washington, D. C., in Room 2W, Administration Building of the Department of Agriculture on November 4, 1957,

at 9:30 a. m., e. s. t., for the purpose of receiving evidence to enable the Secretary, (1) to affirm, modify or revoke the preliminary finding of necessity for allotment, and (2) to establish fair, efficient and equitable allotments of a portion of the 1958 quota for the Mainland Cane Sugar Area for the period January 1, 1958, to the date the Secretary prescribes allotments of such quota for the calendar year 1958.

The hearing was held at the place and time specified in the notice.

Basis for findings and conclusions. Section 205 (a) of the act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person and the ability of such person to market or import that portion of such quota or proration thereof allotted to him * * *

The necessity for allotment of the 1958 sugar quota for the Mainland Cane Sugar Area is indicated by the extent to which the quantity of sugar in prospect for marketing in 1958 exceeds the quota that may be established and that in the absence of allotments disorderly marketing would result, and some interested persons would be prevented from having equitable opportunities to market sugar (R. 7).

Testimony indicates that it is desirable to defer allotment proceedings with respect to the allotment of the full quota for 1958 until most allottees have completed processing of 1957-crop sugarcane, but allotments of a portion of the quota should be in effect beginning January 1, 1958, because inventories of sugar on January 1, 1958, together with production of sugar in early 1958 may make it possible for some allottees to market shortly after January 1, 1958, a quantity of sugar larger than eventually may be allotted to them (R. 7, 8).

To meet this situation the Government witness proposed that allotment of 450,000 short tons, raw value, of the 1958 sugar quota for the Mainland Cane Sugar Area be established to be effective for the period January 1, 1958, to the date allotments of the entire quota for the calendar year are established, by allotting 450,000 short tons, raw value, to the respective allottees on the basis that each allottee's allotment be the same proportion of 450,000 short tons, raw value, as his allotment was of the total 1957 allotments established in Sugar Regulation 814.24, Amendment 2, (22 F. R. 4641) effective July 2, 1957 (R. 8, 9; Ex. 4).

Consideration is given to the three factors cited in the act in the same manner as was given in allotting the full quota for 1957, and such basis for allotment of a portion of the 1958 quota to be in effect for the early part of the year cannot be substantially improved (R. 10, 12).

In accordance with the hearing record (R. 13) it has been found that Erath Sugar Company, Ltd., is successor to the Vermilion Sugar Company.

The hearing record contains proposals to include in the order to become effective January 1, 1958, paragraphs essentially the same as paragraphs (b), (c) and (d) of Sugar Regulation 814.24, which established initial allotments for 1957 (R. 3, 14; Ex. 7).

No testimony, proposals or arguments contrary to that outlined above appear in the hearing record.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) For the calendar year 1958 Mainland Cane Sugar processors will have available for marketing from 1957-crop sugarcane about 360,000 short tons, raw value, of sugar. This quantity of sugar, together with production of sugar from 1958-crop sugarcane, will result in a supply of sugar available for marketing in 1958 sufficiently in excess of the anticipated 1958 quota for the Mainland Cane Sugar Area to cause disorderly marketing and prevent some interested persons from having equitable opportunities to market sugar.

(2) The allotment of the 1958 Mainland Cane Sugar Area quota is necessary to prevent disorderly marketing and to afford all interested persons equitable opportunities to market sugar processed from sugarcane produced in the area.

(3) It is desirable to defer the allotment of the entire 1958 calendar year sugar quota for the Mainland Cane Sugar Area until processings from 1957-crop sugarcane can be known or closely estimated for all allottees, but it is necessary to make allotments of a portion of the 1958 quota effective January 1, 1958 to prevent some allottees from marketing a quantity of sugar larger than eventually may be allotted to them when the entire 1958 quota is allotted.

(4) The findings in (3), above, require that, effective for the period January 1, 1958, until the date allotments of the entire 1958 calendar year Mainland Cane Sugar Area quota are prescribed 450,000 short tons, raw value, of the 1958 quota shall be allotted and that allotments of such quantity be established by allotting to each allottee the same proportion of 450,000 short tons, raw value, as his allotment was of the total 1957 allotments established by Sugar Regulation 814.24, Amendment 2, effective July 2, 1957.

(5) Allotments of the 1958 sugar quota for the Mainland Cane Sugar Area established as found in (4), above, give consideration to the statutory factors "processings * * * from * * * proportionate shares," "past marketings" and "ability to market".

(6) The allotments of the 1957 quota referred to in (4), above, showing the allotment of 2,450 tons for Vermilion Sugar Co., Inc., combined with that of Erath Sugar Co., Ltd., pursuant to finding (7), are set forth in the following table:

	Allotments (short tons, raw value)
Albania Sugar Coop., Inc	6,698
Alma Plantation, Ltd	8,501
J. Aron & Co., Inc	13,767
Billeaud Sugar Factory	8,696
Breaux Bridge Sugar Coop	7,025
J. M. Burguieres Co., Ltd., The	7,986
Burton-Sutton Oil Co., Inc	7,973
Caire & Graugnard	3,475
Caldwell Sugar Coop., Inc	11,335
Catherine Sugar Co., Inc	8,508
Columbia Sugar Company	6,195
Cora-Texas Mfg. Co., Inc	2,890
Dugas & LeBlanc, Ltd	12,541
Duhe & Bourgeois Sugar Co., Inc	9,990
Erath Sugar Co., Ltd	7,527
Evan Hall Sugar Coop., Inc	22,287
Evangeline Pepper & Food Products, Inc	4,964
Fellsmere Sugar Producers Assoc	8,520
Frisco Cane Co., Inc	905
Glenwood Coop., Inc	15,595
Gulf States Land & Industries, Inc	21,413
Helvetia Sugar Coop., Inc	8,985
Iberia Sugar Coop., Inc	14,866
LaFourche Sugar Company	14,728
Harry L. Laws & Co., Inc	10,996
Levert-St. John, Inc	9,287
Loisel Sugar Co., Inc	5,667
Louisiana State Penitentiary	2,978
Lula Factory, Inc	11,492
Meeker Sugar Coop., Inc	4,756
Milliken & Farwell, Inc	13,094
National Sugar Refining Co	12,824
Okeelanta Sugar Refinery, Inc	17,832
M. A. Patout & Son, Ltd	9,840
Poplar Grove Pltg. & Ref. Co., Inc	7,345
St. James Sugar Coop., Inc	12,881
St. Mary Sugar Coop., Inc	12,215
South Coast Corp	43,643
Southdown Sugars, Inc	42,173
Sterling Sugars, Inc	20,515
J. Supple's Sons Pltg. Co., Inc	5,240
United States Sugar Corp	119,036
Valentine Sugars, Inc	10,418
Vida Sugars, Inc	4,568
A. Wilbert's Sons Lbr. & Sh. Co	9,695
Young's Industries, Inc	6,459
Louisiana State University	100
All other persons	00
Total	628,424

(7) Erath Sugar Company, Ltd., shall succeed to all interests of the Vermilion Sugar Company as an allottee of the 1958 sugar quota for the Mainland Cane Sugar Area.

(8) Provision shall be made in the order to restrict marketings of sugar to allotments established herein.

(9) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest, and under circumstances involving an allottee becoming unable to process sugarcane and such cane as he would normally process, if operating, is processed by other allottees.

(10) To aid in the efficient movement and storage of sugar, provision shall be made to enable a processor to market a quantity of sugar of his own production in excess of his allotment equivalent to the quantity of sugar which he holds in storage and which was acquired by him within the allotment of another allottee of the 1958 Mainland Cane Sugar Area quota.

(11) For the period January 1, 1958, until the date allotments of the entire 1958 calendar year sugar quota for the

Mainland Cane Sugar Area are prescribed, the allotments established in the foregoing manner and in the quantities set forth in the order provide a fair, efficient and equitable distribution of such quota and meet the requirements of section 205 (a) of the act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act; *It is hereby ordered:*

§ 814.25 *Allotment of the 1958 sugar quota for the Mainland Cane Sugar Area*—(a) *Allotments.* For the period January 1, 1958, until the date allotments of the entire 1958 calendar year sugar quota for the Mainland Cane Sugar Area are prescribed, the 1958 quota for the Mainland Cane Sugar Area is hereby allotted, to the extent shown in this section, to the following processors in the quantities which appear opposite their respective names:

Processors	Allotments (short tons, raw value)
Albania Sugar Coop., Inc	4,796
Alma Plantation, Ltd	6,088
J. Aron & Co., Inc	9,858
Billeaud Sugar Factory	6,227
Breaux Bridge Sugar Coop	5,030
J. M. Burguieres Co., Ltd., The	5,718
Burton-Sutton Oil Co., Inc	5,710
Caire & Graugnard	2,488
Caldwell Sugar Coop., Inc	8,117
Catherine Sugar Co., Inc	6,092
Columbia Sugar Company	4,436
Cora-Texas Mfg. Co., Inc	2,070
Dugas & LeBlanc, Ltd	8,980
Cuhe & Bourgeois Sugar Co., Inc	7,154
Erath Sugar Co., Ltd	5,390
Evan Hall Sugar Coop., Inc	15,959
Evangeline Pepper & Food Products, Inc	3,554
Fellsmere Sugar Producers Assoc	6,101
Frisco Cane Co., Inc	648
Glenwood Coop., Inc	11,167
Gulf States Land & Industries, Inc	15,334
Helvetia Sugar Coop., Inc	6,434
Iberia Sugar Coop., Inc	10,645
LaFourche Sugar Company	10,546
Harry L. Laws & Co., Inc	7,874
Levert-St. John, Inc	6,650
Loisel Sugar Co., Inc	4,058
Louisiana State Penitentiary	2,133
Lula Factory, Inc	8,229
Meeker Sugar Coop., Inc	3,406
Milliken & Farwell, Inc	9,376
National Sugar Refining Co	9,183
Okeelanta Sugar Refinery, Inc	12,769
M. A. Patout & Son, Ltd	7,046
Poplar Grove Pltg. & Ref. Co., Inc	5,259
St. James Sugar Coop., Inc	9,224
St. Mary Sugar Coop., Inc	8,747
South Coast Corp	31,252
Southdown Sugars, Inc	30,200
Sterling Sugars, Inc	14,690
J. Supple's Sons Pltg. Co., Inc	3,753
United States Sugar Corp	85,239
Valentine Sugars, Inc	7,460
Vida Sugars, Inc	3,271
A. Wilbert's Sons Lbr. & Sh. Co	6,943
Young's Industries, Inc	4,625
Louisiana State University	71
All other persons	00
Total	450,000

(b) *Restrictions on shipment and marketing.* For the period January 1, 1958, until the date an allotment order is issued allotting the entire 1958 calendar year sugar quota for the Mainland Cane Sugar Area, each person named in paragraph (a) of this section, and any other person, is hereby prohibited from marketing in interstate commerce or in competition with sugar or liquid sugar shipped, transported or marketed in interstate commerce or foreign commerce, any sugar or liquid sugar produced from sugarcane grown in the Mainland Cane Sugar Area in excess of his allotment established in paragraph (a) of this section.

(c) *Transfer of allotments.* The Director of the Sugar Division, Commodity Stabilization Service, of the Department, may, consistent with the provisions of the act: (1) Permit marketings to be made by one allottee, or other person, within the allotment or portion thereof established for another allottee upon receipt of evidence satisfactory to him of a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved, and upon relinquishment by one of the allottees of all or a portion of its allotment, and (2) permit, when approved in writing by him, the transfer of allotments made in paragraph (a) of this section, in whole or in part, to another allottee thereunder upon a showing that the transferee has processed or will process 1957-crop sugarcane because of inability of the transferor, arising subsequent to the processing of the 1956-crop, to process the tonnage of sugarcane which otherwise would be processed by him.

(d) *Exchanges of sugar between allottees.* When approved in writing by the Director of the Sugar Division, or the Chief of the Quota and Allotment Branch thereof, Commodity Stabilization Service of the Department, any allottee holding sugar or liquid sugar acquired by him within the allotment of another person established in paragraph (a) of this section, may ship, transport or market up to an equivalent quantity of sugar processed by him in excess of his allotment established in paragraph (a) of this section. The sugar or liquid sugar held under this paragraph shall be subject to all other provisions of this section as if it had been processed by the allottee who acquired it for the purpose authorized by this paragraph.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U. S. C. 1115, 1119)

Done at Washington, D. C., this 26th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10855; Filed, Dec. 30, 1957; 8:52 a. m.]

[Sugar Reg. 814.34]

PART 814—ALLOTMENT OF SUGAR QUOTAS

DOMESTIC BEET SUGAR AREA, 1958

Basis and purpose. This allotment order is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act"), for the purpose of establishing allotments of the 1958 sugar quota for the Domestic Beet Sugar Area for the period January 1, 1958, to the date allotments of such quota are prescribed for the full calendar year 1958.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that approximately 1,660,000 short tons, raw value, of sugar will be held in inventory by the allottees on January 1, 1958, or will be produced by them from the remainder of the 1957-crop sugar beets during 1958. This quantity of sugar, along with production of sugar from the 1958-crop beets will result in a supply of sugar available for marketing in 1958 in excess of the 1958 quota that may be expected for the area. Thus, lack of continuity in allotment of the quota might lead to disorderly marketing and some interested persons may be prevented from having equitable opportunities to market sugar and the interests of growers of sugar beets might be adversely affected (R. 8, 9). Inventories of sugar on January 1, 1958, together with production in early 1958, may make it possible for some allottees to market a quantity of sugar larger than the allotments established by this order. It, therefore, is necessary that such allotments, to be effective, be in effect on January 1, 1958. In view thereof, and since this proceeding was instituted for the purpose of issuing allotments to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the act imperatively and unavoidably requires omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237), is impracticable and contrary to the public interest and, consequently, this order shall be effective on January 1, 1958.

Preliminary statement. Section 205 (a) of the act requires the Secretary to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar, or (4) to afford all interested persons equitable opportunities to market sugar within the quota for the area. Section 205 (a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.) a preliminary finding was made that allotment of the quota is necessary, and a notice was published on October 23, 1957 (22 F. R. 8313), of a public hearing to be held at Washington, D. C., in Room 2W, Administration Building of the Department of Agriculture on November 4, 1957, at 9:30 a. m., e. s. t., for the purpose of receiving evidence to

enable the Secretary (1) to affirm, modify or revoke the preliminary finding of necessity for allotments, and (2) to establish fair, efficient and equitable allotments of a portion of the 1958 quota for the Domestic Beet Sugar Area for the period January 1, 1958, to the date the Secretary prescribes allotments of such quota for the calendar year 1958.

The hearing was held at the place and time specified in the notice.

Basis for findings and conclusions. Section 205 (a) of the act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person and the ability of such person to market or import that portion of such quota or proration thereof allotted to him * * *

The necessity for allotment of the 1958 sugar quota for the Domestic Beet Sugar Area is indicated by the fact that the quantity of sugar in prospect for marketing in 1958 exceeds the quota that may be established and that in the absence of allotments disorderly marketing might occur and some interested persons may be prevented from having equitable opportunities to market sugar (R. 8, 9).

Testimony indicates that it is desirable to defer allotment proceedings with respect to the allotment of the full quota for 1958 until the level of processings from the 1957 beet crop will be known or can be closely approximated, but that allotments of a portion of the quota should be in effect January 1, 1958, because inventories of sugar on January 1, 1958, together with production of sugar in early 1958 may make it possible for some allottees to market shortly after January 1, 1958, a quantity of sugar larger than eventually may be allotted to them (R. 9).

To meet this situation it was proposed that allotment of 1,600,000 short tons, raw value, of the 1958 sugar quota for the Domestic Beet Sugar Area be established to be effective for the period January 1, 1958, to the date allotments of the entire quota for the calendar year are established, by allotting 1,600,000 short tons, raw value, to the respective allottees on the basis that each allottee's allotment be the same proportion of 1,600,000 short tons, raw value, as his allotment was of the total 1957 allotments established in Sugar Regulation 814.33, Amendment 2, effective October 17, 1957 (22 F. R. 8216; R. 10; Ex. 4).

Allotments established on this basis give effect to the three factors cited in section 205 (a) of the act for consideration in allotting a quota in the same manner that these factors were treated in allotting the quota for 1957 and constitute a fair, efficient and equitable allotment of a portion of the 1958 quota to be in effect for the early part of the year (R. 11, 12).

The hearing record contains proposals (R. 13) to include in the order to become effective January 1, 1958, provisions similar to paragraph (b) "Marketing of sugar beets and molasses" and paragraph (c) "Transfer of allotment" and paragraph (d) "Restrictions on shipment and marketing" in S. R. 814.33, effective January 1, 1957 (22 F. R. 24). No testimony, proposals or arguments contrary to that outlined above appear in the hearing record.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) For the calendar year 1958 Domestic Beet Sugar processors will have available for marketing from 1957-crop sugar beets about 1,660,000 short tons, raw value, of sugar. This quantity of sugar, together with production of sugar from 1958-crop beets, will result in a supply of sugar available for marketing in 1958 sufficiently in excess of the anticipated 1958 quota for the Domestic Beet Sugar Area to cause disorderly marketing and prevent some interested persons from having equitable opportunities to market sugar.

(2) The allotment of the 1958 Domestic Beet Sugar Area quota is necessary to prevent disorderly marketings and to afford all interested persons equitable opportunities to market sugar processed from sugar beets produced in the area.

(3) Allotment of the entire 1958 calendar year sugar quota for the Domestic Beet Sugar Area should be deferred until processings of the 1957-crop sugar beets can be known or closely estimated for all allottees. However, it is necessary that an allotment of such quota be in effect on January 1, 1958, in order to avoid disorderly marketing out of sugar on hand on that date or to be produced shortly thereafter, and to afford all interested persons equitable opportunities to market sugar.

(4) The findings in (3), above, require that, effective for the period January 1, 1958, until the date allotments of the entire 1958 Domestic Beet Sugar Area quota for the full calendar year are prescribed, 1,600,000 short tons, raw value, of the 1958 quota shall be allotted. Allotments of such quantity shall be established by allotting to each allottee the same proportion of 1,600,000 short tons, raw value, as his allotment was of the total 1957 allotments established by Sugar Regulation 814.33, Amendment 2, effective October 17, 1957.

(5) In establishing allotment of the 1958 sugar quota for the Domestic Beet Sugar Area as found in (4), above, the statutory factors, "processings * * * from * * * proportionate shares," "past marketings" and "ability to market" have been taken into consideration.

(6) The allotments of the 1957 quota referred to in (4), above, are as set forth in the following table:

Processor	Allotments	
	Short tons, raw value	Equivalent in hundredweight refined beet sugar
Amalgamated Sugar Co., The	280,820	5,248,972
American Crystal Sugar Co	299,761	5,603,009
Buckeye Sugars, Inc	10,182	190,318
Franklin County Sugar Co	11,027	206,112
Great Western Sugar Co., The	494,879	9,250,075
Holly Sugar Corp	334,024	6,243,439
Layton Sugar Co	11,456	214,131
Menominee Sugar Co	13,600	254,206
Michigan Sugar Co	71,379	1,334,187
Monitor Sugar Division of Robert Gage Coal Co	31,899	596,243
National Sugar Manufacturing Co., The	4,559	85,215
Northern Ohio Sugar Co	21,734	406,243
Spreckels Sugar Co	208,115	3,890,000
Union Sugar Division, Consolidated Foods Corp	76,151	1,423,383
Utah-Idaho Sugar Co	201,661	3,769,364
Any other person	000	000
Total	2,071,247	38,714,897

(7) To assure that the marketing of sugar or liquid sugar is charged against the proper allotment, it is necessary that the order provide for charges to allotments of processors who sell sugar beets, or molasses derived from sugar beets, but retain and process such sugar beets or molasses into sugar or liquid sugar for delivery to or for the account of the buyer.

(8) To facilitate full and effective use of allotments, provisions shall be made in the order for transfer of allotments under circumstances of a succession of interest.

(9) Provision shall be made in the order to restrict marketings of sugar to allotments established herein.

(10) For the period January 1, 1958, until the date allotments of the entire 1958 calendar year sugar quota for the Domestic Beet Sugar Area are prescribed, the allotments established in the foregoing manner and in the quantities set forth in the order provide a fair, efficient and equitable distribution of such quota and meet the requirements of section 205 (a) of the act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act: *It is hereby ordered:*

§ 814.34 *Allotment of the 1958 sugar quota for the Domestic Beet Sugar Area*—(a) *Allotments.* For the period January 1, 1958, until the date allotments of the entire 1958 calendar year sugar quota for the Domestic Beet Sugar Area are prescribed, 1,600,000 short tons, raw value, of the 1958 quota for the Domestic Beet Sugar Area is hereby allotted to the following processors in the quantities which appear opposite their respective names:

Processor	Allotments	
	Short tons, raw value	Equivalent in hundredweight refined beet sugar
Amalgamated Sugar Co., The	216,928	4,054,729
American Crystal Sugar Co.	231,560	4,328,224
Buckeye Sugars, Inc.	7,866	147,028
Franklin County Sugar Co.	8,518	159,215
Great Western Sugar Co., The	382,285	7,145,514
Holly Sugar Corp.	258,027	4,822,935
Layton Sugar Co.	8,850	165,421
Menominee Sugar Co.	10,505	196,355
Michigan Sugar Co.	55,139	1,030,635
Monitor Sugar Division of Robert Gage Coal Co.	24,642	460,598
National Sugar Manufacturing Co., The	3,522	65,832
Northern Ohio Sugar Co.	16,789	313,813
Spreckels Sugar Co.	160,765	3,004,953
Union Sugar Division, Consolidated Foods Corp.	58,825	1,099,533
Utah-Idaho Sugar Co.	155,779	2,911,757
Any other person	000	000
Total	1,600,000	29,906,542

(b) *Marketing of sugar beets and molasses.* If sugar beets or molasses derived from sugar beets are sold by a processor but retained and processed by such processor and the sugar or liquid sugar processed therefrom is delivered to or for the account of the buyer of the sugar beets or molasses, the marketing of such sugar or liquid sugar shall, at the time such sugar or liquid sugar is so delivered, be charged to the allotment of the processor who sold and processed such sugar beets or molasses.

(c) *Transfer of allotment.* The Director of the Sugar Division, Commodity Stabilization Service, of the Department, may, consistent with the provisions and objectives of the Sugar Act, permit marketings to be made by one allottee, or other person, within the allotment or portion thereof established for another allottee upon receipt of evidence satisfactory to him of a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved, and upon relinquishment by one of the allottees of all or a portion of its allotment.

(d) *Restrictions on shipment and marketing.* For the period January 1, 1958, until the date an allotment order is issued allotting the entire 1958 calendar year sugar quota for the Domestic Beet Sugar Area, each person named in paragraph (a) of this section, and any other person is hereby prohibited from marketing in interstate commerce or in competition with sugar or liquid sugar shipped, transported or marketed in interstate commerce or foreign commerce, any sugar or liquid sugar produced from sugar beets grown in the Domestic Beet Sugar Area in excess of his allotment established in paragraph (a) of this section.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 205, 209; 61 Stat. 926, 928; 7 U. S. C. 1115, 1119)

Done at Washington, D. C., this 26th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10856; Filed, Dec. 30, 1957; 8:52 a. m.]

TITLE 48—TERRITORIES AND INSULAR POSSESSIONS

Chapter I—Office of Territories, Department of the Interior

PART 5—RAILROADS, TELEPHONE AND TELEGRAPH LINES IN ALASKA

PART 10—APPLICATION OF THE MARIHUANA TAX TO THE VIRGIN ISLANDS

EDITORIAL NOTE: The codification of Parts 5 and 10, comprising Title 48 of the Code of Federal Regulations, is hereby discontinued, and the title is vacated and reserved.

Executive Order 3861 of June 8, 1923, which was codified as Part 5, will be carried as a note to 43 CFR, Part 74; a cross reference to Executive Order 7715 of Sept. 26, 1937, 2 F. R. 2347, which was codified as Part 10, will be carried in 26 CFR (1939) Part 152.

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket 3666; Order 33]

PARTS 71–78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of December 1957.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing that Notice No. 33, dated October 4, 1957, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on October 24, 1957 (22 F. R. 8388), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above referred-to Notice No. 33 are deemed justified and necessary:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in said Notice No. 33, dated October 4, 1957, as revised by the specific deletions and modifications set forth as follows:

1. In § 71.8 amend paragraph (f) (1).

2. Revise the amendatory text to § 73.31 as shown below; delete the proposed addition of paragraph (g) (10) to § 73.31:

In § 73.31 amend paragraph (a) and table; add Note 12 to paragraph (a) table; amend paragraph (f); amend paragraph (h) (16 F. R. 9372, Sept. 15, 1951) (21 F. R. 4562, 4563, June 26, 1956) (22 F. R. 4789, July 9, 1957) to read as follows:

3. In § 73.135 amend paragraph (a) (9).

4. In § 78.325–9 paragraph (d) amend the second word in the first line to read, "or" instead of "for" so that the first four words preceding the colon read, "Baffles or shell stiffeners:"

5. In §78.326–7 paragraph (b) amend the last sentence to read, "The time of reckoning for such testing of such cargo tanks shall be from the time of the last test made in accordance with the requirements set forth under § 78.326–8; and if no such tests have ever been made, such tanks shall be tested within 6 months after March 19, 1958."

6. In § 78.330–8 amend paragraph (a).

7. In § 78.331–8 amend paragraph (a); in § 78.331–9 amend paragraph (a).

It is further ordered, That this order shall become effective March 19, 1958 and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy thereof with the Director, Division of Federal Register.

(Sec. 204, 49 Stat. 546, as amended, sec. 835, 62 Stat. 739; 49 U. S. C. 304, 18 U. S. C. 835)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

PART 71—GENERAL INFORMATION AND REGULATIONS

In § 71.8 amend paragraph (f) (1) (15 F. R. 8263, Dec. 2, 1950) to read as follows:

§ 71.8 *Definitions.* * * *

(f) * * *

(1) Any tank designed to be permanently attached to any motor vehicle or any container not permanently attached to any motor vehicle which by reason of its size, construction, or attachment to any motor vehicle must be loaded and/or unloaded without being removed from the motor vehicle and which tank or container is to be used to transport any flammable liquid, corrosive liquid, or poisonous liquid, class B, is hereby designated "cargo tank".

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 *Commodity list* (15 F. R. 8263, 8264, 8265, 8266, 8268, 8269, 8270, 8271, 8273, Dec. 2, 1950) (21 F. R. 9355, Nov. 30, 1956) (19 F. R. 8524, Dec. 14, 1954) (21 F. R. 4431, June 23, 1956) (17 F. R. 4293, May 10, 1952) as follows:

§ 72.5 *List of explosives and other dangerous articles.* (a) * * *

Article	Classed as	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
Acids, liquid, n. o. s.	Cor. L.	73.244, 73.245	White	5 pints.
Alcohol, allyl	Pois. B	73.345, 73.346	Poison	55 gallons.
Alcohol, wood (methanol, methyl alcohol)	F. L.	73.118, 73.125	Red	10 gallons.
Allyl alcohol. *See* Alcohol, allyl.				
Ammonium bichromate (ammonium dichromate).	F. S.	73.153, 73.154, 73.235	Yellow	100 pounds.
Benzyl bromide (bromotoluene, alpha)	Cor. L.	No exemption, 73.281	White	5 pints.
Bromotoluene, alpha. *See* Benzyl bromide.				
Dicumyl peroxide, solid	Oxy. M.	73.153, 173.154	Yellow	25 pounds.
Dinitrochlorbenzol, solid (*dinitrochlorobenzene, chlorodinitrobenzol*).	Pois. B	73.364, 73.365	Poison	200 pounds.
Hydrofluoric and sulfuric acids, mixtures	Cor. L.	No exemption, 73.290	White	10 pints.
Igniters, jet thrust (*jato*), class B explosives	Expl. B.	No exemption, 73.92	None	550 pounds.
Jet thrust unit (*jato*), class B explosives	Expl. B.	No exemption, 73.92	None	550 pounds.
Mercuric sulfo cyanate, solid (mercuric thiocyanate).	Pois. B.	73.364, 73.365	Poison	200 pounds.
Mercury bichloride, solid (mercuric chloride).	Pois. B.	73.364, 73.372	Poison	200 pounds.
Methanol (methyl alcohol). *See* Alcohol, wood.				
Mixtures of hydrofluoric and sulfuric acids. *See* Hydrofluoric and sulfuric acids, mixtures.				
Propellant explosives, class A	Expl. A.	No exemption, 73.64 (d).		See § 73.86.
Propellant explosives, class B	Expl. B.	No exemption, 73.93	Red#	10 pounds.
(Add)				
Cigarette lighters charged with fuel	See § 73.21 (d).			
Chlorodinitrobenzol. See Dinitrochlorbenzol, solid.				
Dimethylhexane dihydroperoxide	Oxy. M.	No exemption, 73.157, 73.158.	Yellow	25 pounds.
Lighter fluid. *See* Cigar and cigarette lighter fluid.				
Mercaptan mixtures, aliphatic*	F. L.	No exemption, 73.141	Red	10 gallons.
Mercuric chloride. *See* Mercury bichloride, solid.				
Methyl alcohol (methanol). *See* Alcohol, wood.				
Nitric ether. See Ethyl nitrate.				
Oil of mirbane. See Nitrobenzol, liquid.				
Self-lighting cigarettes	See § 73.21 (d).			
*Weed killing compounds, liquid. *See* *Compounds, tree or weed killing, liquid.				
(Cancel)				
*Aliphatic mercaptan mixtures	F. L.	No exemption, 73.141	Red	10 gallons.
Mercuricyanamid solid	Pois. B.	73.364, 73.365	Poison	200 pounds.

PART 73—SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

1. In § 73.21 add paragraph (d) (18 F. R. 802, Feb. 7, 1953) to read as follows:

§ 73.21 *Prohibited packing.* * * *

(d) The offering for transportation of any package containing a cigarette lighter charged with fuel and equipped with an ignition element, or any similar heating, lighting, or ignition device, or any self-lighting cigarette, is forbidden unless the design and method of packaging insofar as they affect safety in transportation have been approved by the Bureau of Explosives.

2. In § 73.31 amend paragraph (a) and Table; add Note 12 to paragraph (a) table; amend paragraph (f); amend paragraph (h) (16 F. R. 9372, Sept. 15, 1951) (21 F. R. 4562, 4563, June 26, 1956) (22 F. R. 4789, July 9, 1957) to read as follows:

§ 73.31 *Qualification, maintenance, and use of tank cars.* (a) Tanks mounted on or forming part of a car and built in compliance with the American Railway Association's specification for tank cars prior to July 1, 1927; or built in compliance with the Commission's specifications for tanks of tank cars in force prior to the effective date of Parts 71–78 of this chapter, including tanks already constructed or under construction on the effective date hereof in compliance with specifications for fusion-welded tanks of tank cars are authorized for service, until further order of the Commission, as follows:

Where these regulations call for specification Nos.—	These specification containers may also be used subject to the provisions of the following notes—
103[4][5][9] and 103-W[4][5][9]	ARA–II,[1][4][5] III[4][5][9] and IV.[5][9]
103A[4] and 103A-W[4]	ARA–II[2][4] and III.[2][4]
103B[4] and 103B-W[4]	ARA–II[4] and III,[4] rubber lined.
103C-W[11]	103C.[8][11]
103D-W, 103E-W, 103A-N-W.	(See Note 10.)
104[4][9] and 104-W[4][9]	ARA–IV.[4][9]
105A100 and 105A100-W.	104A[7] and 104A-W.
105A200-W	105A100-W.[12]
105A100AL-W	104A-AL-W.[7]
105A200AL-W	105A100AL-W.[12]
105A300-W	ARA-V,[3] ICC-105[3] and 105A300.[3]
105A400-W	105A400.
105A500-W	105A500.
105A600-W	105A600.
106A500 and 106A500-X.	ICC–27 tanks mounted on a car and classified as multiunit tank prior to October 1, 1930.[6]
106A800 and 106A800X.	None.
106A800NCI	None.
107A***	None.

* * * * *

[No change in notes.]

[12] Tanks built as Spec. ICC-105A100-W or 105A100AL-W (§ 78.285 or § 78.294 of this chapter) may be altered and reclassified as Spec. 105A200-W or 105A200AL-W (§ 78.307 or § 78.308 of this chapter) respectively, by installing safety valves, retesting and stenciling in accordance with the applicable specification for the transportation of commodities authorized in Spec. ICC-105A200-W or 105A200AL-W (§ 78.307 or § 78.308 of this chapter) tanks.

* * * * *

(f) After alterations of tank cars or equipment therefor from original design, a certificate of compliance with the respective specification must be furnished to the car owner, to the Bureau of Explosives, and to the Secretary, Mechanical Division, Association of American Railroads.

(h) Tank cars and appurtenances may be used for the transportation of any commodity for which they are authorized. Tank cars proposed for a commodity service other than authorized, must be approved for such service by the Association of American Railroads, Committee on Tank Cars. Transfer of a tank car from one authorized service to another may be made only by the owner or owner's authorization. Class ICC–105A type tank cars may be used for any commodity for which they are approved by the Committee on Tank Cars when stenciled accordingly. When a tank car is stenciled to indicate that it is authorized for one commodity only, it must not be used for any other service.

[No change in Note 1.]

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

1. In § 73.92 cancel paragraph (d) (21 F. R. 3009, May 5, 1956) to read as follows:

§ 73.92 *Jet thrust units (jato), class B, igniters, jet thrust (jato), class B, or starter cartridges, jet engine, class B.* * * *

(d) [Canceled.]

2. In § 73.93 amend paragraph (f) (1) (20 F. R. 950, Feb. 15, 1955) to read as follows:

§ 73.93 *Propellant explosives for cannon, small-arms, rockets, guided missiles, or other devices.* * * *

(f) * * *

(1) In tightly closed metal cans or fiber containers, not exceeding 1 pound each, or in inside metal cans or fiber containers containing not more than one grain of propellant, not exceeding 5 pounds each, packed in outside wooden boxes, spec. 15A, 15B, or 15C (§ 78.168, § 78.169, or § 78.170 of this chapter), or outside fiberboard boxes, spec. 12B, 23F, or 23H (§ 78.205, § 78.214, or § 78.219 of this chapter). Not more than 10 pounds of propellant powder may be shipped in one outside container. Each outside container must be plainly marked "PROPELLANT EXPLOSIVES, CLASS B".

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.135 amend paragraph (a) (9) (21 F. R. 7600, Oct. 4, 1956) to read as follows:

§ 73.135 *Dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.* (a) * * *

(9) Spec. MC 300, MC 303, or MC 304 of steel or stainless steel construction (§§ 78.321, 78.324 or 78.325 of this chapter). Tank motor vehicles.

2. In § 73.141 add paragraphs (a) (9) and (b) (16 F. R. 11777, Nov. 21, 1951) to read as follows:

§ 73.141 *Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.* (a) * * *

(9) Specification cylinders as prescribed for any compressed gas, except acetylene.

(b) Warning or odorizing devices containing not more than one ounce of a mercaptan or an aliphatic mercaptan mixture in a hermetically sealed container or in a hermetically sealed portion of the device are not subject to the regulations in Parts 71–78 and 197 of this chapter.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. In § 73.153 add paragraphs (c) (65), (66), and (67) (15 F. R. 8303, Dec. 2, 1950) to read as follows:

§ 73.153 *Exemptions for flammable solids and oxidizing materials.* * * *

(c) * * *

(65) Hafnium metal powder or sponge, dry.

(66) Hafnium metal powder, wet or sludge.

(67) Dimethylhexane dihydroperoxide.

2. In § 73.157 amend the heading and introductory text of paragraph (a) (15 F. R. 8304, Dec. 2, 1950) to read as follows:

§ 73.157 *Benzoyl peroxide, chlorobenzoyl peroxide (para), dimethylhexane dihydroperoxide, lauroyl peroxide, or succinic acid peroxide, wet.* (a) Benzoyl peroxide, chlorobenzoyl peroxide (para), dimethylhexane dihydroperoxide, lauroyl peroxide, and succinic acid peroxide, wet with at least 30 percent of water by weight must be packed in specification containers as follows:

* * * * *

3. In § 73.158 amend the heading and introductory text of paragraph (a); amend paragraph (a) (3) (21 F. R. 7600, Oct. 4, 1956) to read as follows:

§ 73.158 *Benzoyl peroxide, dry, dimethylhexane dihydroperoxide, dry, lauroyl peroxide, dry, chlorobenzoyl peroxide (para), dry, or succinic acid peroxide, dry.* (a) Benzoyl peroxide, dry, dimethylhexane dihydroperoxide, dry, lauroyl peroxide, dry, chlorobenzoyl peroxide (para), dry, or succinic acid peroxide, dry, may be shipped when packed in specification containers as follows:

* * * * *

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes, with inside fiber containers securely closed by taping or gluing, or inside securely closed paper bags lined with polyethylene not less than 0.002 inch thick, not over 1 pound capacity each. Except for lauroyl peroxide, dry, each inside container must be surrounded by asbestos or fire-resistant cushioning material which will protect the contents with equal efficiency. Gross weight in Spec. 12B65 boxes may be more than 65 but not more than 80 pounds provided net weight of contents does not exceed 50 pounds.

4. In § 73.187 amend paragraph (a) (1) (15 F. R. 8308, Dec. 2, 1950) to read as follows:

§ 73.187 *Peroxide of sodium.* (a) * * *

(1) Spec. 11A, 11B, 15A, 15B, 15C, 16A, or 19A (§§ 78.160, 78.161, 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter). Wooden barrels, kegs, or boxes, with inside containers which must be airtight metal cans.

5. In § 73.221 amend paragraphs (a) (2) and (3) (15 F. R. 8311, Dec. 2, 1950) to read as follows:

§ 73.221 *Liquid peroxides other than acetyl peroxide solution, acetyl benzoyl peroxide solution, cumene hydroperoxide, dicumyl peroxide, hydrogen peroxide, peracetic acid, and tertiary butylisopropyl benzene hydroperoxide.* (a) * * *

(2) Spec. 15A, 15B, 15C, 16A, or 19A (§§ 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter). Wooden boxes with inside containers which must be glass, earthenware, or metal, not over 1 gallon each, cushioned with incombustible packing material in sufficient quantity to absorb the contents of the inner container. Metal inside containers authorized only for materials which will not react dangerously with or be decomposed by contact with metal.

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside containers which must be glass, earthenware, or metal, not over 1 gallon each, cushioned with incombustible packing material in sufficient quantity to absorb the contents of the inner container. Not more than one 1-gallon inside container shall be packed in one outside fiberboard box. Metal inside containers authorized only for materials which will not react dangerously with or be decomposed by contact with metal.

6. In § 73.235 amend the heading and introductory text of (a) (21 F. R. 9356, Nov. 30, 1956) to read as follows:

§ 73.235 *Ammonium bichromate (ammonium dichromate).* (a) Ammonium bichromate (ammonium dichromate) must be packed in specification containers as follows:

* * * * *

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.244 amend paragraph (c) (11) (15 F. R. 8313, Dec. 2, 1950) to read as follows:

§ 73.244 *Exemptions for acids and other corrosive liquids.* * * *

(c) * * *

(11) Bromotoluene, alpha.

2. In § 73.272 add paragraph (f) (3); cancel paragraphs (i) (5) and (6) (15 F. R. 8321, Dec. 2, 1950) (21 F. R. 673, Jan. 31, 1956) (21 F. R. 7601, Oct. 4, 1956) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(f) * * *

(3) Spec. 6J (§ 78.100 of this chapter). Steel barrels or drums having inside Spec. 2S (§78.35 of this chapter) polyethylene drum. Authorized for sulfuric acid concentrations not over 76 percent. Gross weight restriction indicated by the gross weight embossment in the steel barrels or drums shall be waived.

* * * * *

(i) * * *

(5) [Canceled.]

(6) [Canceled.]

3. In § 73.273 add paragraph (a) (5) (15 F. R. 8321, Dec. 2, 1950) to read as follows:

§ 73.273 *Sulfur trioxide, stabilized.* (a) * * *

(5) Spec. MC 310 and MC 311 (§§ 78.330 and 78.331 of this chapter). Tank motor vehicles. Authorized only for stabilized sulfur trioxide. Tanks must be equipped with spring-relief safety valves. Tanks equipped with interior heater coils not permitted.

4. In § 73.281 amend the heading and introductory text of paragraph (a) (15 F. R. 8322, Dec. 2, 1950) to read as follows:

§ 73.281 *Benzyl bromide (bromotoluene, alpha).* (a) Benzyl bromide (bromotoluene, alpha) must be packed in specification containers as follows:

* * * * *

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. In § 73.306 amend paragraph (c) (1) (15 F. R. 8326, Dec. 2, 1950) to read as follows:

§ 73.306 *Liquefied gases, except acetylene in solution.* * * *

(c) * * *

(1) Spec. 2P (§ 78.33 of this chapter). Inside metal containers packed in strong wooden or fiber boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Pressure in the container must not exceed 85 pounds per square inch absolute at 70° F. Each completed metal container filled for shipment must be heated until content reaches a minimum temperature of 130° F., without evidence of leakage, distortion or other defect. Each outside shipping container must be plainly marked "Inside containers comply with prescribed specifications".

2. In § 73.308 paragraph (a) table amend the entry "Dichlorodifluoromethane" (20 F. R. 951, Feb. 15, 1955) to read as follows:

§ 73.308 *Compressed gases in cylinders.* (a) * * *

Kind of gas	Maximum permitted filling density (see Note 12) (percent)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e)
(*Change*) Dichlorodifluoromethane	119	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225; ICC-4B240ET; ICC-9; ICC-41.

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

1. In § 73.372 amend the heading and introductory text of paragraph (a) (15 F. R. 8338, Dec. 2, 1950) to read as follows:

§ 73.372 *Mercury bichloride (mercuric chloride).* (a) Mercury bichloride (mercuric chloride) must be packed in specification containers as follows:

* * * * *

2. In § 73.392 amend paragraph (c) (19 F. R. 6269, Sept. 29, 1954) to read as follows:

§ 73.392 *Exemptions for radioactive materials.* * * *

(c) Radioactive materials such as ores, residues, salts of natural uranium and thorium, etc., of low activity packed in strong tight containers are exempt from specification packaging and labeling requirements for shipments in carload lots by rail freight only, provided the gamma radiation or equivalent will not exceed 10 milliroentgens per hour at a distance of 12 feet from any surface of the car and that the gamma radiation or equivalent will not exceed 10 milliroentgens per hour at a distance of 5 feet from either end surface of the car. There must be no loose radioactive material in the car and the shipment must be braced so as to prevent leakage or shift of lading under conditions normally incident to transportation. The car must be placarded by the shipper as provided in §§ 74.541 (b) and 74.553 of this chapter. Except when handling is supervised by the Atomic Energy Commission, shipments must be loaded by consignor and unloaded by consignee.

PART 74—CARRIERS BY RAIL FREIGHT

SUBPART A—LOADING, UNLOADING, PLACARDING AND HANDLING CARS; LOADING PACKAGES INTO CARS

In § 74.532 amend paragraph (j) (1) (15 F. R. 8348, Dec. 2, 1950) to read as follows:

§ 74.532 *Loading other dangerous articles.* * * *

(j) * * *

(1) The amount of radioactive ores, residues, and similar materials loaded in a car must be limited as provided in § 73.392 of this chapter. The amount of any other radioactive materials loaded in a freight car shall be limited so that the quantity does not exceed 40 units as determined by totaling the number of units shown on the individual labels on the packages.

NOTE 1: For purposes of these regulations 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm of hard gamma rays of radium filtered by ½ inch of lead.

SUBPART E—HANDLING BY CARRIERS BY RAIL FREIGHT

In § 74.586 add paragraph (h) (15 F. R. 8355, Dec. 2, 1950) to read as follows:

§ 74.586 *Handling explosives and other dangerous articles.* * * *

(h) A container of radioactive material bearing red label must not be placed in cars, depots or other places closer than 3 feet to an area which may be continuously occupied by passengers, employees, or shipments of animals. When more than one such container is present, the distance from occupied areas must be computed from the table in subparagraph (2) of this paragraph by adding the number of units shown on labels on the containers.

(1) In a combination car carrying passengers and/or express shipments, a container of radioactive material must not be placed closer than 3 feet to the dividing partition. For more than one such container the distance must be computed by method described in subparagraph (2) of this paragraph.

(2) A container of radioactive material, red label, must not be placed closer than 15 feet to any package containing undeveloped film. If more than one such container is present, the distance must be computed from the table in this subparagraph by adding the number of units shown on the labels on the packages.

TABLE

Total number of units	Minimum distance in feet to nearest undeveloped film	Distance in feet to area that may be continuously occupied by passengers or employees	Distance in feet from dividing partition of a combination car
1 to 10	15	3	3
11 to 20	20	4	4
21 to 30	25	5	5
31 to 40	30	6	6

NOTE 1: The distance in the table must be measured from the nearest point of the radioactive container or containers.

NOTE 2: 1 unit equals 1 milliroentgen per hour at 1 meter for hard gamma radiation or the amount of radiation which has the same effect on film as 1 mrhm. of hard gamma rays of radium filtered by ½ inch of lead.

(3) Not more than 40 units of radioactive material (red label) shall be transported in any car or stored in any location at one time.

(4) All containers of radioactive material (red label) must be carried by the handles when handles are provided.

PART 75—CARRIERS BY RAIL EXPRESS

In § 75.655 paragraph (j) (2) table amend the fourth column heading (15 F. R. 8359, Dec. 2, 1950) to read as follows: "Distance in feet from dividing partition of a combination car".

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART C—SPECIFICATIONS FOR CYLINDERS

In § 78.55–2 amend paragraph (a) (15 F. R. 8417, Dec. 2, 1950) to read as follows:

§ 78.55 *Specification 4B240ET; welded and brazed cylinders made from electric resistance welded tubing.*

§ 78.55–2 *Type, spinning process, size and service pressure*—(a) *Type.* Cylinders must be of brazed type made from electric resistance welded tubing which has been certified to have been pressure tested to a fiber stress of 24,000 pounds per square inch, as calculated by the formula:

$$P=\frac{24{,}000(D^2-d^2)}{(1.3D^2+0.4d^2)}$$

where P is the pressure required for pressure testing of tubing. Pressure shall be maintained for not less than 30 seconds. Lengths of tubing that leak must be rejected. No repairs permitted.

SUBPART E—SPECIFICATIONS FOR WOODEN BARRELS, KEGS, BOXES, KITS, AND DRUMS

1. In § 78.165–8 (a) table amend the subcolumn heading "Ends" by inserting a reference to a footnote 3; add footnote 3 to paragraph (a) table (15 F. R. 8460, Dec. 2, 1950) to read as follows:

[3] As provided by § 73.65 (a) (1), Note 1, of this chapter, boxes, having inside metal containers which are tightly and securely closed, may be equipped with hand holes in each end which must be not more than one inch by four inches and centered laterally not nearer than 1⅝ inches from top edge of end of box.

2. In § 78.168–3 add paragraph (b) (15 F. R. 8460, Dec. 2, 1950) to read as follows:

§ 78.168 *Specification 15A; wooden boxes, nailed.*

§ 78.168–3 *Ends.* * * *

(b) As provided by § 73.65 (a) (1), Note 1, of this chapter, wooden boxes, having inside metal containers which are tightly and securely closed, may be equipped with hand holes in each end

which must be not more than one inch by four inches and centered laterally not nearer than 1⅝ inches from top edge of end of box.

3. In § 78.185–9 add paragraph (b) (15 F. R. 8470, Dec. 2, 1950) to read as follows:

§ 78.185 *Specification 16A; plywood or wooden boxes, wirebound.*

§ 78.185–9 *Ends.* * * *

(b) As provided by § 73.65 (a) (1), Note 1, of this chapter, wooden boxes, having inside metal containers which are tightly and securely closed, may be equipped with hand holes in each end which must be not more than one inch by four inches and centered laterally not nearer than 1⅝ inches from top edge of end of box.

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS, AND MAILING TUBES

1. In § 78.209–8 paragraph (a) (2) add Note 1 (20 F. R. 8110, Oct. 28, 1955) to read as follows:

§ 78.209 *Specification 12H; fiberboard boxes.*

§ 78.209–8 *Type authorized.* (a) * * * (2) * * *

NOTE 1: Hand-holes oval in shape, not more than 1 inch in width by 3 inches in length, and horizontal with top score line, are authorized in ends of top section of boxes.

2. In § 78.219–7 add paragraph (b) (17 F. R. 1564, Feb. 20, 1952) to read as follows:

§ 78.219 *Specification 23H; fiberboard boxes.*

§ 78.219–7 *Type authorized.* * * *

(b) Hand-holes oval in shape, not more than 1 inch in width by 3 inches in length and horizontal with top score line, are authorized in ends of top section of full depth cover telescope type boxes.

SUBPART I—SPECIFICATIONS FOR TANK CARS

1. In § 78.281–21 amend paragraph (a) (1) (22 F. R. 4794, July 9, 1957) to read as follows:

§ 78.281 *Specification ICC–103A–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.281–21 *Marking.* (a) * * *

(1) ICC–103A–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–103A–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

2. In § 78.282–20 amend paragraph (a) (1) (22 F. R. 4794, July 9, 1957) to read as follows:

§ 78.282 *Specification ICC–103B–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.282–20 *Marking.* (a) * * *

(1) ICC–103B–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–103B–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

3. In § 78.299–8 amend the section heading, and add paragraph (b) (21 F. R. 4623, June 26, 1956) to read as follows:

§ 78.299 *Specification ICC–103A–N–W; fusion-welded nickel or nickel alloy tanks to be mounted on or forming part of a car.*

§ 78.299–8 *Manway rings, safety vent flange, or other attachments.* * * *

(b) Botton washout nozzle may be riveted or fusion-welded. Riveted joints must be made metal to metal without interposition of other materials. Rivets, if used, must be driven hot and calked inside. For computing areas the effective diameter of a driven rivet is the diameter of its hole, which hole must in no case exceed nominal diameter of rivet by more than 1/16 inch. Use of rivets of less than ⅝ inch diameter prohibited. Joints formed by attachment to tank must be calked on the inside. Fusion welding for securing this attachment to tank must be as prescribed in paragraph (a) of this section.

SUBPART J—SPECIFICATIONS FOR CONTAINERS FOR MOTOR VEHICLE TRANSPORTATION

1. In § 78.321–12 paragraph (a) amend the heading of Table I, and amend the heading of Table III in paragraph (b); amend entire § 78.321–13; in § 78.321–18 amend the section heading and paragraph (a), the introductory text of paragraph (b), paragraph (b) (2), and add paragraph (b) (6) (16 F. R. 11785, Nov. 21, 1951) (21 F. R. 7610, Oct. 4, 1956) (15 F. R. 8546, Dec. 2, 1950) to read as follows:

§ 78.321 *Specification MC 300; cargo tanks constructed of mild (open hearth or blue annealed) steel, or combination of mild steel with high-tensile steel, or of stainless steel.*

§ 78.321–12 *Thickness of steel sheets.* (a) * * *

TABLE I—MINIMUM THICKNESS OF HEADS,[1] BULKHEADS, BAFFLES (DISHED, CORRUGATED, REINFORCED, OR ROLLED) AND RING STIFFENERS

* * * * *

(b) *Thickness of high-tensile and stainless steel sheets.* * * *

TABLE III—MINIMUM THICKNESS OF HEADS,[1] BULKHEADS, BAFFLES (DISHED, CORRUGATED, REINFORCED, OR ROLLED) AND RING STIFFENERS

§ 78.321–13 *Cargo tanks constructed of a combination of mild and high-tensile steels or stainless steel.* (a) Mild steel sheets as specified in § 78.321–12 (a) may be used in combination with high-tensile steel sheets or stainless steel sheet as specified in § 78.321–12 (b) in the construction of a single tank, provided each material, where used, shall comply with the minimum requirements for the material used in the construction for that section of the tank. Whenever stainless steel sheets are used in combination with sheets of other types of steel, joints made by welding shall be formed by the use of stainless steel electrodes or filler rods on condition that the stainless steel electrodes or filler rods used in the welding be suitable for use with the grade of stainless steel concerned, according to the recommendations of the manufacturer of the stainless steel electrodes or filler rods.

§ 78.321–18 *Bulkheads, baffles, and ring stiffeners.* (a) No bulkheads shall be required in any cargo tank, regardless of capacity, which is used in a service in which the entire tank is never loaded less than eighty percent (80%) full or in which no compartment of the tank is ever loaded less than eighty percent (80%) full, provided that the entire contents of the tank or of one or more compartments of the tank is discharged at each unloading point.

(b) *Number, dimensions and capacities of bulkheads, baffles, and ring stiffeners.* Except as provided in paragraph (a) of this section, every cargo tank shall be divided into compartments and/or provided with baffles or ring stiffeners as follows:

* * * * *

(2) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, shall be provided with baffles or ring stiffeners, the number of which shall be such that the linear distance between any two adjacent baffles or ring stiffeners, or between any tank head or bulkhead and the baffle or ring stiffener nearest it, shall in no case exceed sixty inches (60 in.).

* * * * *

(6) (i) Ring stiffeners shall be continuous around the circumference of the tank shell, and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR STEEL RING STIFFENERS

Width of tank	*Section modulus*
42 inches or less	0.0104*L*.[1]
Over 42 inches to 60 inches	0.0162*L*.[1]
Over 60 inches to 96 inches	0.0234*L*.[1]

[1] *L* is the maximum distance from midpoint of unsupported shell on one side of ring stiffener to the midpoint of unsupported shell on the opposite side of the ring stiffener.

(ii) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener be-

tween welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

2. In § 78.322–12 amend the section heading and paragraph (a) table; in § 78.322–18 amend the section heading and paragraph (a), amend the introductory text of paragraph (b), amend paragraph (b) (2), and add paragraph (b) (6) (15 F. R. 8548, Dec. 2, 1950) to read as follows:

§ 78.322 *Specification MC 301; cargo tanks constructed of welded aluminum alloy (grade 3S).*

§ 78.322–12 *Thickness of sheets and ring stiffeners.* (a) The minimum thickness of tank sheets and ring stiffeners shall be as follows:

Aggregate capacity, United States gallons	Shell		Head, dished, corrugated, or reinforced, and ring stiffener	
	United States gauge No.	Inch [1]	United States gauge No.	Inch [1]
600 or less	12	0.109	12	0.109
Over 600 to 1,200	9	.156	9	.156
Over 1,200:				
(a) Divided into compartments of 600 gallons or less	9	.156	6	.203
(b) If not divided into compartments, or if divided into compartments of 1,200 or more	6	.203	4	.234

[1] Approximate.

NOTE 1: Flat heads without reinforcement no longer permitted.

§ 78.322–18 *Bulkheads, baffles, and ring stiffeners.* (a) No bulkheads shall be required in any cargo tank, regardless of capacity, which is used in a service in which the entire tank is never loaded less than eighty percent (80%) full or in which no compartment of the tank is ever loaded less than eighty percent (80%) full, provided that the entire contents of the tank or of one or more compartments of the tank is discharged at each unloading point.

(b) *Number, dimensions and capacities of bulkheads, baffles, and ring stiffeners.* Except as provided in paragraph (a) of this section, every cargo tank shall be divided into compartments and/or provided with baffles for ring stiffeners as follows:

* * * * *

(2) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, shall be provided with baffles or ring stiffeners, the number of which shall be such that the linear distance between any two adjacent baffles or ring stiffeners, or between any tank head or bulkhead and the baffle or ring stiffener nearest it, shall in no case exceed sixty inches (60 in.).

* * * * *

(6) (i) Ring stiffeners shall be continuous around the circumference of the tank shell, and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR ALUMINUM RING STIFFENERS

Width of tank	*Section modulus*
42 inches or less	$0.0180L.^{1}$
Over 42 inches to 60 inches	$0.0280L.^{1}$
Over 60 inches to 96 inches	$0.0400L.^{1}$

[1] L is the maximum distance from midpoint of unsupported shell on one side of ring stiffener to the midpoint of unsupported shell on the opposite side of the ring stiffener.

(ii) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener between welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

3. In § 78.323–12 amend the section heading and paragraph (a) table; in § 78.323–18 amend the section heading and paragraph (a), amend the introductory text of paragraph (b), amend paragraph (b) (2), and add paragraph (b) (6) (15 F. R. 8550, 8551, Dec. 2, 1950) to read as follows:

§ 78.323 *Specification MC 302; cargo tanks constructed of welded aluminum alloy (ASTM B178–54T).*

§ 78.323–12 *Thickness of sheets and ring stiffeners.* (a) The minimum thickness of tank sheets and ring stiffeners shall be as follows:

Aggregate capacity, United States gallons	Shell		Head, dished, corrugated, or reinforced, and ring stiffener	
	United States gauge No.	Inch [1]	United States gauge No.	Inch [1]
600 or less	14	0.078	14	0.078
Over 600 to 1,200	12	.109	12	.109
Over 1,200:				
(a) Divided into compartments of 600 gallons or less	12	.109	10	.141
(b) If not divided into compartments, or if divided into compartments of 1,200 or more	10	.141	8	.172

[1] Approximate.

NOTE 1: Flat heads without reinforcement no longer permitted.

§ 78.323–18 *Bulkheads, baffles and ring stiffeners.* (a) No bulkheads shall be required in any cargo tank, regardless of capacity, which is used in a service in which the entire tank is never loaded less than eighty percent (80%) full or in which no compartment of the tank is ever loaded less than eighty percent (80%) full, provided that the entire contents of the tank or of one or more compartments of the tank is discharged at each unloading point.

(b) *Number, dimensions and capacities of bulkheads, baffles, and ring stiffeners.* Except as provided in paragraph (a) of this section, every cargo tank shall be divided into compartments and/or provided with baffles or ring stiffeners as follows:

* * * * *

(2) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, shall be provided with baffles or ring stiffeners, the number of which shall be such that the linear distance between any two adjacent baffles or ring stiffeners, or between any tank head or bulkhead and the baffle or ring stiffener nearest it, shall in no case exceed sixty inches (60 in.).

* * * * *

(6) (i) Ring stiffeners shall be continuous around the circumference of the tank shell, and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR ALUMINUM RING STIFFENERS

Width of tank	*Section modulus*
42 inches or less	$0.0180L.^{1}$
Over 42 inches to 60 inches	$0.0280L.^{1}$
Over 60 inches to 96 inches	$0.0400L.^{1}$

[1] L is the maximum distance from midpoint of unsupported shell on one side of ring stiffener to the midpoint of unsupported shell on the opposite side of the ring stiffener.

(ii) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener between welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

4. In § 78.324–12 paragraph (a) amend the entire table 1; in § 78.324–17 amend the section heading and paragraph (a),

amend the introductory text of paragraph (b), amend paragraph (b) (2), and add paragraph (b) (6) (15 F. R. 8552, 8553, Dec. 2, 1950) to read as follows:

§ 78.324 *Specification MC 303; cargo tanks constructed of welded ferrous alloy (high-tensile steel) or stainless steel.*

§ 78.324–12 *Thickness of sheets.* (a) * * *

TABLE 1—MINIMUM THICKNESS OF HEAD, BULKHEAD, BAFFLE SHEETS AND RING STIFFENERS

Distances between bulkhead attachments to shell in inches	Volume capacity of tank in gallons per inch of length									
	6 or less		Over 6 to 10		Over 10 to 14		Over 14 to 18		Over 18	
	Bulkhead and baffle (dished, corrugated, or reinforced) sheet and ring stiffener thicknesses in United States gauge numbers and inches depending upon distances between attachments thereof to shell									
	Gauge No.	In. appr.	Gauge No.	In. appr.	Gauge No.	In. appr.	Gauge No.	In. appr.	Gauge No.	In. appr.
30 inches or less	17	0.056	16	0.062	15	0.070	14	0.078	13	0.094
Over 30 inches	16	.062	15	.070	14	.078	13	.094	12	.109

NOTE 1: Flat heads without reinforcement no longer permitted.

§ 78.324–17 *Bulkheads, baffles, and ring stiffeners.* (a) No bulkheads shall be required in any cargo tank, regardless of capacity, which is used in a service in which the entire tank is never loaded less than eighty percent (80%) full or in which no compartment of the tank is ever loaded less than eighty percent (80%) full, provided that the entire contents of the tank or of one or more compartments of the tank is discharged at each unloading point.

(b) *Number, dimensions and capacities of bulkheads, baffles, and ring stiffeners.* Except as provided in paragraph (a) of this section, every cargo tank shall be divided into compartments and/or provided with baffles or ring stiffeners as follows:

* * * * *

(2) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, shall be provided with baffles or ring stiffeners, the number of which shall be such that the linear distance between any two adjacent baffles or ring stiffeners, or between any tank head or bulkhead and the baffle or ring stiffener nearest it, shall in no case exceed sixty inches (60 in.).

* * * * *

(6) (i) Ring stiffeners shall be continuous around the circumference of the tank shell, and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR STEEL RING STIFFENERS

Width of tank	*Section modulus*
42 inches or less	$0.0104L$.[1]
Over 42 inches to 60 inches	$0.0162L$.[1]
Over 60 inches to 96 inches	$0.0234L$.[1]

[1] L is the maximum distance from midpoint of unsupported shell on one side of ring stiffener to the midpoint of unsupported shell on the opposite side of the ring stiffener.

(ii) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener between welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

5. In § 78.325–8 paragraph (d) amend the first line in the first column in the first and third tables, now reading, "Heads, bulkheads and baffles" to read "Heads, bulkheads, baffles, and ring stiffeners"; in § 78.325–9 amend the section heading, and amend paragraph (d); in § 78.325–14 amend paragraphs (a) and (b) (20 F. R. 8113, 8114, Oct. 28, 1955) (22 F. R. 2237, April 4, 1957) to read as follows:

§ 78.325 *Specification MC 304 for cargo tanks for the transportation of flammable liquids and poisonous liquids, class B having Reid (ASTM D–323) vapor pressures of 18 pounds per square inch absolute at 100° F.*

§ 78.325–9 *Bulkheads, baffles, and ring stiffeners.* * * *

(d) (1) Baffles or shell stiffeners: Every cargo tank or compartment of a cargo tank over ninety inches (90 in.) in length shall be provided with baffles or equivalent shell stiffeners so located that the maximum distance between any two baffles or stiffeners and between any baffle or stiffener and the nearest tank head or bulkhead shall not exceed sixty inches (60 in.). Ring stiffeners shall be continuous around the circumference of the tank shell and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR RING STIFFENERS

Width of tank	Section modulus	
	Steel	Aluminum
42 inches or less	$0.0104\ L$.[1]	$0.0180\ L$.[1]
Over 42 inches to 60 inches	$0.0162\ L$.[1]	$0.0280\ L$.[1]
Over 60 inches to 96 inches	$0.0234\ L$.[1]	$0.0400\ L$.[1]

[1] L is the maximum distance from the midpoint of the unsupported shell on one side of the ring stiffener to the midpoint of the unsupported shell on the opposite side of the ring stiffener.

(2) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener between welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

§ 78.325–14 *Safety devices*—(a) *Safety relief devices required.* Each tank and each compartment of a tank shall be provided with one or more safety relief valves of the springloaded type, provided that emergency pressure relief devices may be used for part of the required capacity thereof. All such valves and devices shall be arranged to discharge upward and unobstructed in such a manner as to prevent any impingement of escaping gas upon the tank. The emergency pressure relief devices shall be either springloaded type or frangible type.

(b) *Relief device capacity.* The required safety relief valves shall be set to close after discharge at a pressure not lower than 25 pounds per square inch gauge (25 psig.), and remain closed at all lesser pressures, provided that this requirement shall not be so construed as to forbid the use of vacuum relief valves or of combination safety relief and vacuum relief valves. At a pressure not exceeding 40 pounds per square inch gauge (40 psig.) they shall have a discharge capacity not less than that of an unobstructed opening of one square inch (1 sq. in.) for each 35 square feet (35 sq. ft.) of exterior area of the tank or compartment to which they are connected, provided that two or more such valves may be used on the same tank or compartment to obtain the discharge capacity herein required; alternatively, such valve or valves may at a pressure of 30 pounds per square inch gauge (30 psig.) have a total discharge capacity not less than that of an unobstructed opening of one square inch (1 sq. in.) for each 350 square feet (350 sq. ft.) of exterior area of the tank or compartment to which they are connected, if in addition thereto each such tank or compartment be provided with one or more frangible-type safety devices having a total discharge capacity not less than that of an unobstructed opening of nine square inches (9 sq. in.) for each 350 square feet (350 sq. ft.) of exterior area and bursting pressure not less than 30 pounds per square inch gauge (30 psig.) nor more than 40 pounds per square inch gauge (40 psig.).

6. Add § 78.326 (15 F. R. 8554, Dec. 2, 1950) to read as follows:

§ 78.326 *Specification MC 305; cargo tanks constructed of aluminum alloys for high-strength welded construction.* To be mounted on and to form part of tank motor vehicles for transportation of flammable liquids and poisonous liquids, class B.

§ 78.326–1 *Scope.* (a) This specification is primarily designed to apply to cargo tanks of tank motor vehicles to be used for the transportation of flammable liquids, or poisonous liquids, class B.

§ 78.326–2 *New cargo tank motor vehicles.* (a) A certificate from the manufacturer of the cargo tank, or from a competent testing agency, certifying that each such cargo tank is designed and constructed in accordance with the requirements of this specification shall be procured, and such certificate shall be retained in the files of the carrier during the time that such cargo tank motor vehicle is employed in the transportation of flammable liquids or poisonous liquids, class B by him. In lieu of this certificate, if the motor carrier himself elects to ascertain if any such cargo tank fulfills the requirements of the specification by his own test, he shall similarly retain the test data.

§ 78.326–3 *Novel cargo tanks of tank motor vehicles, special authorization.* (a) The Commission may, upon written request for such authorization by a motor carrier, authorize the use of limited numbers, and for limited times, of new cargo tank motor vehicles which fail to meet the requirements of this specification. In the event of such authorization, the carrier shall furnish those details concerning the design and construction of the tank as seem necessary for the determination of its ability safely to transport flammable liquids or poisonous liquids, class B.

§ 78.326–4 *Marking of cargo tanks—* (a) *Metal identification plate.* There shall be on every cargo tank a metal plate located on the right side, near the front, in a place readily accessible for inspection. This plate shall be permanently affixed to the tank by means of soldering, brazing, welding, or other equally suitable means; and upon it shall be marked by stamping, embossing, or other means of forming letters into or on the metal of the plate itself, in the manner illustrated below, at least the information indicated below. The plate shall not be so painted as to obscure the markings thereon.

Carrier's serial number [1]
Manufacturer's name
Date of manufacture
ICC MC 305

Nominal tank cap'y---------- U. S. gallons

(b) *Test date markings.* The date of the last test or retest required by this specification and the due date of the next required routine test or retest shall be painted on the tank in letters not less than 1¼ inches high, in legible colors, immediately below the metal identification plate specified in paragraph (a) of this section.

(c) *Certification by markings.* The markings specified in paragraphs (a) and (b) of this section shall serve to certify that the tank complies with all requirements of this specification.

[1] Carriers are not required to number their cargo tanks serially; any designation regularly used by the carrier to identify the tank may be put in this space.

§ 78.326–5 *No hazardous repairs on loaded motor vehicles.* (a) No repairs shall be performed on any motor vehicle containing any flammable liquid or poisonous liquid, class B, or on a cargo tank, whether empty or loaded, except in such cases that such repair can be made without hazard; nor shall any such loaded motor vehicle be repaired in a closed garage.

§ 78.326–6 *No repair with flame unless gas-free.* (a) No repair of a cargo tank used for the transportation of any flammable liquid or poisonous liquid, class B, or any compartment thereof, or of any container for fuel of whatever nature, may be repaired by any method employing a flame, arc, or other means of welding, unless the tank or compartment shall first have been made gas-free.

§ 78.326–7 *Times of retesting of cargo tanks.* Every cargo tank used for the transportation of any flammable liquid or poisonous liquid, class B, shall be tested or retested as follows:

(a) *Tank out of service one year or more.* Every cargo tank which has been out of transportation service for a period of one year or more shall not be returned again to or placed in such service until it shall successfully have fulfilled the requirements set forth under § 78.326–8.

(b) *Specification tanks.* Every cargo tank complying with the requirements of this specification shall be tested at least once in every 5 year period. If tested no oftener than once in every 5 years, at least one such test shall be made in the last year of any such 5 year period. The time of reckoning for such testing of such cargo tanks shall be from the time of the last test made in accordance with the requirements set forth under § 78.326–8; and if no such tests have ever been made, such tanks shall be tested within 6 months after March 19, 1958.

(c) *Novel cargo tanks.* Every cargo tank which shall have been authorized by this Commission for transportation of flammable liquids or poisonous liquids, class B under the provisions of § 78.326–3 shall be tested under requirements specifically set forth in the terms of such authorization.

(d) *Testing following accidents.* Every cargo tank capable of suitable repair following any accident in which a tank motor vehicle may have been involved shall be retested in accordance with the requirements set forth under § 78.326–8; if the cargo tank has itself been damaged in a manner likely to affect the safety of operation of the tank motor vehicle, or if the damage to the tank motor vehicle is such as to make the safety of the cargo tank uncertain.

(e) *Special testing required by the Commission.* Upon the showing of probable cause of the necessity for retest, the Commision may, in its discretion, cause any cargo tank to be retested in accordance with the requirements of § 78.326–8 at any time.

§ 78.326–8 *Test for leaks.* (a) Every cargo tank shall be tested by a minimum air or hydrostatic pressure of 3 pounds per square inch gauge applied to the whole tank and dome if it be non-compartmented. If compartmented, each individual compartment shall be similarly tested with adjacent compartments empty and at atmospheric pressure. Air pressure, if used, shall be maintained for a period of at least five minutes during which the entire surface of all joints under pressure shall be coated with a solution of soap and water, heavy oil, or other material suitable for the purpose, foaming or bubbling of which indicates the presence of leaks. Hydrostatic pressure, if used, shall be done by using water or other liquid having a similar viscosity, the temperature of which shall not exceed 100° F. during the test, and applying pressure as prescribed above, gauged at the top of the tank, at which time all joints under pressure shall be inspected for the issuance of liquid to indicate leaks. All closures shall be in place while test by either method is made. During these tests, operative relief devices shall be clamped, plugged, or otherwise rendered inoperative; such clamps, plugs, and similar devices shall be removed immediately after the test is finished. Any leakage discovered by either of the methods above described, or by any other method, shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test shall be suitably repaired, and the above described tests shall be continued until no leaks are discovered, before any cargo tank is put into service.

(b) Every cargo tank to which this specification applies shall be tested by pressure prescribed in paragraph (a) of this section and shall withstand such pressure without undue distortion, evidence of impending failure, or failure. Failure to meet this requirement shall be deemed sufficient cause for rejection under this specification. If there is undue distortion, or if failure impends or occurs, the cargo tank shall not be returned to service unless a suitable repair is made. The suitability of the repair shall be determined by the same method of test.

§ 78.326–9 *Workmanship, general.* (a) Every cargo tank shall be constructed in accordance with the best known and available practices, in addition to the other requirements of this specification.

§ 78.326–10 *Material.* (a) All sheets for shell, heads, bulkheads, and baffles of such cargo tanks shall be of aluminum alloys GR20A (5052 commercial designation) GR40A (5154 commercial designation) or GM40A (5086 commercial designation) conforming to American Society for Testing Materials Specification B178–54T.

§ 78.326–11 *Thickness of sheets.* (a) The minimum thicknesses of tank sheets shall be limited by the volume capacity of the tank, expressed in terms of gallons per inch of length; by the distance between successive bulkheads in the case of bulkhead sheets; and by the distance between bulkheads, baffles, or other shell stiffeners as well as by the radius of shell curvature in the case of shell sheets; as follows:

TABLE I—THICKNESS OF HEAD, BULKHEAD, BAFFLE SHEETS AND RING STIFFENERS [1]

	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
	Heads or bulkheads—dished, corrugated or reinforced			
Thickness in decimal of inches	0.096	0.109	0.130	0.151

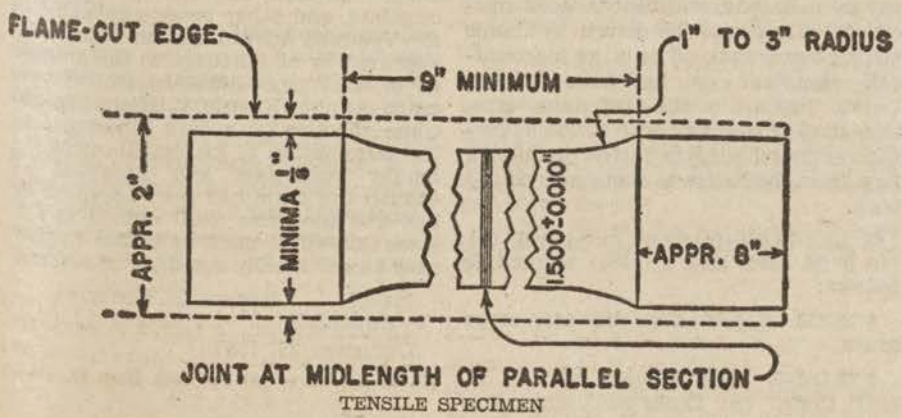
[1] Thickness of exterior head sheets shall never be less than the maximum requirements for shell sheets.

TABLE II—THICKNESS OF SHELL SHEETS

Distance between bulkheads, baffles or other shell stiffeners	Volume capacity of tank in gallons per inch of length			
	10 or less	Over 10 to 14	Over 14 to 18	Over 18
	Shell-sheet thickness in decimals of an inch for that portion of the shell rolled to a radius of less than 70 inches, depending on spacing of shell stiffeners			
36 inches or less	0.087	0.087	0.096	0.109
Over 36 inches to 54 inches	.087	.097	.109	.130
Over 54 inches	.096	.109	.130	.151
	Shell-sheet thickness in decimals of an inch for that portion of the shell rolled to a radius of 70 inches or more, but less than 90 inches, depending on spacing of shell stiffeners			
36 inches or less	0.087	0.096	0.109	0.130
Over 36 inches to 54 inches	.096	.109	.130	.151
Over 54 inches	.109	.130	.151	.173
	Shell-sheet thickness in decimals of an inch for that portion of the shell rolled to a radius of 90 inches or more, but less than 125 inches, depending on spacing of shell stiffeners			
36 inches or less	0.096	0.109	0.130	0.151
Over 36 inches to 54 inches	.109	.130	.151	.173
Over 54 inches	.130	.151	.173	.194
	Shell-sheet thickness in decimals of an inch for that portion of the shell rolled to a radius of 125 inches or more, depending on spacing of shell stiffeners			
36 inches or less	0.109	0.130	0.151	0.173
Over 36 inches to 54 inches	.130	.151	.173	.194
Over 54 inches	.151	.173	.194	.216

§ 78.326–12 *Joints*—(a) *Method of joining.* All joints in and to tank shells, head and bulkheads shall be welded.

(b) *Strength of joints.* All welded aluminum joints shall be made in accordance with recognized good practice, and the efficiency of a joint shall not be less than 85 percent of the annealed properties of the material in question. Aluminum alloys for high-strength welded construction shall be joined by an inert gas arc welding process using filler metals R–GR40A, E–GR40A (5154 alloy) or R–GM50A, E–GM50A (5356 alloy) conforming to American Society of Testing Materials Specification No. B285–54T (American Welding Society Specification No. A5, 10–54T). Compliance with this requirement shall be determined by preparing from materials representative of those to be used in tanks subject to this specification and by the same technique of fabrication, two (2) test specimens conforming to figure as shown below and testing them to failure in tension. One pair of test specimens may represent all the tanks to be made of the same combination of materials, by the same technique of fabrication, and in the same shop, within six (6) months after the tests on such samples have been completed.



TENSILE SPECIMEN

§ 78.326–13 *Tank outlets.* (a) Outlet fixtures of tanks shall be substantially made and attached to the tank in such a manner as to prevent breakage at the outlet point.

§ 78.326–14 *Bulkheads, baffles and ring stiffeners*—(a) *When bulkheads not required.* The bulkhead requirement in subparagraph (b) of this section does not apply to any cargo tank, regardless of capacity, which is used in a service in which the entire tank is never loaded less than 80 percent (80%) full or in which no compartment of the tank is ever loaded less than 80 percent (80%) full, provided that the entire contents of the tank or of one or more compartments of the tank is discharged at each unloading point. Flat bulkheads and baffles without reinforcement not permitted.

(b) *When bulkheads required.* Except as provided in paragraph (a) of this section every cargo tank having a total capacity in excess of 1,800 gallons shall be divided by bulkheads into compartments, none of which shall exceed 1,200 gallons. Each bulkhead required by this paragraph shall be of the same minimum strength as is required elsewhere in this specification for tank heads.

(c) *Double bulkheads.* Tanks with compartments carrying flammable liquids of different shipping names or with compartments containing flammable or poisonous liquids, class B and liquids not so classified by the regulations, shall be provided with an air space between compartments. This air space shall be arranged for venting and be equipped and maintained with drainage facilities operative at all times.

(d) *Baffles or shell stiffeners.* (1) Every cargo tank, and every compartment of a cargo tank over ninety inches (90 in.) in length, shall be provided with baffles or ring stiffeners, the number of which shall be such that the linear distance between any two adjacent baffles or ring stiffeners, or between any tank head or bulkhead and the baffle or ring stiffener nearest it, shall in no case exceed sixty inches (60 in.). Ring stiffeners shall be continuous around the circumference of the tank shell and shall have at least the section modulus required by the following table:

MINIMUM SECTION MODULUS REQUIRED FOR RING STIFFENERS

Width of tank	*Section modulus*
42 inches or less	$0.0180L.^{1}$
Over 42 inches to 60 inches	$0.0280L.^{1}$
Over 60 inches to 96 inches	$0.0400L.^{1}$

[1] L is the maximum distance from the midpoint of the unsupported shell on one side of the ring stiffener to the midpoint of the unsupported shell on the opposite side of the ring stiffener.

(2) If a ring stiffener is welded to the shell, a portion of the shell may, for purposes of computing the section modulus, be considered as a part of the ring section. If welded at one side of the ring stiffener only, such portion shall not exceed twenty (20) times the shell thickness adjacent to the weld. If welded at both sides of the ring stiffener, such portion shall not exceed forty (40) times the shell thickness adjacent to the weld, or the width of the ring stiffener between welds plus twenty (20) times the shell thickness adjacent to the welds, whichever is less.

§ 78.326–15 *Tank vents.* (a) Each tank or tank compartment shall be provided with a vacuum and pressure operated vent with a minimum effective opening of forty-four hundredths of a square inch (0.44 sq. in.), and shall also be provided with an emergency venting facility so constructed as to provide a minimum free-venting opening having a net area in square inches equal to 1.25 plus 0.0025 times the capacity of the tank or compartment in gallons. If the emergency venting facility operates in response to elevated temperatures, the critical temperature for such operation shall not exceed two hundred degrees Fahrenheit (200° F.).

§ 78.326–16 *Valve and faucet connections.* (a) All draw-off valves or faucets of tanks and compartments shall have discharge ends threaded, or be otherwise so designed as to insure in every instance a tight connection with the hose extending to the storage fill pipe.

§ 78.326–17 *Emergency discharge control.* (a) Each tank or tank compartment of a bottom-discharge tank shall be equipped with a reliable and effective shut-off valve located inside the shell of the tank or tank compartment in the tank or compartment outlet. The operating mechanism for such valve or valves shall be provided with a secondary closing mechanism remote from tank filling openings and discharge faucets, for operation in the event of fire or other accident. Such control mechanism shall also be provided with a fusible section which will cause the valve to close automatically in case of fire, and the critical temperature for the fusing of such section shall not exceed two hundred degrees Fahrenheit (200° F.).

§ 78.326–18 *Shear section.* (a) There shall be provided between each shut-off valve seat and discharge faucet a shear section which will break under strain, unless the discharge piping is so arranged as to afford equivalent protection, and leave the shut-off valve seat intact in case of accident to the discharge faucet or piping.

§ 78.326–19 *Protection of valves and faucets.* (a) Draw-off valves and faucets projecting beyond the frame, or if the vehicle be frameless, beyond the shell, at the rear, shall be adequately protected by steel bumpers or other equally effective devices, against collision.

§ 78.326–20 *Overturn protection.* (a) All closures for filling openings shall be protected from damage in the event of overturning of the motor vehicle by being enclosed within the body of the tank or dome attached thereto or by the use of suitable metal guards securely attached to the tank or the frame of the motor vehicle. Protection shall also be provided for any protruding or projecting fitting or appurtenance by means of adequate metal guards. The calculated load for the protective devices shall be the weight of the tank motor vehicle with the tank full of water, at one "g" deceleration. If the overturn protection is so constructed as to permit accumulation of liquid on the top of the tank, it shall not be provided with drainage facilities which will permit drainage at or near the front of the tank.

§ 78.326–21 *Tank supports.* (a) The distance from a tank support to the nearest bulkhead, baffle, or other shell stiffener, shall not exceed forty (40) times the thickness of the tank shell at the point of support.

§ 78.326–22 *Anchoring of tank.* (a) Adequate hold-down devices shall be provided to anchor each cargo tank in a suitable manner that will not introduce undue concentration of stresses and shall be built to withstand loadings in any direction equal to the weight of the tank and attachments when filled with water. These devices on vehicles with frames shall incorporate turnbuckles or similar positive action devices drawing the tank down tight on the frame of the motor vehicle.

(b) *Stops and anchors.* Suitable stops and anchors shall be attached to the motor vehicle and the tank to prevent movement between them due to starting, stopping and turning. These stops or anchors shall be installed so as to be readily accessible for inspection and maintenance except that lagging for lagged tanks is permitted to cover such stops and anchors.

(c) *Anchoring integral tanks.* Whenever any cargo tank is so designed and constructed that the cargo tank constitutes, in whole or in part, the stress member used in lieu of a frame, then such cargo tanks shall be designed so as to successfully and adequately withstand the stresses thereby imposed in addition to those otherwise imposed on the tank.

§ 78.326–23 *Pumps.* (a) Liquid pumps, whenever used, must be of suitable design, adequately protected against breakage by collisions, and kept in good condition. They may be driven by motor vehicle power take-off or other mechanical, electrical or hydraulic means. Unless they are of the centrifugal type, they shall be equipped with suitable pressure actuated by-pass valves permitting flow from discharge to suction or to the tank.

7. In § 78.330–8 amend paragraph (a) (15 F. R. 8555, Dec. 2, 1950) to read as follows:

§ 78.330 *Specification MC 310; cargo tanks.*

§ 78.330–8 *Must comply with A. S. M. E. Code.* (a) Tanks built under this specification shall be designed and constructed in accordance with the A. S. M. E. Code for Unfired Pressure Vessels, 1949, 1950, or 1952 editions, no revisions, which is hereinafter referred to as "the Code".

8. In § 78.331–8 amend paragraph (a); in § 78.331–9 amend paragraph (a) (18 F. R. 6783, 6784, Oct. 27, 1953) to read as follows:

§ 78.331–*Specification MC 311; cargo tanks.*

§ 78.331–8 *Design requirements*—(a) *A. S. M. E. Code construction.* Cargo tanks built of ferrous materials under this specification that are unloaded by pressure must be built of welded construction in accordance with the A. S. M. E. Code for Unfired Pressure Vessels, 1949, 1950, or 1952 editions—no revisions, except that for sheet thicknesses of less than 3/16 inch wherein the Code specifies both minimum and maximum limits of tensile value of materials, the maximum limits need not apply. Such tanks shall not have head, bulkhead, baffle or shell thicknesses less than that specified in paragraphs (c) and (d) of this section, nor shall the spacing of bulkheads, baffles, or shell stiffeners exceed that specified in those sections.

§ 78.331–9 *Materials.* * * *

(a) *A. S. M. E. Code materials.* Cargo tanks required to comply with the A. S. M. E. Code for Unfired Pressure Vessels must be manufactured of materials authorized by the Code except that for sheet thicknesses of less than 3/16 inch wherein the Code specifies both minimum and maximum limits of tensile value of materials, the maximum limits need not apply.

[F. R. Doc. 57–10822; Filed, Dec. 30, 1957; 8:47 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

CONFIRMATION OF ALL REGULATIONS AND OTHER FORMAL ISSUES PROMULGATED BY OR PURSUANT TO THE AUTHORITY OF HARVEY V. HIGLEY, FORMER ADMINISTRATOR OF VETERANS AFFAIRS, TO BECOME EFFECTIVE AFTER TERMINATION OF HIS APPOINTMENT

All Veterans Administration regulations, manuals, instructions, bulletins, circulars, and other issues applicable to the Veterans Administration which were approved by or pursuant to the authority of the former Administrator of Veterans Affairs, Harvey V. Higley, to become effective on a date subsequent to the termination of his appointment are hereby confirmed and approved as though the same had been approved by me, and the same shall remain in full force and effect until such time as they may be specifically amended or revoked.

[SEAL] SUMNER G. WHITTIER,
Administrator of Veterans Affairs.

DECEMBER 23, 1957.

[F. R. Doc. 57–10887; Filed, Dec. 30, 1957; 8:54 a. m.]

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

MISCELLANEOUS AMENDMENTS

1. In § 4.168, the headnote, introductory portion of paragraph (a), and subparagraphs (1) and (9) of paragraph (a) are amended to read as follows:

§ 4.168 *Jurisdiction of rating boards*—(a) *General duties.* Rating boards are vested with authority, as rating agencies of original jurisdiction, to render rating decisions and to take other actions requiring board consideration in death claims for death compensation, dependency and indemnity compensation or death pension, reimbursement for burial, funeral, and transportation expenses, accrued compensation, pension, or retirement pay, servicemen's indemnity, insurance, unauthorized medical expenses, and such other benefits as require a rating determination under law or regulations. In this connection the boards pass on all questions essential to the decisions or other actions, including determinations as to jurisdiction, admissibility of evidence and weight to be accorded such evidence, the necessity of further development of evidence, the necessity of physical examination or of rescheduling for physical examination of claimants or beneficiaries, and the proper application of the provisions of all pertinent laws, regulations, schedules of disability ratings, policy statements, procedures, Administrator's decisions, and other legal precedents. Specifically, such boards will be responsible for rating determinations on the following major conditions relating to entitlement.

(1) Service connection of diseases or injuries, including line of duty, willful misconduct, or vicious habits determinations, as required. These decisions may be made for administrative purposes (including life insurance purposes, when requested) as well as for death compensation, dependency and indemnity compensation or death pension and accrued disability compensation or pension.

* * * * *

(9) Entitlement under section 31, Public Law 141, 73d Congress, as amended, under section 12, Public Law 866, 76th Congress, under paragraph 4, Part VII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12A) (Public Law 16, 78th Cong.), and Public Law 894, 81st Congress.

2. In § 4.169, the headnote and the introductory portion of paragraph (a) preceding subparagraph (1) are amended to read as follows:

§ 4.169 *Special jurisdiction of rating boards in Veterans Benefits Office, D. C.* (a) In exercise of the functions specified in § 4.168, the rating boards, Compensation and Pension Service, in the Veterans Benefits Office, D. C., will have jurisdiction over the following types of death cases:

3. In § 4.184, paragraph (a) is amended to read as follows:

§ 4.184 *Disabilities not included under §§ 4.176, 4.178, 4.180, or 4.182.* * * *

(a) Disabilities incurred or aggravated as the result of training, hospitalization, or medical or surgical treatment under section 31, Public Law 141, 73d Congress, the result of examinations under section 12, Public Law 866, 76th Congress, or the result of training under paragraph 4, Part VII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12A) (Public Law 16, 78th Cong., as amended), or Public Law 894, 81st Congress.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707)

This regulation is effective December 31, 1957.

[SEAL] J. C. PALMER,
Assistant Deputy Administrator.

[F. R. Doc. 57-10754; Filed, Dec. 30, 1957; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

RATES ON COAL, GRAIN OR IRON ORE IN BULK

DELETION OF "NSA" ORDERS, APPEARING IN THIS CHAPTER UNDER DESIGNATION "DRO"

The following orders, having become obsolete, are hereby deleted:

DRO-2—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Norway. [NSA Order No. 7]

DRO-3—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Denmark. [NSA Order No. 8]

DRO-4—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Germany (excluding Baltic ports). [NSA Order No. 9]

DRO-5—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and the Netherlands. [NSA Order No. 10]

DRO-6—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Belgium. [NSA Order No. 11]

DRO-8—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Portugal. [NSA Order No. 13]

DRO-9—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and French North Africa. [NSA Order No. 14]

DRO-11—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Greece. [NSA Order No. 16]

DRO-12—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and the west coast of Africa (including the Canary, Medeira and Cape Verde Islands). [NSA Order No. 17]

DRO-13—Rates on grain in bulk between United States ports and Norway. [NSA Order No. 18]

DRO-14—Rates on grain in bulk between United States ports and Denmark. [NSA Order No. 19]

DRO-15—Rates on grain in bulk between United States ports and Germany (excluding Baltic ports). [NSA Order No. 20]

DRO-16—Rates on grain in bulk between United States ports and the Netherlands. [NSA Order No. 21]

DRO-17—Rates on grain in bulk between United States ports and Belgium. [NSA Order No. 22]

DRO-18—Rates on grain in bulk between United States ports and France. [NSA Order No. 23]

DRO-21—Rates on grain in bulk between United States ports and Portugal. [NSA Order No. 26]

DRO-22—Rates on grain in bulk between United States ports and French North Africa. [NSA Order No. 27]

DRO-23—Rates on grain in bulk between United States ports and Italy (including ports on the Adriatic Sea). [NSA Order No. 28]

DRO-24—Rates on grain in bulk between United States ports and Greece. [NSA Order No. 29]

DRO-25—Rates on grain in bulk between United States ports and Turkey. [NSA Order No. 30]

DRO-26—Freight payment clause. [NSA Order No. 31]

DRO-27—Rate on iron ore in bulk from Narvik to Baltimore or Philadelphia. [NSA Order No. 36]

DRO-28—Rate on iron ore in bulk from Monrovia, Liberia, to Baltimore or Philadelphia. [NSA Order No. 37]

DRO-29—Rates on coal in bulk from Hampton Roads, Baltimore or Philadelphia to Kiel, Germany. [NSA Order No. 38]

DRO-32—Rates on coal in bulk between Hampton Roads, Baltimore or Philadelphia and Italy (including ports on the Adriatic Sea). [NSA Order No. 42]

DRO-33—Rates on coal in bulk from the port of Charleston, South Carolina. [NSA Order No. 44]

DRO-34—Rates on grain in bulk from United States ports to India. [NSA Order No. 45]

DRO-35—Rates on coal in bulk from Hampton Roads, Baltimore, Philadelphia, Charleston or Mobile to Sweden. [NSA Order No. 52]

DRO-36—Rates on coal in bulk from Hampton Roads, Baltimore, Philadelphia, Charleston or Mobile to the United Kingdom. [NSA Order No. 53]

DRO-37—Rates on coal in bulk from Hampton Roads, Baltimore, Philadelphia, Charleston or Mobile to Eire or Northern Ireland. [NSA Order No. 54]

DRO-38—Rates on coal in bulk between Hampton Roads, Baltimore, Philadelphia, Charleston, South Carolina or Mobile, Alabama, and France. [NSA Order No. 57]

DRO-39—Rates on grain in bulk from United States ports to Eire. [NSA Order No. 60]

DRO-40—Rates on grain in bulk from United States ports to the United Kingdom and Northern Ireland. [NSA Order No. 61]

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 24, 1957.

WALTER C. FORD,
Deputy Maritime Administrator.

[F. R. Doc. 57-10825; Filed, Dec. 30, 1957; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter A—Armed Services Procurement Regulations

[Amdt. 23]

MISCELLANEOUS AMENDMENTS

This entire revision is editorial and technical in nature. Its purpose is to make this subchapter consistent with the new Title 10, United States Code (Armed Forces), as enacted by Public Law 1028, 84th Congress. So far as procurement is concerned, chapter 137 of the new Title 10, supersedes the Armed Services Procurement Act of 1947, as amended. When this subchapter now refers to the "Armed Services Procurement Act," the reference is to chapter 137, Title 10, U. S. Code. In enacting the new title, Congress stated that it was not intended to change the substance of old statutes; nevertheless several have been repealed and there have been significant language changes in others, which have made necessary this extensive revision.

Most of the changes made in this revision involve substitution of current citations of laws for obsolete citations.

A large number of changes result from the adoption of new statutory definitions, and have been made with the purpose of simplifying transition from statute to regulation. Among these definitions are: *"Department of Defense"* (§ 1.201–10); *"shall"* (§ 1.201–11); *"may"* (§ 1.201–12); *"includes"* (§ 1.201–13); *"United States"* (§ 1.201–14); *"Territory"* (§ 1.201–15); *"possessions"* (§ 1.201–16); *"Armed Services Procurement Act"* (§ 1.201–17); *"negotiate* and *negotiation"* (§ 1.201–18); and, *"supplies"* (§ 1.201–8). These definitions should be studied carefully and borne in mind constantly when referring to this subchapter, since in all but a few instances they are applicable throughout the subchapter.

In particular, it should be noted that *"United States,"* when used in a geographical sense (except in Subpart A of Part 6) means the 48 States and the District of Columbia, and does not in any instance include Alaska or Hawaii. When a statute defines *"United States"* otherwise, this subchapter has been adjusted so as to use, basically, the definition set forth in Title 10, U. S. Code. For the time being, Subpart A of Part 6, dealing with the Buy-American Act, employs the definition of that Act; it is expected that this will be remedied in an early revision which will revise substantially the entire part.

The changes also involve the following contract clauses: *"Note—Payment by Barter"* (§ 1.310.2 (b)); *"Vinson-Trammell Act"* (retitled *"Excess Profit"*) (§ 7.104–11); and *"Domestic Food, Clothing, Cotton, Spun Silk Yarn for Cartridge Cloth, or Wool"* (§ 7.104–13). While none of these changes is substantive, it is nevertheless essential that appropriate alterations be made on any form on which these clauses appear.

Particular attention is invited to Subpart B of Part 3, changes in language of which will in some instances affect the drafting of determinations and findings in connection with the negotiation of contracts.

To a great extent the changes contained in this revision have already been placed in effect by general departmental directives, pursuant to informal directives from the Office of the Assistant Secretary of Defense (Supply and Logistics). Consequently, this revision shall be effective at all applicable echelons upon receipt.

PART 1—GENERAL PROVISIONS

SUBPART A—INTRODUCTION

Section 1.101 has been revised to read as follows:

§ 1.101 *Purpose of subchapter.* This subchapter, issued by the Assistant Secretary of Defense (Supply and Logistics) by direction of the Secretary of Defense, and in coordination with the Secretaries of the Army, Navy, and Air Force, establishes for the Department of Defense, uniform policies and procedures, relating to the procurement of supplies and services under the authority of chapter 137, Title 10 of the United States Code, or under other statutory authority.

SUBPART B—DEFINITIONS OF TERMS

Sections 1.201 to 1.201–18 have been revised to read as follows:

Sec.

1.201	Definitions.
1.201–1	Department and Military Department.
1.201–2	Secretary.
1.201–3	Procuring activity.
1.201–4	Head of a procuring activity.
1.201–5	Contracting officer.
1.201–6	Contracts.
1.201–7	Procurement.
1.201–8	Supplies.
1.201–9	Sources of supplies.
1.201–10	Department of Defense.
1.201–11	Shall.
1.201–12	May.
1.201–13	Includes.
1.201–14	United States.
1.201–15	Territory.
1.201–16	Possessions.
1.201–17	Armed Services Procurement Act.
1.201–18	Negotiate and negotiation.

AUTHORITY: §§ 1.201 to 1.201–18 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 1.201 *Definitions.* As used throughout this subchapter, the following terms shall have the meanings set forth below:

§ 1.201–1 *Department and Military Department.* "Department and Military Department" include the Department of the Army, the Department of the Navy, and the Department of the Air Force.

§ 1.201–2 *Secretary.* "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of any Military department.

§ 1.201–3 *Procuring activity.* "Procuring activity" includes, for the Army, the technical services, the continental armies, the National Guard Bureau, the Military District of Washington, and the major oversea commands; for the Navy, each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, the Military Sea Transportation Service and the United States Marine Corps; for the Air Force, the Air Matériel Command. It also includes the Military Medical Supply Agency, the Military Petroleum Supply Agency, and any other procuring activity hereafter established. The number and designation of particular procuring activities of any military department may be changed by directive of the Secretary.

§ 1.201–4 *Head of a procuring activity.* "Head of a procuring activity" includes, for the Army, the chiefs of the technical services, the Zone of Interior Army commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, U. S. Army and the commanding generals of the major oversea commands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, the Commander, Military Sea Transportation Service, and the Commandant of the United States Marine Corps; for the Air Force, the Commanding General of the Air Matériel Command. It also includes the Executive Director of the Military Medical Supply Agency, the Executive Director of the Military Petroleum Supply Agency, and the head of any other procuring activity hereafter established. The number and designation of Heads of Procuring Activities within any military department may be changed by directive of the Secretary.

§ 1.201–5 *Contracting officer.* "Contracting officer" means any officer or civilian employee of any military department who, in accordance with departmental procedures, has been or shall be designated a contracting officer (and whose designation has not been terminated or revoked) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or any part of such authority, as hereinafter provided.

§ 1.201–6 *Contracts.* "Contracts" means all types of agreements and orders for the procurement of supplies or services. It includes awards and preliminary notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders or task letters thereunder; letter contracts, letters of intent, and purchase orders. It also includes amendments, modifications, and supplemental agreements with respect to any of the foregoing.

§ 1.201–7 *Procurement.* "Procurement" includes purchasing, renting, leasing, or otherwise obtaining supplies or services.

§ 1.201–8 *Supplies.* "Supplies" means all property except land or interests in land. It includes public works, buildings, facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing. "Supplies" as used in this subchapter is

synonymous with "property" as described in 10 U. S. C. 2303 (b).

§ 1.201–9 *Sources of supplies*—(a) "Sources of supplies" shall include only (i) manufacturers, (ii) construction contractors, and (iii) regular dealers in the supplies to be procured. A "regular dealer" shall be deemed to be any one of the following:

(1) A person or firm who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business;

(2) In the case of supplies of particular kinds (lumber and timber products, coal, machine tools, raw cotton, petroleum, green coffee, or hay, grain, feed, and straw), a person or firm satisfying the requirements of Article 101 (b) of the Regulations of the Secretary of Labor (41 CFR 201.101) under the Walsh-Healy Public Contracts Act (41 U. S. C. 35), as amended from time to time.

The above definitions shall not apply to contracts for supplies no part of which will be manufactured or furnished within the United States, its Territories, Puerto Rico, or the Virgin Islands.

(b) A manufacturer, construction contractor, or regular dealer may bid, negotiate, and contract through an authorized agent: *Provided*, That the agency is disclosed, and the agent acts and contracts in the name of his principal. In this connection, see the clause entitled "Covenant Against Contingent Fees" set forth in § 7.103–20 and the procedures prescribed for obtaining information concerning contingent or other fees, as set forth in Subpart E of Part 1.

§ 1.201–10 *Department of Defense.* "Department of Defense" comprises the Office of the Secretary of Defense and the military departments.

§ 1.201–11 *Shall.* "Shall" is used in an imperative sense.

§ 1.201–12 *May.* "May" is used in a permissive sense. The words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

§ 1.201–13 *Includes.* "Includes" means "includes but is not limited to."

§ 1.201–14 *United States.* "United States," when used in a geographic sense, means the States and the District of Columbia.

§ 1.201–15 *Territory.* "Territory" means Alaska and Hawaii.

§ 1.201–16 *Possessions.* "Possessions" includes the Virgin Islands, the Canal Zone, Guam, American Samoa, Wake Island, Midway Island, and the guano islands, but does not include any Territory or the Commonwealth of Puerto Rico.

§ 1.201–17 *Armed Services Procurement Act.* "Armed Services Procurement Act" means chapter 137, Title 10, United States Code, a codification of the Armed Services Procurement Act of 1947, as amended.

§ 1.201–18 *Negotiate and negotiation.* "Negotiate and negotiation," when applied to the making of purchases and contracts, refer to making purchases and contracts without formal advertising.

SUBPART C—BASIC POLICIES

1. Section 1.306–2 has been revised to read as follows:

§ 1.306 *Transportation costs.*

* * * * *

§ 1.306–2 *Place of delivery*—(a) *Shipments originating within the United States for ultimate delivery within the United States.* Unless there are valid reasons to the contrary, the procurement of supplies from sources and for delivery within the United States shall be in accordance with the following policy:

(1) When it is estimated that a contract will require no shipment to a single destination which will equal a minimum carload or truckload lot, delivery shall be made on the basis of all transportation charges paid to destination.

(2) When it is estimated that a contract will require a shipment of a minimum carload or truckload lot, delivery shall be either on the basis of:

(i) At the Government's option, f. o. b. carrier's equipment, wharf, or freight station at a specified city or shipping point at or near contractor's plant; or

(ii) All transportation charges paid to destination, whichever is the more advantageous to the Government. In formally advertised procurements the Invitation for Bids shall provide that bidders may bid on either or both of the above bases, and bids shall be evaluated on the basis of overall cost to the Government.

In the absence of specific information to the contrary, a minimum carload or truckload lot shall be deemed to be approximately 20,000 pounds.

(b) *Shipments originating within the United States for ultimate delivery outside the United States.* Unless there are valid reasons to the contrary, purchases of supplies within the United States for ultimate delivery to destinations outside of the United States, regardless of the quantity of the shipment, shall be made on the basis of delivery at the Government's option, f. o. b. carrier's equipment, wharf, or freight station at a specified city or shipping point at or near contractor's plant. This policy applies to supplies shipped directly to a port area for export or to storage areas for subsequent reshipment to a port area for export.

(c) *Shipments originating outside the United States.* Selection of place of delivery for shipments originating outside the United States shall be in accordance with procedures prescribed by each respective military department.

2. Paragraph (b) of § 1.309 has been revised to read as follows:

§ 1.309 *Preference for United States-flag privately owned ocean carriers.* * * *

(b) *General.* It is the policy of the Department of Defense, in furtherance of the Cargo Preference Act (68 Stat. 832; 46 U. S. C. A. 1241 (b)) and 10 U. S. C. 2631 to encourage and foster the American merchant marine. When transportation of supplies by ocean vessel is required:

* * * * *

3. Section 1.310–2 (b) has been revised by the addition of the words "its Territories, its possessions, and Puerto Rico", following the words "United States" in the first paragraph of the clause, as follows:

§ 1.310–2 *Procurement effected within the United States.* * * *

(b) Such Invitations for Bids or Requests for Proposals shall contain appropriate space for indicating alternate prices, one clearly labelled for barter prices and the other clearly labelled for non-barter prices. In addition, such Invitations for Bids and Requests for Proposals shall include the following clause:

NOTE—PAYMENT BY BARTER

Attention is directed to Section 303 of the Agricultural Trade Development and Assistance Act of 1954 (P. L. 480, 83d Cong.) which authorizes the disposal by barter or exchange of surplus agricultural commodities for use outside of the United States, its Territories, its possessions, and Puerto Rico. Bidders or offerors interested in a barter arrangement (accepting payment in agricultural commodities for use outside of the United States, its Territories, its possessions, and Puerto Rico rather than in dollars) should consult, and make appropriate arrangements with, the Commodity Credit Corporation, Barter and Stockpiling Division, United States Department of Agriculture, Washington 25, D. C. prior to submitting a bid.

Simultaneously with the issuance of this Invitation for Bids or Request for Proposals, a copy thereof is being furnished to the Commodity Credit Corporation.

Bids or proposals may be made on a barter basis, or on a non-barter basis, or on both bases in the alternative. Bids or proposals on either basis shall be stated in terms of dollars, not in terms of the desired commodity. Arrangements for converting dollar receipts under the contract into commodities must be made by separate agreement with the Commodity Credit Corporation.

Any bid or proposal based on a barter arrangement must be submitted directly to the purchasing office issuing this Invitation for Bids or Request for Proposals. In addition, a copy of the official bid or proposal must be forwarded to the Commodity Credit Corporation, by the time specified for submitting bids or proposals, in a sealed envelope marked with the Invitation for Bids or Request for Proposals number, and the date and time of opening by the purchasing office.

The Commodity Credit Corporation will consider the barter aspects of all such bids or proposals and will then advise the purchasing office issuing this Invitation for Bids or Request for Proposals which bids or proposals, if any, based on a barter arrangement are acceptable to the Commodity Credit Corporation. Any such bids or proposals which are acceptable to the Commodity Credit Corporation will be considered and evaluated by the purchasing office in connection with the evaluation of the non-barter bids or proposals received hereunder. If the lowest acceptable barter type bid or proposal is equal to or less than the price of the lowest

responsive non-barter bid or proposal, preference will be given to the barter type bid or proposal.

No award will be made on a barter basis unless the bidder or offeror has entered into a suitable agreement with the Commodity Credit Corporation and the Commodity Credit Corporation has informed the purchasing office that the barter bid or proposal is acceptable. If the award is made on the basis of a barter type bid or proposal, the bidder or offeror, pursuant to the clause of the contract entitled Assignment of Claims and notwithstanding any language to the contrary contained therein, hereby irrevocably assigns all the moneys due or to become due under the resultant contract to the Commodity Credit Corporation. The bidder or offeror will be entitled to acquire commodities on the basis of its agreement with the Commodity Credit Corporation.

4. In § 1.310–3, the word "continental" has been deleted from the caption of this paragraph, as follows:

§ 1.310–3 *Procurement effected outside the United States.* * * *

SUBPART F—DEBARRED, INELIGIBLE, AND SUSPENDED BIDDERS

Section 1.608 has been revised to read as follows:

§ 1.608 *Sample of list.*

[Insert Classification]

CONSOLIDATED RESTRICTED LISTING OF FIRMS AND INDIVIDUALS DEBARRED OR INELIGIBLE

Contractor, firm, or individual	Termination date	Type	Basis of action
Able Baker Charlie Co., New Orleans, La.	Nov. 21, 1954	B	Sec. 1 (a), Walsh-Healey Act—Ineligible as manufacturer in all commodities.
Charlie, A. B.		------	See Able B. Charlie Co.
Doe Furniture Co., Cleveland, Ohio	Oct. 28, 1953	A	Sec. 3, Walsh-Healey Act.
Fox Construction Co., Detroit, Mich.	Mar. 7, 1954	A	Sec. 3, Davis-Bacon Act.
Roe Engineering Service, Chicago, Ill.	Feb. 17, 1954	C	Sec. 3 (b) Buy American Act (Dept. of the Army).
Show Furniture Co., Newark, N. J.	Apr. 12, 1953	A	Conviction for fraud (Gen. Services Admin.).
Tare Steel Co.	Indefinite	D	Suspended.

(Type A listings shall not be awarded contracts and shall not be solicited by bid or proposal.)

(Type B listings shall not be awarded contracts in any amount and shall not be solicited by bid or proposal for materials, supplies, articles, or equipment in which declared ineligible. However, contracts may be awarded and bids or proposals may be solicited for commodities in which not declared ineligible regardless of amount.)

(Type C listings shall not be awarded contracts and shall not be solicited by bid or proposal for construction, alteration, or repair of public buildings or public work in the United States or elsewhere as specified in the Buy American Act. However, listings may be awarded contracts and may be solicited by bid or proposal for other than construction, alteration, or repair of public buildings or public work as specified in the Buy American Act.)

(Type D listings shall not be solicited by bid or proposal; if bids or proposals are received, they will not be considered or evaluated nor will awards of contracts be made to such listings unless it is determined by the Secretary of a Department or his authorized representative to be in the best interest of the Government.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 2—PROCUREMENT OF FORMAL ADVERTISING

Section 2.206–1 has been revised by deletion of the word "continental", which preceded the words "United States", in the first sentence. It now reads as follows:

§ 2.206 *Synopses of proposed procurements.*

§ 2.206–1 *Statement of policy.* All proposed unclassified procurements made in the United States, which may result in an award in excess of $10,000, will be publicized promptly in the Department of Commerce publication "Synopsis of U. S. Government Proposed Procurement, Sales and Contract Awards," except the following:

* * * * *

SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

§ 2.406–5 *Statement and certificate of award.* In connection with every purchase made by formal advertising, the contracting officer shall prepare and execute as statement and certificate of award on U. S. Standard Form 1036, in accordance with § 16.801 of this subchapter. Such certificate shall either (i) state that the accepted bid was the lowest bid received, or (ii) list all lower bids and set forth reasons for accepting a bid other than the lowest. In this connection it is unnecessary to evaluate non-responsive bids which upon complete evaluation might be low. In each case where an award is made pursuant to (1), (2), (3), or (4) of § 2.406–4 (a), such certificate shall briefly recite the circumstances under which award was made and shall contain a statement that it has been administratively determined that the award will further the Congressional policy with respect to small business expressed in 10 U. S. C. 2301 or will further the policy with respect to labor surplus areas, or both, as the case may be.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 3—PROCUREMENT BY NEGOTIATION

Section 3.000 has been revised to read as follows:

§ 3.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the Armed Services Procurement Act, (a) the basic requirements for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, (e) the authority for making advance payments under negotiated contracts, (f) procedures for effecting purchases of not more than $1,000, (g) procedures for negotiating overhead rates, and (h) price negotiation policies and techniques.

SUBPART A—USE OF NEGOTIATIONS

1. Section 3.101 has been revised to read as follows:

§ 3.101 *Negotiation as distinguished from formal advertising.* Whenever supplies or services are to be procured by negotiation, price quotations (Part 16, Subpart B), supported by statements and analyses of estimated costs or other evidence of reasonable prices and other vital matters deemed necessary by the contracting officer, shall be solicited from all such qualified sources of supplies or services as are deemed necessary by the contracting officer to assure full and free competition consistent with the procurement of the required supplies or services, in accordance with the basic policies set forth in Subpart C of Part 1, to the end that the procurement will be made to the best advantage of the Government, price and other factors considered. Negotiation shall thereupon be conducted, by contracting officers and their negotiators, with due attention being given to the following and any other appropriate factors:

(a) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to production costs, including extra-pay shift, multishift and overtime costs, and any other factor relating to price, such as profits, cost of transportation, and cash discounts;

(b) Comparison of the business reputations, capabilities, and responsibilities of the respective persons or firms who submit quotations (see § 1.307 of this subchapter);

(c) Consideration of the quality of the supplies or services offered, or of the same or similar supplies or services previously furnished, with due regard to the satisfaction of technical requirements;

(d) Consideration of delivery requirements (see § 1.306);

(e) Discriminating use of price and cost analyses (see § 16.206 of this subchapter);

(f) Investigation of price aspects of any important subcontract;

(g) Individual bargaining, by mail or by conference;

(h) Consideration of cost sharing;

(i) Effective utilization in general of the most desirable type of contract, and in particular of contract provisions relating to price redetermination (see Subpart D of this part);

(j) Consideration of the size of the business concern (see §§ 1.302–3 of this subchapter and 3.104);

(k) Consideration as to whether the prospective supplier is a planned producer under the industrial mobilization program;

(l) Consideration to to whether the prospective supplier requires expansion or conversion of plant facilities;

(m) Consideration as to whether the prospective supplier is located in a surplus or scarce labor area (see § 3.105);

(n) Consideration as to whether the prospective supplier will have an adequate supply of qualified labor;

(o) Consideration of the extent of subcontracting;

(p) Consideration of the existing and potential workload of the prospective supplier;

(q) Consideration of broadening the industrial base by the development of additional suppliers;

(r) Consideration of whether the contractor requires Government furnished property, machine tools, or facilities; or Government-operated test facilities; and

(s) Consideration of contract performance in facilities located in dispersed sites.

2. Section 3.108 (e) has been revised as follows:

§ 3.108 *Negotiation of initial production contracts for technical or specialized military supplies.* * * *

(e) Contracts negotiated pursuant to (b) above shall normally cite 10 U. S. C. 2304 (a) (14) (see § 3.214) or, where more appropriate, 10 U. S. C. 2304 (a) (16) (see § 3.216).

SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

This Subpart B has been revised in its entirety, as follows:

Sec.
3.200 Scope of subpart.
3.201 National emergency.
3.201–1 Authority.
3.201–2 Application.
3.202 Public exigency.
3.202–1 Authorization.
3.202–2 Application.
3.202–3 Limitation.
3.203 Purchases not more than $1,000.
3.203–1 Authority.
3.203–2 Application.
3.204 Personal or professional services.
3.204–1 Authority.
3.204–2 Application.
3.205 Services of educational institutions.
3.205–1 Authority.
3.205–2 Application.
3.206 Purchases outside the United States.
3.206–1 Authority.
3.206–2 Application.
3.207 Medicines or medical supplies.
3.207–1 Authority.
3.207–2 Application.
3.208 Supplies purchased for authorized resale.
3.208–1 Authority.
3.208–2 Application.
3.209 Perishable subsistence supplies.
3.209–1 Authority.
3.209–2 Application.
3.210 Supplies or services for which it is impracticable to secure competition by formal advertising.
3.210–1 Authority.
3.210–2 Application.
3.210–3 Limitation.
3.211 Experimental, developmental, or research work.
3.211–1 Authority.
3.211–2 Application.
3.211–3 Limitation.
3.211–4 Records and reports.
3.212 Classified purchases.
3.212–1 Authority.
3.212–2 Application.
3.212–3 Limitation.
3.213 Technical equipment requiring standardization and interchangeability of parts.
3.213–1 Authority.
3.213–2 Application.
3.213–3 Limitation.
3.213–4 Records and reports.
3.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
3.214–1 Authority.
3.214–2 Application.
3.214–3 Limitation.
3.215 Negotiation after advertising.
3.215–1 Authority.
3.215–2 Limitation.
3.216 Purchases in the interest of national defense or industrial mobilization.
3.216–1 Authority.
3.216–2 Application.
3.216–3 Limitation.
3.216–4 Records and reports.
3.217 Otherwise authorized by law.
3.217–1 Authority.
3.217–2 Application.
3.218 Construction work.
3.218–1 Application.
3.218–2 Limitation on authority to negotiate contracts.
3.218–3 Citation of authority to negotiate.
3.219 Negotiation of set-asides for labor surplus areas.
3.219–1 General.
3.219–2 Limitation.
3.219–3 Eligible bidders and offerors.
3.219–4 Method of negotiation.
3.219–5 Limitations on contract price.

AUTHORITY: §§ 3.200 to 3.219–5 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 3.200 *Scope of subpart.* Subject to the limitations prescribed in Subpart A of this part, and pursuant to the authority of 10 U. S. C. 2304 (a), procurement may be effected by negotiation under any one of the exceptions ((1) through (17) of 10 U. S. C. 2304 (a)) set forth in this subpart.

§ 3.201 *National emergency.*

§ 3.201–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (1), purchases and contracts may be negotiated if—

it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President.

§ 3.201–2 *Application.* (a) This authority shall be used only to the extent determined by the Assistant Secretary of Defense (Supply and Logistics) to be necessary in the public interest, and then only in accordance with departmental procedures consistent with this § 3.201.

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Supply and Logistics) has determined that the following procurements only shall be made pursuant to the authority of 10 U. S. C. 2304 (a) (1):

(1) Procurements made pursuant to labor surplus and disaster area programs; set asides shall be negotiated in accordance with procedures set forth in § 3.219;

(2) Procurements made in keeping with the small business programs;

(3) Nonperishable subsistence (pending resolution of the recommendation on this subject contained in the report of the Commission on Organization of the Executive Branch of the Government, subject: "Food and Clothing");

(4) Procurements which are authorized to be negotiated under the provisions of § 3.211–1 for not more than $100,000 from contractors other than educational institutions; such negotiated procurements from educational institutions shall be negotiated under the authority of 10 U. S. C. 2304 (a) (5), (see § 3.205) irrespective of amount; and

(5) Procurements for more than $1,000, but not more than $2,500.

(c) Except as authorized in (b) above, procurements may be negotiated only when authorized by 10 U. S. C. 2304 (a) (2) through 10 U. S. C. 2304 (a) (17) (§§ 3.202 through 3.217), 10 U. S. C. 2304 (c) (§ 3.218), and § 3.219; determinations and findings shall be made in accordance with 10 U. S. C. 2310 and 10 U. S. C. 2311 (Subpart C of this part); and the appropriate authority shall be cited in each contract.

§ 3.202 *Public exigency.*

§ 3.202–1 *Authorization.* Pursuant to the authority of 10 U. S. C. 2304 (a) (2), purchases and contracts may be negotiated if—

the public exigency will not permit the delay incident to advertising.

§ 3.202–2 *Application.* In order for this authority to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Supplies or services needed at once because of a fire, flood, explosion, or other disaster;

(b) Essential equipment for or repair to a ship when such equipment or repair is needed at once for compliance with the orders of the ship;

(c) Essential equipment for or repair to aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft.

§ 3.202–3 *Limitation.* Every contract negotiated under the authority of this § 3.202 shall be accompanied by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder.

§ 3.203 *Purchases not more than $1,000.*

§ 3.203–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (3), purchases and contracts may be negotiated if—

the aggregate amount involved is not more than $1,000.

§ 3.203–2 *Application.* Purchases or contracts aggregating not more than

$1,000 shall be made in accordance with Subpart F of this part.

§ 3.204 *Personal or professional services.*

§ 3.204–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (4), purchases and contracts may be negotiated if—

for personal or professional services.

§ 3.204–2 *Application.* (a) This authority shall be used only when all of the following conditions have been satisfied:

(1) If personal services, they are required to be performed by an individual contractor in person (not by a firm), or if professional services, they may be performed either by an individual contractor in person or a firm or organization;

(2) The services (i) are of a professional nature, or (ii) are to be performed under Government supervision and paid for on a time basis; and

(3) Procurement of the services is authorized by law, and is effected in accordance with the requirements of any such law and in accordance with departmental procedures.

This authority, and the above conditions imposed upon its use, shall not apply to the procurement by negotiation of any type of services authorized under any other provision of this part.

§ 3.205 *Services of educational institutions.*

§ 3.205–1 *Authority.* Pursuant to the authority of 10 U. S. C. 2304 (a) (5), purchases and contracts may be negotiated if—

for any service to be rendered by any university, college, or other educational institution.

§ 3.205–2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) Educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(b) Experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith;

(c) Analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

§ 3.206 *Purchases outside the United States.*

§ 3.206–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (6), purchases and contracts may be negotiated if—

for property or services to be procured and used outside the United States, its Territories, and its possessions.

§ 3.206–2 *Application.* This authority shall be used only for the procurement of—

(a) Supplies to be (1) shipped from, (2) delivered, and (3) used, or

(b) Services to be performed

outside of the United States, its Territories, and its possessions, irrespective of the place of negotiation or execution of the contract.

§ 3.207 *Medicines or medical supplies.*

§ 3.207–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (7), purchases and contracts may be negotiated if—

for medicine or medical supplies.

§ 3.207–2 *Application.* This authority shall be used only when the following two requirements have been satisfied:

(a) Such supplies are peculiar to the field of medicine, including technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but not including prosthetic equipment; and

(b) Whenever it is determined to be practicable, such advance publicity as is considered suitable with regard to the supplies involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of, or contract for, supplies or services, under the authority of this paragraph, for more than $10,000.

§ 3.208 *Supplies purchased for authorized resale.*

§ 3.208–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (8), purchases and contracts may be negotiated if—

for property for authorized resale.

§ 3.208–2 *Application.* (a) This authority shall be used only for purchases for resale, where appropriated funds are involved, and ordinarily only for purchases of articles with brand names or of a proprietary nature which a selling activity believes or finds to be desired or preferred by its patrons.

(b) Whenever it is determined to be practicable, such advance publicity as is considered suitable with regard to the supplies involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for supplies or services, under the authority of this paragraph, for more than $10,000.

§ 3.209 *Perishable subsistence supplies.*

§ 3.209–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (9), purchases and contracts may be negotiated if—

for perishable subsistence supplies.

§ 3.209–2 *Application.* This authority may be used for the purchase of any and all kinds of perishable subsistence supplies.

§ 3.210 *Supplies or services for which it is impracticable to secure competition by formal advertising.*

§ 3.210–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (10), purchases and contracts may be negotiated if—

for property or services for which it is impracticable to obtain competition.

§ 3.210–2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) When supplies or services can be obtained from only one person or firm ("sole source of supply");

(b) When competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw material, or similar circumstances;

(c) When bids have been solicited pursuant to the requirements of Section II, and no responsive bid (a responsive bid is any bid which conforms to the essential requirements of the solicitation of bids) has been received from a responsible bidder;

(d) When bids have been solicited pursuant to the requirements of Part 2 of this subchapter, and the responsive bid or bids do not cover the quantitative requirements of the solicitation of bids, in which case negotiation is permitted for the remaining requirements of the solicitation of bids;

(e) When the contemplated procurement is for electric power or energy, gas (natural or manufactured), water, or other utility services;

(f) When the contemplated procurement is for training film, motion picture productions, or manuscripts;

(g) When the contemplated procurement is for technical, non-personal services in connection with the assembly, installation, or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature;

(h) When the contemplated procurement is for studies or surveys other than those which may be negotiated under §§ 3.205 or 3.211;

(i) When the contemplated procurement involves maintenance, repair, alterations or inspection, in connection with any one of which types of services the exact nature or amount of the work to be done is not known;

(j) When the contemplated procurement is for stevedoring, terminal, warehousing, or switching services, and when either the rates are established by law or regulation, or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal solicitation of bids;

(k) When the contemplated procurement is for commercial ocean or air transportation, including time charters, space charters and voyage charters over trade routes not covered by common carriers (as to which, negotiation is authorized under the provisions of § 3.217 and Section 321 of the Interstate Commerce Act of September 18, 1940, 49 U. S. C. 65), and including services for the operation of Government-owned vessels or aircraft;

(l) When the contract is for services related to the procurement of perishable subsistence such as protective storage, icing, processing, packaging, handling, and transportation, whenever it is impracticable to advertise for such services a sufficient time in advance of the delivery of the perishable subsistence;

(m) When it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the required supplies or services.

(n) When, under the procedures set forth in joint regulation DOD 4145.16–R, AR 743–455, NAVSANDA PUB 297, AFR 67–61, and NAVMC 1133, the contract is for storage (and related services) of household goods.

§ 3.210–3 *Limitation.* The authority of this § 3.210 shall not be used when negotiation is authorized by the provisions of §§ 3.211, 3.213, 3.214, 3.215 or 3.216. Every contract that is negotiated under the authority of this § 3.210 shall be accomplished by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder.

§ 3.211 *Experimental, developmental, or research work.*

§ 3.211–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (11), purchases and contracts may be negotiated if—

for property or services that he [the Secretary] determines to be for experimental, developmental, or research work, or for making or furnishing property for experiment, test, development, or research.

§ 3.211–2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) Contracts relating to theoretical analysis, exploratory studies, and experiment in any field of science or technology;

(b) Developmental contracts calling for the practical application of investigative findings and theories of a scientific or technical nature;

(c) Contracts for such quantities and kinds of equipment, supplies, parts, accessories, or patent rights thereto, and drawings or designs thereof, as are necessary for experiment, development, research, or test;

(d) Contracts for services, tests, and reports necessary or incidental to experimental, developmental, or research work.

This authority shall not be used for negotiated contracts with educational institutions or for quantity production, except that such quantities may be purchased hereunder as are necessary to permit complete and adequate experiment, development, research or test; accordingly, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production. Negotiated contracts with educational institutions shall be negotiated under the authority of 10 U. S. C. 2304 (a) (5) (see § 3.205) irrespective of amount. During the current national emergency negotiation of such contracts for not more than $100,000 shall be conducted under the authority of 10 U. S. C. 2304 (a) (1) (see § 3.201–2 (b) (4)).

§ 3.211–3 *Limitation.* In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart C of this part.

§ 3.211–4 *Records and reports.* Each military department is required to maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this paragraph, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder. These records, and reports based thereon, are maintained through the Department of Defense procurement reporting system described in §§ 1.110 and 16.807 of this subchapter.

§ 3.212 *Classified purchases.*

§ 3.212–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (12), purchases and contracts may be negotiated if—

for property or services whose procurement he [the Secretary] determines should not be publicly disclosed because of their character, ingredients, or components.

§ 3.212–2 *Application.* This authority may be used for purchases or contracts classified "Confidential" or higher, or where because of other considerations, the contract should not be publicly disclosed.

§ 3.212–3 *Limitation.* In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart C of this part. The authority of this § 3.212 shall not be used when negotiation is authorized by the provisions of § 3.210.

§ 3.213 *Technical equipment requiring standardization and interchangeability of parts.*

§ 3.213–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (13), purchases and contracts may be negotiated if—

for equipment that he [the Secretary] determines to be technical equipment whose standardization and the interchangeability of whose parts are necessary in the public interest and whose procurement by negotiation is necessary to assure that standardization and interchangeability.

§ 3.213–2 *Application.* (a) This authority may be used for procuring additional units and replacement items of specified makes and models of technical equipment and parts, which are for tactical use or for use outside the continental United States, in theaters of operations, on board naval vessels, or at advanced or detached bases; and which have been adopted as standard items of supply in accordance with procedures prescribed by each respective Department. A current or recurring procurement requirement for the item shall be present. This authority would apply, for example, whenever it is necessary:

(1) To limit the variety and quantity of parts that must be carried in stock;

(2) To make possible, by standardization, the availability of parts that may be interchanged among items of damaged equipment during combat or other emergency; or

(3) To procure from selected suppliers technical equipment which is available from a number of suppliers but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

(b) Before making a determination to procure specified makes and models under this authority, consideration shall be given to:

(1) The feasibility of economical and timely deployment on a selected geographic basis of makes and models already in supply systems;

(2) The feasibility of timely standardization of components and parts under the Defense Standardization Program;

(3) The effect upon the capability of industry to produce mobilization requirements of all Departments;

(4) The practicability of interchanging parts and cannibalizing equipment;

(5) The probability that future procurement of the selected item of equipment can be effected at reasonable prices;

(6) Whether the standardization will appreciably reduce the variety and quantity of parts that must be carried in stock;

(7) The value of similar equipment and its supporting parts on hand;

(8) The contribution of the standardization to combat support;

(9) Possible savings in training personnel and publishing technical literature;

(10) Whether the standardization will adversely affect existing coordinated military specifications and standards; and

(11) The degree to which the current design of the specified make and model has been changed from the design of equipment of the same make and model now in the supply system.

(c) In arriving at determinations to standardize under this authority, the originating Department shall consult with the other Departments in order to assure the full benefit of the standardization.

(d) Actions taken under this authority shall be reviewed by the originating Department at least once every two years to determine whether the standardization should be continued, revised, or cancelled.

§ 3.213–3 *Limitation.* This authority shall not be used for initial procurements of equipment and parts, or for the purpose of selecting arbitrarily the equipment of certain suppliers; nor shall it be used unless the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that:

(a) The equipment constitutes technical equipment;

(b) Standardization of such equipment and interchangeability of its parts are necessary in the public interest; and

(c) Procurement of such equipment or of its parts by negotiation is necessary to assure that standardization and interchangeability.

§ 3.213–4 *Records and reports.* Each military department shall maintain on a current basis a master list of items for which determinations and findings have been made under this authority.

§ 3.214 *Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.*

§ 3.214–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (14), purchases and contracts may be negotiated if—

for technical or special property that he [the Secretary] determines to require a substantial initial investment or an extended period of preparation for manufacture and for which he determines that formal advertising and competitive bidding might require duplication of investment or preparation already made, or would unduly delay the procurement of that property.

§ 3.214–2 *Application.* This authority may be used for the procurement of technical or specialized supplies—for example: aircraft, tanks, radar, guided missiles, rockets, and similar items of equipment; major components of any of the foregoing; and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves—

(a) High starting costs which already have been paid for by the Government or by the supplier;

(b) Preliminary engineering and development work that would not be useful to or usable by any other supplier;

(c) Elaborate special tooling already acquired;

(d) Substantial time and effort already expended in developing a prototype or an initial production model; and

(e) Important design changes which will continue to be developed by the supplier.

The authority of this section will in general be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling and equipment.

§ 3.214–3 *Limitation.* This authority shall not be used unless and until the Secretary has determined, in accordance with the requirements of Subpart C of this part, that:

(a) The supplies are of a technical or specialized nature requiring a substantial investment or an extended period of preparation for manufacture; and

(b) Procurement by formal advertising and competitive bidding either—

(1) May require duplication of investment or preparation already made, or

(2) Will unduly delay procurement.

§ 3.215 *Negotiation after advertising.*

§ 3.215–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (15), purchases and contracts may be negotiated if—

for property or services for which he [the Secretary] determines that the bid prices received after formal advertising are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which (A) he has notified each responsible bidder of intention to negotiate and given him reasonable opportunity to negotiate; (B) the negotiated price is lower than the lowest rejected bid of any responsible bidder, as determined by the head of the agency; and (C) the negotiated price is the lowest negotiated price offered by any responsible supplier.

§ 3.215–2 *Limitation.* This authority shall not be used unless the Secretary has determined, in accordance with the requirements of Subpart C of this part, that the bid prices, after formal advertising for such supplies or services, are unreasonable or were not independently reached in open competition. Also, after such determination by the Secretary, and after rejection of all bids, no contract shall be negotiated under this authority unless:

(a) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by a contracting officer to each responsible bidder which submitted a bid in response to the invitation for bids;

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the Secretary; and

(c) The negotiated price is the lowest negotiated price offered by any responsible supplier.

Moreover any evidence of bids not independently reached shall be forwarded to the Department of Justice, as provided in § 2.403 of this subchapter.

§ 3.216 *Purchases in the interest of national defense or industrial mobilization.*

§ 3.216–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (16), purchases and contracts may be negotiated if—

he [the Secretary] determines that (A) it is in the interest of national defense to have a plant, mine, or other facility, or a producer, manufacturer, or other supplier, available for furnishing property or services in case of a national emergency; or (B) the interest of industrial mobilization in case of such an emergency, or the interest of national defense in maintaining active engineering, research, and development, would otherwise be subserved.

§ 3.216–2 *Application.* This authority may be used to effectuate such plans and programs as may be evolved under the direction of the Secretary to provide incentives to manufacturers to maintain, and keep active, engineering and design staffs and manufacturing facilities available for mass production. The following are illustrative of circumstances with respect to which this authority may be used:

(a) When procurement by negotiation is necessary to keep vital facilities or suppliers in business; or to make them available in the event of a national emergency;

(b) When procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, or development work;

(c) When procurement by negotiation is necessary to maintain properly balanced sources of supply for meeting the requirements of procurement programs in the interest of industrial mobilization.

§ 3.216–3 *Limitation.* This authority shall not be used unless and until the Secretary has determined, in accordance with the requirements of Subpart C of this part, that:

(a) It is in the interest of national defense to have a particular plant, mine, or other facility or a particular producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency, and negotiation is necessary to that end;

(b) The interest of industrial mobilization, in case of a national emergency, would be subserved by negotiation with a particular supplier; or

(c) The interest of national defense in maintaining active engineering, research, and development, would be subserved by negotiation with a particular supplier.

§ 3.216–4 *Records and reports.* Each Department is required to maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this paragraph, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder. These records, and reports based thereon, are maintained through the Department of Defense procurement reporting system described in §§ 1.110 and 16.807 of this subchapter.

§ 3.217 *Otherwise authorized by law.*

§ 3.217–1 *Authority.* Pursuant to 10 U. S. C. 2304 (a) (17), purchases and contracts may be negotiated if—

otherwise authorized by law.

§ 3.217–2 *Application.* This authority shall be used only if, and to the extent, approved for any military department and in accordance with departmental procedures.

§ 3.218 *Construction work.*

§ 3.218–1 *Application.* Contracts to construct or repair any building, road, sidewalk, sewer, main, or similar item, are subject to 10 U. S. C. 2304 (c) and this § 3.218.

§ 3.218–2 *Limitation on authority to negotiate contracts*—(a) *Work in the United States.* Contracts for construction work to be performed within the United States shall be formally advertised and may not be negotiated unless authorized pursuant to the following subsections of 10 U. S. C. 2304 (a): (1), (2), (3), (10), (11), (12), or (15), (see respectively, §§ 3.201, 3.202, 3.203, 3.210, 3.211, 3.212, and 3.215).

(b) *Work outside of the United States.* Contracts for construction work to be performed outside of the United States shall be formally advertised and may not be negotiated unless authorized pursuant to subsections (1) through (17) of 10 U. S. C. 2304 (a) (§ 3.201 through 3.217), as appropriate (note that such contracts to be performed in the Terri-

tories or possessions of the United States, and Puerto Rico, may not be negotiated pursuant to 10 U. S. C. 2304 (a) (6), (§ 3.206)).

§ 3.218–3 *Citation of authority to negotiate.* Negotiated contracts for construction work shall cite as authority for their negotiation the applicable subsection (1) through (17) of 10 U. S. C. 2304 (a).

§ 3.219 *Negotiation of set-asides for labor surplus areas.*

§ 3.219–1 *General.* When set-asides are used in compliance with § 1.302–4, such set-asides shall be negotiated under the authority of § 3.201–2 (b) (1), in accordance with procedures set forth in this § 3.219.

§ 3.219–2 *Limitation.* Pursuant to section 626 of the Department of Defense Appropriation Act of 1957 (Public Law 639, 84th Congress), and any subsequent similar statutory limitations, no price differentials shall be paid for the purpose of aiding labor surplus areas.

§ 3.219–3 *Eligible bidders and offerors.* Negotiation for set-asides shall be conducted only with such responsible bidders or offerors which have previously submitted bids or proposals on the quantities not set aside conforming to the Invitation for Bids or Request for Proposals, providing such previous bids or proposals offered a unit price within 120 percent of the highest award made on the quantities not set aside; and provided further that contracts for such set-asides will be performed substantially in labor surplus areas.

§ 3.219–4 *Method of negotiation.* (a) Negotiation for set-asides shall be conducted with small business concerns prior to negotiation with other firms in such labor surplus areas. Within each such group, negotiation shall begin with the bidder or offeror which submitted the lowest responsive bid or proposal in connection with the procurement of the quantities not set aside.

(b) If procurement of the entire set-aside cannot be effected by the procedure set forth in (a) above, the unplaced portion of the set-aside may be procured in the most appropriate manner.

(c) In conducting negotiations for the set-aside, it is permissible to reveal the unit price of the lowest award; however, in instances where the non-set-aside portion is procured by means of negotiation, cost or other pricing data pertaining to such award may not be divulged.

§ 3.219–5 *Limitations on contract price.* (a) When the procurement of quantities not set aside has resulted in one contract only, or in multiple awards all at the same price, awards for set-asides shall not exceed the contract price for the quantities not set aside.

(b) When the procurement of the quantities not set aside has resulted in multiple awards at different contract prices, awards for set-asides shall be at a price determined by the Contracting Officer to be fair and reasonable, but in no event higher than the highest price awarded in connection with the quantities not set aside. In the absence of changes in market trends and other factors requiring consideration, the Contracting Officer shall consider the weighted average price of all awards made in connection with the quantities not set aside as being a fair and reasonable price. The weighted average shall be ascertained by adding the total dollar amounts of all awards in connection with the quantities not set aside and dividing the grand total by the total number of units included in all such awards.

(c) In determining whether proposals for the set-aside portion exceed the contract price, in accordance with paragraph (a) above, or the price, as determined in accordance with paragraph (b) above, for the quantity not set aside, the cost of transportation shall be considered (see § 1.306–1 of this subchapter), unless award of the non-set-aside portion was made without regard to transportation costs.

SUBPART D—TYPES OF CONTRACTS

Section 3.404–3 (c), as amended, reads as follows:

§ 3.404 *Fixed-price contract with provision for redetermination of price.* * * *

(c) *Limitations.* 10 U. S. C. 2306 (d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed 10 per centum of the estimated cost of the contract, exclusive of the fee, as determined by the Secretary of the Department concerned at the time of entering into such contract (except that a fee not in excess of 15 per centum of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's cost and not in excess of 6 per centum of the estimated cost, exclusive of fees, as determined by the Secretary of the Department concerned at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility projects). The Head of a procuring activity in the Departments of the Army and Navy and the Director of Procurement and Production of a Major Command in the Department of the Air Force or their duly authorized representatives are authorized to approve fixed fees not in excess of (1) ten per centum (10) of the estimated costs, exclusive of fee, of any contract for experimental, developmental, or research work or (2) seven per centum (7) of the estimated cost, exclusive of fee, of any other contract except that in contracts for architectural or engineering services the fixed fee shall not exceed that authorized by the terms of the law as set forth above. In appropriate cases, fees above the prescribed limits in the authorizations granted herein but within the limitations of the law may be authorized by the Secretary of the Department concerned or his designees.

SUBPART E—ADVANCE PAYMENTS

Section 3.502–1, as amended, reads as follows:

§ 3.502 *Authority and approval requirements for advance payments.*

§ 3.502–1 *Under the Armed Services Procurement Act.* Pursuant to 10 U. S. C. 2307 advance payments may be made under negotiated contracts in any amount not exceeding the contract price and upon such terms as the parties shall agree; *provided* that the Government shall not be committed, directly or indirectly, to make any advance payment pursuant to this authority unless the Secretary of the Department concerned approves the contract provision for advance payments, or the terms and conditions thereof, and determines, in accordance with the requirements of Subpart C of this part, that the provision for advance payments, is (i) in the public interest or in the interest of national defense, and (ii) necessary in order to procure the required supplies or services.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 4—COORDINATED PROCUREMENT

Sections 4.000 and 4.002, as revised, read as follows:

§ 4.000 *Scope of part.* This part sets forth the basic policies and requirements relating to coordinated procurement of supplies and services.

§ 4.002 *Procurement agreements.* 10 U. S. C. 2308 provides that military department heads by agreement may make such assignments and delegations of procurement responsibilities from one military department to another or may create such joint or combined procuring activities or agencies as they deem necessary or desirable. Nothing set forth in this subchapter shall preclude the military departments from making agreements under 10 U. S. C. 2308 which do not violate the single procurement policies and procedures set forth in this Section or in applicable Department of Defense Directives, Instructions, and regulations.

SUBPART A—DEFINITION OF TERMS

Section 4.101, as revised, reads as follows:

Sec.
4.101 Definitions.
4.101–1 Coordinated procurement.
4.101–2 Single procurement.
4.101–3 Requiring department.
4.101–4 Procuring department.
4.101–5 Military Interdepartmental Purchase Request (MIPR).

AUTHORITY: §§ 4.101 to 4.101–5 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 4.101 *Definitions.* As used in this subchapter, the following terms have the meanings set forth below.

§ 4.101–1 *Coordinated procurement.* "Coordinated procurement" refers to procurement (a) of supplies and services pursuant to § 4.002 and (b) of supplies under single procurement as defined in § 4.101–2.

§ 4.101–2 *Single procurement.* "Single procurement" refers to procurement of supplies pursuant to assignments of

procurement responsibility made by the Secretary of Defense. The following are approved types of single procurement:

(a) "Single department procurement," whereby one military department procures certain supplies to satisfy the requirements of all the military departments.

(b) "Plant cognizance procurement," whereby one military department procures certain supplies from a particular plant to satisfy the requirements of all the military departments. This type of procurement is limited presently to airframes, aircraft engines, and propellers.

(c) "Joint procurement," whereby a jointly staffed and financed agency within the Department of Defense procures certain supplies to satisfy the requirements of all the military departments.

§ 4.101–3 *Requiring department.* "Requiring department" refers to the military department originating a requisition or purchase request for supplies.

§ 4.101–4 *Procuring department.* "Procuring department" refers to the military department or agency which is assigned the procurement responsibility for the supplies.

§ 4.101–5 *Military Interdepartmental Purchase Request (MIPR).* "Military Interdepartmental Purchase Request (MIPR)" refers to DD Form 448 (Military Interdepartmental Purchase Request) (see § 16.601 of this subchapter) executed by a Requiring Department, as a request for supplies to be procured or furnished by the Procuring Department, or to be manufactured in its own facilities.

SUBPART B—POLICIES AND GENERAL PRINCIPLES

1. Section 4.201 has been revised by the removal of the word "continental" therefrom.

Section 4.201, as revised, reads as follows:

§ 4.201 *Application of procurement assignment.* Single procurement in the form of single department, joint agency, or plant cognizance procurement shall be effected whenever it will result in net advantages to the Department of Defense as a whole, except so far as it can be demonstrated that use of such a procurement method will adversely affect military operations. Single department procurement assignments outside of the United States, regardless of funds utilized, will be determined by the respective Unified Commanders. Implementation of such assignments will be effected within the unified commands under the direction of the Unified Commander.

2. Section 4.206–2 has been revised, as follows:

§ 4.206–2 *Determinations and findings.* (a) When procurement is by negotiation, the Procuring Department, except as provided in paragraphs (b) and (c) of this section, shall make the Determinations and Findings in accordance with Part 3, Subpart C, of this subchapter, with respect to coordinated procurement. The Requiring Department shall furnish with the procurement request the information required by the Procuring Department to develop the Determinations and Findings.

(b) With respect to 10 U. S. C. 2304 (a) (13), the Requiring Department shall make the Determinations and Findings in accordance with Part 3, Subpart 3, of this subchapter. Two copies of the Determinations and Findings shall be attached to the procurement request and shall be utilized by the Procuring Department as authority for negotiation, and the Procuring Department need not make further Determinations and Findings.

(c) With respect to 10 U. S. C. 2304 (a) (16) and when the procurement agreements under § 4.002 (as distinguished from single procurement) do not include mobilization planning responsibility, the Requiring Department shall make the Determinations and Findings in accordance with Part 3, Subpart C, of this subchapter. Two copies of the Determinations and Findings shall be attached to the procurement request and shall be utilized by the Procuring Department as authority for negotiation, and the Procuring Department need not make further Determinations and Findings. With respect to single procurement (§ 4.101–2), the Procuring Department shall make the Determinations and Findings.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 5—INTERDEPARTMENTAL PROCUREMENT

SUBPART D—PROCUREMENT OF PRISON-MADE SUPPLIES

The word "continental" has been removed from § 5.407. Section 5.407, as revised, reads as follows:

§ 5.407 *Exceptions.* Supplies listed in the Schedule may be procured through National Industries for the Blind or from commercial sources without securing clearance from Federal Prison Industries, Inc., under any of the following conditions:

(a) Immediate delivery or performance is required by public exigency;

(b) Suitable used supplies can be obtained;

(c) Supplies are both procured and used outside the United States and Alaska; or

(d) The total cost of the order is $25 or less.

SUBPART E—PROCUREMENT OF BLIND-MADE SUPPLIES

The word "continental" has been removed from § 5.503 (b). Section 5.503 (b), as revised, reads as follows:

§ 5.503 *Mandatory procurement of blind-made supplies.* * * *

(b) Supplies listed in the Schedule may be procured from commercial sources under any of the conditions set forth below without securing clearance:

(1) military necessity requires delivery within two weeks;

(2) the procurement is less than a single unit as listed in the Schedule or is for $25 or less; or

(3) supplies are both procured and used outside the United States and Alaska.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 6—FOREIGN PURCHASES

SUBPART C—DUTY AND CUSTOMS

Section 6.302.5, as revised, reads as follows:

§ 6.302–5 *Duty-free entry certificate.* The duty-free entry certificate referred to in this part will be printed, stamped, or typed on the face of Customs Form 7501 or attached thereto, and will be executed by a duly designated officer or civilian official of the appropriate Department in the following form:

I certify that the procurement of this material constituted an emergency purchase of war material abroad by the Department of the (indicate Army, Navy or Air Force) and it is accordingly requested that such material be admitted free of duty pursuant to 10 U. S. C. 2383.

(Name)

(Title), who has been designated to execute free entry certificates for the above-named Department

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(Grade) (Organization)

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 7—CONTRACT CLAUSES

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

Sections 7.104–11, 7.104–12, 7.104–13, 7.104–14 and 7.104–15, as revised, read as follows:

§ 7.104–11 *Excess profit.* (a) Pursuant to 10 U. S. C. 2382 and 7300 and except as provided in (b) and (c) below, any contract in an amount which exceeds or may exceed $10,000 known to be for the construction or manufacture of all or part of any complete aircraft or naval vessel, shall contain the following clause, except that the words "if this contract is in an amount which exceeds $10,000" may be inserted at the beginning of the clause in formally advertised contracts:

EXCESS PROFITS

The Contractor agrees that, unless otherwise provided by law, this contract shall be subject to all the provisions of 10 U. S. C. 2382 and 7300 and shall be deemed to contain all the agreements required by those sections: *Provided, however,* That this clause shall not be construed to enlarge or extend by contract the obligations imposed by those sections. The Contractor agrees to insert in the subcontracts specified in those sections either the provisions of this clause or the provisions required by those sections.

(b) In any contract where only certain items or lots totaling more than $10,000 are subject to 10 U. S. C. 2382 or 7300, the foregoing clause should be

modified to make the agreement of the contractor applicable only to such items or lots. In any contract where only certain items or lots totaling $10,000 or less would otherwise be subject to 10 U. S. C. 2382 or 7300, the foregoing clause should not be included in the contract even though the total amount of the entire contract exceeds $10,000.

(c) In any contract, otherwise subject to 10 U. S. C. 2382 or 7300, for scientific equipment used for communication, target detection, navigation or fire control, as designated by the Secretary, the clause prescribed in (a) above shall not be included, and the following clause shall be inserted in lieu thereof:

EXCESS PROFIT

The Secretary having designated the supplies called for by this contract to be scientific equipment used for communication, target detection, navigation or fire control, the provisions of 10 U. S. C. 2382 and 7300, are not applicable to this contract.

§ 7.104–12 *Military security requirements.* Insert the following clause in all contracts which are classified by a Department as "Confidential," including "Confidential—Modified Handling Authorized," or higher and in any other contracts the performance of which will require access to such classified information or material, except that this clause shall not be used in contracts performed outside the United States, its Territories, its possessions and Puerto Rico. In those cases where the situation so warrants because of the nature of the item, or conditions under which it is to be produced, the contract shall provide and establish by a separate contract provision such additional security safeguards as may be required for the protection of that item. When the "Military Security Requirements" clause is inserted in any contract, the contracting officer or his authorized representative shall prepare and transmit to the contractor, material inspector, and such other interested agencies as may be determined by the Departments, a Security Requirements Check List (DD Form 254) in accordance with § 16.811 of this subchapter.

MILITARY SECURITY REQUIREMENTS

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" including "Confidential—Modified Handling Authorized" or higher.

(b) The Government shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification by the use of a Security Requirements Check List (DD Form 254).

(c) To the extent the Government has indicated as of the date of this contract or thereafter indicates security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of:

(i) the Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of the contracting Military Department shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract the Contractor shall be informed in writing by the Security Office of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause in this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The Contractor also agrees that it shall determine that any subcontractor proposed by it for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

§ 7.104–13 *Domestic food, clothing, cotton, spun silk yarn for cartridge cloth, or wool.* In all contracts for the procurement of any article of food, clothing, cotton, spun silk yarn for cartridge cloth, or wool, not excepted from the prohibition of annual appropriation acts as set forth in §§ 6.106–1 and 6.107 of this subchapter, insert the following clause:

DOMESTIC FOOD, CLOTHING, COTTON, SPUN SILK YARN FOR CARTRIDGE CLOTH, OR WOOL

The Contractor agrees that there will be delivered under this contract only such articles of food, clothing, cotton, spun silk yarn for cartridge cloth, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles) as have been grown, reprocessed, reused or produced in the United States, its Territories, or its possessions: *Provided,* That this clause shall have no effect to the extent that the Secretary has determined as to any such articles that a satisfactory quality and sufficient quantity cannot be procured as and when needed at United States market prices: *Provided further,* That nothing herein shall preclude the delivery of foods under this contract which have been manufactured or processed in the United States, its Territories, or its possessions.

§ 7.104–14 *Utilization of small business concerns.* Insert the clause set forth below in all fixed-price supply contracts, in amounts exceeding $5,000, except those contracts entered into with foreign contractors which are to be performed outside of the United States, its Territories, its possessions, and Puerto Rico.

UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

§ 7.104–15 *Examination of records.* Pursuant to 10 U. S. C. 2313 (b) the following clause will be inserted in all negotiated fixed-price supply contracts and purchase orders in excess of $1,000.

EXAMINATION OF RECORDS

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding $1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

SUBPART B—CLAUSES FOR COST-REIMBURSEMENT TYPE SUPPLY CONTRACTS

Section 7.203–9 has been revised by deletion of the word "continental" therefrom.

Section 7.203–9, as revised, reads as follows:

§ 7.203–9 *Utilization of small business concerns.* Insert the contract clause set forth in § 7.104–14, except in those contracts entered into with foreign contractors which are to be performed outside of the United States, its Territories, its possessions, and Puerto Rico.

SUBPART E—CLAUSES FOR PERSONAL SERVICES CONTRACTS

The preamble to § 7.504–1 has been revised by deletion of the word "continental" therefrom:

§ 7.504 *Clauses to be used when applicable.*

§ 7.504–1 *Military security requirements.* Insert the clause set forth below in all contracts involving security information which are classified "Top Secret," "Secret," or "Confidential," by a military department, and in any other contract, the performance of which will require access to classified matter, except that this clause is not required to be used in contracts performed outside

the United States, its Territories, its possessions, and Puerto Rico.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 8—TERMINATION OF CONTRACTS

SUBPART A—INTRODUCTION

Section 8.100 has been revised, as follows:

§ 8.100 *Scope of part.* This part establishes uniform policies relating to the termination of contracts. It sets forth: (a) the policies and methods to be followed in connection with the termination of contracts for the convenience of the Government; (b) provisions as to the settlement of contracts so terminated, including disposition of property incident to termination; and (c) approved forms for use in terminating contracts for the convenience of the Government and in the settlement of such contracts.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 10—BONDS AND INSURANCE

SUBPART E—INSURANCE UNDER COST-REIMBURSEMENT TYPE CONTRACTS

Section 10.501–1 has been revised by removal of the word "continental" therefrom.

Section 10.501–1, as revised, reads as follows:

§ 10.501 *Policy.* * * *

§ 10.501–1 *Workmen's compensation and employers' liability insurance.* Compliance with applicable workmen's compensation and occupational disease statutes will be required, and the insurance policy will also include employers' liability coverage, where available. In jurisdictions where all occupational diseases are not compensable under applicable law, insurance for occupational diseases will be required under the employers' liability section of the insurance policy; however, such additional insurance will not be required where contract operations are commingled with the contractor's commercial operations so that it would be impracticable to require such coverage. The clause set forth in § 10.403 shall be included in all construction contracts, as defined in § 10.101–6, to be performed outside the United States.

SUBPART G—SPECIAL CASUALTY INSURANCE RATING PLANS

§ 10.700 *Scope of subpart.* This subpart sets forth principles and requirements for use of the National Defense Projects Rating Plan, which is available for application on both domestic and foreign contracts which meet the eligibility requirements set forth herein. This part likewise applies to the World War II War Department Insurance Rating Plan, also known as the War Projects Insurance Rating Plan, which is currently available for application only outside the United States. These plans provide a special rating formula for the purchase of the casualty insurance coverages listed in §§ 10.501–1 through 10.501–3, and are mandatory as to contracts which meet the use and eligibility standards set forth in § 10.703. Inclusion under the prime contractor's Rating Plan policies of similar coverages for subcontractors, whose contracts with the prime contractor provide that the insurance shall be furnished by the prime contractor, shall be automatic if the subcontract operations are at the project site, unless the military departments specifically direct otherwise. Subcontractors whose operations are away from the projects site will not be covered under the prime contractor's Rating Plan policies unless the prime contractor is specifically directed by the military departments to request inclusion of such subcontractors.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 11—FEDERAL, STATE AND LOCAL TAXES

SUBPART A—FEDERAL EXCISE TAXES

1. Section 11.103–2, as revised, reads as follows:

§ 11.103–2 *Transportation of persons.* (a) A tax of 10 percent is imposed on amounts paid for the transportation of persons by rail, motor vehicle, water, or air, including charges for seating or sleeping accommodations incident to such transportation, as follows:

(1) On amounts paid within the United States for taxable transportation, as defined in paragraph (b) of this section; and

(2) On amounts paid outside the United States for taxable transportation, as defined in paragraph (b) of this section, which both begins and ends in the United States.

(b) Taxable transportation:

(1) Includes transportation which begins in the United States or in Canada or Mexico within 225 miles of the nearest point to the United States, and ends in the United States or in the aforementioned 225-mile zone;

(2) Includes transportation that begins in the United States or in the 225-mile zone and ends outside such area, transportation that begins outside the United States or the 225-mile zone and ends inside such area, and transportation that begins and ends outside the United States and the 225-mile zone, but only to the extent that such transportation is directly or indirectly from one port or station in the United States to another port or station in the United States. (Even though it is "taxable transportation" it may not be subject to tax if the payment is made outside the United States, according to the limitation set forth in paragraph (a) (2) of this section; and

(3) Irrespective of subparagraphs (1) and (2) of this paragraph, does not include any portion of transportation which—

(i) Is outside the United States;

(ii) Is not, directly or indirectly, from the border of the United States or a port or station in the 225-mile zone to a port or station in the 225-mile zone;

(iii) Begins either where the route of transportation leaves the United States or a port or station in the 225-mile zone, and ends either where the route enters the United States or a port or station in the 225-mile zone; and

(iv) Passes through a point in excess of 225 miles from the United States on an imaginary direct line between the beginning and ending points specified in subdivision (iii) of this subparagraph.

(c) In determining taxable transportation, a round trip is considered to consist of transportation from the point of origin to the destination, and a separate transportation thereafter.

(d) The tax does not apply to—

(1) Any separable and itemized charges other than those for transportation of a person; such as for an automobile, baggage, meals, hotel accommodations, insurance, and the like;

(2) Charges incident to the charter of a conveyance for the transportation of persons, such as for parking, icing, sanitation, layover, movement of equipment in deadhead service, dockage, and the like; or

(3) Charges for transportation by motor vehicles having a seating capacity of less than 10 persons and not operated on an established line.

2. Section 11.103–3, as revised, reads as follows:

§ 11.103–3 *Transportation of property.* (a) A tax of 3 percent (4 cents per short ton on coal, including lignite, coal dust, coke briquettes) is imposed upon amounts paid to a person engaged in the business of transporting property for hire by rail, motor vehicle, water, or air. The tax applies to—

(1) Amounts paid within or without the United States for transportation from one point in the United States to another; and

(2) Amounts paid within the United States for that portion within the United States of transportation from a point outside to a point within the United States.

(b) The tax does not apply to the transportation of property in the course of exportation or shipment to a possession of the United States or to Puerto Rico (see § 11.201); neither does it apply to an uninterrupted shipment moving through the United States or its Territories from a possession, Puerto Rico, or a foreign point to a possession, Puerto Rico, or a foreign point. If any such shipment is interrupted in the United States or its Territories for any purpose of the shipper rather than a fault of transportation, it is treated as two shipments, one to and the other from the point of interruption, of which the former may be taxable in whole or in part according to the rules stated above.

(c) The transportation tax does not apply to a shipment under a commercial bill of lading consigned to an officer of a military department at a port of exportation, provided that the tax is expressly excluded from the contract or subcontract price and the prescribed exemption certificate is filed with the carrier. This relief from the transportation tax shall

be utilized, in accordance with Departmental procedures, whenever it is economically advantageous to do so.

(d) For the taxability of shipments under a Government bill of lading, whether or not exported, see § 11.202 (c).

(e) The amount subject to tax includes—

(1) Any charges for services incident to the transportation movement, such as loading, unloading, blocking, staking, elevation, transfer in transit, ventilation, refrigeration, icing, storage, demurrage, lighterage, trimming of cargo in vessels, wharfage, and handling, feeding, and watering of livestock; and

(2) Separate and itemized charges for baggage transported in connection with the transportation of persons, including incidental charges for excess weight or value, storage, transfer, special delivery, and the like.

The tax applies to all forms of transportation, local or otherwise, including drayage, towing, ferrying, and switching; however, it does not apply to the transportation of earth, rock, or other material excavated within the boundaries of, and in the course of, a construction project and transported to any place within, or adjacent to, the boundaries of such project, nor does it apply to the transportation of coal from the mine to a preparation plant. No amount paid for the transportation of property is subject to tax if and to the extent that a tax on such transportation previously has been paid. An amount paid for the transportation of coal, coke, or briquettes is not taxable if there has been a previous taxable transportation of the coal or coal dust from which the coke or briquettes were made.

SUBPART B—EXEMPTIONS FROM FEDERAL EXCISE TAXES

Section 11.201, as revised, reads as follows:

Sec.

11.201 Supplies for exportation or shipment to a possession or to Puerto Rico.

11.201–1 Retailers' excise taxes.

11.201–2 Manufacturers' excise taxes.

AUTHORITY: §§ 11.201 to 11.201–2 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 11.201 *Supplies for exportation or shipment to a possession or to Puerto Rico.* Exemption is available from the retailers' and manufacturers' excise taxes on the sale of supplies for export or for shipment to a possession of the United States, or to Puerto Rico. It is to be noted that the transportation tax on property is not applicable to shipments for export or to a possession of the United States or to Puerto Rico. See § 11.103–3.

§ 11.201–1 *Retailers' excise taxes.* Pursuant to section 4056 of the Internal Revenue Code (which supersedes sec. 2406, I. R. C. 1939) and applicable Treasury Regulations, exemption is available from the retailers' excise taxes on sales of supplies for export or for shipment to a possession of the United States or to Puerto Rico. This exemption shall be utilized, in accordance with Departmental procedures, by purchasing on a tax-exclusive basis and furnishing the required proof of exportation or shipment to a possession or to Puerto Rico, if—

(a) The purchase is substantial; and

(b) Exportation or shipment to a possession or to Puerto Rico is intended to follow not more than 6 months after title passes to the Government.

§ 11.201–2 *Manufacturers' excise taxes.* Pursuant to section 4225 of the Internal Revenue Code (which supersedes secs. 3449 and 2705, I. R. C. 1939) and applicable Treasury Regulations, exemption is available from the manufacturers' excise taxes on sales of supplies for export or for shipment to a possession of the United States or to Puerto Rico. This exemption shall be obtained only when—

(a) The purchase is substantial; and

(b) Exportation or shipment to a possession or to Puerto Rico is intended to follow not more than 6 months after title passes to the Government.

This exemption is limited to sales by a manufacturer, and is not applicable to sales for export or shipment to a possession or to Puerto Rico from the stock of a dealer who was not the manufacturer, producer, or importer.

PART 12—LABOR

SUBPART B—CONVICT LABOR

Sections 12.201 and 12.202, as revised, read as follows:

§ 12.201 *Basic requirement.* Pursuant to the policy set forth in the Act of February 23, 1887 (18 U. S. Code 436), and in accordance with the requirements of Executive Order No. 325A of May 18, 1905, all contracts entered into by any Department involving the employment of labor within the United States, shall, unless otherwise provided by law, contain a clause prohibiting the employment of persons undergoing sentences of imprisonment at hard labor imposed by State or municipal criminal courts.

§ 12.202 *Applicability.* The requirement set forth in § 12.201 applies, except as stated below, to all contracts involving the employment of labor within the United States. The requirement does not prohibit the employment of persons on parole or probation, or of persons who have been pardoned or who have served their terms. Furthermore, the requirement does not apply to the following kinds of contracts:

(a) Any contracts subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart F of this part), which contains its own requirement that "no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract";

(b) Any contract (1) for the purchase of supplies or services from Federal Prison Industries, Inc., or (2) for the purchase from any State prison of finished supplies which may be secured in the open market or from existing stocks as distinguished from supplies requiring special fabrication.

SUBPART D—LABOR STANDARDS IN CONSTRUCTION CONTRACTS

Sections 12.401, 12.403–1 and 12.403–2, as revised, read as follows:

§ 12.401 *Statutes and regulations.*

(a) *Davis-Bacon Act.* The Davis-Bacon Act (Act of March 3, 1931, as amended; 40 U. S. Code 276a), provides that certain contracts over $2,000 entered into by any Department for the construction, alteration, or repair (including painting and decorating) of public buildings or public works shall contain a provision (see § 12.403) to the effect that no laborer or mechanic employed directly upon the site of the work contemplated by the contract shall receive less than the prevailing wages as determined by the Secretary of Labor.

(b) *Copeland Act.* The Copeland ("Anti-Kickback") Act (18 U. S. Code 874 and 40 U. S. Code 276c) makes it unlawful to induce, by force or otherwise, any person employed in the construction or repair of public buildings or public works (including those financed in whole or in part by loans or grants from the United States) to give up any part of the compensation to which he is entitled under his contract of employment. In accordance with regulations of the Secretary of Labor issued pursuant to the Copeland Act, certain contracts entered into by any Department shall contain a provision (see § 12.403) to the effect that the Contractor and any subcontractor shall comply with the regulations of the Secretary of Labor under the Act.

(c) *Eight-Hour Laws.* See § 12.301. (However, with respect to construction contracts, the applicable statutes are 40 U. S. Code 321–326.)

(d) *Department of Labor regulations.* Pursuant to the foregoing statutes and Reorganization Plan No. 14 of 1950 (15 F. R. 3176), the Secretary of Labor has issued Regulations Part 3, Title 29, Subtitle A, Code of Federal Regulations (7 F. R. 686 as amended) and Regulations Part 5, Title 29, Subtitle A, Code of Federal Regulations (16 F. R. 4430 as amended), providing for the administration and enforcement of these statutes in construction contracts. The requirements under the Davis-Bacon Act and the Copeland Act apply only to the United States and its Territories while the Eight-Hour Laws apply also to other areas over which the United States has direct legislative control.

§ 12.403 *Contract clauses.*

§ 12.403–1 *Clauses for general use.* Except as provided in § 12.403–4 every construction contract in excess of $2,000 for work within the United States or its Territories shall include the following clauses:

(1) *Davis-Bacon Act (40 U. S. C. 276a–276a–7).*

DAVIS-BACON ACT (40 U. S. C. 276a–276a–7)

(a) All mechanics and laborers employed or working directly upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are per-

mitted by the Copeland Act ("Anti-Kickback") Regulations (29 CFR, Part 3)) the full amounts due at time of payment, computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics; and a copy of the wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) In the event it is found by the contracting officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, the Contracting Officer may (1) by written notice to the Government prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (2) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(c) Paragraphs (a) and (b) of this clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act or (2) a subcontract under such prime contract.

(2) *Eight-Hour Laws — overtime compensation.*

EIGHT-HOUR LAWS—OVERTIME COMPENSATION

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every laborer and mechanic employed by the Contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed for each laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause and all penalties thus imposed shall be withheld for the use and benefit of the Government: *Provided,* that this stipulation shall be subject in all respects to the exceptions and provisions of the Eight-Hour Laws, as set forth in 40 U. S. C. 321, 324, 325, 325a, and 326, which relate to hours of labor and compensation for overtime.

(3) *Apprentices.*

APPRENTICES

Apprentices will be permitted to work only under a bona fide apprenticeship program registered with a State Apprenticeship Council which is recognized by the Federal Committee on Apprenticeship, U. S. Department of Labor; or if no such recognized Council exists in a State, under a program registered with the Bureau of Apprenticeship, U. S. Department of Labor.

(4) *Payroll records and payrolls.*

PAYROLL RECORDS AND PAYROLLS

(a) Payroll records will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. The Contractor will make his employment records available for inspection by authorized representatives of the Contracting Officer and the U. S. Department of Labor, and will permit such representatives to interview employees during working hours on the job.

(b) A certified copy of all payrolls will be submitted weekly to the Contracting Officer. The Government prime Contractor will be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification will affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision of the Secretary of Labor attached to this contract and that the classifications set forth for each laborer or mechanic conform with the work he performed.

(5) *Copeland ("Anti-Kickback") Act—nonrebate of wages.*

COPELAND ("ANTI-KICKBACK") ACT—NONREBATE OF WAGES

The regulations of the Secretary of Labor applicable to Contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U. S. C. 276c) and to aid in the enforcement of the Anti-Kickback Act (18 U. S. C. 874) are made a part of this contract by reference. The Contractor will comply with these regulations and any amendments or modifications thereof and the Government prime Contractor will be responsible for the submission of affidavits required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions.

(6) *Withholding of funds to assure wage payment.*

WITHHOLDING OF FUNDS TO ASSURE WAGE PAYMENT

There may be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanic all or part of the wages required by this contract, the Contracting Officer may take such action as may be necessary to cause the suspension, until such violations have ceased, of any further payment, advance, or guarantee of funds to or for the Government prime Contractor.

(7) *Subcontracts—termination.*

SUBCONTRACTS—TERMINATION

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," "Eight-Hour Laws—Overtime Compensation," "Apprentices," "Payroll Records and Payrolls," "Copeland ('Anti-Kickback') Act—Nonrebate of Wages," "Withholding of Funds to Assure Wage Payment," and "Subcontracts—Termination" in all subcontracts, and the Contractor further agrees that a breach of any of the requirements of these clauses may be grounds for termination of this contract. The term "Contractor" as used in such clauses in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government prime Contractor."

When using U. S. Standard Form 23, the "Subcontracts—Termination" clause therein shall be used in lieu of the above clause.

§ 12.403–2 *Contracts for $2,000 or less.* Except as provided in § 12.403–4, every construction contract for $2,000 or less for work within the United States or its Territories, shall include (a) the Eight-Hour Laws—Overtime Compensation Clause set forth in § 12.403–1 (b); (b) the Copeland ("Anti-Kickback") Act—Nonrebate of Wages Clause set forth in § 12.403–1 (e); and (c) the Subcontracts—Termination Clause set forth above in § 12.403–1 (g), except that the first sentence thereof shall be modified to refer only to the clauses entitled "Eight-Hour Laws—Overtime Compensation," "Copeland ('Anti-Kickback') Act—Nonrebate of Wages" and "Subcontracts—Termination."

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

Section 12.602, as revised, reads as follows:

§ 12.602 *Applicability.* The requirement set forth in § 12.601 applies to contracts for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the United States, its Territories, Puerto Rico, and the Virgin Islands, and which exceed or may exceed $10,000 in amount. Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of said Act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations." In addition to the interpretations stated in that document, attention is directed to an opinion of the Department of Labor that contracts which are originally $10,000 or less, but are subsequently modified to increase the price to an amount in excess of $10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to said Act with respect to work performed after such modification if modification is effected by mutual agreement.

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

Section 12.803, as revised, reads as follows:

§ 12.803 *Applicability.* The nondiscrimination requirements are applicable to contracts and first-tier subcontracts as herein provided.

(a) The clause set forth in § 12.802 shall be included in all contracts involving the employment of labor, except:

(1) The clause shall not be included in—

(i) Contracts to be performed outside the United States where no recruitment

of workers within the United States is involved;

(ii) Contracts to meet special requirements or emergencies, if recommended by the President's Committee on Government Contracts (see § 12.804); and

(iii) Purchase orders on Standard Form 44.

(2) The clause shall be modified:

(i) In purchase orders for $1,000 or less which are not within the above exceptions, by deleting the last sentence of paragraph (a) and all of paragraph (b);

(ii) In contracts for $5,000 or less, other than purchase orders for $1,000 or less, by deleting the last sentence of paragraph (a) when in the judgment of the contracting officer administration of the posting requirement of a clause is impracticable. For example, contracts for off-the-shelf items and contracts requiring delivery of supplies or performance of services within 60 days from the date of the contract.

(b) Notwithstanding paragraph (b) of the clause, a contractor is not required to insert any nondiscrimination clause in subcontracts of the kind described in paragraph (a) (1) (i) and (ii) of this section.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 16—PROCUREMENT FORMS

Section 16.000, as revised, reads as follows:

§ 16.000 *Scope of part.* This part prescribes forms for use in connection with the procurement of supplies and services. In using these forms for procurement outside the United States, its Territories, its possessions, and Puerto Rico, contract provisions which are made inapplicable to such procurement by this subchapter or by departmental procedures may be deleted.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

G. C. BANNERMAN,
Director for Procurement Policy, Office of the Assistant Secretary of Defense (Supply and Logistics).

[F. R. Doc. 57–10797; Filed, Dec. 30, 1957; 8:46 a. m.]

[Amdt. 24]

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments are made to this subchapter:

PART 1—GENERAL PROVISIONS

SUBPART A—INTRODUCTION

A new § 1.201–19 has been added, cross-referencing this subpart to the definition for "small business concerns" set forth in § 1.701–1. Section 1.201–19 reads as follows:

§ 1.201–19 *Small business concern.* See § 1.701–1.

SUBPART C—GENERAL POLICIES

Section 1.302–3 has been completely revised and now covers the procedures for contracting with production pools approved either under section 708 of the Defense Production Act of 1950, as amended, or under section 217 of the Small Business Act of 1953, as amended. Section 1.302–3, as revised, reads as follows:

§ 1.302 *Sources of supplies.* • • •

§ 1.302–3 *Production pools*—(a) *Description.* A production pool is a group of concerns (1) who have associated together for the purpose of obtaining and performing jointly, or in conjunction with each other, contracts for supplies or services for Defense use, (2) who have entered into a production pool agreement governing their organization, relationship, and procedure, and (3) whose agreement has been approved either in accordance with section 708 of the Defense Production Act of 1950, as amended (Defense Production Pool), or in accordance with section 217 of the Small Business Act of 1953, as amended (Small Business Production Pool). Production pool participants are exempt from the "manufacturer or regular dealer" requirement of the Walsh-Healy Public Contracts Act and of § 1.201–9.

(b) *General rule.* Except as provided in this section, a production pool shall be treated for purposes of Government procurement on exactly the same basis as any other prospective or actual contractor.

(c) *Ascertainment of status.* The contracting officer is responsible for ascertaining whether a group of firms seeking to do business with the Government is a production pool. In ascertaining the status of a group representing that it is a pool, contracting officers may rely on a copy of the SBA or ODM notification of approval of the pool. Each Department will expeditiously disseminate to contracting officers information received from SBA or ODM concerning the approval of production pools.

(d) *Contracting with pools.* (1) A bid or proposal of a production pool is not eligible for award to the pool unless submitted either by the pool in its own name or by an individual member expressly disclosing that it is on behalf of the pool. Except as to contracts to be awarded to incorporated pools, the contracting officer shall prior to award to a pool require to be deposited with him a certified copy of a power of attorney from each member of the pool who is to participate in the performance of the contract authorizing an agent to execute the bid, proposal, or contract on behalf of such member. A copy of each such power of attorney shall be appended to each executed copy of the contract retained by the Government.

(2) Membership in a pool shall not of itself preclude individual members from submitting bids or proposals as individuals on appropriate procurements. Bids or proposals submitted by an individual member of a pool shall not be considered when the individual member has participated in the bid or proposal submitted by the pool.

(e) *Responsibility of pool member.* Where a member of a production pool has submitted a bid or proposal in its own name, the pool agreement shall be considered in determining its responsibility pursuant to § 1.307.

SUBPART G—SMALL BUSINESS CONCERNS

1. *Small business concerns—general.* A new Subpart G of Part 1 codifies the following Department of Defense issuances, which have been rescinded:

DOD Instruction 4100.9, dated November 14, 1955, Subject: Cooperation with Small Business Administration.
DOD Directive 4100.10, dated December 16, 1954, Subject: Revised Department of Defense Small Business Policy.
DOD Instruction 4100.20, dated April 19, 1955, Subject: Department of Defense Small Business Subcontracting Policy.
DOD Directive 4105.21, dated June 19, 1952, Subject: Defense Production Pools.

The new Subpart G sets forth (i) policy with reference to small business concerns, (ii) policy governing relationship with the Small Business Administration, (iii) small business set-aside procedures, and (iv) the Defense Small Business Subcontracting Program. Changes made in the course of codification are briefed below.

2. *Small business concerns—definitions.* Pursuant to regulations of the Small Business Administration, for the purpose of procurement preferences, a small business concern is now defined in § 1.701–1 as a concern that (i) is not dominant in its field of operations and, with its affiliates, employs fewer than 500 employees, or (ii) is certified as a small business concern by SBA. There are subsidiary definitions of what constitutes "affiliates" and "dominance in a field of operations." The number of employees is determined by a formula set forth in § 1.701–1 (d). In order to be eligible for small business preferences a regular dealer must furnish products manufactured by small business concerns in the United States, it Territories, its possessions, or Puerto Rico (see § 1.701–4).

3. *Small business concerns—determination of status.* Section 1.703 provides that, in the absence of protest, the contracting officer shall accept at face value either a small business certificate issued by SBA or the statement made by the bidder or offeror as specified in §§ 1.701–1 and 1.701–4. Notwithstanding, a contracting officer is authorized to question the status of a purported small business concern and request confirmation by SBA.

4. *Small business concerns—negotiation of partial set-asides.* Section 1.706–6 sets forth the procedure for negotiating partial set-asides. Subparagraph (d) now provides, in case of a single award in the non-set-aside portion of the procurement, that awards for the set-aside portion shall be made at the unit price of the non-set-aside portion. In case of multiple awards on the non-set-aside portion at different unit prices, awards for the set-aside portion shall be made at the highest unit price awarded on the non-set-aside portion.

Sec.
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1.707–4 Responsibility for reviewing subcontracting program.
1.707–5 Maintenance of records.

AUTHORITY: §§ 1.700 to 1.707–5 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 1.700 *Scope of subpart.* To implement the Small Business Act of 1953, as amended, and the Armed Services Procurement Act, as amended, this subpart sets forth (a) policy with reference to small business concerns, (b) policy governing relationship with the Small Business Administration, (c) small business set-aside procedures, and (d) the Defense Small Business Subcontracting Program.

§ 1.701 *Definitions.* As used throughout this subpart, the following terms shall have the meanings set forth below.

§ 1.701–1 *Small business concern—*(a) *General definition.* A small business concern is a concern that (1) is not dominant in its field of operations and, with its affiliates, employs fewer than 500 employees, or (2) is certified as a small business concern by SBA.

(b) *Dominance in field of operations.* A concern "is not dominant in its field of operations" when it does not exercise a controlling or major influence in an area of business activity. In determining whether dominance exists, consideration is given to all appropriate factors including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents and license agreements, sales territory, and business activity.

(c) *Affiliates.* Business concerns are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other, or (2) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships.

(d) *Number of employees.* In connection with the determination of small business status, except as SBA otherwise determines in a particular industry or part thereof, "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the 15th of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four full calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the 15th of each month.

(e) *Small business certificate.* A small business certificate is a certificate issued by SBA pursuant to the authority contained in sections 203 and 212 of the Small Business Act of 1953, as amended, certifying that the holder of the certificate is a small business concern for the purpose of Government procurement and in accordance with the terms of the certificate.

§ 1.701–2 *Established supplier.* An "established supplier" of an item is a concern which is a "source of supplies," within the meaning of § 1.201–9, and which has supplied the items satisfactorily to one or more military departments, or a concern with which mobilization planning is in effect.

§ 1.701–3 *Potential supplier.* A "potential supplier" of an item is a concern which is a "source of supplies," within the meaning of § 1.201–9, but which is not an established supplier.

§ 1.701–4 *Regular dealer (non-manufacturer) as small business concern.* One who submits bids or offers in its own name, but who proposes to furnish a product not manufactured by itself, shall be deemed to be a small business concern only if (a) it is a small business concern within the meaning of § 1.701–1; (b) it is a regular dealer (non-manufacturer) (see § 1.201–9 (a)); and (c) in the case of a procurement set aside for small business (see § 1.706) or involving equal low bids (see § 2.406–4 of this subchapter), it agrees to furnish in the performance of the contract products manufactured or produced in the United States, its Territories, its possessions, or Puerto Rico, by small business concerns: *Provided,* That this section does not apply to construction or service contractors.

§ 1.702 *General policy.* (a) It is the policy of the Department of Defense to place a fair proportion of its total purchases and contracts for supplies and services with small business concerns.

(b) Each military department shall implement this policy by affording small business concerns an equitable opportunity to compete for prime contracts in accordance with the following:

(1) bidders' mailing lists (see § 2.204 of this subchapter) shall be maintained and shall include all established and potential small business suppliers who have made acceptable application for inclusion or who appear from other information (including recommendation by the SBA representative), to be qualified for inclusion therein.

(2) Invitations for Bids or Requests for Proposals shall be sent to all firms on the appropriate list, except that where less than the complete list is to be used pursuant to § 2.204–5 of this subchapter a pro-rata number of established or potential small business suppliers shall be solicited;

(3) procurement of supplies and services shall be divided into reasonably small lots (not less than economic production runs) in order to permit bidding on quantities less than the total requirements; the maximum amount of time practicable shall be allowed for preparation and submission of bids and proposals; and delivery schedules shall be suitable for small business participation; and

(4) for specification requirements, see § 2.201 (d) of this subchapter.

As to subcontracting, see § 1.707.

(c) Records of the total value of all contracts placed with small business concerns during each fiscal year, and reports based thereon, are maintained by each military department through the Department of Defense Procurement Reporting System described in § 1.110 and § 16.807 of this subchapter. Accordingly, each military department shall, in soliciting bids or proposals, request from any bidder or offeror, or other source, any information needed to determine whether the bidder or offeror is a small business concern.

§ 1.703 *Determination of status as small business concern.* (a) Except as provided in paragraph (b) of this section, the contracting officer shall accept at face value (1) a small business certificate (see § 1.701–1 (e)) that a bidder or offeror is a small business concern or (2) a statement by the bidder or offeror that it is a small business concern (see §§ 1.701–1 and 1.701–4) and that it has not previously been denied small business status by SBA.

(b) Small business certificates and statements that a bidder or offeror is a small business concern shall be effective, even though questioned in accordance with the terms of this paragraph, unless the SBA, in response to such question and within the period specified in subparagraph (3) of this paragraph, determines that the bidder or offeror in question is not a small business concern.

(1) Any bidder or offeror may, prior to award, question the small business status of the apparently successful bidder or offeror by sending a written protest to the contracting officer and to the SBA Regional Office for the region in which the questioned bidder or offeror has its principal place of business. SBA will promptly notify the contracting offi-

cer of the date of its receipt of any such protest and will advise the questioned bidder or offeror that its small business status is under review.

(2) A contracting officer may, prior to award, question the small business status of the apparently successful bidder or offeror by sending a written notice to the SBA Regional Office for the region in which the bidder or offeror has its principal place of business. Such notice shall contain a statement of the basis for questioning and of available supporting facts. SBA will promptly notify the contracting officer of the date such notice was received and will advise the bidder or offeror in question that its small business status is under review.

(3) SBA will determine the small business status of the questioned bidder or offeror and notify the contracting officer and the bidder or offeror of its decision. If the SBA determination is not received by the contracting officer within ten working days after SBA's receipt of the protest or notice questioning small business status, it shall be presumed that the questioned bidder or offeror is a small business concern. Pending SBA determination or expiration of the ten day period, whichever is earlier, procurement action shall be suspended.

§ 1.704 *Small business officials.*

§ 1.704–1 *Director for small business.* The Director for Small Business for the Department of Defense advises the Assistant Secretary of Defense (Supply and Logistics) in matters relating to the establishment, implementation, and execution of an appropriate Small Business Program within the Department of Defense. Negotiations with SBA or other Government agencies or departments outside the Department of Defense concerning small business policy and programs shall be conducted through the Director for Small Business or with his authorization.

§ 1.704–2 *Departmental small business advisors.* Each military department shall maintain an Office of Small Business for the Department. The Chief of each Office of Small Business shall devote his efforts exclusively to small business matters. He advises the Secretary on small business matters and is responsible for implementing the Department of Defense Small Business Program within his Department and for representing his Department in negotiations with other military departments or Governmental agencies on small business matters.

§ 1.704–3 *Small business specialists.* Small business specialists shall be appointed in each principal procurement office and such other offices as the military departments may consider appropriate. They will perform such functions as are prescribed for them in furtherance of the Small Business Program.

§ 1.705 *Cooperation with the Small Business Administration.*

§ 1.705–1 *General.* The Assistant Secretary of Defense (Supply and Logistics) and the Administrator, SBA, are responsible for consulting, cooperating, and agreeing in establishing policies and programs for small business participation in Defense procurement. All Department of Defense purchasing activities are responsible for working with SBA in carrying out these policies and programs, in accordance with the provisions of this § 1.705.

§ 1.705–2 *SBA representatives.* SBA may assign one or more representatives on a full- or part-time basis to any purchasing activity of the military departments to act in its behalf in carrying out SBA policies and programs.

§ 1.705–3 *Screening of procurements.* (a) SBA representatives, when properly authorized and cleared for security, shall, upon request, be afforded an opportunity at the purchasing activity to review all proposed classified and unclassified Invitations for Bids and Requests for Proposals unless both (1) it is anticipated that the resulting contract or contracts will not exceed $10,000 and (2) the head of the purchasing activity determines that such review would unduly delay the procurement process. Where it is anticipated that the resulting contract or contracts will exceed $10,000, such SBA representative shall, upon request, be afforded an opportunity to make recommendations concerning Invitations for Bids and Requests for Proposals, including that they be exclusively or partially set aside for small business concerns. Where the Invitations for Bids or Requests for Proposals are reviewed by an SBA representative, and it is anticipated that the resulting contract or contracts will not exceed $10,000, and if the head of the purchasing activity approves, a similar opportunity to make recommendations will be afforded to the SBA representative.

(b) In any case, the contracting officer shall afford the SBA representative an opportunity to recommend, within a reasonable time, appropriate names of small business concerns for inclusion in the list of bidders or firms to be solicited in connection with a particular procurement.

§ 1.705–4 *Access to bidders' lists and other information.* SBA representatives, upon request, shall be permitted to review, inspect, study, and transcribe information from bidders' mailing lists (see § 1.702 (b)) and will be furnished such other available or reasonably obtainable information as may be required for the SBA referral program or for determination of whether small business concerns are proportionately represented on one or more particular bidders' mailing lists.

§ 1.705–5 *Joint SBA-Defense small business set-aside program.* The Joint SBA-Defense Small Business Set-Aside Program, set forth in § 1.706, was developed by SBA and the Department of Defense to increase small business participation in Defense procurement. All press releases, reports, or other references to this program or to set-asides thereunder should refer to it as a Joint SBA-Defense Program and should avoid drawing any distinction between set-asides based on proposals of SBA representatives and those made independently of such proposals.

§ 1.705–6 *Certificates of competency.* (a) SBA has the statutory authority to certify the competence of any small business concern as to capacity (see § 1.307 (c) and (d) and credit (see § 1.307 (b)). Contracting officers shall accept SBA certificates of competency as to capacity and credit as conclusive: *Provided,* If the contracting officer has substantial doubts as to the firm's ability to perform, he shall prior to award refer the matter to higher authority in accordance with Departmental procedures.

(b) If a small business concern has submitted an otherwise acceptable bid or proposal but has been found by the contracting officer to be nonresponsible as to capacity or credit, and if the bid or proposal is to be rejected for this reason alone, (1) SBA shall be notified of the circumstances so as to permit it to issue a certificate of competency, and (2) award shall be withheld pending either SBA issuance of a certificate of competency or the expiration of ten working days after SBA is so notified, which ever is earlier; subject to the following:

(i) this procedure is mandatory except where the contracting officer certifies in writing that award must be made without delay and inserts in the contract file a statement signed by the contracting officer justifying the certificate;

(ii) this procedure does not apply to proposed awards of not more than $1,000; and

(iii) this procedure is optional, within the discretion of the contracting officer, as to proposed awards of more than $1,000 but less than $10,000.

To assist SBA in determining the capacity and credit of small business concerns involved in a particular procurement, the purchasing activity shall make available to SBA all pertinent data, including technical and financial information, with respect to the small business concern involved.

§ 1.705–7 *Performance of contract by SBA.* In accordance with section 208 of the Small Business Act of 1953, as amended, in any case in which the Administrator of SBA certifies to the Secretary concerned that SBA is competent to perform any specific contract, the contracting officer is authorized, in his discretion, to award the contract to SBA upon such terms and conditions, consistent with this regulation, as may be agreed upon between SBA and the contracting officer.

§ 1.706 *Set-asides for small business.*

§ 1.706–1 *General.* Any procurement, or an appropriate part thereof, whether classified or unclassified, shall be set aside for the exclusive participation of small business concerns when such action is (a) jointly determined by an SBA representative and the contracting officer, or (b) if no SBA representative is available, is unilaterally determined by the contracting officer, to be either in the interest of maintaining or mobilizing the Nation's full productive capacity or in the interest of war or national defense programs. Insofar as practical, joint determinations shall be used as a basis for set-asides rather than unilateral determinations; but the im-

practicality of obtaining a joint determination should not be treated as an obstacle to making a set-aside based on a unilateral determination in an otherwise appropriate case.

§ 1.706–2 *Review of SBA set-aside proposals.* Upon a recommendation of an SBA representative that a procurement, or portion thereof, be set aside for small business, the contracting officer shall promptly either (1) concur in the recommendation, or (2) disapprove, stating in writing his reasons for disapproval. The SBA representative shall be allowed two working days to appeal any such disapproval to the head of the purchasing activity or his designee for final decision. Contracting officers shall not consider any one of the following factors, standing alone, as sufficient cause for disapproving a set-aside recommended by an SBA representative:

(a) a large percentage of previous procurements of the item in question has been placed with small business concerns;

(b) the item to be purchased is on a Planned Procurement List or under the Production Allocation Program;

(c) the item to be purchased is on a Qualified Products List;

(d) the item or service to be procured is available from only one known source and the source is a small business concern;

(e) a period of less than thirty days from date of issuance of Invitations for Bids or Requests for Proposals is prescribed for the submission of the bids or proposals; or

(f) small business concerns are receiving a fair proportion of the total contracts for supplies and services.

§ 1.706–3 *Withdrawal of set-asides.* If, prior to the award of a contract involving a set-aside for small business, the contracting officer considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e. g., because of unreasonable price), the contracting officer may withdraw a unilateral set-aside determination or initiate withdrawal of a joint set-aside determination. In the case of a joint set-aside determination, if the SBA representative does not agree to withdrawal, the matter shall be referred to the head of the purchasing activity or his designee, whose decision shall be final unless the head of the activity, or such designee, refers the matter to higher authority for final decision. A signed memorandum of the withdrawal of any set-aside shall be made and retained in the contract file.

§ 1.706–4 *Reporting for Department of Commerce procurement synopsis.* See § 2.206–3 of this subchapter.

§ 1.706–5 *Total set-asides.* (a) The entire amount of a procurement shall be set aside for exclusive small business participation (see § 1.706–1) where there is a reasonable expectation that bids or proposals will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices. A procurement shall not be totally set aside unless such a reasonable expectation exists. However, as to partial set-asides see § 1.706–6.

(b) Contracts for total small business set-asides may be entered into by conventional negotiation or by a special method of procurement known as "Small Business Restricted Advertising." The latter method shall be used wherever possible. Invitations for Bids and Requests for Proposals shall be restricted to small business concerns. Small Business Restricted Advertising, including awards thereunder, shall be conducted in the same way as prescribed for formal advertising in Part 2 of this subchapter, except that bids and awards shall be restricted to small business concerns.

(c) In procurements involving total set-asides for small business, each Invitation for Bids or Request for Proposals shall contain substantially the following notice:

NOTICE TO PROSPECTIVE BIDDERS OR OFFERORS

Bids or proposals under this procurement are solicited from small business concerns only and this procurement is to be awarded only to one or more small business concerns. This action is based on a determination by the contracting officer, alone, or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity or in the interest of war or national defense programs. A small business concern is a concern that—

(i) Is not dominant in its field of operation and, with its affiliates, employs fewer than 500 employees, or

(ii) Is certified as a small business concern by the Small Business Administration.

In addition to meeting these criteria, a dealer submitting bids or proposals in its own name must be a regular dealer (non-manufacturer) and agree to furnish the product of a small business manufacturer or producer in the performance of the contract: *Provided,* That this requirement as to dealers does not apply to construction or service contractors. The right is reserved to reject any or all bids or proposals when it is in the interest of the Government to do so. Bids or proposals received from firms which are not small business concerns shall be considered nonresponsive.

§ 1.706–6 *Partial set-asides.* (a) A portion of a procurement shall be set aside for exclusive small business participation (see § 1.706–1) where—

(1) The procurement is not totally set aside pursuant to § 1.706–5;

(2) The procurement is severable into two or more economic production runs; and

(3) Two or more small business concerns are expected to have the technical competency and productive capacity to furnish a severable portion of the procurement not less than an economic production run.

(b) Where a portion of a procurement is to be set aside for small business pursuant to paragraph (a) of this section, the procurement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity.

(c) In procurements involving partial set-asides for small business, each Invitation for Bids or Request for Proposals shall contain subtantially the following notice:

NOTICE TO PROSPECTIVE BIDDERS OR OFFERORS

[units] of this procurement are to be awarded only to one or more small business concerns. Negotiation for award of the portion of this procurement set-aside for small business will be conducted only with responsible small business concerns who submit responsive bids or proposals on the non-set-aside portion at a unit price within 120 percent of the highest award made on the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the order of their bids or proposals on the non-set-aside portion, beginning with the lowest responsive bid or initial proposal. This action is based on a determination by the contracting officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full production capacity or in the interest of war or national defense programs. A small business concern is a concern that—

(i) Is not dominant in its field of operation and, with its affiliates, employs fewer than 500 employees, or

(ii) Is certified as a small business concern by the Small Business Administration.

In addition to meeting these criteria, a dealer submitting bids or proposals in its own name must be a regular dealer (non-manufacturer) and agree to furnish the product of a small business manufacturer or producer in the performance of the contract; *Provided,* That this requirement as to dealers does not apply to construction or service contractors. The right is reserved to reject any or all bids or proposals when it is in the interest of the Government to do so.

(d) After the entire non-set-aside portion has been awarded, procurement of the set-aside portion shall in all instances be effected by conventional negotiation. The negotiation shall be conducted only with those bidders or offerors who have submitted bids or initial proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made on the non-set-aside portion and who are determined to be responsible prospective contractors for the set-aside portion of the procurement. Negotiation shall be conducted with such small business concerns in the order of their bids or proposals on the non-set-aside portion beginning with the lowest responsive bid or initial proposal. Multiple awards shall be made where appropriate. In conducting negotiations for the set-aside portion, only the unit price of the contracts awarded on the non-set-aside portion may be disclosed. Contracts for the set-aside portion shall be at prices determined as follows:

(1) When the procurement of the non-set-aside portion has resulted in one contract only, or in multiple awards all at the same price, any awards for the set-aside portion shall be made at the unit price of the non-set-aside portion;

(2) When the procurement of the non-set-aside portion has resulted in multiple awards at different unit prices, any awards for the set-aside portion shall be made at the highest unit price of the non-set-aside portion.

(e) If the entire set-aside portion is not procured by the method set forth in paragraph (d) of this section, the deter-

mination referred to in § 1.706–1 is automatically dissolved as to the unawarded portion of the set-aside and such unawarded portion may be procured by advertising or negotiation as appropriate in accordance with existing regulations.

§ 1.706–7 *Contract authority.* Contracts for total or partial set-asides, whether entered into by conventional negotiation (see § 1.706–5 (b) and § 1.706–6 (d)) or by "Small Business Restricted Advertising" (see § 1.706–5 (b)), shall cite as authority 10 U. S. C. 2304 (a) (17) and section 214, Small Business Act of 1953, as amended, in the case of a joint determination, or 10 U. S. C. 2304 (a) (1) through (17), as appropriate, in the case of a unilateral determination.

§ 1.707 *Subcontracting.*

§ 1.707–1 *General policy.* It is the policy of the Department of Defense that small business concerns be afforded an equitable opportunity to compete for Defense subcontracts within their capabilities.

§ 1.707–2 *Required clause.* The clause, "Utilization of Small Business Concerns," set forth in § 7.104–14 of this subchapter, shall be included in all contracts in amounts exceeding $5,000 except—

(a) Contracts for services which are personal in nature; and

(b) Contracts which, including all subcontracts thereunder, are to be performed outside the United States, its Territories, its possessions, and Puerto Rico.

§ 1.707–3 *Defense subcontracting in small business programs.* Each contractor having a prime contract in excess of $1 million which contains the clause required by § 1.707–2 and which, in the opinion of the purchasing activity, offers substantial subcontracting possibilities, will be urged by the purchasing activity to establish and conduct a "Defense Subcontracting Small Business Program" to include the following:

(a) The designation of a Small Business Liaison Officer to be responsible for—

(1) Liaison with the purchasing activity and SBA in small business matters;

(2) Compliance with the Utilization of Small Business Concerns clause; and

(3) Execution of the contractor's "Defense Subcontracting Small Business Program;"

(b) Policies to assure that small business concerns will have an equitable opportunity to compete for subcontracts, with particular regard to solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules suitable to small business participation;

(c) Maintenance of records showing whether or not each prospective subcontractor is a small business concern as defined in §§ 1.701–1 and 1.701–4;

(d) Including the Utilization of Small Business Concerns clause in subcontracts which offer substantial small business subcontracting opportunities;

(e) Requesting subcontractors having subcontracts in excess of $1 million to establish and conduct a "Defense Subcontracting Small Business Program;" and

(f) Submission of such information on subcontracting to small business as is called for on DD Form 1140.

§ 1.707–4 *Responsibility for reviewing subcontracting program.* Only one military department shall be responsible for reviewing a contractor's Defense Subcontracting Small Business Program. Such review shall be the responsibility of—

(a) The military department having industrial mobilization planning cognizance of the plant where the contract is being performed; or

(b) If (a) above is inapplicable, the military department having "plant cognizance procurement" (see § 4.101–2 (b) of this subchapter); or

(c) If neither (a) nor (b) above is applicable, the military department assigned the responsibility through coordinated action of the Director of Small Business for the Department of Defense and the Small Business Advisors of the Department concerned.

The responsible military department will determine the adequacy of the contractor's "Defense Subcontracting Small Business Program," and bring any deficiencies to the attention of the contractor's Small Business Liaison Officer with an appropriate request for corrective action.

§ 1.707–5 *Maintenance of records.* Each military department maintains a record of the extent of subcontracting and subcontracting to small business concerns by contractors which adopt "Defense Subcontracting Small Business Programs" under § 1.707–3. Such information is transmitted semiannually to the Assistant Secretary of Defense (Supply and Logistics). Pertinent records are compiled from submissions on DD Form 1140 (see § 1.707–3 (e)). A contractor which does not adopt a "Defense Subcontracting Small Business Program," or does adopt one but does not furnish subcontracting reports, shall be recorded for the period in question as "Not Reporting."

§ 1.708 *Mobilization planning.* The policy of placing a fair proportion of purchases and contracts with small business concerns (see § 1.702) applies in the field of mobilization planning and each military department shall carry on a continuing study of its production allocation procedures to include the Small Business Program to the maximum practical extent.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 3—PROCUREMENT BY NEGOTIATIONS

SUBPART A—USE OF NEGOTIATIONS

Section 3.104 has been revised by substituting a cross-reference to the new Subpart G in Part 1 of this subchapter. Section 3.104, as revised, reads as follows:

§ 3.104 *Aids to small business in negotiated procurement.* See Part 1, Subpart G, of this subchapter.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

G. C. BANNERMAN,
Director for Procurement Policy, Office of the Assistant Secretary of Defense (Supply and Logistics).

[F. R. Doc. 57–10798; Filed, Dec. 30, 1957; 8:46 a. m.]

[Amdt. 25]

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments are made to this subchapter:

PART 1—GENERAL PROVISIONS

SUBPART B—DEFINITIONS OF TERMS

The definitions of terms in §§ 1.201–4 and 1.201–6 have been revised; new definitions for §§ 1.201–20, 1.201–21 and 1.201–22 have been revised and read as follows:

§ 1.201 *Definitions.* * * *

§ 1.201–4 *Head of a procuring activity.* "Head of a procuring activity" includes, for the Army, the chiefs of the technical services, the Zone of Interior Army commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, U. S. Army and the commanding generals of the major oversea commands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, the Commander, Military Sea Transportation Service, and the Commandant of the United States Marine Corps; for the Air Force, the Commander, Air Materiel Command. It also includes the Executive Director of the Military Medical Supply Agency, the Executive Director of the Military Petroleum Supply Agency, and the head of any other procuring activity hereafter established. The number and designation of Heads of Procuring Activities within any military department may be changed by directive of the Secretary.

§ 1.201–6 *Contracts.* "Contracts" means all types of agreements and orders for the procurement of supplies or services. It includes awards and preliminary notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders or task letters thereunder; letter contracts, letters of intent, and purchase orders. It also includes amendments and supplemental agreements with respect to any of the foregoing.

§ 1.201–20 *Contract modification.* "Contract modification" means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of an existing contract, whether accomplished by unilateral ac-

tion in accordance with a contract provision, or by mutual action of the parties to the contract. It includes (i) bilateral actions such as supplemental agreements and amendments, and (ii) unilateral actions such as change orders, notices of termination, and notices of the exercise of a contract option.

§ 1.201–21 *Amendment and supplemental agreement.* "Amendment and supplemental agreement" are synonymous, and mean any contract modification which is accomplished by the mutual action of the parties.

§ 1.201–22 *Change order.* "Change order" means a written order, signed by the contracting officer, directing the contractor to make changes which the Changes clause of the contract (§§ 7.103–2 and 7.203–2 of this subchapter) authorizes the contracting officer to order without the consent of the contractor.

SUBPART F—DEBARRED, INELIGIBLE, AND SUSPENDED BIDDERS

Section 1.601 has been revised to provide for a Joint Consolidated List of Debarred, Ineligible and Suspended Contractors for use by all of the military departments. The Joint List will be prepared by the Department of the Army upon the basis of information furnished by the other departments. Section 1.601, as revised, reads as follows:

§ 1.601 *Establishment and maintenance of a list of firms or individuals debarred or ineligible.*

§ 1.601–1 *General.* Each military department shall maintain a list of firms and individuals which it has debarred or suspended, to whom contracts will not be awarded, and from whom bids or proposals will not be solicited, in accordance with provisions of this Subpart. The list maintained by each military department will be used only as a basis for the Joint Consolidated List as prescribed in § 1.601–3.

§ 1.601–2 *Information contained in departmental lists.* Each Departmental list shall show as a minimum the following information:

(a) The names of those firms or individuals debarred, ineligible, or suspended (names will be set forth in alphabetical order with appropriate cross-reference where more than one name is involved in a single action);

(b) The basis of authority for each action;

(c) The extent of restrictions imposed; and

(d) The termination date for each debarred listing.

§ 1.601–3 *Joint consolidated list.* By agreement among the military departments, the Department of the Army is responsible for the issuance of a Joint Consolidated List of firms and indviduals to whom contracts will not be awarded and from whom bids or proposals will not be solicited. The Joint Consolidated List shall be kept current by notices of additions or deletions and periodic reprinting. Each military department shall furnish, not later than the 5th of each month, to the Office of the Assistant Secretary of the Army (Logistics) (Assistant Judge Advocate General), an alphabetical list of the additions, deletions, or modifications to the Joint Consolidated List, containing the information set forth in § 1.601–2. Each military department shall be responsible for determining the number of copies of the Joint Consolidated List required and for distributing the list within the Department. The Department of the Army will furnish copies to the Assistant Secretary of Defense (Supply & Logistics).

§ 1.601–4 *Protection of lists.* The Joint Consolidated and Departmental Lists, and all correspondence relating thereto, shall be protected to prevent inspection of the contents by anyone other than Government personnel required to have access thereto.

§ 1.601–5 *Sample list.* The Joint Consolidated List and Departmental Lists shall be prepared in accordance with the format of the sample set forth in § 1.608.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 2—PROCUREMENT BY FORMAL ADVERTISING

SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

Section 2.405–2 (b) has been revised to authorize subject determinations to be made by the Deputy Director of Procurement, Headquarters, AMC, and Director, Contracts Division, Bureau of Yards and Docks. Section 2.405–2 (b), as revised, reads as follows:

§ 2.405 *Mistakes in bids.* * * *

§ 2.405–2 *Mistakes disclosed after opening and prior to award other than obvious or apparent mistakes of a clerical nature.* * * *

(b) Authority for making the determinations set forth in paragraph (a) of this section may be delegated, without power of redelegation, as set forth below:

(1) Department of the Army: To the Chief, Contracts Branch, Deputy Chief of Staff for Logistics; Chief of Engineers; Chief of Ordnance; The Quartermaster General.

(2) Department of the Navy: To the Director, Contracts Division, Bureau of Yards and Docks; the Assistant Chief for Purchasing, Bureau of Supplies and Accounts.

(3) Department of the Air Force: To the Deputy Director/Procurement, Headquarters, Air Materiel Command.

(R. S. 161, secs. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interprets or applies secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 3—PROCUREMENT BY NEGOTIATION

SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

Section 3.210–2 (o) has been added, to make uniform the application of 10 U. S. C. 2304 (a) (10) in the negotiation of contracts for spare or replacement parts. Section 3.210–2 (o) reads as follows:

§ 3.210 *Supplies or services for which it is impracticable to secure competition by formal advertising* * * *

§ 3.210–2 *Application.* * * *

(o) When the contemplated procurement is for parts or components being procured as replacement parts in support of equipment specially designed by the manufacturer, where data available is not adequate to assure that the part or component will perform the same function in the equipment as the part or component it is to replace.

SUBPART H—PRICE NEGOTIATION POLICIES AND TECHNIQUES

Section 3.808–5 (e) has been revised by insertion of the word "contractually" in the last sentence. Section 3.808–5 (e), as revised, reads as follows:

§ 3.808 *Pricing techniques.* * * *

§ 3.808–5 *Subcontracting* * * *

(e) In cases where the prime contract reserves a right for the contracting officer to review or approve subcontracts, the prime contract shall also reserve to the Government the right to inspect and audit the books and records of such subcontractors. Whenever such first tier subcontracts are of the cost-reimbursement, price redetermination, fixed-price incentive, or time and material type, a similar right shall be reserved to the Government to inspect and audit the books and records of lower tier subcontractors: *provided*, That such a right shall not be reserved contractually below the point where a firm fixed-price subcontract intervenes.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 4—COORDINATED PROCUREMENT

SUBPART B—POLICIES AND GENERAL PRINCIPLES

Sections 4.202, 4.203 and 4.206–1 have been revised to insert the currently applicable reference therein. Sections 4.202–1, 4.202–3, 4.203–1 and 4.206–1 now read as follows:

§ 4.202 *Responsibilities under single procurement.*

§ 4.202–1 *Single department procurement.* The Procuring Department is generally responsible for the following, under single department procurement (for specific assignment of procurement responsibilities, see Department of Defense Instruction Number 4115.1, dated March 18, 1957, Subject: Department of Defense Single Procurement Assignments, and any amendments thereto):

§ 4.202–3 *Plant cognizance procurement.* Responsibilities for procurement and mobilization planning are as set forth in Department of Defense Instruction Number 4115.1, dated March 18, 1957, Subject: Department of Defense Single Procurement Assignments, and any amendments thereto.

§ 4.203 *General principles governing implementation of procurement assignments.*

§ 4.203–1 *Standard format; development and promulgation of implementing procedures.* Implementation of a procurement assignment shall be accomplished in accordance with Section V (Implementation) Department of Defense Instruction 4115.1, dated March 18, 1957, Subject: "Implementation of Department of Defense Single Procurement Assignments," and any amendments thereto.

§ 4.206 *Purchase authorization.*

§ 4.206–1 *MIPR's or other authorized procurement requests.* (a) Military Interdepartmental Purchase Requests or other authorized procurement requests (see Part 16, Subpart F, of this subchapter), when received by the Procuring Department, shall be the authority to procure the supplies listed thereon in accordance with agreements between the military departments concerned. The Procuring Department has no responsibility to determine the validity of a stated requirement in an approved procurement request; however, it should bring to the attention of the Requiring Department apparent errors in the requirement.

(b) In coordinated procurement, the Procuring Department is authorized without referral to the Requiring Department, to deviate by 3 percent of the amount stated for each accounting classification, provided that the sum of such deviation does not exceed 3 percent of the total amount cited in the MIPR. The Procuring Department is authorized to deviate by more than 3 percent in specific assigned commodity areas where mutual agreement has been reached and so indicated in the implementing procedures. This authorization will remain available to the Procuring Department until acceptance is completed or in the case of direct-citation procurement until contract placement is completed, at which time any excess funds on the MIPR will be rescinded by the Requiring Department without the issuance of a formal amendment to the MIPR. The Requiring Department will authorize the percent variation on each MIPR, and will reserve a net amount sufficient to provide for such variation. If the deviation exceeds this percentage, referral to the Requiring Department will be necessary.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

Part 6—Foreign Purchases

A new Subpart D of Part 6 codifies DoD Directive 4105.29 (which implements the Foreign Assets Control Regulations issued by the Treasury Department in Chapter V, Title 31, Code of Federal Regulations). The new subpart sets forth the restrictions, lists Soviet-controlled areas and also certain supplies which are presumed to have a Soviet-controlled source, and prescribes a contract clause for use in contracts for supplies, services, and construction. § 6.402 provides for limited exceptions to the general policy restricting acquisitions of supplies originating from the prohibited sources. Subpart D reads as follows:

Subpart D—Purchases From Soviet-Controlled Areas

Sec.
6.401 Restrictions.
6.401–1 General policy.
6.401–2 Soviet-controlled areas.
6.401–3 Certain supplies of foreign origin.
6.401–4 Certain supplies from Hong Kong, Macao, and Soviet-controlled areas.
6.401–5 Supplies from North Korea or China.
6.402 Exceptions.
6.403 Contract clause.

Authority: §§ 6.401 to 6.403 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314.

§ 6.401 *Restrictions.*

§ 6.401–1 *General policy.* It is the general policy of the Department of Defense that supplies originating from sources within Soviet-controlled areas shall not be acquired for public use, notwithstanding the provisions of any other Subpart of this Part, and that Government contractors and subcontractors shall not acquire for use in the performance of any Government contract or subcontract thereunder any supplies or services originating from Soviet-controlled areas.

§ 6.401–2 *Soviet - controlled areas.* For the purpose of this Subpart, Soviet-controlled areas are the following:

Albania.
Bulgaria.
China, excluding Taiwan (Formosa), but including Manchuria, Inner Mongolia, the provinces of Tsinghai and Sikang, Sinkiang, Tibet, the former Kwantung Leased Territory, the present Port Arthur Naval Base Area, and Liaoning Province.
Communist-controlled area of Viet Nam and Communist-controlled area of Laos.
Czechoslovakia.
East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin).
Estonia.
Hungary.
Latvia.
Lithuania.
North Korea.
Outer Mongolia.
Poland and Danzig.
Rumania.
Union of Soviet Socialist Republics.

§ 6.401–3 *Certain supplies of foreign origin.* The following supplies, if of foreign origin and however processed, shall be presumed to have originated from Soviet-controlled (Chinese) sources and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its Territories, its possessions, or Puerto Rico, (b) the acquisition is approved by an authorized Treasury Department representative, or (c) the supplies are acquired directly from the countries indicated:

Bamboo, split	None.
Braids, straw	Italy, Japan.
Bristles, hog	None.
Brushes, paint	None.
Eggs, other than chicken	None.
Floor coverings, grass and straw	Japan.
Goat and kid skins	Argentina, Ethiopia (including Eritirea), Iran, Iraq.
Jade, stones, cut	None.
Menthol, natural and synthetic	Brazil.
Silk, Tussah and Muga	None.
Silk piece goods, Tussah and Muga	None.
Tung oil	Argentina, Brazil, Paraguay.
Walnuts	France, Iran, Italy, Turkey.

§ 6.401–4 *Certain supplies from Hong Kong, Macao, and Soviet-controlled areas.* The following supplies, however processed, which are or were located in or transported from or through Hong Kong, Macao, or any Soviet-controlled area (see § 6.401–2) shall be presumed to have originated from Soviet-controlled (Chinese) sources, and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its Territories, its possessions, or Puerto Rico, or (b) the acquisition is approved by an authorized Treasury Department representative.

Agar-agar.
Antimony.
Bamboo and bamboo manufactures excluding furniture.
Bismuth.
Camphor and camphor oil.
Carpets and carpet wool.
Castor beans and castor oil.
Chinaware.
Citronella oil.
Cotton manufactures.
Cotton waste.
Earthenware.
Glass, window.
Hardware manufactures including furniture.
Linen manufactures excluding wearing apparel.
Mercury.
Molybdenum.
Peanuts and peanut products.
Ramie.
Rugs.
Sesame oil and seed.
Shoes, leather-soled with nonleather uppers.
Silk manufactures, raw silk, and silk waste.
Straw manufactures excluding floor coverings.
Stones, semiprecious, including jewelry.
Tin, ores, bars, blocks, pigs, and alloys.
Tungsten, ores, and concentrates.

§ 6.401–5 *Supplies from North Korea or China.* All supplies, however processed, which are or were located in or transported from or through North Korea or China (as described in § 6.401–2) shall be presumed to have originated from Soviet-controlled (Chinese) sources, and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its Territories, its possessions, or Puerto Rico, or (b) the acquisition is approved by an authorized Treasury Department representative.

§ 6.402 *Exceptions.* (a) Exceptions from the general policy will be made only pursuant to paragraph (b) of this section. Moreover, such exceptions shall be made only in unusual situations, such as cases of emergency or where supplies are not available from any other source and a substitute supply is not acceptable.

(b) Supplies, other than those covered by § 6.401–3, § 6.401–4, or § 6.401–5, originating from sources within Soviet-

controlled areas (see § 6.401–2) may be procured only when:

(1) The purchase is for $2,500 or less and the contracting officer determines there is a need for an exception in accordance with military department procedures; or

(2) The purchase is for more than $2,500 and an exception is approved by the Secretary.

A copy of the document authorizing any exception pursuant to (2) above shall be transmitted to the Assistant Secretary of Defense (International Security Affairs).

§ 6.403 *Contract clause.* In contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its Territories, its possessions, or Puerto Rico, the Soviet-controlled areas listed in § 6.401–2 shall be set forth in the contract schedule, and the following clause shall be included in the contract:

SOVIET-CONTROLLED AREAS

(a) The Contractor shall not acquire for use in the performance of this contract any supplies or services originating from sources within Soviet-controlled areas, as listed in the Schedule of this contract, or from Hong Kong or Macao, without the written approval of the Contracting Officer.

(b) The Contractor agrees to insert the provisions of this clause, including the Soviet-controlled areas listed in the Schedule and this subparagraph (b), in all subcontracts hereunder.

PART 7—CONTRACT CLAUSES

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

1. Section 7.102 has been amended as follows:

§ 7.102 *Applicability.* As used throughout this subpart, the term "fixed-price supply contract" shall mean any contract (a) entered into either by formal advertising or by negotiation, other than (1) purchase orders for $5,000 or less, (2) letter contracts, (3) preliminary notices of award, and (4) amendments or supplemental agreements to contracts or purchase orders, which do not effect new procurement; (b) at a fixed price (with or without provision for price redetermination, escalation or other form of price revision as covered in § 3.403); and (c) for supplies other than (1) the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property, (2) experimental, developmental, or research work, or (3) facilities to be provided by the Government under a "Facilities Contract" as defined in Part 13 of this subchapter (but see §§ 7.104–15 and 7.104–16 with respect to purchase orders).

2. Section 7.103–13 has been amended clarifying the point that a contract is not subject to renegotiation unless required by law. Section 7.103–13, as revised, reads as follows:

§ 7.103–13 *Renegotiation.*

RENEGOTIATION

(a) To the extent required by law, this contract is subject to the Renegotiation Act of 1951 (P. L. 9, 82d Cong., 65 Stat. 7) as amended (P. L. 764, 83d Cong., 68 Stat. 1116; P. L. 216, 84th Cong., 69 Stat. 447), and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing this contract shall be deemed to contain all the provisions required by Section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

(b) The Contractor agrees to insert the provisions of this clause, including this paragraph (b), in all subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951 or in any subsequent act of Congress providing for the renegotiation of contracts.

3. Section 7.103–15 (previously reserved) has been inserted as follows:

§ 7.103–15 *Soviet-controlled areas.* In accordance with the requirements of § 6.403 of this subchapter, insert the contract clause set forth therein.

4. Section 7.103–18 has been amended by correcting the cross-reference therein cited. Section 7.103–18, as revised, reads as follows:

§ 7.103–18 *Nondiscrimination in employment.* Insert the clause set forth in § 12.802 of this subchapter.

SUBPART B—CLAUSES FOR COST-REIMBURSEMENT TYPE SUPPLY CONTRACTS

1. Section 7.202 has been revised as follows:

§ 7.202 *Applicability.* As used throughout this subpart, the term "cost-reimbursement type supply contract" shall mean any contract (other than a letter contract, letter of intent, preliminary notice of award; or amendment or a supplemental agreement to a contract which does not effect new procurment) entered into on a cost or cost-plus-a-fixed-fee basis as covered in § 3.404 of this subchapter for supplies other than (a) the construction, alteration or repair of buildings, bridges, roads, or other kinds of real property, (b) experimental, developmental, or research work, or (c) facilities to be provided by the Government under a "facilities contract" as defined in Part 13 of this subchapter.

2. Section 7.203–25 has been added as follows:

§ 7.203–25 *Soviet-controlled areas.* In accordance with the requirements of § 6.403 of this subchapter, insert the contract clause set forth therein.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 8—TERMINATION OF CONTRACTS

SUBPART G—FORMS

The subject captions in §§ 8.709 and 8.710 are revised as follows:

§ 8.709 *Settlement proposal form for cost reimbursement type contracts.* * * *

§ 8.710 *Notice of audit status date.* DD Form No. 574s: * * *

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 12—LABOR

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

Pursuant to regulations of the Secretary of Labor and DoD Instruction 4105.44, § 12.603 (d) has been revised to require the furnishing of three copies of the Individual Procurement Action Report (DD Form 350) to the Department of Labor whenever the Walsh-Healey Public Contracts Act is applicable to a contract. Section 12.603 (d), as revised, reads as follows:

§ 12.603 *Responsibilities of contracting officers.* Whenever the Walsh-Healey Public Contracts Act is applicable, the contracting officer shall, pursuant to regulations or instructions issued by the Secretary of Labor and in accordance with procedures prescribed by each respective military department—

(a) Inform prospective contractors of the possible applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC–13);

(c) Furnish to the contractor a form letter (Form PC–12) explaining the Walsh-Healey Act;

(d) Prepare and transmit three copies of DD Form 350 (top portion); (see § 16.803–2 (c) of this subchapter);

(e) Report to the Department of Labor any violation of the representations or stipulations required by the Walsh-Healey Act.

SUBPART G—FAIR LABOR STANDARDS ACT OF 1938

Editorial changes have been made to § 12.702. Section 12.702, as revised, reads as follows:

§ 12.702 *Suits against Government contractors.* Payments made pursuant to the provisions of the Fair Labor Standards Act are usually reimbursable under cost or cost-plus-a-fixed-fee contracts. Consequently, each military department has a direct interest in claims and suits under said Act which are made or brought in connection with such contracts. In this connection, procedures have been established, by agreement between the Department of Justice on the one hand and the military departments on the other hand, governing the defense of such Fair Labor Standards Act suits. These procedures in general contemplate the defense of Fair Labor Standards Act suits by private counsel employed by the contractor, the employment of whom is approved by the military department concerned. These procedures must be followed if contractors are to be reimbursed for the amount of any judgment under said Act, or for any litigation expenses (including the reasonable fees of such private counsel).

(R. S. 161, sec. 2202; 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 13—GOVERNMENT PROPERTY

SUBPART E—CONTRACT CLAUSES

1. An editorial change has been made in the clause for fixed-price contracts, in § 13.502 (h). Section 13.502 (h), as revised, reads as follows:

§ 13.502 *Government-furnished property clause for fixed-price contracts.*

* * *

(h) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-furnished Property not consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-furnished Property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

2. The Government Property Clause for cost-reimbursement type contracts, in paragraph (i) of § 13.503, has been revised so as to authorize the omission of inventory schedules for production scrap under certain conditions at the option of the contracting officer. See specifically paragraph (i) and the related text note. Section 13.503, as revised, reads as follows:

§ 13.503 *Government property clause for cost-reimbursement type contracts.* The following clause shall be used in cost-reimbursement type contracts for supplies and services (except contracts for experimental, developmental, or research work with educational or nonprofit institutions, where no profit to the contractor is contemplated) under which a Department is to furnish to the contractor, or the contractor is to acquire for the account of the Government, material, special tooling, or industrial facilities within the policy set forth in § 13.402 (a).

GOVERNMENT PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished Property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished Property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as as "Government Property."

(c) Title to the Government Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty. The Contractor shall maintain adequate property control records of the Government Property and shall identify the Government Property as such in accordance with the requirements of the "Manual for Control of Government Property in Possession of Contractors" (Appendix B, Armed Services Procurement Regulation), as in effect on the date of the contract, which Manual is hereby incorporated by reference and made a part of this contract.

(d) The Government Property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer in accordance with sound industrial practice, a program, for the maintenance, repair, protection and preservation of Government Property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of Government Property.

(f) (i) The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto) (A) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (I) all or substantially all of the Contractor's business, or (II) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (III) a separate and complete major industrial operation in connection with the performance of this contract; or (B) which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (A) above, (I) to maintain and administer, in accordance with sound industrial practice, the program for maintenance, repair, protection and preservation of Government Property as required by paragraph (e) hereof, or (II) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (e) hereof; or (C) for which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule; or (D) which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or (E) which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; provided that, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception. This clause shall not be construed as relieving a subcontractor from liability for loss or destruction of or damage to Government Property in its possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, may provide for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government Property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(ii) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government Property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(iii) Upon the happening of loss or destruction of or damage to the Government Property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of (A) the lost, destroyed and damaged Government Property, (B) the time and origin of the loss, destruction or damage, (C) all known interests in com-

mingled property of which the Government Property is a part, and (D) the insurance, if any, covering any part of or interest in such commingled property. The Contractor shall make repairs and renovations of the damaged Government Property or take such other action, as the Contracting Officer directs.

(iv) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government Property, it shall use the proceeds to repair, renovate or replace the Government Property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to Government Property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government Property for the benefit of the Government.

[1] (v) In the event any aircraft are to be furnished under this contract, any loss or destruction of, or damage to, such aircraft or other Government Property occurring in connection with operations of said aircraft will be governed by the clause of this contract captioned "Flight Risks," to the extent such clause is, by its terms, applicable.

(g) The Government shall at all reasonable times have access to the premises where any of the Government Property is located.

(h) The Government Property shall remain in the possession of the Contractor for such period of time as is required for the performance of this contract unless the Contracting Officer determines that the interests of the Government require removal of such property. In such case the Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of Government Property. In any such instance, the contract may be amended to accomplish an equitable adjustment in the terms and provisions thereof.

(i) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit to the Contracting Officer in a form acceptable to him, inventory schedules covering all items of the Government Property not consumed in the performance of this contract, or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government Property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct. The foregoing provisions shall apply to scrap from Government Property provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account therefor as a part of general overhead or other reimbursable cost in accordance with the Contractor's established accounting procedures.

[1] For use where applicable.

(j) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's plant or any portion thereof which is affected by the removal of any Government Property.

(k) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

NOTE: As provided in paragraph (i) of the above clause, the contracting officer may, subject to Departmental procedures, authorize or approve use of the contractor's established scrap disposal and accounting procedures whenever the amount and recoverable value of scrap from the Government property are relatively minor and the contractor's established procedures for accumulating and disposing of scrap and crediting the proceeds thereof to general overhead or other general cost will permit the Government to share equitably in such scrap recovery through a reduction of overhead or other cost factor affecting reimbursement under the contract.

SUBPART F—USE OF GOVERNMENT-OWNED INDUSTRIAL FACILITIES ON WORK OTHER THAN FOR A MILITARY DEPARTMENT

Section 13.601–2 has been revised to conform rental rates with those set forth in ODM Order VII–4, Amdt. No. 2, dated June 18, 1957 (22 F. R. 4417), which provides also that no exception to the rates shall be made without prior ODM approval. Rental rates are now keyed to the actual age of leased facilities, rather than to specific calendar years. Clarifying editorial changes have also been made. Section 13.601–2, as revised, reads as follows:

§ 13.601–2 *Rental.* * * *

§ 13.601–2 *Minimum rent.* Except as provided in § 13.601–3, rental charged under § 13.601 for personal property and equipment constituting industrial facilities shall conform to the following rates, which rates have been determined to be fair and reasonable:

(a) As to metalworking equipment of the types referred to in this subchapter, Appendix B, paragraph 401.2, or Appendix C, paragraph 307.2, rent shall be at the appropriate rate set forth below regardless of the extent and value of any obligations undertaken by the user to provide maintenance or other services.

Age of equipmet	*Monthly rental rate*
0 to 2 years	1¾% of acquisition cost.
Over 2 to 6 years	1½% of acquisition cost.
Over 6 to 10 years	1% of acquisition cost.
Over 10 years	¾% of acquisition cost.

The acquisition cost to be used in determining rental shall be the purchase price of the equipment charged the Government plus costs of transportation to, and installation in, the place where the equipment will be used under the contract or agreement, if such costs are borne by the Government. Transportation and installation costs may be estimated by the contracting officer where the actual costs are not known. When special tooling or accessories are rented with the equipment, equipment acquisition cost shall be increased to include the price charged the Government for such tooling or accessories. If the purchase price is not available or cannot be obtained from the manufacturer of the equipment, the military departments shall obtain an estimated purchase price from the Office of the Assistant Secretary of Defense (Supply and Logistics). On January 1 following the date of manufacture of each item of equipment, such item shall be considered one year old, and on each succeeding January 1 it shall become one year older; and contracts or agreements shall so provide.

(b) As to personal property and equipment constituting industrial facilities other than metalworking equipment covered in paragraph (a) of this section, and with respect to which there are no prevailing commercial rates, a rent at the rate of not less than 1 percent per month of the original acquisition cost of such property or equipment shall be charged.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 15—CONTRACT COST PRINCIPLES

Sections 15.204 (x) and 15.603 have been added to provide for allowance as a contract cost, in cost-reimbursement type contracts, of allocable payments made to funds established by contractors in connection with supplemental unemployment benefit plans under specified conditions. Sections 15.204 (x) and 15.603 read as follows:

SUBPART E—SUPPLY AND RESEARCH CONTRACTS WITH COMMERCIAL ORGANIZATIONS

§ 15.204 *Examples of items of allowable costs.* * * *

(x) Vacation, holiday and severance pay, sick leave and military leave, to the extent required by law, by employer-employee agreement or by the contractor's established policy (with respect to supplemental unemployment benefit plans, see § 15.603).

SUBPART F—COST INTERPRETATIONS

§ 15.603 *Supplemental unemployment benefit plans.*

§ 15.603–1 *Applicability and effective date.* This cost interpretation pertains to § 15.204 (x). It is applicable with respect to all cost-reimbursement type contracts placed on and after 1 October 1957 and, also, to all existing cost-reimbursement type contracts not completed at that date except as to rates of overhead which have been finally agreed upon for particular periods. However, the foregoing sentence does not supersede any express agreement in writing that a different interpretation shall be applicable.

§ 15.603–2 *Conditions governing allowability.* Payments by contractors to funds established in connection with supplemental unemployment benefit plans shall be allowed as a contract cost when:

(a) made to an irrevocable fund or trust for the exclusive benefit of the contractor's employees as a result of an arm's length agreement between the employer and his employees;

(b) accepted by the Internal Revenue Service as deductible for Federal income tax purposes; and

(c) equitably allocated between defense and non-defense business at the plant or division level, whichever is lower, for which payments are calculated: *Provided*, The maximum funding has not been reached for such activity.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U. S. C. 2301-2314)

PART 16—PROCUREMENT FORMS

SUBPART C—PURCHASE AND DELIVERY ORDER FORMS

A revised § 16.303 adapts DD Form 1155 for use in procurements negotiated under 10 U. S. C. 2304 (a) (1), (see § 3.201–2 (b) (v)), in amounts of more than $1,000, but not more than $2,500. This has been accomplished by design of a signature page and a form for necessary additional contract clauses. To conform with a new numbering system, designations of the additional papers relating to DD Form 1155 have been changed. A comparison of the new and old numbering systems is as follows:

	Revised Form	*Old Form*
Basic Form	DD 1155	DD 1155
Continuation Sheet	DD 1155c	DD 1155-1
Supplemental Sheet (Signature Page)	DD 1155s	
Reverse side of Basic Form	DD 1155r	DD 1155-2 (Army) Reverse side of DD 1155 (Navy)

DD Form 1155, as revised, shall be used effective 2 January 1958, or when existing stocks of the replaced forms are exhausted, whichever date is earlier.

Section 16.303, as revised, reads as follows:

§ 16.303 *Order for supplies or services (DD Forms 1155, 1155r, 1155c, and 1155s).*

§ 16.303–1 *General.* (a) The following forms are prescribed for use in accordance with the conditions set forth in this § 16.303.

(1) DD Form 1155 (including its reverse side, 1155r), Order for Supplies or Services, provides in one document:

(i) A purchase order, delivery order under a contract, or delivery order on Government agencies outside the Department of Defense;

(ii) A receiving and inspection report;

(iii) A property voucher; and

(iv) A public voucher.

(2) DD Form 1155c, Continuation Sheet, provides additional Schedule space.

(3) DD Form 1155s, Additional General Provisions and Acceptance, used with DD Form 1155 in negotiated procurements of not more than $2,500, provides:

(i) Additional general provisions;

(ii) A block for the contracting officer to mark if the contractor's written acceptance is requested, and

(iii) A space for the contractor's signature when a written acceptance is requested.

(b) The foregoing forms may be used as snap-out manifold forms, as cut sheets, or as reproducible masters, as prescribed by Departmental procedures. DD Form 1155 is designed for mailing in window envelopes, and the use of such envelopes is encouraged.

§ 16.303–2 *Conditions for use*—(a) *General.* The foregoing forms shall be used, as appropriate, regardless of the number of deliveries or payments contemplated, except where utility services are procured under GSA area contracts as provided in Part 5, Subpart H, of this subchapter. When used as purchase orders these forms shall be used only for the purchase of supplies as defined in § 7.102, or for services other than personal services.

(b) *Use as a purchase order of not more than $1,000.* DD Form 1155 shall be used for all purchases of not more than $1,000 negotiated in accordance with Part 3 of this subchapter, provided:

(1) The procurement is unclassified; and

(2) Only the contract clauses set forth on the back of DD Form 1155 are to be used; if additional clauses covering the subject matter of any clause set forth in this subchapter are to be used, the procurement shall be effected by use of some other form authorized by this subchapter or military department procedures.

(c) *Use for negotiated purchases of not more than $2,500.* (1) DD Forms 1155 and 1155s may be used for all negotiated purchases of not more than $2,500, provided:

(i) The procurement is unclassified;

(ii) The public voucher feature of DD Form 1155 is not utilized in a procurement of more than $1,000, and

(iii) Only the contract clauses set forth on the back of DD Form 1155 and on DD Form 1155s are to be used; if additional clauses covering the subject matter of any clause set forth in this subchapter are to be used, the procurement shall be effected by use of some other form authorized by this subchapter or military department procedures.

(2) When DD Form 1155s is used, the contracting officer shall request contractor acceptance thereon if:

(i) The written acceptance of the contractor is necessary for the obligation of funds in accordance with Section 1311, Public Law 663, 83d Congress (31 U. S. C. 200). (When the purchase is for not more that $1,000 or is negotiated pursuant to 10 U. S. C. 2304 (a) (2) or (9), Section 1311 does not require a written acceptance); or

(ii) It is deemed to be in the best interest of the Government to consummate a binding contract between the parties before the contractor undertakes performance.

(d) *Use as a delivery order.* Except as to specialized procurements for which other instructions are given by this subchapter or military department procedures, DD Form 1155 shall be used without monetary limitation as a delivery order for ordering supplies and services:

(1) under indefinite delivery type contracts (see § 3.405–5), including such contracts made by Government agencies outside of the Department of Defense: *Provided*, (i) The order is issued in accordance with, and subject to the terms and conditions of, such contract, and (ii) the order refers to the particular contract involved; and

(2) from Government agencies outside the Department of Defense.

(e) *DD Form 1155c, Continuation Sheet.* DD Form 1155c, Continuation Sheet shall be used if additional Schedule space is required, unless otherwise provided by military department procedures.

SUBPART E—SPECIAL CONTRACTS AND ORDER FORMS

1. The word "continental" has been removed from the last sentence of § 16.502–1. Section 16.502–1, as revised, reads as follows:

§ 16.502 *Negotiated contract form for stevedoring services (DD Form 674).*

§ 16.502–1 *General.* DD Form 674 is a Schedule prescribed for use in the procurement of stevedoring services within the continental limits of the United States. Negotiated contracts for stevedoring services shall consist of DD Form 351 (Cover Page), DD Form 674 (Schedule Page—in lieu of DD Form 351–1), and DD Form 351–2 (Signature Page). (For DD Forms 351 and 351–2, see § 16.202.) When contracting for stevedoring services outside the United States, the provisions of the Schedule will be used as a guide only.

2. Section 16.503–1 has been revised to provide that the subject form will be used overseas as a guide only. Sections 16.503–1 and 16.503–2, as revised, read as follows:

§ 16.503 *Master contract for repair and alteration of vessels (DD Forms 731 and 731–1).*

§ 16.503–1 *General.* DD Form 731 is prescribed to establish in advance the terms upon which a contractor will effect repairs, alterations and additions to vessels under the provisions of job orders issued by contracting activities from time to time. The Master Contract (DD Form 731) shall be entered into with all prospective contractors located within the United States who request ship repair work and who possess the organization and facilities to perform such work satisfactorily. When using Master Contracts in work with prospective contractors located outside of the United States, DD Form 731 shall be used as a guide.

§ 16.503–2 *Inviting bids or quotations for job orders.* When a requirement arises for the type of work covered by the Master Contract within the United States, bids or quotations will be solicited from prospective contractors who have previously executed a Master Contract, and also from prospective contractors, who possess the necessary qualifications and agree to execute a Master Contract before issuance of a Job Order. Whenever a prospective contractor is invited to submit a bid or quotation, the contracting officer shall notify the prospective contractor in reasonable detail of (a) the nature of the work to be performed, (b) the date the vessel will be available, and (c) the date the work is to be completed. In the

event the prospective contractor is willing and able to perform the work, he shall be afforded an opportunity to inspect the work to be accomplished, and then he shall submit a bid or quotation for the performance of the work in accordance with the invitation for bids or request for quotations. If the contracting officer requests prospective contractors to negotiate, he shall also request a breakdown of the price quoted indicating the estimated cost of (1) direct labor, (2) material, (3) overhead, (4) any amount included for contingencies and profit, and (5) such other information as the contracting officer may consider necessary.

SUBPART G—CONTRACT TERMINATION FORMS

1. References to DD Forms in § 16.702–5 have been amended. Section 16.702–5, as revised, reads as follows:

§ 16.702–5 *Inventory schedules (DD Form 542, 543, 544, 545, and 832).* (a) The following forms are prescribed for use by contractors to support settlement proposals submitted on DD Forms 540, 541, or 547:

(1) DD Form 542 (Inventory Schedule A—Metals) and DD Form 542c (Continuation Sheet).

(2) DD Form 543 (Inventory Schedule B—Raw Materials) and DD Form 543c (Continuation Sheet).

(3) DD Form 544 (Inventory Schedule C—Work in Process) and DD Form 544c (Continuation Sheet).

(4) DD Form 545 (Inventory Schedule D—Dies, Jigs, Fixtures, etc., and Special Tools) and DD Form 545c (Continuation Sheet).

In addition, the Inventory Schedule forms may be used for reporting inventory in connection with adjustments under the Changes clause and inventory excess to completed contracts.

(b) DD Form 832 (Termination Inventory Schedule E—Short Form) is prescribed for use by contractors to support settlement proposals submitted on DD Form 831.

2. Section 16.704, as revised, reads as follows:

§ 16.704 *Notice of audit status date (DD Form 547s).* DD Form 547s is prescribed for use by disbursing officers to fix the audit status date in accordance with § 8.511–3.

3. Section 16.706 has been added, as follows:

§ 16.706 *Instructions for use of termination forms.* DD Form 1114 consists of instructions for the use of contract termination settlement and inventory schedule forms.

SUBPART H—MISCELLANEOUS FORMS

Section 16.813 prescribes DD Form 1107 for use as a standardized format for the submission of cost data by contractors when required for the pricing of change orders. This form shall be used effective 1 January 1958, or when existing stocks of similar forms are exhausted, whichever date is earlier. Section 16.813, as revised, reads as follows:

§ 16.813 *Change order price analysis (DD Form 1107).*

§ 16.813–1 *General.* DD Form 1107 (Change Order Price Analysis) provides a standard format for the submission of cost data by contractors when such data are required for the pricing of change orders under fixed-price or for cost-reimbursement type contracts. Contractor reproduction of the form is authorized.

§ 16.813–2 *Conditions for use.* The contracting officer shall request the contractor to submit data required for the pricing of change orders on DD Form 1107, except where the contractor and the contracting officer have agreed otherwise.

§ 16.813–3 *Forms superseded.* This Form supersedes Departmental forms currently used solely for this purpose effective when existing stocks of Departmental forms are exhausted or 1 January 1958, whichever is earlier.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U. S. C. 2301–2314)

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

Paragraph 401.1 of § 30.2, Appendix B, and paragraph 209.1 of § 30.3, Appendix C, have been amended so as to provide for a return to the system of marking in effect before 1953. Plant equipment, special tooling, etc., will now bear the designation of the military department responsible for funding and control of such property. Provision is also made for removal of marking in the event of sale, scrapping, or transfer to another military department.

§ 30.2 *Appendix B—Manual for Control of Government Property in Possession of Contractors.*

* * * * *

PART IV—MISCELLANEOUS PROVISIONS

401. *Identification and commodity classification—marking*

401.1 *Identification.* All Government Property shall be recorded and identified as such by the Contractor promptly upon receipt, and it shall remain so identified so long as it remains in the custody, control or possession of the Cnotractor.

(a) *Extent of identification.*

(i) As a general rule, all Government material shall be identified as Government Property except in those cases where—

(A) No materials of the same type at the same location are owned by the Contractor, his employees, or other contracting agencies.

(B) Adequate physical control is maintained over tool-crib items, guard force items, protective clothing and other items issued for use by individuals in the performance of their work under the contract.

(C) Property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the Property Administrator.

(D) Where property is commingled, as authorized by paragraph 206 hereof.

(ii) Government-owned special tooling shall be marked with the designation of the military department responsible for funding and control of such tooling, as follows: Army—"USA", Navy—"USN", and Air Force—"USAF", unless it is determined that such marking will damage the special tooling or is otherwise impracticable. Marking and identification procedures may be expanded by the Department having cognizance over the tooling to include end item reference, drawing number, and such other information as may be desired in a given case.

(iii) Unless already marked in accordance with these instructions, all Government-owned plant equipment, including industrial reserve plant equipment, shall be marked by the Contractor with an identification number, except when the size of the equipment or the nature of the material from which it is made makes it impracticable. When for the above reasons an item of plant equipment cannot be marked with an identification number, it will be assigned an identification number for record purposes, which number shall be shown on the plant equipment property record. Once an identification number has been affixed to an item of plant equipment, the identification will be permanent and will not be changed so long as the equipment remains under the control of the Department of Defense. Identification shall be effected by affixing a metal, fibre, plastic or other plate directly to the equipment; by using indelible ink, acid or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamperproof method. Identification shall consist of the following markings:

(A) An indication of Government-ownership and of the military department responsible for funding and control of the plant equipment, as follows: Army—"USA"; Navy—"USN"; and Air Force—"USAF";

(B) A two-part identification number, furnished by the Government, consisting solely of numerals except as provided in (C) below. The first part shall be the property account number, and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a military department, no change shall be made in the markings, except as provided in (iv) below.

(C) In the case of items included within a standard departmental registration system, for example, automotive, construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant department, which number shall be used in lieu of any other identification number.

(iv) Identification markings shall be removed prior to sale, scrapping, or transfer of funding and control responsibilities to other military department. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer, new identification markings, in accordance with the requirements of (ii) or (iii) above, shall be affixed upon receipt of the equipment by the receiving military department.

(b) *Recording identification numbers.* Assigned property identification numbers will be recorded on all applicable receiving documents, shipping documents, and other documents pertaining to the property accounts.

§ 30.3 *Appendix C—Manual for control of Government property in possession of non-profit research and development contractors.*

* * * * *

209. *Identification and commodity classification—marking.*

209.1 *Identification.*

(a) Government property shall be recorded and identified by the contractor promptly upon receipt as provided in the contract. Marking identification shall be as follows:

(i) An indication of Government ownership and of the military department responsible for funding and control of the plant equipment, as follows: Army—"USA", Navy—"USN", and Air Force—"USAF";

(ii) With respect to plant equipment, a two-part identification number furnished by the Government, consisting solely of numerals except as provided in (iii) below. The

first part shall be the property account number; and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a military department, no change shall be made in the markings, except as provided in (c) below.

(iii) In the case of items included within standard departmental registration system, for example, automotive construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant department, which number shall be used in lieu of any other identification number.

(b) Assigned property identification numbers shall be recorded on applicable property records.

(c) Identification markings shall be removed prior to sale, scrapping, or transfer of funding and control responsibilities to another military department. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer, new identification markings, in accordance with the requirements of (a) above, shall be affixed upon receipt of the equipment by the receiving military department.

ALBERT FREGOSI,
Colonel, U. S. Army, Acting Director for Procurement Policy, Office of the Assistant Secretary of Defense (Supply and Logistics).

[F. R. Doc. 57-10799; Filed, Dec. 30, 1957; 8:47 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter B—Bureau of the Public Debt

[Department Circular 530, Eighth Revision]

PART 315—UNITED STATES SAVINGS BONDS

Pursuant to section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U. S. C. 757c), Department Circular No. 530, Seventh Revision, dated May 21, 1952 (31 CFR Part 315), as amended, is hereby further amended and issued as an Eighth Revision effective January 1, 1958, to read as follows:

Subpart A—General Information

Sec.
315.0 Applicability of regulations.
315.1 Official agencies.
315.2 Definition of terms as used in the regulations in this part.

Subpart B—Registration

315.5 General.
315.6 Restrictions.
315.7 Authorized forms of registration.
315.8 Unauthorized registration.

Subpart C—Limitations on Holdings

315.10 Amount which may be held.
315.11 Computation of amount.
315.12 Disposition of excess.

Subpart D—Limitation of Transfer or Pledge

315.15 Limitation on transfer or pledge.
315.16 Pledge under Department Circulars Nos. 154 and 657.

Subpart E—Limitation on Judicial Proceedings; No Stoppage or Caveats Permitted

315.20 General.
315.21 Payment to judgment creditors.
315.22 Payment or reissue pursuant to judgment.
315.23 Evidence necessary.

Subpart F—Lost, Stolen, Mutilated, Defaced, or Destroyed Bonds

Sec.
315.25 Relief in case of loss, etc., after receipt by owner.
315.26 Relief in case of nonreceipt.

Subpart G—Interest

315.30 General.
315.31 Appreciation bonds.
315.32 Current income bonds.

Subpart H—General Provisions for Payment and Redemption

315.35 Provisions applicable both before and after maturity.
315.36 Before maturity.
315.37 At or after maturity.
315.38 Requests for payment.
315.39 Certifying officers.
315.40 General instructions to certifying officers.
315.41 Interested person not to certify.
315.42 Presentation and surrender.
315.43 Partial redemption.
315.44 Nonreceipt or loss of checks issued in payment.

Subpart I—Reissue and Denominational Exchange

315.45 General.
315.46 Requests for reissue.
315.47 Effective date.
315.48 Correction of errors.
315.49 Change of name.

Subpart J—Minors and Persons Under Other Legal Disability, and Absentees

315.50 Payment to representative of the estate.
315.51 Payment to minors.
315.52 Payment to a parent or other person on behalf of a minor.
315.53 Payment or reinvestment upon request of voluntary guardian of incompetent.
315.54 Reissue.

Subpart K—A Natural Person as Sole Owner

315.55 Payment.
315.56 Reissue for certain purposes.

Subpart L—Two Natural Persons as Coowners

315.60 During the lives of both coowners.
315.61 After the death of one or both coowners.
315.62 Upon death of both coowners in a common disaster, etc.

Subpart M—Two Natural Persons as Owner and Beneficiary

315.65 During the lifetime of the registered owner.
315.66 After the death of the registered owner.

Subpart N—Deceased Owners

315.70 Payment or reissue on death of owner.

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AUTHORITY: §§ 315.1 to 315.94 issued under sec. 22, 49 Stat. 21, as amended; 31 U. S. C. 757c.

SUBPART A—GENERAL INFORMATION

§ 315.0 *Applicability of regulations.* The regulations in this part apply generally to all United States Savings Bonds of all series of whatever designation, bearing any issue dates whatever, except as otherwise specifically provided herein.

§ 315.1 *Official agencies.* The Bureau of the Public Debt of the Treasury Department is charged with matters relating to United States Savings Bonds. Transactions in savings bonds after original issue are largely conducted by the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, the Federal Reserve Banks and Branches, as fiscal agents of the United States, and the Treasurer of the United States, Treasury Department, Washington 25, D. C. Correspondence in regard to any such transactions and requests for appropriate forms should be addressed to the office in Chicago or the Federal Reserve Bank of the district in which the correspondent is located or the Treasurer of the United States, except that any specific instructions given elsewhere in this part for addressing correspondence regarding particular transactions should be observed. Notices or documents not filed in accordance with instructions in the regulations in this part will not be recognized. The Federal Reserve Banks and Branches are located in the cities indicated by their names, as follows:

Federal Reserve Bank of Boston.

Federal Reserve Bank of New York: Buffalo Branch.

Federal Reserve Bank of Philadelphia.

Federal Reserve Bank of Cleveland: Cincinnati Branch, Pittsburgh Branch.

Federal Reserve Bank of Richmond: Baltimore Branch, Charlotte Branch.

Federal Reserve Bank of Atlanta: Birmingham Branch, Jacksonville Branch, Nashville Branch, New Orleans Branch.

Federal Reserve Bank of Chicago: Detroit Branch.

Federal Reserve Bank of St. Louis: Little Rock Branch, Louisville Branch, Memphis Branch.

Federal Reserve Bank of Minneapolis: Helena (Montana) Branch.

Federal Reserve Bank of Kansas City: Denver Branch, Oklahoma City Branch, Omaha Branch.

Federal Reserve Bank of Dallas: El Paso Branch, Houston Branch, San Antonio Branch.

Federal Reserve Bank of San Francisco: Los Angeles Branch, Portland (Oregon) Branch, Salt Lake City Branch, Seattle Branch.

§ 315.2 *Definition of terms as used in the regulations in this part.* (a) "An incompetent" means any person who is under legal disability for reasons other than minority and includes individuals whose estates have been placed under the administration of a guardian or custodian because of the age, physical disability, or wishes of the individual.

(b) "Authorized issuing agent" means an incorporated bank, trust company, savings bank, federal savings and loan association, instrumentality of the United States or other organization qualified as an issuing agent under the provisions of Department Circular No. 657, as amended and supplemented (Part 317 of this Chapter).

(c) "Authorized paying agent" means an incorporated bank, trust company, savings bank, savings and loan association, or other organization qualified as a paying agent under the provisions of Department Circular No. 750, Revised (Part 321 of this chapter).

(d) "Court" means a court which has jurisdiction over the parties and subject matter.

(e) "Federal Reserve Bank" includes any Branch of a Federal Reserve Bank.

(f) "Extended maturity date" means the date of expiration of any period (hereinafter called "optional extension period") after the "maturity date" during which the owner has the option of retaining bonds at further interest under the provisions of the Department circular offering them for sale.[1]

(g) "Extended maturity value" means the value of a bond at the end of the optional extension period.

(h) "Maturity date" means the date on which the bond will mature by the terms of the Department circular offering it for sale without regard to any optional extension period.

(i) "Maturity value" and "face value" of a bond are used interchangeably unless otherwise indicated. They refer to the value of a bond on its maturity date.

(j) "Payment" and "redemption" are used interchangeably, unless otherwise indicated. They refer to the payment of a savings bond in accordance with the governing regulations.

(k) "Personal trust estate" means a trust estate established by natural persons in their own right, for the benefit of themselves or other such natural persons, in whole or in part, and common trust funds comprised in whole or in part of such trust estates.

(l) "Presented and surrendered" and "presentation and surrender" mean the actual receipt of the bond, with an appropriate request for the particular transaction, by the Bureau of the Public Debt, Chicago office or Washington office, the Treasurer of the United States, or a Federal Reserve Bank, or, if the transaction is one which an authorized paying agent may handle, receipt by such authorized paying agent.

(m) "Representative of a minor's estate," "representative of an incompetent's estate," or "representative of an absentee's estate" means a guardian, conservator, or similar representative of the estate of a minor, incompetent, or absentee appointed by court or otherwise legally qualified, regardless of the title by which designated. These terms do not refer to a voluntary or natural guardian, such as a parent, including a parent to whom custody of a child has been awarded through divorce proceedings or a parent by adoption, or to the executor or administrator of the estate of a decedent.

(n) "Reissue" means the cancellation and retirement of a bond and the issue of a new bond or bonds of the same series, amount (maturity value) (or the remainder thereof in case of partial redemption), and issue date.

[1] Bonds of Series E bearing issue dates prior to May 1, 1957, have an optional extension period. Bonds of other series do not have this feature.

SUBPART B—REGISTRATION

§ 315.5 *General.* United States Savings Bonds are issued only in registered form. The form of registration used must express the actual ownership of and interest in the bond and, except as otherwise specifically provided in Subpart E and § 315.48 of Subpart I of this part, will be considered as conclusive of such ownership and interest. No designation of an attorney, agent, or other representative to request or receive payment on behalf of the owner or a coowner, nor any restriction on the right of the owner or a coowner to receive payment of the bond or interest, other than as provided in these regulations, may be made in the registration or otherwise. In order to avoid difficulty when redemption or reissue is requested or in collecting interest on current income bonds, and for the protection of the persons intended to be designated as owners, coowners, or beneficiaries, it is very important that requests for registration be clear, accurate and complete, that the registration conform with one of the forms set forth in this subpart, and that the registration of all securities owned by the same person, organization or fiduciary estate be uniform. The post office address should include, where appropriate, the street and number, postal zone, and route or any other local feature. The owner, coowner or beneficiary should be designated by the name by which he is ordinarily known or the one under which he does business, including preferably at least one full given name. The name should be preceded by any applicable title, such as "Dr." or "Rev.," or followed by "M. D.," "D. D." or other similar designation. The designation "Sr." or "Jr." should be used whenever applicable. The name of a woman should be preceded by "Miss" or "Mrs." unless some other applicable title or designation is used. A married woman's own given name, not that of her husband, should be used, for example, "Mrs. Mary A. Jones," not "Mrs. Frank B. Jones."

§ 315.6 *Restrictions*—(a) *Restrictions as to residence.* The registration of savings bonds is restricted on original issue, but not on authorized reissue, to include only persons (whether natural persons or others) who are:

(1) Residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone;

(2) Citizens of the United States temporarily residing abroad;

(3) Civilian employees of the United States or members of its Armed Forces, regardless of their residence or citizenship; and

(4) Other natural persons as coowners with, or beneficiaries on death of, natural persons of any of the above classes;

except that the registration of savings bonds, whether on original issue or reissue, is not authorized in any form to include the name of any alien who is a resident of any area with respect to which the Treasury Department restricts or regulates the delivery of checks drawn against funds of the United States or any agency or instrumentality thereof.[2]

(b) *Restrictions as to minority or incompetency.* (1) Bonds purchased by another person with funds belonging to a minor should be registered in the name of the minor without a coowner or beneficiary. If there is a representative of the minor's estate, the bonds should be registered in the name of the minor, or in the name or names of all such representatives, followed in either case by an appropriate reference to the guardianship. Bonds purchased by a representative of two or more minors, even though appointed in a single proceeding, should be registered in a form to show each guardianship estate separately. If a bond is purchased as a gift to a minor and either the donor or the minor resides in a State which by statute authorizes the donor to designate an adult as custodian for the minor, the bond may be registered as provided in the statute if such registration includes a clear reference to the statute. If no reference to the statute is included in the registration set forth in the statute a parenthetical reference identifying the statute must be added. A father or mother, as such, or as natural guardian, is not considered a representative for purposes of registration. See examples of forms of registration under § 315.7 (b). A minor, whether or not under legal guardianship, may be named as owner, coowner, or beneficiary on bonds purchased by another person with that person's own funds. A minor may name a coowner or beneficiary on bonds purchased by him from his wages, earnings, or other funds belonging to him and under his control.

(2) Bonds should not be registered in the name of an incompetent, unless there is a legal representative of his estate, except under the provisions of § 315.53. If there is a legal representative the provisions of the preceding paragraph, as to registration in the name of the legal representative or in the name of the incompetent followed by reference to the guardianship, apply.

§ 315.7 *Authorized forms of registration.* Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, savings

[2] See Department Circular No. 655, as amended (31 CFR 211).

bonds may be registered in the following forms:[3]

(a) *Natural persons.* In the names of natural persons in their own right.

(1) *Single owner.* Example:

"John A. Jones."

(2) *Coownership form—two persons (only).* In the alternative as coowners. Example:

"John A. Jones or Mrs. Ella S. Jones."

No other form of registration establishing coownership is authorized.

(3) *Beneficiary form—two persons (only).* Examples:

"John A. Jones payable on death to Mrs. Ella S. Jones;"

"John A. Jones P. O. D. Mrs. Ella S. Jones."

"Payable on death" may be abbreviated to "P. O. D." as indicated in the last example. The first named person is hereinafter referred to as the owner and the second named person as the beneficiary.

(b) *Fiduciaries and private or public organizations.* Only the single owner form of registration is available for bonds owned by other than natural persons, and the registration used must conform to the forms authorized in this paragraph.

(1) *Fiduciaries.* In the name of any persons or organizations, public or private, as fiduciaries, except where the fiduciary would hold the bonds merely or principally as security for the performance of a duty, obligation or service.

(i) *Guardians, custodians, conservators, etc.* In the name and title of the legally appointed, designated or authorized representative or representatives of the estate of a minor, incompetent, aged, absentee, etc., or in the name of a minor, incompetent, or absentee, followed by an appropriate reference to the guardianship. The registration should show the nature of the incompetency or refer to the statute authorizing the appointment of the representative. If the statute requires particular wording, as in most gift to minors statutes, the wording required by the statute should be used. Examples:

"William C. Jones, guardian (or conservator, trustee, etc.) of the estate of James F. Brown, a minor (or an incompetent, aged, infirm, or absentee)."

"John Smith, a minor (or incompetent, aged, infirm, or absentee), under legal guardianship (or conservatorship or trusteeship, etc.) of Henry C. Smith."

"John Smith, under legal guardianship of Henry Smith pursuant to Sec. 670.5, Code of Iowa 1950."

"John Smith, a minor (or incompetent) under custodianship by designation of the Veterans Administration."

"John Smith, an incompetent for whom Henry C. Smith has been designated trustee by the Department of the Army pursuant to 37 U. S. C. 351–354."

"William C. Jones, as custodian for John Smith, a minor, under the California Gifts of Securities to Minors Act."

"William C. Jones, as custodian for John Smith, a minor, under the laws of the State of Georgia (Chapter 48–3, Ga. Code Anno.)."

(ii) *Executors, administrators, etc.* (*a*) In the name of the representative or representatives of the estate of a decedent appointed by a court or otherwise legally qualified. The registration should include the name of the decedent and the name or names of all representatives. The name and title of the representative must be followed by adequate identifying reference to the estate. Example:

"John Smith, executor of the will (or administrator of the estate) of Henry J. Smith, deceased."

(*b*) In the name of an executor authorized to administer a trust under the terms of a will although he is not named as trustee. Example:

"John Smith, executor of the will of Henry J. Smith, deceased, in trust for Mrs. Jane Smith, with remainder over."

(iii) *Trustees.* In the name and title (or title alone where hereinafter provided) of the trustee or trustees of a single duly constituted trust estate (which will be considered as an entity), substantially in accordance with the examples set forth in this subparagraph. Unless otherwise indicated, an adequate identifying reference should be made to the trust instrument or other authority creating the trust. A common trust fund established and maintained according to law by a financial institution duly authorized to act as a fiduciary will be considered as a single duly constituted trust estate within the meaning of the regulations in this part.

(*a*) *Will, deed of trust, agreement, or similar instrument.* Examples:

"John Smith and the First National Bank, trustees under the will of Henry J. Smith, deceased."

"The Second National Bank, trustee under an agreement with George E. White, dated February 1, 1935."

If the authority creating the trust designates by title only an officer of a board or an organization as trustee, only the title of the officer should be used in the registration. Example:

"Chairman, Board of Trustees, First Church of Christ, Scientist, of Chicago, Illinois, in trust under the will of Henry J. Smith, deceased."

If the trustees are too numerous to be designated in the inscription by names and title, the names or some of the names may be omitted. Examples:

"John Smith, Henry Jones, et al., trustees under the will of Henry J. Smith, deceased."

"Trustees under the will of Henry J. Smith, deceased."

(*b*) *Pension, retirement or similar fund, or Employees' savings plan.* In the name and title (or title alone) of the trustee or trustees of a pension, retirement or similar fund, or an employees' savings plan. If the instrument creating the trust provides that the trustees shall serve for a limited term, the names of the trustees may be omitted. Examples:

"First National Bank and Trust Company, trustee of the Employees' Savings Plan of Jones Company, Inc., U/A dated ----------, 195--."

"Trustees of the Employees' Savings Plan of Johnson Company, Inc., U/A dated ----------, 195--."

"First National Bank, trustee of pension fund of Industrial Manufacturing Company, under agreement with said company dated March 31, 1949."

"Trustees of Retirement Fund of Industrial Manufacturing Company, under resolution adopted by its board of directors on March 31, 1949."

(*c*) *Funds of a lodge, church, society, or similar organization.* If the funds of a lodge, church, society, or similar organization, whether incorporated or not, are held in trust by a trustee or trustees or a board of trustees, only the title should be used in the registration. Examples:

"Trustees of the First Baptist Church, Akron, Ohio, acting as a Board under Section 15 of its by-laws."

"Trustees of Jamestown Lodge No. 1,000 Benevolent and Protective Order of Elks, under Section 10 of its by-laws."

"Board of Trustees of the Lotus Club, Washington, Indiana, under Article X of its constitution."

(*d*) *Public officers, corporations, or bodies.* If a public officer, public corporation, or public body acts as trustee under express authority of law, only the title should be used in the registration. Examples:

"Sinking Fund Commission, trustee of State Highway Certificates of Indebtedness Sinking Fund, under Section 5972, Code of South Carolina."

"Warden, Illinois State Penitentiary, Joliet Branch, Trustee of Inmates' Amusement Fund, under Chapter 23, Sections 34a and 34b, Illinois Revised Statutes, 1941."

(*e*) *School, class, or activity fund.* If the principal or other officer of a public, private, or parochial school acts as trustee for the benefit of the student body or a class, group, or activity thereof, only the title should be used in the registration, and if the amount purchased for any one fund does not exceed $500 (maturity value), no reference need be made to a trust instrument. Examples:

"Principal, Western High School, in trust for Class of 1955 Library Fund."

"Director of Athletics, Western High School, in trust for Student Activities Association under resolution adopted May 12, 1955."

(iv) *Life tenants.* In the name of a life tenant, followed by adequate identifying reference to the instrument creating the life tenancy. Example:

"Mrs. Jane Smith, life tenant under the will of Henry J. Smith, deceased."

(v) *Investment agents.* In the name of a bank, trust company, or other financial institution, or individual, holding funds of a religious, educational, charitable, or nonprofit organization, whether or not incorporated, as agent under an agreement with the organization for the sole purpose of investing and reinvesting the funds and paying the income to the organization. The name and designation of the agent should be followed by an adequate identifying reference to the agreement. Examples:

"Black County National Bank, fiscal agent, under agreement with the Evangelical Lu-

[3] Any question as to the correct form of registration should be promptly submitted to the Federal Reserve Bank of the district or the Bureau of the Public Debt, Division of Loans and Currency, 536 South Clark Street, Chicago 5, Illinois.

theran Church of The Holy Trinity, dated December 28, 1949."

"First National Bank and Trust Company, investment agent, under agreement with Central City Post No. 1000, Department of Illinois, American Legion."

(2) *Private organizations (corporations, associations, and partnerships, etc.).* In the name of any private organization, but not in the names of commercial banks, which are defined for this purpose as those accepting demand deposits. The full legal name of the organization, without mention of any officer or member by name or title, should be used, as follows:

(i) *A corporation.* A business, fraternal, religious, or other private corporation, followed preferably by the words "a corporation" (unless the fact of incorporation is shown in the name). Examples:

"Smith Manufacturing Company, a corporation."

"Jones and Brown, Inc."

(ii) *An unincorporated association.* An unincorporated lodge, society, or similar self-governing association, followed preferably by the words "an unincorporated association." The term "an unincorporated association" should not be used to describe a trust fund, a board of trustees, a partnership, or a business conducted under a trade name or as a sole proprietorship. If the association is chartered by or affiliated with a parent organization, the name or designation of the subordinate or local organization should be given first, followed by the name of the parent organization. The name of the parent or national organization may be placed in parentheses and, if it is well known, may be abbreviated. Examples:

"The Lotus Club, an unincorporated association."

"Local 447, Brotherhood of Railroad Trainmen, an unincorporated association."

"Eureka Lodge No. 317 (A. F. & A. M.), an unincorporated association."

(iii) *A partnership.* A partnership (which will be considered as an entity), followed by the words "a partnership." Examples:

"Smith and Brown, a partnership."

"Acme Novelty Company, a partnership."

(iv) *Institutions (churches, hospitals, homes, schools, etc.).* In the name of a church, hospital, home, school, or similar institution conducted by a private organization or by private trustees, regardless of the manner in which it is organized or governed or title to its property is held. Examples:

"Shriners' Hospital for Crippled Children, St. Louis, Missouri."

"St. Mary's Roman Catholic Church, Albany, New York."

"Rodeph Shalom Sunday School, Philadelphia, Pennsylvania."

(3) *Governmental units, agencies, and officers.* In the full legal name or title of the owner or official custodian of public funds, other than trust funds, as follows:

(i) Any governmental unit, as a state, county, city, town, village, or school district. Examples:

"State of Maine."

"Town of Rye, New York (Street Improvement Fund)."

(ii) Any board, commission, government owned corporation, or other public body duly constituted by law. Example:

"Maryland State Highway Commission."

(iii) Any public officer designated by title only. Example:

"Treasurer, City of Chicago."

(c) *Treasurer of the United States as coowner or beneficiary.* Those who desire to do so may make gifts to the United States by designating the Treasurer of the United States as coowner or beneficiary. Bonds so registered may not be reissued to change the designation. Examples:

"John A. Jones or the Treasurer of the United States of America."

"John A. Jones P. O. D. the Treasurer of the United States of America."

§ 315.8 *Unauthorized registration.* A savings bond inscribed in a form not substantially in agreement with one of those authorized by this subpart will not be considered as validly issued, except that once it is established that the bond can be reissued in a form of registration which is valid under these regulations it will be considered as having been validly issued from the date of original issue.

SUBPART C—LIMITATIONS ON HOLDINGS

§ 315.10 *Amount which may be held.* The amounts of savings bonds of each series, issued in any one calendar year, which may be held by any one person at any one time, computed in accordance with the provisions of § 315.11, are limited as follows: [4]

(a) *Series E.* $5,000 (maturity value) for each calendar year up to and including the calendar year 1947; $10,000 (maturity value) for the calendar years 1948 to 1951, inclusive; $20,000 (maturity value) for the calendar years 1952 to 1956, inclusive; $10,000 (maturity value) for the calendar year 1957 [5] and each calendar year thereafter; except that trustees of an employees' savings plan (as defined in § 316.8 of Department Circular No. 653, Fourth Revision, as amended) may purchase $2,000 (maturity value) multiplied by the highest number of employees participating in the plan at any time during the calendar year in which the bonds are issued.

(b) *Series H.* $20,000 (maturity value) for each calendar year up to and including the calendar year 1956, and $10,000 (maturity value) for the calendar year 1957 [5] and each calendar year thereafter.

§ 315.11 *Computation of amount.*—(a) *Definition of "person".* The term "person" for purposes of this section shall mean any legal entity and shall include but not be limited to natural persons, corporations (public or private), partnerships, unincorporated associations, and trust estates. The holdings of each person individually and his holdings in any fiduciary capacity authorized by the regulations in this part, such as, for example, his holdings as a guardian of the estate of a minor, as a life tenant, or as trustee under a will or deed of trust, shall be computed separately. A pension or retirement fund or an investment, insurance, annuity or similar fund or trust will be regarded as an entity regardless of the number of beneficiaries or the manner in which their respective interests are established or determined. Segregation of individual shares as a matter of bookkeeping or as a result of individual agreements with beneficiaries or the express designation of individual shares as separate trusts will not operate to constitute separate trusts under the regulations in this part.

(b) *Bonds that must be included in computation.* Except as provided in paragraph (c) of this section, there must be taken into account in computing the holdings of each person:

(1) All bonds registered in the name of that person alone;

(2) All bonds registered in the name of the representative of the estate of that person;

(3) All bonds originally registered in the name of that person as coowner or reissued at the request of the original owner to add the name of that person as coowner or to designate him as coowner instead of as beneficiary. However, the amount of bonds of Series E and H held in coownership form may be applied to the holdings of either of the coowners but will not be applied to both, or the amount may be apportioned between them.

(c) *Bonds that may be excluded from computation.* There need not be taken into account:

(1) Bonds on which that person is named beneficiary;

(2) Bonds in which his interest is only that of a beneficiary under a trust;

(3) Bonds to which he has become entitled under § 315.66 as surviving beneficiary upon the death of the registered owner, as an heir or legatee of the deceased owner, or by virtue of the termination of a trust or the happening of any other event;

(4) Bonds of Series E purchased with the proceeds of matured bonds of Series A, Series C–1938, and Series D, where such matured bonds were presented for that purpose;

(5) Bonds of Series E bearing issue dates from March 1, 1941, to December 1, 1945, inclusive, held by individuals in their own right which are not more than

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[4] Bonds of Series F, G, J, and K, which are no longer available for purchase, are subject to the limitations on holdings and rules for computation of holdings set forth in §§ 315.8 and 315.9 of Department Circular No. 530, Seventh Revision.

[5] Effective May 1, 1957. Accordingly investors who purchased $20,000 (maturity value) of bonds of Series E bearing issue dates of January 1 through April 1 were not entitled to purchase additional bonds of that series during 1957. The same limitation applies to bonds of Series H bearing those issue dates. Investors who purchased less than $10,000 (maturity value) of bonds of either series prior to May 1 were entitled only to purchase enough of either series to bring their total for that series for 1957 to $10,000 (maturity value).

$5,000 (maturity value) in excess of the prescribed limit;

(6) Bonds of Series E or Series H reissued under § 315.60 (b) (1);

(7) Bonds of Series E or Series H reissued in the name of a trustee of a personal trust estate which did not represent excess holdings prior to such reissue.

§ 315.12 *Disposition of excess.* If any person at any time acquires savings bonds issued during any one calendar year in excess of the prescribed amount, the excess must be immediately surrendered for refund of the purchase price, less (in the case of current income bonds) any interest which may have been paid thereon, or for such other adjustment as may be possible. For good cause found the Secretary of the Treasury may permit excess holdings to stand in any particular case or class of cases.

SUBPART D—LIMITATION ON TRANSFER OR PLEDGE

§ 315.15 *Limitation on transfer or pledge.* Savings bonds are not transferable and are payable only to the owners named thereon, except as specifically provided in the regulations in this part and then only in the manner and to the extent so provided. A savings bond may not be hypothecated, pledged as collateral, or used as security for the performance of an obligation, except as provided in § 315.16.

§ 315.16 *Pledge under Department Circulars Nos. 154 and 657.* A savings bond may be pledged by the registered owner in lieu of surety under the provisions of Department Circular No. 154, Revised, if the bond approving officer is the Secretary of the Treasury, in which case an irrevocable power of attorney shall be executed authorizing the Secretary of the Treasury to request payment. A savings bond may also be deposited as security with a Federal Reserve Bank under the provisions of Department Circular No. 657, as amended and supplemented, by an institution certified under that circular as an issuing agent for savings bonds of Series E.

SUBPART E—LIMITATION ON JUDICIAL PROCEEDINGS; NO STOPPAGE OR CAVEATS PERMITTED

§ 315.20 *General.* (a) No judicial determination will be recognized which would give effect to an attempted voluntary transfer inter vivos of a bond or would defeat or impair the rights of survivorship conferred by these regulations upon a surviving coowner or beneficiary, and all other provisions of this subpart are subject to this restriction. Otherwise, a claim against an owner or coowner of a savings bond and conflicting claims as to ownership of, or interest in, such bond as between coowners or between the registered owner and beneficiary will be recognized, when established by valid judicial proceedings, upon presentation and surrender of the bond, but only as specifically provided in this subpart.

(b) Neither the Treasury Department nor any agency for the issue, reissue, or redemption of savings bonds will accept notices of adverse claims or of pending judicial proceedings or undertake to protect the interests of litigants who do not have possession of a bond.

§ 315.21 *Payment to judgment creditors.*—(a) *Creditors.* Payment (but not reissue) of a savings bond registered in single ownership, coownership, or beneficiary form will be made to the purchaser at a sale under a levy or to the officer authorized to levy upon the property of the registered owner or coowner under appropriate process to satisfy a money judgment. Payment will be made to such purchaser or officer only to the extent necessary to satisfy the judgment and will be limited to the redemption value current sixty days after the termination of judicial proceedings or current at the time the bond is received, whichever is smaller. Payment of a bond registered in coownership form pursuant to a judgment or levy against only one of the coowners will be limited to the extent of that coowner's interest in the bond; this interest may be established by an agreement between the coowners or by a judgment, decree, or order of court entered in a proceeding to which both coowners are parties.

(b) *Trustees in bankruptcy and receivers.* Payment of a savings bond will be made to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar officer of the court, under the applicable provisions of paragraph (a) of this section, except that payment will be made at the redemption value current on the date of payment.

§ 315.22 *Payment or reissue pursuant to judgment*—(a) *Divorce.* A decree of divorce ratifying or confirming a property settlement agreement or otherwise settling the respective interests of the parties in a bond will not be regarded as a proceeding giving effect to an attempted voluntary transfer under the provisions of § 315.20. Consequently, reissue of a savings bond may be made to eliminate the name of one spouse as owner, coowner or beneficiary, or to substitute the name of one spouse for that of the other as owner, coowner or beneficiary pursuant to such a decree. The evidence required under § 315.23 must be submitted in any case. In cases where the decree does not set out the terms of the property settlement agreement a certified copy of the agreement must also be submitted, and in any case where the bonds are presently registered with a person other than one of the spouses as owner or coowner there must be submitted either a request for the reissue by such person or a judgment, decree, or order of court entered in a proceeding to which he was a party, determining the extent of the interest in the bond held by the spouse whose name is to be eliminated, and reissue will be permitted only to the extent of the spouse's interest in the bonds. Payment rather than reissue will be made if requested.

(b) *Gifts causa mortis.* A bond belonging solely to one person will be paid or reissued on the request of the person found by a court to be entitled thereto by reason of a gift causa mortis by the sole owner.

(c) *Date for determining rights.* For the purpose of determining whether or not reissue shall be made under this section pursuant to judicial proceedings, the rights of all parties involved shall be those existing under the regulations in this part at the time of the entry of the final judgment, decree, or order.

§ 315.23 *Evidence necessary.* To establish the validity of judicial proceedings, there must be submitted certified copies of a final judgment, decree, or order of court and of any necessary supplementary proceedings. If the judgment, decree, or order of court was rendered more than six months prior to the presentation of the bond, there must also be submitted a certificate from the clerk of the court, under its seal, dated within six months of the presentation of the bond showing that the judgment, decree, or order of court is in full force. A request for payment by a trustee in bankruptcy must be supported by duly certified evidence of his appointment and qualification. A request for payment by a receiver of an insolvent's estate must be supported by a copy of the order appointing him, certified by the clerk of the court, under its seal, as being in full force on a date not more than six months prior to the date of the presentation of the bond. A request for payment by a receiver in equity or a similar officer of the court, other than a receiver of an insolvent's estate, must be supported by a copy of an order authorizing him to present the bond for redemption, certified by the clerk of the court, under its seal, as being in full force on a date not more than six months prior to the presentation of the bond.

SUBPART F—LOST, STOLEN, MUTILATED, DEFACED, OR DESTROYED BONDS

§ 315.25 *Relief in case of loss, etc., after receipt by owner.* Relief either by the issue of a substitute bond marked "DUPLICATE" or by payment may be given in case of the loss, theft, destruction, mutilation, or defacement of a savings bond after receipt by the owner or his representative. Such relief will be granted only after compliance with the provisions of this section, and in cases of loss or theft relief will not ordinarily be granted until six months after the date of receipt by the Treasury Department of the notice of such loss or theft.[6]

(a) *Procedure to be followed in applying for relief.* In any such case immediate notice of the facts, together with a complete description of the bond (including series, year of issue, serial number, and name and address of the registered owner or coowners) should be given to the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois. That office will furnish the proper application form and instructions. In case of mutilation or defacement, all available fragments of the bond in any form whatsoever should be submitted.

[6] See Sec. 8, 50 Stat. 481, as amended (31 U. S. C. 738a).

In all cases the bond must be identified and the applicant must submit satisfactory evidence of loss, theft, or destruction or a satisfactory explanation of the mutilation or defacement.

The application must be made by the person or persons (including both coowners, if living) authorized under the regulations in this part to request payment of the bond, except as follows:

(1) If the bond is in beneficiary form and the owner and beneficiary are both living, both will ordinarily be required to join in the application.

(2) If a minor who is not of sufficient competency and understanding to request payment on his own behalf is named as owner, coowner, or beneficiary, both parents will ordinarily be required to join in the application.

(b) *Bond of indemnity.* The Treasury Department reserves the right to require a bond of indemnity, in accordance with Sec. 8 (b), 50 Stat. 481, as amended (31 U. S. C. 738a).

(c) *Recovery of savings bonds reported lost, stolen, or destroyed.* If a bond reported lost, stolen, or destroyed is recovered before relief is granted, the Bureau of the Public Debt, Division of Loans and Currency Branch, should be notified promptly. If the original bond is recovered after relief is granted, it should be surrendered promptly to the same office for cancellation.

§ 315.26 *Relief in case of nonreceipt.* If a savings bond, on original issue or on reissue, is not received from the issuing agent or agency by the registered owner or other person to whom delivery of the bond was directed, the issuing agent or agency should be notified as promptly as possible and given all the information available about the transaction. If necessary, appropriate instructions and forms will then be furnished.

SUBPART G—INTEREST

§ 315.30 *General.* United States Savings Bonds are issued in one of two forms: (a) Appreciation bonds, issued on a discount basis and redeemable before maturity at increasing fixed redemption values; and (b) current income bonds, issued at par, bearing interest payable semiannually[7] and redeemable before maturity at par or at fixed redemption values less than par.[8] The Department circular offering bonds of a particular series to the public designates the form in which bonds of that series will be available.

§ 315.31 *Appreciation bonds.* Savings bonds issued on a discount basis increase in redemption value at the end of the first year or half-year from issue date and at the end of each successive half-year period thereafter until their maturity date, when the full face amount becomes payable.[9] Bonds of Series E bearing issue dates from May 1, 1941, through April 1, 1957, will continue to increase in redemption value after maturity for ten years in accordance with the provisions of Sec. 316.13 of Department Circular No. 653, Fourth Revision, dated April 22, 1957.[10] The increment in value on appreciation bonds is payable only on redemption of the bonds, whether before, at, or after maturity.

§ 315.32 *Current income bonds*—(a) *Interest rates.* The interest payable on a current income bond is fixed by the provisions of the Department circular offering the particular series of bonds to the public.[11]

(b) *Method of interest payments.* Interest due on a current income bond is payable semiannually beginning six months from its issue date and will be paid on each interest payment date by check drawn to the order of the person or persons in whose names the bond is inscribed, in the same form as their names appear in the inscription on the bond, and mailed to the address of record (that given for the delivery of interest checks in the application for purchase or the request for reissue or, if no instruction is given as to the delivery of interest checks, the address given for the owner or the first-named coowner), except that:

(1) In the case of a bond registered in the form "A payable on death to B" the check will be drawn to the order of "A" alone until the Bureau of the Public Debt, Division of Loans and Currency Branch, receives notice of A's death (see paragraph (c) of this section), from which time the payment of interest will be suspended until the bond is presented for payment or reissue. Interest so withheld will be paid to the person found to be entitled to the bond.

(2) Upon receipt of notice of the death of the coowner to whom interest is being mailed (see paragraph (c) of this section), payment of interest will be suspended until a request for change of address is received from the other coowner, if living, or, if not, until satisfactory evidence is submitted as to who is authorized to endorse and collect such checks on behalf of the estate of the last deceased coowner in accordance with the provisions of Subpart N.

(3) Upon receipt of notice of the death of the owner of a bond (see paragraph (c) of this section), payment of interest on the bond will be suspended until satisfactory evidence is submitted as to who is authorized to endorse and collect such checks on behalf of the estate of the decedent, in accordance with the provisions of Subpart N.

(4) Whenever practicable the accounts for all current income bonds of the same series, with the same inscription, on which interest is payable on the same dates, will be consolidated and a single check will be issued on each interest payment date for interest on all such bonds. The check inscription may vary from the inscriptions on the bonds in cases of very long inscriptions or where there is lack of uniformity in the inscriptions on the bonds.

(5) The interest due at maturity will be paid with the principal and in the same manner. However, if the registered owner of a bond in beneficiary form dies on or after the due date without having presented and surrendered the bond for payment or authorized reissue, and is survived by the beneficiary, the interest will be paid to the legal representative of or the person entitled to the registered owner's estate. To obtain such payment, the bonds with a request therefor by the beneficiary should be submitted together with the evidence required in § 315.70.

(c) *Notice affecting interest check delivery.* A notice which would affect the delivery of an interest check will be acted upon as rapidly as possible, but if the notice is not received at least one month before an interest payment date, no assurance can be given that action can be taken in time to change or suspend the mailing of the interest due on that date. Such notice should be sent to the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois.

(d) *Change of address.* (1) An owner or coowner of current income bonds should promptly notify the Bureau of the Public Debt, Division of Loans and Currency Branch (see paragraph (c) of this section), of any change in the address for delivery of interest checks.

(2) A notice of change of address given on behalf of a minor or incompetent owner or coowner under the conditions and in accordance with the provisions of Subpart J relating to the payment of bonds belonging to a minor or incompetent ordinarily will be accepted.

(3) Each bond should be described in the notice by issue date, serial number, series (including year of issue), and inscription appearing on the face of the bond. The bonds should not be submitted.

(e) *Representative appointed for the estate of a minor, incompetent, absentee, etc.* Interest on current income bonds will be paid to the representative ap-

[7] The final interest on bonds of Series H bearing issue dates prior to March 1, 1957, covers a period of two months, from 9½ years to maturity. Since May 1, 1957, the only current income savings bonds on sale are those of Series H.

[8] The sale of savings bonds of Series J and K was terminated at the close of business April 30, 1957. The terms of these bonds are set forth in Department Circular No. 906, as amended.

[9] Series E bonds issued on or before April 30, 1952, and Series F bonds, the sale of which was terminated April 30, 1952, increase in redemption value at the end of the first year from issue date; Series E bonds issued on and after May 1, 1952, and Series J bonds, the sale of which began on May 1, 1952, increase in redemption value at the end of the first half year from issue date. The last increase in redemption value of Series E bonds issued on or after May 1, 1952, prior to the start of the ten-year extension period, covers a period of two months, from 9½ years through 9 years and 8 months. The last increase in redemption value of Series E bonds issued on or after February 1, 1957, covers a period of five months, from 8½ years through 8 years and 11 months.

[10] See the Tables of Redemption Values at the end of that circular for extended maturity values, and footnote 5 on page 4 with respect to the extended maturity of bonds bearing issue dates of February 1 through April 1, 1957.

[11] See Department Circular No. 654, Third Revision, as amended, for Series G, Department Circular No. 905, Revised, for Series H, and Department Circular No. 906, as amended, for Series K.

pointed for the estate of the owner of such bonds who is a minor, incompetent, absentee, etc., in accordance with the provisions of § 315.50 relating to payment of the bonds. However, if the registration of the bonds does not include reference to the owner's status, they should be submitted (to the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, or a Federal Reserve Bank) for appropriate reissue so that interest checks may be properly drawn and delivered. They must be accompanied by the proof of appointment required by § 315.50.

(f) *No representative of an adult incompetent's estate appointed.* If an adult owner of a current income bond is mentally incompetent to endorse and collect the interest checks, if no other person is legally qualified to do so, and if the interest is needed for the support of the incompetent or that of a person legally dependent upon him for support, the relative responsible for his support, or some other person, may be recognized by the Treasury Department as voluntary guardian for the purpose of receiving, endorsing, and collecting the checks. Form PD 2513 should be used in making application for this purpose.

(g) *Reissue during interest period.* Physical reissue of a bond will be made as soon as practicable without regard to interest payment dates. If a current income bond is reissued between interest payment dates, interest for the entire period will ordinarily be paid on the next interest payment date, by check drawn to the order of the person in whose name the bond is reissued. However, if reissue is made during the month preceding an interest payment date, the interest due on the first day of the next month may in some cases be paid to the former owner or the representative of his estate.

(h) *Termination of interest.* Interest on current income bonds will cease at maturity or in case of redemption prior to maturity on the last day of the interest period immediately preceding the date of redemption, except that, if the date of redemption falls on an interest payment date, interest will cease on that date. For example, if a bond on which interest is payable on January 1 and July 1 is redeemed on September 1, interest will cease on the preceding July 1, and no adjustment of interest will be made for the period from July 1 to September 1. The same rules shall apply in case of partial redemption with respect to the amount redeemed.

(i) *Endorsement of checks.* Interest checks may be collected upon the endorsement of the payee or his authorized representative in accordance with the regulations governing the endorsement and payment of Government warrants and checks, which are contained in Department Circular No. 21 (Part 360 of this chapter). A form for the appointment of an attorney in fact for this purpose may be obtained from the Treasurer of the United States or from any Federal Reserve Bank. If no legal representative has been or will be appointed, the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, or a Federal Reserve Bank will furnish instructions upon request.

(j) *Nonreceipt or loss of check.* If an interest check is not received or is lost after receipt, the Regional Disbursing Office, U. S. Treasury Department, 536 South Clark Street, Chicago 5, Illinois, should be notified of the facts and should be given information concerning the amount, number, and inscription of the bonds, as well as a description of the check, if possible.

SUBPART H—GENERAL PROVISIONS FOR PAYMENT AND REDEMPTION

§ 315.35 *Provisions applicable both before and after maturity.* Payment of a savings bond will be made to the person or persons entitled thereto under the provisions of the regulations in this part upon presentation of the bond with an appropriate request for payment. Such payment will be made without regard to any notice of adverse claims to a savings bond and no stoppage or caveat against payment in accordance with the registration of the bond will be entered.

§ 315.36 *Before maturity*—(a) *At option of owner.* Pursuant to its terms, a savings bond may not be called for redemption by the Secretary of the Treasury prior to maturity, but may be redeemed in whole or in part at the option of the owner prior to maturity, under the terms and conditions set forth in the offering circular for each series and in accordance with the provisions of the regulations in this part, following presentation and surrender as provided in this subpart.

(b) *Series E.* A bond of Series E will be redeemed at any time after two months from the issue date without advance notice, at the appropriate redemption value as shown in the revision of Department Circular No. 653 current at the time of redemption.

(c) *Series F, G, H, J, and K.* A bond of Series F, G, H, J, or K will be redeemed after six months from the issue date, on one month's notice in writing to the Bureau of the Public Debt, Division of Loans and Currency Branch, a Federal Reserve Bank, or the Treasurer of the United States, Washington 25, D. C. Such notice may be given separately or by presenting and surrendering the bond with a duly executed request for payment. Payment will be made as of the first day of the first month following by at least one full calendar month the date of receipt of notice. For example, if the notice is received on June 1, payment will be made as of July 1, but if notice is received between June 2 and July 1, inclusive, payment ordinarily will be made as of August 1. If notice is given separately, the bond must be presented and surrendered with a duly executed request for payment to the same agency to which the notice is given, not less than twenty days before the date on which payment is to be made. For example, if the notice is received on June 15, the bond should be received not later than July 12. (See § 315.32 (h) for provisions as to interest in case current income bonds are redeemed prior to maturity.) A bond of Series H will be redeemed at par. A bond of Series F, G, J, or K will be redeemed at the appropriate redemption value as shown in the table printed on the bond, except as provided in paragraph (d) of this section.

(d) *Series G and K: Redemption at par.* (1) A bond of Series G or K issued in exchange for matured bonds of Series E under the provisions of Department Circulars Nos. 885 and 906 is payable at par.

(2) A bond of Series G or K registered in the name of a natural person or persons in their own right will be paid at par upon the request of the person entitled to the bond upon the death of the owner or either coowner.

(3) A bond of Series G or K held by a trustee, life tenant, or other fiduciary (exclusive of trustees of a pension, retirement, investment, insurance, annuity or similar fund, or employees' savings plan) will be paid at par upon appropriate request upon the termination, in whole or in part, of a trust, life tenancy, or other fiduciary estate by reason of the death of a natural person, but in the case of partial termination, redemption at par will be made to the extent of not more than the pro rata portion of the trust or fiduciary estate so terminated. Bonds of Series G or K held by a financial institution in its name as trustee of its common trust fund will be paid at par upon the request of the fiduciary upon the termination, in whole or in part, of a participating trust by reason of the death of a natural person, to the extent of not more than the pro rata portion of the common trust fund so terminated.

The option to receive payment at par under paragraph (d) (2) and (3) of this section may be exercised by a signed request for payment or by express written notice, in either case specifying that redemption at par is desired. Payment may be postponed to the second interest payment date following the date of death, if so requested; otherwise, payment will be made in regular course. A death certificate or other acceptable evidence of death must be submitted. In no case of redemption at par before maturity under paragraph (d) (2) and (3) will interest be payable beyond the second interest payment date following the date of death.

(e) *Withdrawal of request for redemption.* An owner who has presented and surrendered a savings bond to the Treasury Department or a Federal Reserve Bank, or an authorized paying agent, for payment, with an appropriate request for payment, may withdraw such request if notice of intent to withdraw is given to and received by the same agency to which the bond was presented prior to the issuance of a check in payment by the Treasury Department or a Federal Reserve Bank, or payment by the authorized paying agent. Such request may be withdrawn under the same conditions by the executor or administrator of the estate of a deceased owner, or by the person or persons entitled to the bond under § 315.70 (d), or by the representative of the estate of a person under legal disability, unless the presentation and surrender of the bond has cut off the rights

of survivorship under the provisions of Subpart L or Subpart M.

§ 315.37 *At or after maturity.* Pursuant to its terms, a savings bond of any series will be paid at or after maturity at its full face or maturity value, and in no greater amount, except that bonds of Series E retained under an extended maturity option under the terms of Department Circular No. 653 (Part 316 of this chapter), current at the time of redemption, will be paid at the redemption values provided in that circular.[12]

§ 315.38 *Requests for payment*—(a) *Form and execution of requests.* A request for payment of a savings bond must be executed on the form appearing on the back of the bond unless (1) the bond is accepted by an authorized paying agent for payment or for presentation to a Federal Reserve Bank for payment without the owner's signature to the request for payment under the provisions of Department Circular No. 888, Revised, or (2) authority is given for the execution of a separate or detached request.

(b) *Date of request.* Ordinarily, requests executed more than six months before the date of receipt of a bond for payment will not be accepted; nor will a bond, ordinarily, be accepted for redemption more than three calendar months prior to the date redemption is requested under these regulations.

(c) *Identification and signature of owner.* Unless the bond is presented under the provisions of paragraph (a) of this section or § 315.42 (b), an owner in whose name the bond is inscribed or other person entitled to payment under the provisions of these regulations must appear before one of the officers authorized to certify requests for payment (see § 315.39), establish his identity, and in the presence of such officer sign the request for payment in ink, adding in the space provided the address to which the check issued in payment is to be mailed. A signature made by mark (X) must be witnessed by at least one disinterested person in addition to the certifying officer and must be attested by endorsement in the blank space, substantially as follows: "Witness to the above signature by mark," followed by the signature and address of the witness. If the name of the owner or other person entitled to payment as it appears in the registration or in evidence on file in the Bureau of the Public Debt, Division of Loans and Currency Branch, has been changed by marriage or in any other legal manner, the signature to the request for payment should show both names and the manner in which the change was made, for example, "Miss Mary T. Jones, now by marriage Mrs. Mary T. Jones Smith (Mrs. Mary T. J. Smith, or Mrs. Mary T. Smith)," or "John Doe, now by court order Richard Roe." In case of a change of name other than by marriage, the request should be supported by satisfactory evidence of the change. No request signed in behalf of the owner or person entitled to payment by an agent or a person acting under a power of attorney will be recognized by the Treasury Department, except as provided in § 315.16, when pledged in lieu of surety under Department Circular No. 154.

(d) *Certification of request.* After the request for payment has been signed by the owner, the certifying officer should complete and sign the certificate following the request for payment, and the bond should then be presented and surrendered as provided in § 315.42 (a).

§ 315.39 *Certifying officers.* The following officers are authorized to certify requests for payment:

(a) *At United States post offices.* Any postmaster, acting postmaster, or inspector in charge or other post office official or clerk designated for that purpose. One or more of these officials will be found at every United States post office, classified branch, or station. A post office official or clerk other than a postmaster, acting postmaster, or inspector in charge should certify in the name of the postmaster or acting postmaster, followed by his own signature and official title, for example, "John Doe, postmaster, by Richard Roe, postal cashier." Signatures of these officers should be authenticated by a legible imprint of the post office dating stamp.

(b) *At banks, trust companies, and branches.* Any officer of any bank or trust company incorporated in the United States (including for this purpose its territories and possessions and the Commonwealth of Puerto Rico) or domestic or foreign branch of such bank or trust company; any officer of a Federal Reserve Bank, Federal Land Bank, and Federal Home Loan Bank; any employee of any such bank or trust company expressly authorized by the corporation for that purpose, who should sign over the title "Designated Employee"; and Federal Reserve Agents and Assistant Federal Reserve Agents located at the several Federal Reserve Banks. Certifications by any of these officers or designated employees should be authenticated by either a legible impression of the corporate seal of the bank or trust company or, in the case of banks or trust companies and their branches which are authorized issuing agents for bonds of Series E, by a legible imprint of the issuing agent's dating stamp.

(c) *Issuing agents not banks or trust companies.* Any officer of a corporation not a bank or trust company and of any other organization which is an authorized issuing agent for bonds of Series E. All certifications by such officers must be authenticated by a legible imprint of the issuing agent's dating stamp.

(d) *Commissioned and warrant officers of armed forces.* Commissioned and warrant officers of any of the armed forces of the United States, but only for members and the families of members of their respective services and civilian employees at Posts or Bases or Stations. Such certifying officer should indicate his rank and state that the person signing the request is one of the class whose request he is authorized to certify.

(e) *United States officials.* Judges, clerks, and deputy clerks of United States courts, including United States courts for the territories, possessions, the Commonwealth of Puerto Rico, and the Canal Zone; United States Commissioners; United States Attorneys; United States Collectors of Customs and their deputies; Regional Commissioners and District Directors of Internal Revenue and Internal Revenue agents; the officer in charge of any home, hospital, or other facility of the Veterans Administration, but only for patients and employees of such facilities; certain officers of Federal penal institutions designated for that purpose by the Secretary of the Treasury; certain officers of the United States Public Health Service Hospitals at Lexington, Kentucky, and Fort Worth, Texas, and of United States Marine Hospitals at Fort Stanton, New Mexico, and Carville, Louisiana, designated for that purpose by the Secretary of the Treasury (in each case, however, only for inmates or employees of the institution involved).

(f) *Officers authorized in particular localities.* Certain designated officers in the Treasury Department; the Governors and Treasurers of Hawaii, Puerto Rico, and Alaska; the Governor and Commissioner of Finance of the Virgin Islands; the Governor and Director of Finance of Guam; the Governor and Director of Administrative Services of American Samoa; the Governor, paymaster, or acting paymaster and collector or acting collector of the Panama Canal; and postmasters and acting postmasters in the Bureau of Posts of the Canal Zone.

(g) *In foreign countries.* In a foreign country requests for payment may be signed in the presence of and be certified by any United States diplomatic or consular representative, or the manager or other officer of a foreign branch of a bank or trust company incorporated in the United States whose signature is attested by an impression of the corporate seal or is certified to the Treasury Department. If such an officer is not available, requests for payment may be signed in the presence of and be certified by a notary or other officer authorized to administer oaths, but his official character and jurisdiction should be certified by a United States diplomatic or consular officer under seal of his office.

(h) *Special provisions.* In the event none of the officers authorized to certify requests for payment of savings bonds is readily accessible, the Commissioner of the Public Debt, the Deputy Commissioner of the Public Debt in Charge of the Chicago Office, or any Federal Reserve Bank is authorized to make special provision for any particular case.

§ 315.40 *General instructions to certifying officers.* Certifying officers should require positive identification of the person signing a request for payment and will be held fully responsible therefor. In all cases a certifying officer must affix to the certification his official signature, title, seal or dating stamp, address (if not shown in seal or stamp), and the date of execution. Officers of Veterans Administration Facilities, Pub-

[12] No extended maturity option for Series E bonds with issue dates after April 1, 1957, is provided in Department Circular No. 653, Fourth Revision, dated April 22, 1957.

lic Health Service Hospitals, Marine Hospitals, and Federal penal institutions should use the seal of the particular institution or service, where such seal is available. If a certifying officer other than a post office official, officer of a bank or trust company, or officer of an issuing agent does not possess an official seal, a statement to that effect should be added to the certification by such officer.

§ 315.41 *Interested person not to certify.* No person authorized to certify requests for payment may certify a request for payment of a bond of which he is the owner or in which he has an interest, either in his own right or in any representative capacity.

§ 315.42 *Presentation and surrender*—(a) *All series.* Except for cases coming within the provisions of paragraph (b) of this section, after the request for payment has been duly signed by the owner and certified as above provided the bond should be presented and surrendered to (1) a Federal Reserve Bank, (2) the Bureau of the Public Debt, Division of Loans and Currency Branch, or (3) the Treasurer of the United States, Washington 25, D. C. Usually payment will be expedited by surrender to a Federal Reserve Bank. In all cases presentation will be at the expense and risk of the owner. Payment will be made by check drawn to the order of the registered owner or other person entitled and mailed to the address given in the request for payment, or if no address is given in the request for payment, to the address given in the instructions accompanying the bond.

(b) *Optional procedure limited to bonds of Series A to E, inclusive, in names of individual owners or coowners only.* Notwithstanding the provisions of any Department circulars offering the bonds for sale and notwithstanding any instructions which may be printed on the bond, a natural person whose name is inscribed on the face of a bond of Series A, B, C, D, or E, either as owner or coowner in his own right, may present such bond for redemption (unless marked "duplicate") to an authorized paying agent. The owner or coowner must establish his identity to the satisfaction of the paying agent, sign the request for payment, and add his home or business address. Even though the request for payment has been signed, or signed and certified, before the presentation of the bond, the representative of the paying agent must be satisfied that the person presenting the bond for payment is the owner or coowner and may require him to sign the request for payment again. If the bond is in order for payment, the paying agent will make immediate payment at the appropriate redemption value without charge to the owner. This procedure is not applicable to partial redemption cases, or to deceased owner cases, or other cases in which documentary evidence is required.

§ 315.43 *Partial redemption.* A savings bond of any series in a denomination greater than $25 (maturity value) may be redeemed in part at current redemption value but only in amounts corresponding to authorized denominations, upon presentation and surrender of the bond in accordance with paragraph (a) of § 315.42. In any case in which partial redemption is authorized, before the request for payment is signed the phrase "to the extent of $__ (maturity value) and reissue of the remainder" should be added to the first sentence of the request. Upon partial redemption of the savings bond, the remainder will be reissued as of the original issue date, as provided in Subpart I. For payment of interest on current income bonds in case of partial redemption, see Subpart G.

§ 315.44 *Nonreceipt or loss of checks issued in payment.* In case a check in payment of a bond surrendered for redemption is not received within a reasonable time or in case such check is lost after receipt, notice should be given to the same agency to which the bond was surrendered for payment, accompanied by a description of the bond by series, denomination, serial number, and registration. The notice should state whether or not the check was received and should give the date upon which the bond was surrendered for payment. Instructions will be given as to the necessary procedure to obtain a duplicate. Payment of unmatured bonds of Series F, G, H, J, and K is ordinarily made on the first day of the first month following by at least one full calendar month the date of receipt of notice of intention to redeem, and a check should not be expected until that time.

SUBPART I—REISSUE AND DENOMINATIONAL EXCHANGE

§ 315.45 *General.* (a) Reissue of a savings bond may be made only under the conditions specified in these regulations. Reissue is not authorized solely for the purpose of effecting an exchange as between authorized denominations, but in case of authorized reissue the new bond or bonds may be issued in any authorized denomination or denominations. Consistent with other provisions of the regulations in this part, a savings bond may be reissued in a form of registration authorized by the regulations in effect on the original issue date or on the date of reissue.

(b) Reissue will not be made if the request therefor is received less than one full calendar month before the maturity date, except for bonds of Series E for which an optional extension period has been provided in Department Circular No. 653, Fourth Revision.[13] In the case of such bonds reissue will not be made if the request is received less than one full month before the extended maturity date. However, a request for reissue of a bond received prior to its maturity, or extended maturity date (in case of a bond for which an extended maturity period has been provided), will be effective to establish ownership as though the requested reissue had been made.

(c) A request for reissue of a bond received on or after its maturity, or extended maturity date (in case of a bond for which an extended maturity period has been provided), will not be effective to name a coowner or beneficiary or to promote a beneficiary to a coowner, but requests for reissue in the names of persons who have become entitled by operation of law will be recognized as establishing the right of those persons to receive payment.

(d) Reissues under the provisions of this subpart may be made only at (1) a Federal Reserve Bank, (2) the Bureau of Public Debt, Divisions of Loans and Currency Branch, or (3) the Office of the Treasurer of the United States, Washington 25, D. C.

§ 315.46 *Requests for reissue.* A request for reissue should be made on the prescribed form by the person authorized under these regulations to make such request. Appropriate forms may be obtained from any Federal Reserve Bank, the Office of the Treasurer of the United States, or from the Bureau of the Public Debt, Division of Loans and Currency Branch.

§ 315.47 *Effective date.* In any case of authorized reissue, the Treasury Department will treat the receipt by a Federal Reserve Bank or the Treasury Department of a bond and an appropriate request for reissue thereof as determining the date upon which the reissue is effective.

§ 315.48 *Correction of errors.* Reissue of a bond may be made to correct an error in the original issue, upon appropriate request supported by satisfactory proof of the error.

§ 315.49 *Change of name.* An owner, coowner, or beneficiary whose name is changed by marriage, divorce, annulment, order of court, or in any other legal manner after the issue of the bond may submit the bond with a request on Form PD 1474 for reissue to substitute the new name for the name inscribed on the bond. This action is recommended in case of a change of name of the owner or coowner of a current income bond. The signature to the request for reissue should show both names and the manner in which the change was made, as, for example, "John Doe, now by order of court Richard Roe" or "Miss Mary T. Jones, now by marriage Mrs. Mary T. Jones Smith (Mrs. Mary T. J. Smith or Mary T. Smith)." If the change of name was made other than by marriage, the request must be supported by satisfactory proof of the change.

SUBPART J—MINORS AND PERSONS UNDER OTHER LEGAL DISABILITY, AND ABSENTEES

§ 315.50 *Payment to representative of an estate.* If the form of registration of a savings bond indicates that the owner is a minor, an incompetent, or an absentee and there is a representative of his estate, payment will be made to such representative. The request for payment appearing on the back of the bond should be signed by the representative as such, for example, "John A. Jones, guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent, an absentee)." Unless the form of registration gives the name of the representative requesting payment, a

[13] Only bonds of Series E with issue dates prior to May 1, 1957, have this optional extension period.

certificate or a certified copy of the letters of appointment from the court making the appointment, under the seal of the court, or other proof of qualification if not appointed by a court, should be submitted. Except in the case of corporate fiduciaries, such evidence should state that the appointment is in full force and should be dated not more than one year prior to presentation of the bond for payment. Where the form of registration does not indicate that there is a representative of the estate of a minor owner, a notice that there is such a representative will not be accepted by the Treasury Department for the purpose of preventing payment to the minor or to a parent or other person on behalf of the minor, as provided in §§ 315.51 and 315.52. However, if such representative presents for payment a bond registered in the name of his ward accompanied by proof of his qualification, payment will be made to such representative. (See Subpart N.)

§ 315.51 *Payment to minors.* If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his estate, payment will be made to him upon his request, provided that he is of sufficient competency to sign his name to the request for payment and to understand the nature of the transaction. In general, the fact that the request for payment has been signed by a minor and duly certified will be accepted as sufficient proof of competency and understanding.

§ 315.52 *Payment to a parent or other person on behalf of a minor.* If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his estate, and if such minor owner is not of sufficient competency to sign his name to the request for payment and to understand the nature of the transaction, payment will be made to either parent of the minor with whom he resides or, if the minor does not reside with either parent, then to the person who furnishes his chief support. His parent or the person furnishing his chief support should execute the request for payment and furnish a certificate, which may be typed or written on the back of the bond, as to his right to act for the minor. If a parent signs the request, the certificate and signature thereto should be in substantially the following form:

"I certify that I am the mother (or father) of John C. Jones and the person with whom he resides. He is _____ years of age and is not of sufficient competency and understanding to make this request.

"Mrs. Mary Jones on behalf of John C. Jones."

If a person other than a parent signs the request, the certificate and signature thereto, including a reference to the person's relationship, if any, to the minor, should be in substantially the following form:

"I certify that John C. Jones does not reside with either parent and that I furnish his chief support. He is ____ years of age and is not of sufficient competency and understanding to make this request.

"Mrs. Alice Brown, grandmother, on behalf of John C. Jones."

The Treasury Department may in any case require further proof that the minor is not of sufficient competency and understanding to execute the request for payment and of the right of the person executing the request to act on behalf of the minor.

§ 315.53 *Payment or reinvestment upon request of voluntary guardian of incompetent.* If the adult owner of a bond is mentally incompetent to request and receive payment thereof and no other person is legally qualified to do so, the relative responsible for his support or some other person may submit an application as voluntary guardian for redemption of the bond in the following cases:

(a) Where the proceeds of the bond are needed for the support of the incompetent or that of a person legally dependent upon him for support, and the total face amount of United States savings bonds belonging to the incompetent for which redemption is requested in any ninety-day period does not exceed $1,000;

(b) Where the bond has matured and it is desired to redeem it and reinvest the proceeds in United States Savings Bonds.

The entire proceeds must be invested, so far as possible, in bonds of Series E, except that:

(1) Any part of the proceeds which may not be invested therein because of the limitation on holdings may be invested in Series H bonds so long as the limitation on holdings for that series is not exceeded;

(2) If the matured bonds are current income bonds, the proceeds may be invested in Series H bonds so long as the limitation on holdings for that series is not exceeded.

The new bonds must be registered in the same form of registration as the matured bonds, with the words "an incompetent" following the incompetent's name, unless an owner, beneficiary, or coowner named in the registration of the matured bond is dead or unless such owner, beneficiary or coowner disclaims interest in the bond and consents to the elimination of his name. If the maturity value of the matured bond does not correspond to the purchase price of an authorized denomination of savings bonds of any series, or a multiple thereof, the odd amount remaining after the reinvestment will be paid to the voluntary guardian for the use and benefit of the incompetent. Form PD 2513 should be used in applying for payment under this section and should be accompanied by the evidence required by the instructions on the form.

§ 315.54 *Reissue.* A savings bond of which a minor or other person under legal disability is the owner or in which he has an interest may be reissued upon an authorized reissue transaction under the following conditions:

(1) Reissue will be restricted to a form of registration which does not adversely affect the existing ownership or interest of the minor or such other person, except that a minor of sufficient competency to sign his name to the request and to understand the nature of the transaction shall have the right to request reissue to add a coowner or beneficiary to a bond registered in his name alone or to which he is entitled in his own right.

(2) Requests for reissue under this section should be executed by the person authorized to request payment under §§ 315.50, 315.51, 315.52, and 315.53, and in the same manner.

SUBPART K—A NATURAL PERSON AS SOLE OWNER

§ 315.55 *Payment.* A savings bond registered in the name of a natural person in his own right, without a coowner or beneficiary, will be paid to him during his lifetime under Subpart H. Upon the death of the owner such bond will be considered as belonging to his estate and will be paid under Subpart N, except as otherwise provided in the regulations in this part.

§ 315.56 *Reissue for certain purposes.* A savings bond registered in the name of a natural person in his own right may be reissued upon appropriate request by him (subject to the provisions of § 315.54), upon presentation and surrender during his lifetime, for the following purposes:

(a) *Addition of a coowner or beneficiary.* To name another natural person as coowner or as beneficiary. Form PD 1787 should be used.

(b) *A trustee of a personal trust estate.* To name the trustee of a personal trust estate created by the owner. Form PD 1851 should be used.

(c) *Upon divorce or annulment.* To name as registered owner the other party to a divorce or annulment, occurring after issue of the bond. Form PD 1938 should be used.

(d) *Certain degrees of relationship.* To name as registered owner a person related to the owner in any of the degrees of relationship set forth in § 315.60 (b) (1) (i): *Provided, however,* That the Treasury reserves the right to reject any application for reissue hereunder as provided in that section. Form PD 1938 should be used.

SUBPART L—TWO NATURAL PERSONS AS COOWNERS

§ 315.60 *During the lives of both coowners.* A savings bond registered in coownership form, for example, "John A. Jones or Mrs. Mary C. Jones," will be paid or reissued during the lives of both, as follows:

(a) *Payment.* The bond will be paid to either upon his separate request, and upon payment to him the other shall cease to have any interest in the bond. If both request payment jointly, payment will be made by check drawn to their order jointly, for example, "John A. Jones AND Mrs. Mary C. Jones."

(b) *Reissue.* The bond may be reissued upon the request of both if presented and surrendered during the lifetime of both, as follows:

(1) In the name of either, alone or with a new coowner or beneficiary:

(i) If the coowner whose name is to remain on the bond and the coowner whose name is to be eliminated are re-

lated to each other as: husband and wife; parent and child (including stepchild); brother and sister (including the half blood, stepbrother and stepsister, and brother and sister through adoption); grandparent and grandchild; great grandparent and great grandchild; uncle or aunt and nephew or niece, including as nephew or niece the children of a brother or sister of the present spouse; granduncle or grandaunt and grandniece or grandnephew; mother-in-law or father-in-law and daughter-in-law or son-in-law; sister-in-law or brother-in-law;

Provided, however, That the Treasury reserves the right to reject any application for reissue hereunder, in whole or in part, upon a determination that the transaction would tend to evade or defeat the purposes of the limitation on holdings or the restriction against the transferability of savings bonds;

(ii) If one of them marries after the issue of the bond; and

(iii) If they are divorced or legally separated from each other, or their marriage is annulled, after the issue of the bond.

Form PD 1938 should be used to request reissue in any of the above three classes of cases.

The representative of the estate of a minor or incompetent coowner may request reissue under this paragraph on behalf of the ward to eliminate the other, but a request to eliminate the name of the minor or incompetent will not be recognized unless supported by evidence that a court has ordered the representative to request such reissue (see Sec. 315.23). When no representative has been appointed for a minor coowner who is not of sufficient competency to sign his name to the request for reissue and to understand the nature of the transaction, the person authorized to request payment for the minor under § 315.52 may sign the request for the minor, but only for reissue to promote the minor to sole owner. If no representative has been appointed for the estate of a minor coowner who is of sufficient competency to sign his name to the request for reissue and to understand the nature of the transaction, and if all of the bonds are to be reissued in his name alone or, if he so requests, with a new coowner or a beneficiary, he may sign the request. Reissue will not be made if one coowner is incompetent and a representative of the incompetent's estate has not been appointed, except to add the words "an incompetent" after his name or to eliminate the other coowner from the registration.

(2) In the name of a trustee of a personal trust estate created by both coowners. Requests for reissue should be made on Form PD 1851 and will not be approved unless both coowners are of full age and legally competent.

No other reissue will be permitted in any form during the lives of both coowners, except as specifically provided in the regulations in this part.

§ 315.61 *After the death of one or both coowners.* If either coowner dies without the bond having been presented and surrendered for payment or authorized reissue, the survivor will be recognized as the sole and absolute owner. Thereafter, payment or reissue will be made as though the bond were registered in the name of the survivor alone (see Subpart K), except that a request for reissue by him must be supported by proof of death of the other coowner, and except further that after the death of the survivor proof of death of both coowners and of the order in which they died will be required. The presentation and surrender of a bond by one coowner for payment establishes his right to receive the proceeds of the bond, and if he should die before the transaction is completed, payment will be made to the legal representative of, or persons entitled to, his estate in accordance with the provisions of Subpart N. If either coowner dies after the bond has been presented and surrendered for authorized reissue (see § 315.47), the bond will be regarded as though reissued during his lifetime.

§ 315.62 *Upon death of both coowners in a common disaster, etc.* If both coowners die under such conditions that it cannot be established either by presumption of law or otherwise which died first, the bond will be considered as belonging to the estates of both equally, and payment or reissue will be made accordingly. (See Subpart N.)

SUBPART M—TWO NATURAL PERSONS AS OWNER AND BENEFICIARY

§ 315.65 *During the lifetime of the registered owner.* A savings bond registered in beneficiary form, for example, "John A. Jones payable on death to Mrs. Mary C. Jones," will be paid or reissued upon presentation and surrender during the lifetime of the registered owner, as follows:

(a) *Payment.* The bond will be paid to the rigistered owner during his lifetime upon his properly executed request as though no beneficiary had been named in the registration. The presentation and surrender of the bond by the registered owner for payment establishes his exclusive right to the proceeds of the bond, and if he should die before the transaction is completed, payment will be made to the legal representative of, or the persons entitled to, his estate upon receipt of proof of the appointment and qualification of the representative or the identity of the persons entitled, in accordance with the provisions of Subpart N.

(b) *Reissue.* The bond will be reissued on the duly certified request of the registered owner:

(1) To name the beneficiary designated on the bond as coowner. Form PD 1787 should be used.

(2) To eliminate the beneficiary, to substitute another person as beneficiary, or to name another person as coowner, if the request of the registered owner is supported by the duly certified consent of the beneficiary to the elimination of his name or proof of the death of the beneficiary. Form PD 1787 should be used.[14]

(3) In the name of a trustee of a personal trust estate created by the owner, if the request of the owner is supported by the duly certified consent of the beneficiary to the elimination of his name or proof of the death of the beneficiary. Form PD 1851 should be used by the owner and Form PD 1849 by the beneficiary.[14]

If the registered owner dies after the bond has been presented and surrendered for authorized reissue, the bond will be regarded as though reissued during his lifetime.

§ 315.66 *After the death of the registered owner.* If the registered owner dies without the bond having been presented and surrendered for payment or authorized reissue and is survived by the beneficiary, upon proof of death of the owner the beneficiary will be recognized as the sole and absolute owner, and payment or reissue will be made as though the bond were registered in his name alone (see Subpart K).

SUBPART N—DECEASED OWNERS

§ 315.70 *Payment or reissue on death of owner*—(a) *General.* Upon the death of the owner of a savings bond who is not survived by a coowner or designated beneficiary and who had not during his lifetime presented and surrendered the bond for payment or an authorized reissue, the bond will be considered as belonging to his estate and will be paid or reissued accordingly as hereinafter provided, except that reissue under this subpart will not be permitted if otherwise in conflict with these regulations. In such exceptional case the person entitled to the bond will have the right only: (1) To hold the bond without change in registration; (2) to receive payment of the redemption value of the bond at any time and, if the bond is a current income bond, to receive the interest as it becomes due, but if the person entitled is an alien who is a resident of an area with respect to which the Treasury Department restricts or regulates the delivery of checks drawn against funds of the United States or any agency or instrumentality thereof, payment of the principal of and interest on the bond will not be made to such person until the restriction is removed. A creditor may obtain payment of a bond but not reissue. The provisions of this section shall also apply to savings bonds registered in the names of executors or administrators, except that proof of their appointment and qualification may not be required under (b) and (c).

(b) *In course of administration.* If the estate of a decedent is being administered in court, the bond will be paid to the duly qualified representative of the estate or will be reissued in the names of the persons entitled to share in the estate, upon the request of the representative

[14] The provisions of this subsection do not apply to bonds on which the Treasurer of the United States is named as beneficiary.

and compliance with the following requirements:

(1) Where there are two or more legal representatives, all must join in the request for payment or reissue, except as provided in §§ 315.77 and 315.78.

(2) The request for payment or reissue should be signed in the form, for example, "John A. Jones, administrator of the estate (or executor of the will) of Henry W. Jones, deceased," and must be supported by proof of the representative's authority in the form of a court certificate or a certified copy of the representative's letters of appointment. The certificate or the certification to the letters must be under seal of the court and, except in the case of a corporate representative, must contain a statement that the appointment is in full force and should be dated within six months of the date of presentation of the bond, unless the certificate or letters show that the appointment was made within one year immediately prior to such presentation.

(3) In case of reissue the legal representative of the estate should certify that each person in whose name reissue is requested is entitled to the extent specified for each and has consented to such reissue. A request for reissue by the legal representative should be made on Form PD 1455. If a person in whose name reissue is requested desires to name a coowner or beneficiary, such person should execute an additional request for that purpose, using Form PD 1787.

(c) *After settlement through court proceedings.* If the estate of the decedent has been settled in court, the bond will be paid to, or reissued in the name of, the person entitled thereto as determined by the court. The request for payment or reissue should be made by the person shown to be entitled, supported by a duly certified copy of the representative's final account as approved by the court, decree of distribution, or other pertinent court records, supplemented, if there are two or more persons having an apparent interest in the bond, by an agreement executed by them concerning the disposition of the bond. Form PD 1787 should be used.

(d) *Without administration.* When it appears that no legal representative of the decedent's estate has been or will be appointed, the bond will be paid to, or reissued in the name of, the person or persons entitled, including those entitled as donees of a gift causa mortis, pursuant to an agreement and request by all persons entitled to share in the decedent's estate. A short form of agreement for settlement without administration (Form PD 1946) may be used for cases in which the total amount of savings bonds (maturity value) and redemption and interest checks (face amount) relating to savings bonds which belong to the decedent's estate is not in excess of $500. A longer form (Form PD 1946–A) is prescribed for other cases of settlement without administration. Request for the appropriate form to be used hereunder may be made to any Federal Reserve Bank, the Office of the Treasurer of the United States, or to the Bureau of the Public Debt, Division of Loans and Currency Branch. If the persons entitled to share in the estate include minors or incompetents, payment or reissue of the bond will not be permitted without administration except to them or in their names unless their interests are otherwise protected to the satisfaction of the Treasury Department.

SUBPART O—FIDUCIARIES

§ 315.75 *Payment.* A savings bond registered in the name of a fiduciary or otherwise belonging to a fiduciary estate will be paid to the fiduciary or fiduciaries in accordance with the provisions of §§ 315.77 and 315.78.

§ 315.76 *Reissue*—(a) *In the name of person entitled*—(1) *Distribution of trust estate in kind.* A bond to which a beneficiary of a trust estate has become lawfully entitled in his own right or in a fiduciary capacity, in whole or in part, under the terms of a trust instrument, will be reissued in his name to the extent of his interest, upon the request of the trustee or trustees and their certification that such person is entitled and has agreed to reissue in his name.

(2) *After termination of trust estate.* If the person who would be lawfully entitled to a bond upon the termination of a trust does not desire to have distribution made to him in kind, as provided in subparagraph (1) of this paragraph, the trustee or trustees should present the bond for payment before the estate is terminated. If, however, the estate is terminated without such payment or reissue having been made, the bond will thereafter be paid to or reissued in the name of the person lawfully entitled upon his request and satisfactory proof of ownership, supplemented, if there are two or more persons having any apparent interest in the bond, by an agreement executed by all such persons concerning the disposition of the bond.

(3) *Upon termination of guardianship estate.* If the estate of a minor or incompetent or of an absentee is terminated, during the ward's lifetime, a bond registered to show that there is a representative of the estate will be reissued in the name of the former ward upon the representative's request and certification that the former ward is entitled and has agreed to reissue in his name (Form PD 1455 should be used), or will be paid to or reissued in the name of the former ward upon his own request, supported in either case by satisfactory evidence that his disability has been removed or that an absentee has returned to claim his property. Certification by the representative that a former minor has attained his majority, that a former incompetent has been legally restored to competency, that a legal disability of a female ward has been removed by marriage, if the state law so provides, or that an absentee has appeared to claim his property, will ordinarily be accepted as sufficient (see § 315.77 if the representative's name is not shown in the registration). Upon the termination of the estate as the result of the death of the ward, a bond registered to show that there is a representative of his estate will be reissued in accordance with the provisions of Subpart N as though it were registered in the name of the ward alone.

(4) *Upon termination of life estate.* Upon the death of a life tenant, a bond registered in his name as life tenant may be reissued in the name of the person or persons entitled pursuant to an agreement and request of all of the persons having an interest in the remainder.

(b) *In the name of a succeeding fiduciary.* If a fiduciary in whose name a bond is registered has been succeeded by another, the bond will be reissued in the name of the succeeding fiduciary upon appropriate request and satisfactory evidence of successorship. Form PD 1455 should be used.

(c) *In the name of financial institution as trustee of common trust fund.* A bond held by a bank, trust company, or other financial institution as a trustee, guardian or similar representative, executor or administrator may be reissued in its name as trustee of its common trust fund to the extent that participation therein by the institution in such capacity is authorized by law or applicable regulations. A request for reissue to the institution as trustee of its common trust fund should be executed on its behalf in the capacity in which the bond is held and by the cofiduciary, if any. Form PD 1455 should be used.

§ 315.77 *Requests for reissue or payment prior to maturity.* Except as specifically provided, the following rules apply to both requests for payment and reissue by fiduciaries. A request for reissue or for payment prior to maturity or extended maturity, for those Series E bonds for which an optional extension period has been provided,[13] must be signed by all acting fiduciaries unless by express statute, decree of court, or the terms of the instrument under which the fiduciaries are acting, some one or more of them may properly execute the request. If the fiduciaries named in the registration of the bond are still acting, no further evidence of authority will be required. In other cases a request must be supported by evidence as specified below:

(a) *Fiduciaries by title only.* If the bond is registered in the titles, without the names, of fiduciaries not acting as a board, satisfactory evidence of their incumbency must be furnished, except in the case of bonds registered in the title of public officers as trustees.

(b) *Succeeding fiduciaries.* If the fiduciaries in whose names the bond is registered have been succeeded by other fiduciaries, satisfactory evidence of successorship must be furnished.

(c) *Boards, committees, etc.* A savings bond registered in the name of a board, committee, commission, or other body, empowered to act as a unit and to hold title to the property of a religious, educational, charitable, or non-profit organization or public corporation will be paid upon a request for payment signed in the name of the board or other body by an authorized officer thereof. A request so signed and duly certified will ordinarily be accepted without further evidence of the officer's authority. The check in payment of the bond will be

drawn in the name of the board or other body as fiduciary for the organization named in the registration or shown by satisfactory evidence to be entitled as successor thereto.

(d) *Corporate fiduciaries.* If a public or private corporation or a political body, such as a state or county, is acting as a fiduciary, a request must be signed in the name of the corporation or other body in the fiduciary capacity in which it is acting, by an authorized officer thereof. A request so signed and duly certified will ordinarily be accepted without further evidence of the officer's authority.

(e) *Registration not disclosing trust or other fiduciary estate.* If the registration of the bond does not show that it belongs to a trust or other fiduciary estate or does not identify the estate to which it belongs, satisfactory evidence of ownership must be furnished in addition to any other evidence required by this section.

§ 315.78 *Requests for payment at or after maturity.* A request for payment at or after maturity or extended maturity for those Series E bonds for which an optional extension period has been provided,[13] signed by any one or more acting fiduciaries, will be accepted. Payment will ordinarily be made by check drawn as the bond is inscribed.

SUBPART P—PAYMENT OR REISSUE OF BONDS REGISTERED IN THE NAMES OF PRIVATE ORGANIZATIONS (CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, ETC.) AND GOVERNMENTAL AGENCIES, UNITS AND OFFICERS

§ 315.80 *Payment to corporations or unincorporated associations.* A savings bond registered in the name of a private corporation or an unincorporated association will be paid to the corporation or unincorporated association upon request for payment on its behalf by a duly authorized officer thereof. The signature to the request should be in the form, for example, "The Jones Coal Company, a corporation, by John Jones, President," or "The Lotus Club, an unincorporated association, by William A. Smith, Treasurer." A request for payment so signed and duly certified will ordinarily be accepted without further evidence of the officer's authority.

§ 315.81 *Payment to partnerships.* A savings bond registered in the name of an existing partnership will be paid upon a request for payment signed by a general partner. The signature to the request should be in the form, for example, "Smith and Jones, a partnership, by John Jones, a general partner." A request for payment so signed and duly certified will ordinarily be accepted as sufficient evidence that the partnership is still in existence and that the person signing the request is duly authorized.

§ 315.82 *Reissue or payment to successors of corporations, unincorporated associations, or partnerships.* A savings bond registered in the name of a private corporation, an unincorporated association, or a partnership which has been succeeded by another corporation, unincorporated association, or partnership by operation of law or otherwise, as the result of merger, consolidation, incorporation, reincorporation, conversion, or reorganization, or which has been lawfully succeeded in any manner whereby the business or activities of the original organization are continued without substantial change, will be paid to or reissued in the name of the succeeding organization upon appropriate request on its behalf, supported by satisfactory evidence of successorship. Form PD 1540 should be used.

§ 315.83 *Reissue or payment on dissolution of corporation or partnership.*—(a) *Corporations.* A savings bond registered in the name of a private corporation which is in the process of dissolution will be paid to the authorized representative of the corporation upon a duly executed request for payment, supported by satisfactory evidence of the representative's authority. Upon the termination of dissolution proceedings, the bond may be reissued in the names of those persons, other than creditors, entitled to the assets of the corporation, to the extent of their respective interests. Reissue under this subsection will be made upon the duly executed request of the authorized representative of the corporation and upon proof that all statutory provisions governing the dissolution of the corporation have been complied with and that the persons in whose names reissue is requested are entitled and have agreed to the reissue. If the dissolution proceedings are under the direction of a court, a certified copy of an order of the court, showing the authority of the representative to make the distribution requested, must be furnished.

(b) *Partnerships.* A savings bond registered in the name of a partnership which has been dissolved by death or withdrawal of a partner, or in any other manner, will be paid upon a request for payment by any partner or partners authorized by law to act on behalf of the dissolved partnership, or will be paid to or reissued in the names of the persons, other than creditors, entitled thereto as the result of such dissolution to the extent of their respective interests, upon their request supported by satisfactory evidence of their title, including proof that the debts of the partnership have been paid or properly provided for.

§ 315.84 *Payment to institutions (churches, hospitals, homes, schools, etc.).* A savings bond registered in the name of a church, hospital, home, school, or similar institution without reference in the registration to the manner in which it is organized or governed or to the manner in which title to its property is held will be paid upon a request for payment signed on behalf of such institution by an authorized representative. For the purpose of this section, a request for payment signed by a pastor of a church, superintendent of a hospital, president of a college, or by any official generally recognized as having authority to conduct the financial affairs of the particular institution will ordinarily be accepted without further proof of his authority. The signature to the request should be in the form, for example, "Shriners' Hospital for Crippled Children, St. Louis, Missouri, by William A. Smith, superintendent," or "St. Mary's Roman Catholic Church, Albany, New York, by John Jones, pastor."

§ 315.85 *Reissue in name of trustee or agent for investment purposes.* A savings bond registered in the name of a religious, educational, charitable or nonprofit organization, whether or not incorporated, may be reissued in the name of a bank, trust company or other financial institution, or an individual, as trustee or agent under an agreement with the organization under which the trustee or agent holds funds of the organization, in whole or in part, for the purpose of investing and reinvesting the principal and paying the income to the organization. Form PD 2177 should be used and should be signed on behalf of the organization by an authorized officer.

§ 315.86 *Reissue upon termination of investment agency.* A savings bond registered in the name of a bank, trust company, or other financial institution, or individual, as agent for investment purposes only, under an agreement with a religious, educational, charitable, or nonprofit organization, may be reissued in the name of the organization upon termination of the agency. The former agent should request such reissue and should certify that the organization is entitled by reason of the termination of the agency, using Form PD 1455. If such request and certification are not obtainable, the bond will be reissued in the name of the organization upon its own request, supported by satisfactory evidence of the termination of the agency.

§ 315.87 *Payment to governmental agencies and units.* A savings bond registered in the name of a State, county, city, town, or village, or in the name of a Federal, State, or local governmental agency such as a board, commission, or corporation, will be paid upon a request signed in the name of the governmental agency or unit by a duly authorized officer thereof. A request for payment so signed and duly certified will ordinarily be accepted without further proof of the officer's authority.

§ 315.88 *Payment to Government officers.* A savings bond registered in the official title of an officer of a governmental agency or unit will be paid upon a request for payment signed by the designated officer. The fact that the request for payment is so signed and duly certified will ordinarily be accepted as proof that the person signing is the incumbent of the designated office.

SUBPART Q—FURTHER PROVISIONS

§ 315.90 *Regulations prescribed.* The regulations in this part are prescribed by the Secretary of the Treasury as governing United States Savings Bonds issued under the authority of section 22 of the Second Liberty Bond Act, as amended, and pursuant to the various Department circulars offering such bonds for sale. The provisions of the regulations in this part with respect to bonds registered in the names of certain classes of individuals, fiduciaries, and organizations are equally applicable to bonds to which such individuals, fiduciaries, and organizations are otherwise shown to be entitled

under the regulations in this part. The provisions of Department Circular No. 300, Revised, have no application to savings bonds.

§ 315.91 *Waiver of regulations.* The Secretary of the Treasury reserves the right, in his discretion, to waive or modify any provision or provisions of the regulations in this part in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship, if such action would not be inconsistent with law and would not impair any existing rights, and if he is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 315.92 *Additional evidence; bond of indemnity.* The Secretary of the Treasury, in any case arising under the regulations in this part, may require such additional evidence as he may consider necessary or advisable, and may require a bond of indemnity, with or without surety, or an agreement of indemnity in any case where he may consider such a bond or agreement necessary for the protection of the interests of the United States.

§ 315.93 *Preservation of rights.* Nothing contained in the regulations in this part shall be construed to limit or restrict any existing rights which holders of savings bonds heretofore issued may have acquired under the circulars offering the bonds for sale or under the regulations in force at the time of purchase.

§ 315.94 *Supplements, amendments, or revisions.* The Secretary of the Treasury may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing United States Savings Bonds.

* * * * *

Compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is found to be impracticable and unnecessary with respect to this document. Nothing contained herein abridges or restricts any existing rights acquired by owners of savings bonds under previous circulars.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F. R. Doc. 57-10899; Filed, Dec. 30, 1957; 9:06 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 2-10]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

TABLE OF FREQUENCY ALLOCATIONS

The Commission having under consideration the desirability of making certain editorial changes in Part 2, § 2.104 (a) (5) of its rules and regulations; and

It appearing that an order adopted by the Commission on March 13, 1957, and printed in the FEDERAL REGISTER on March 19, 1957 (22 F. R. 1746), amended § 2.104 (a) (5) of Part 2 of the Commission's rules by reducing from 200 kc to 100 kc the separation betwen channels assignable to stations in the Aeronautical Mobile Service in the frequency band 123.7–131.9 Mc; and concurrently changed the footnote designator applicable to that band in the table of frequency allocations from (NG 50) to (NG 49); and

It further appearing that the abovementioned revision, Amendment No. 2–29 to Part 2 revised effective July 1, 1955, was not reflected in the subsequent recapitulative printing of Part 2 in the FEDERAL REGISTER on June 28, 1957 (22 F. R. 4533); and

It further appearing that the amendments adopted herein are editorial in nature, and, therefore, prior publication of notice of proposed rule making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately; and

It further appearing that the amendments adopted herein are issued pursuant to authority contained in sections 4 (i), (5) (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's Statement of Organization, Delegations of Authority and Other Information;

It is ordered, This 23d day of December, 1957, that, effective December 30, 1957, § 2.104 (a) (5) is amended as set forth below.

Released: December 26, 1957.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U. S. C. 303, 155)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amend § 2.104 (a) (5), the table of frequency allocations, insofar as it applies to column 10, for the frequency band 123.7–131.9 Mc, to read as follows:

(10)	(11)
123.7–131.9 (NG 49)	AERONAUTICAL MOBILE.

[F. R. Doc. 57-10842; Filed, Dec. 30, 1957; 8:50 a. m.]

[Rules Amdt. 2-11]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

MISCELLANEOUS AMENDMENTS

The Commission having under consideration the desirability of making certain editorial changes in §§ 2.521, 2.522, and 2.540 of its rules and regulations; and

It appearing that the amendments adopted herein are editorial in nature, and, therefore, prior publication of notice of proposed rule making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately; and

It further appearing that the amendments adopted herein are issued pursuant to authority contained in sections 4 (i), (5) (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's Statement of Organization, Delegations of Authority and Other Information;

It is ordered, This 24th day of December 1957, that, effective December 31, 1957, §§ 2.521, 2.522, and 2.540 are amended as set forth below.

Released: December 26, 1957.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U. S. C. 303, 155)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Part 2 of the Commission's rules is amended as follows:

1. Amend § 2.521 (a) by changing the reference, § 2.540 (c) to "§ 2.540."

2. Amend § 2.522 (a) by changing the reference, "§ 2.540 (c)" to "§ 2.540."

3. Amend § 2.522 (d) by changing the reference, "§ 2.540 (c)" to "§ 2.540."

4. Amend § 2.540 (d) by changing the text thereof to read as follows:

(d) Users shall not modify their own equipment except as provided in this paragraph or paragraph (e) of this section, as applicable.

[F. R. Doc. 57-10843; Filed, Dec. 30, 1957; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

INCOME ATTRIBUTABLE TO SEVERAL TAXABLE YEARS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C.,

within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

The following regulations are hereby prescribed under part I of subchapter Q of chapter 1 of the Internal Revenue Code of 1954, as amended by the act of August 11, 1955 (Public Law 366, 84th Cong., 69 Stat. 688), and the act of August 26, 1957 (Public Law 85-165, 71 Stat. 413). Except as specifically provided otherwise, these regulations are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954. Regulations under section 1305 are not included in these proposed regulations but will be published later with a separate notice of proposed rule making.

INCOME ATTRIBUTABLE TO SEVERAL TAXABLE YEARS

Sec.
1.1301 Statutory provisions; compensation from an employment.
1.1301-1 Introduction.
1.1301-2 Compensation from an employment.
1.1302 Statutory provisions; income from an invention or artistic work.
1.1302-1 Income from an invention or artistic work.
1.1303 Statutory provisions; income from back pay.
1.1303-1 Income from back pay.
1.1304 Statutory provisions; compensatory damages for patent infringement.
1.1304-1 Compensatory damages for patent infringement.
1.1305 Statutory provisions; breach of contract damages.
1.1305-1 [Reserved for regulations under section 1305.]
1.1306 Statutory provisions; rules applicable to sections 1301, 1302, 1303, 1304, and 1305.
1.1306-1 Rules applicable to sections 1301, 1302, 1303, 1304, and 1305.

§ 1.1301 *Statutory provisions; compensation from an employment.*

SEC. 1301. *Compensation from an employment*—(a) *Limitation on tax.* If an individual or partnership—

(1) Engages in an employment as defined in subsection (b); and

(2) The employment covers a period of 36 months or more (from the beginning to the completion of such employment); and

(3) The gross compensation from the employment received or accrued in the taxable year of the individual or partnership is not less than 80 percent of the total compensation from such employment,

then the tax attributable to any part of the compensation which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of such individual ratably over that part of the period which precedes the date of such receipt or accrual.

(b) *Definition of an employment.* For purposes of this section, the term "an employment" means an arrangement or series of arrangements for the performance of personal services by an individual or partnership to effect a particular result, regardless of the number of sources from which compensation therefor is obtained.

(c) *Rule with respect to partners.* An individual who is a member of a partnership receiving or accruing compensation from an employment of the type described in subsection (a) shall be entitled to the benefits of that subsection only if the individual has been a member of the partnership continuously for a period of 36 months or the period of the employment immediately preceding the receipt or accrual. In such a case the tax attributable to the part of the compensation which is includible in the gross income of the individual shall not be greater than the aggregate of the taxes which would have been attributable to that part had it been included in the gross income of the individual ratably over the period in which it was earned or the period during which the individual continuously was a member of the partnership, whichever period is the shorter. For purposes of this subsection, a member of a partnership shall be deemed to have been a member of the partnership for any period, ending immediately prior to becoming such a member, in which he was an employee of such partnership, if during the taxable year he received or accrued compensation attributable to employment by the partnership during such period.

§ 1.1301-1 *Introduction.* Sections 1301 through 1306 provide special rules to relieve a taxpayer from the amount of tax which otherwise results when an amount of income which has been earned over a period of years is received or accrued in one taxable year. Because of the graduated income tax rates this so-called bunching of income in one year usually subjects it to a higher rate of tax than would be payable if it had been received or accrued over the several years during which it was earned. Sections 1301 (relating to compensation from an employment), 1302 (relating to income from an invention or artistic work), 1303 (relating to back pay), 1304 (relating to compensatory damages for patent infringement), and 1305 (relating to damages for breach of contract) mitigate the tax consequences of such bunching of income by placing a limit upon the amount of tax to be paid for the taxable year in which such income is received or accrued. In effect, these sections generally treat the income as having been included in gross income ratably over the years (preceding receipt or accrual) in which it was earned. However, these sections have no effect on the income tax liability for prior taxable years; they simply provide a special method of computing the amount of tax for the year of receipt or accrual.

§ 1.1301-2 *Compensation from an employment*—(a) *Qualifications for limitation on tax.* If an individual or partnership—

(1) Engages in an employment (as defined in section 1301 (b) and paragraph (b) of this section); and

(2) The employment covers a period of 36 months or more (from the beginning to the completion of such employment); and

(3) The gross compensation from the employment received or accrued in the taxable year of the individual or partnership is not less than 80 percent of the total compensation from such employment,

then the tax attributable to any part of the compensation which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of such individual ratably over that part of the period of the employment which precedes the date of such receipt or accrual. The application of this paragraph may be illustrated by the following examples:

Example (1). A, an individual who makes his income tax returns on a calendar year basis and uses the cash receipts and disbursements method of accounting, began an employment, as defined in section 1301 (b) and paragraph (b) of this section, on February 17, 1951, and completed it on July 1, 1954. A's total compensation from such employment was $9,000, of which he received $1,000 on July 1, 1953, and $8,000 on the completion date. Since the employment covered more than 36 months and the $8,000 received in 1954 was not less than 80 percent of A's total compensation from such employment, he is entitled to the benefits of section 1301 in computing the tax payable with respect to the $8,000 reflected in his 1954 return. Section 1301 does not apply to the $1,000 received in 1953. Under section 1301 (a) the tax attributable to the $8,000 included in A's gross income for 1954 is not greater than the aggregate of the taxes attributable to such amount had it been received ratably over the calendar months included in the period from February 17, 1951, to July 1, 1954. However, if A had received an additional $5,000 in 1955 from such employment, he would not be entitled to the benefits of section 1301 with respect to either the $8,000 or the $5,000, since he would not have received in one taxable year at least 80 percent of the total compensation from such employment.

Example (2). If, in example (1) of this paragraph, A had commenced the employment on March 3, 1954, and completed it on August 22, 1957, and had been paid a total compensation of $10,000 for that employment on July 5, 1956, he would be entitled to the benefits of section 1301. However, the tax attributable to the $10,000 included in A's gross income for 1956 cannot be greater than the aggregate of the taxes attributable to such amount had it been received ratably over the calendar months included in the period from March 3, 1954, to July 5, 1956, the date on which the $10,000 was received.

(b) *Definition of an employment.* (1) (i) The term "an employment" means an arrangement or series of arrangements for the performance of personal services by an individual or partnership to effect a particular result, regardless of the number of sources from which compensation for such services is obtained. Thus, there must be an arrangement, and the arrangement must be for the performance of a particular project. In other words, there must be an understanding for the performance of services to accomplish a particular result. Accordingly, an arrangement to perform general services is not an employment within the meaning of section 1301 either as to any particular project on

which services are performed or as to the general services since there is no understanding that the services are to accomplish a particular result.

(ii) Whether an employment exists is a question which must be determined by a consideration of all the facts in each case. The primary factor in making such a determination is what the particular profession, business, or industry would normally consider as a distinct project or result. The statements of the parties and the contracts they make, if any, shall be considered in those cases where the project or result cannot be determined under the preceding sentence.

(iii) To qualify as an employment the services must relate to a particular project, such as a particular law case, and must not consist of a set of unrelated services performed for the same person. Furthermore, the individual steps performed by a taxpayer in connection with his project do not each constitute an employment; the services rendered by the taxpayer with respect to the entire project represent the employment.

(iv) The time when an employment begins and ends, and whether the period over which an employment extends includes conference and study time, depend upon the facts of each case. However, in determining the period over which an employment extends, there shall be included the time during which the efforts of the individual or partnership were unsuccessful in effecting the particular result.

(2) The application of the rules described in subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A was retained by X Corporation to perform general legal services. During the period 1955 through 1960, A performed miscellaneous legal services on numerous unrelated matters, each of which effected a particular result, and some of which extended over a period of more than 36 months. A was compensated by a single payment in 1960. A's services do not constitute an employment either as to the unrelated matters on which he worked or the general services performed over the period 1955 through 1960, since the arrangement was for the performance of services generally and not for the performance of any particular results.

Example (2). B was retained as an attorney by the Y Corporation to perform general legal services. An anti-trust action was brought against Y and, since the defense of such an action was beyond the scope of the agreement to perform general legal services, a separate arrangement was entered into between Y and B, whereby B was to be paid a specified additional amount for defending Y in the anti-trust suit. B's services in connection with such suit represent an employment separate and distinct from his general legal services for Y, and such services were performed pursuant to a separate arrangement.

Example (3). As part of a traffic flow improvement program the City of Z enters into a contract with C, a civil engineer, under which C agrees to perform services in connection with the construction of a highway bypassing the city, a vehicular tunnel under a river, and an elevated roadway in a congested industrial area of the city. C's compensation for his services with respect to each of these construction projects is fixed in the contract. Since the services performed in connection with each such construction project would normally be viewed by the engineering profession as a distinct project, C's services in connection with each of these construction projects constitute a separate employment. No contractual arrangement between the parties can operate to change the determination of the projects involved. Regardless of its terms, the contract will be viewed as an arrangement for the performance of services to effect three specifically identifiable results. Thus, the arrangement would constitute three distinct employments, even though the contract might provide for a single lump sum payment to be made only upon completion of all three projects.

Example (4). D entered into an agreement with Z Corporation to direct 5 motion picture productions for it in 5 years. Each of the 5 pictures was to be wholly unrelated to the others as entertainment products for public consumption. D's compensation for his services with respect to each picture was to be a certain percentage of the gross proceeds received from its showing. Each picture would normally be viewed by the motion picture industry as a distinct undertaking or project, and D's services in connection with each picture constitute a separate employment. As in the case of example (3), no contractual arrangement between the parties can operate to change the determination of the projects involved.

Example (5). E, a producer of television programs, entered into a contract with Y Television Network to produce a series of documentary films. While each film produced by E was a complete presentation of the specific subject matter, the entire series of films dealt with such subjects and was presented in such a manner as to identify the series as a unit in the public mind. Production of the films required coordinated planning of the whole series. The entire series of films would normally be viewed by the television industry was a distinct undertaking or project, and, therefore, E's services in connection with production of the series of films constitute a single employment. As in the case of examples (3) and (4), no contractual arrangement between the parties can operate to change the determination of the projects involved.

Example (6). F was appointed trustee of a trust which consisted of income producing and non-income producing property. Under a decree of the state court having jurisdiction over the trust, F was awarded certain commissions with respect to principal and certain commissions with respect to income. The fact that such separate compensation was awarded by the court did not establish that two employments were involved. F's services with respect to the principal and those with respect to the income of the trust were merely integral parts of one employment, i. e., the administration of the trust in its entirety.

Example (7). G was retained and served as legal counsel to the trustees of a trust. He also served as one of the trustees of the trust. G's services in each capacity constituted a separate employment, regardless of whether under the laws of the state having jurisdiction of the trust the services rendered by a trustee as legal counsel are eligible for compensation distinct from those rendered by him as trustee.

Example (8). H, an architect, was employed by the City of Z to draft the plans for, and supervise the construction of, a school building. The building was of a type that is normally both planned by and constructed under the supervision of an architect. His employment consisted of his entire services from the beginning of the preparation of the plans to his completion of supervision of the building's construction. The drafting of the plans and the supervision of the construction were merely interrelated steps in the performance of the entire employment.

Example (9). K, an attorney, received a fee from certain stockholders of corporation X, who employed him to represent them in a stockholders' suit. K also received as compensation for his services in connection with such suit an amount allowed by the court out of the shares of the proceeds of the suit payable to the stockholders of corporation X who were unrepresented by counsel. The fact that K receives compensation from two sources will not cause two employments to exist. For purposes of section 1301 the number of sources from which the compensation is obtained is immaterial in determining the number of employments.

(c) *Allocation of income.* The compensation from an employment is to be treated as if it had been received in equal portions in each of the calendar months (including those of the current taxable year) which fall within the period of employment preceding the receipt or accrual of the compensation. Thus, the portion of the compensation allocable to each taxable year involved in such period of employment is an amount equal to the entire compensation from the employment received or accrued in the current taxable year, divided by the entire number of calendar months included within the part of the period of employment which precedes the date of receipt or accrual of such compensation, and multiplied by the number of such calendar months falling within the particular taxable year. The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, an individual who makes his income tax returns on a calendar year basis and uses the cash receipts and disbursements method of accounting, receives $40,000 on September 30, 1954. This amount is the entire compensation from an employment (as defined in section 1301 (b)) covering a 40-month period beginning on June 1, 1951, and ending on September 30, 1954. $1,000 must be allocated to each of the calendar months included within the period of the employment. Thus, $7,000 is allocated to 1951, $12,000 to 1952, $12,000 to 1953, and $9,000 to 1954.

Example (2). Assume the same facts as in example (1), except that A makes his income tax returns on the basis of a taxable year ended June 30. The $40,000 is allocated as follows: $1,000 to the taxable year ended June 30, 1951, $12,000 each to the taxable years ended June 30, 1952, June 30, 1953, and June 30, 1954, and $3,000 to the taxable year ended June 30, 1955 (the current taxable year).

Example (3). Assume the same facts as in example (1), except that A receives the $40,000 on February 1, 1954 (before completion of the employment), instead of September 30, 1954. In this case, there are 32 calendar months included within the part of the period of the employment which precedes the date the compensation is received. Accordingly, $1,250 ($40,000 divided by 32) must be allocated to each of the calendar months included within the period from June 1, 1951, through January 31, 1954. Thus, $8,750 is allocated to 1951, $15,000 to 1952, $15,000 to 1953, and $1,250 to 1954.

Example (4). B, an individual who makes his income tax returns on a calendar year basis and uses the cash receipts and disbursements method of accounting, is engaged in an employment which covers a 40-month period beginning on May 1, 1951, and ending on August 31, 1954. The total compensation from the employment is $74,000, of which $34,000 is paid to B on

March 1, 1954, and $40,000 on August 31, 1954. The $34,000 payment must be allocated to the 34 calendar months included within the part of the period of the employment which precedes the date such payment is received (March 1, 1954). Accordingly, with respect to the $34,000 payment, $8,000 is allocated to 1951, $12,000 to 1952, $12,000 to 1953, and $2,000 to 1954. Since the $40,000 payment was received on the date the employment ended it must be allocated to the 40 calendar months included within the entire period of the employment. Accordingly, with respect to such payment, $8,000 is allocated to 1951, $12,000 to 1952, $12,000 to 1953, and $8,000 to 1954. The entire compensation of $74,000 will therefore be allocated as follows: $16,000 to 1951, $24,000 to 1952, $24,000 to 1953, and $10,00 to 1954.

Example (5). C, an individual who makes his income tax returns on a calendar year basis and uses the cash receipts and disbursements method of accounting, is engaged in an employment which covers a 36-month period beginning on February 1, 1954, and ending on January 31, 1957. The total compensation from the employment of $36,000 is paid to C on June 1, 1957. In this case, there are 36 months in the period of the employment which precede the date of receipt of the $36,000 by C. The months of February through May 1957, are not part of the period of employment and therefore no income is to be allocated to those months. Accordingly, the $36,000 is allocated as follows: $11,000 to 1954, $12,000 to 1955, $12,000 to 1956, and $1,000 to 1957.

(d) *Computation of tax*—(1) *Steps of computation.* The following computation shall be made in order to determine whether the limitation on tax prescribed in section 1301 (a) and paragraph (a) of this section applies to compensation from an employment received or accrued in a taxable year:

(i) Compute the tax for the current taxable year by including in the gross income of such year the compensation from an employment received or accrued in such year.

(ii) Compute the tax for the current taxable year without such inclusion.

(iii) Compute the tax attributable to the compensation from an employment allocated to each of the taxable years in accordance with paragraph (c) of this section. The amount of the tax attributable to the compensation from the employment so allocated is the difference between the tax for each such year computed with the inclusion in gross income of each year of the allocable portion of such compensation and the tax for each year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (*a*) the tax for the current taxable year as computed under subdivision (i) of this subparagraph, or (*b*) the tax for such year as computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated compensation as computed under subdivision (iii) of this subparagraph.

(2) *Effect of allocation of income on items based on amount of income and with respect to a net operating loss or a capital loss carryover.* (i) In computing the tax for any taxable year under this paragraph, any item which depends upon the amount of gross income, adjusted gross income, or taxable income shall be recomputed to take into consideration the amount of compensation allocated to such year (or from such year in the case of the current taxable year). For example, if by allocating $1,000 of compensation to 1955, adjusted gross income for 1955 is increased from $5,000 to $6,000, then the general limitation on allowable charitable deductions under section 170 (b) (1) (B) is increased from $1,000 to $1,200 and the amount of the nondeductible medical expenses under section 213 is increased from $150 to $180.

(ii) In computing the tax attributable to the compensation from an employment under this paragraph for any taxable year to or from which compensation is allocated, the effect of amounts of compensation allocated to any taxable year (or from the current taxable year) with respect to a net operating loss carryback or carryover or a capital loss carryover, shall be taken into account. Moreover, in determining the amount of tax attributable to such compensation, a computation shall also be made for any taxable year to which no amount of compensation is allocated but which is affected by a net operating loss carryback or carryover or by a capital loss carryover determined by reference to a taxable year to which amounts are so allocated and which net operating loss carryback or carryover or capital loss carryover is reduced or increased by such amounts so allocated. See subparagraph (3) (iv) (*d*) and (*e*) of this paragraph.

(3) *Example.* The computations described in subparagraph (1) of this paragraph may be illustrated by the following example: On January 1, 1952, A, unmarried, was retained as an attorney in an anti-trust suit. This employment continued until June 30, 1955, when the action was terminated and A received a fee of $84,000 as total compensation for his services. Since all the requirements of section 1301 are met with respect to the $84,000, the following tax results will occur, assuming that A's net income (or loss) for the years 1951, 1952, 1953 and his taxable income from 1954 and 1955 were as follows: 1951, $20,600 (which reflects a net operating loss carryback from 1952); 1952, net operating loss $2,000; 1953, $50,600; 1954, $32,000; $1955, $100,000 ($16,000 plus the $84,000 fee).

(i) Allocation of fee to period of employment:

1955 (6 months)	$12,000
1954 (12 months)	24,000
1953 (12 months)	24,000
1952 (12 months)	24,000

(ii) Tax for 1955 computed by including the $84,000 fee in gross income; $67,320.

(iii) Tax for 1955 computed without including the $84,000 fee in gross income; $5,200.

(iv) Taxes attributable to the $84,000 fee allocated to the various taxable years:

	Prior to allocation under sec. 1301		*Under sec. 1301*
(*a*) Tax attributable to 1955:			
Taxable income			$28,000 ($16,000+ $12,000)
Tax		$11,980	11,980
Less		5,200	
Amount of tax attributable to 1955 under sec. 1301			6,780
(*b*) Tax attributable to 1954:			
Taxable income	$32,000		56,000
Tax	14,460		31,320
Less		31,320 14,460	
Section 1301 increase attributable to 1954			16,860
(*c*) Tax attributable to 1953:			
Net income	50,600		74,600
Less: Personal exemption	600		600
	50,000		74,000
Tax	28,916		47,936
Less		47,936 28,916	
Section 1301 increase attributable to 1953			19,020
(*d*) Tax attributable to 1952:			
Net income	($2,000 net operating loss).		22,000
Less: Personal exemption			600
			21,400
Tax and section 1301 increase attributable to 1952			8,984
(*e*) Tax attributable to 1951:			
Net income	$20,600		22,600
Less: Personal exemption	600		600
	20,000		22,000
Tax	7,396		8,536
Less		$8,536 7,396	
Section 1301 increase attributable to 1951			1,140
(*f*) Aggregate of taxes resulting from allocation of compensation under section 1301:			
1955			6,780
1954			16,860
1953			19,020
1952			8,984
1951			1,140
			52,784

(v) Tax for 1955 under section 1301: $57,984.

Since the tax for 1955 computed without including the $84,000 fee in gross income ($5,200), plus the aggregate of taxes attributable to the allocation of such fee over the period of employment ($52,784) equals $57,984, which is a lesser sum than $67,320 (the amount of tax for 1955 computed by including the entire fee in income for 1955), $57,984 is the amount of tax for 1955 under the provisions of section 1301.

(4) *Compensation received from several employments allocated to same period.* If an individual computes his income tax under section 1301 for a particular taxable year and in a subsequent taxable year receives or accrues compensation from another employment, the period of which coincides to any extent with the period covered by the employment involved in the previous taxable year, such individual must, in availing himself of section 1301 for such subsequent taxable year, take into consideration the fact that he has previously allocated compensation to all or a part of the period covered by the employment later compensated. The same principle is applicable where income entitled to the benefits of section 1302, 1303, 1304, or 1305 is allocated to a year to which other income entitled to the benefits of section 1301, 1302, 1303, 1304, or 1305 had previously been allocated. For example, an individual commenced an employment on January 1, 1950, and completed it on December 31, 1954, at which time he received $60,000 as total compensation therefrom. In connection with his return for 1954, he allocated $1,000 to each of 60 calendar months included within the period of the employment and determined his income tax under the provisions of section 1301. He also commenced a second employment on January 1, 1952, and completed it on December 31, 1955, at which time he received total compensation of $48,000. In determining whether the limitation on tax prescribed in section 1301 (a) is applicable for the calendar year 1955, he must, in connection with allocating $1,000 to each of the 48 calendar months included within the period of such employment and computing the tax attributable thereto, also include in his income for the years 1952, 1953, and 1954, the amount of $12,000 previously allocated to each of such years in connection with his return for the calendar year 1954.

(e) *Rules with respect to partners—* (1) *Qualifications for limitations on tax.* An individual who is a member of a partnership receiving or accruing compensation from an employment of the type described in section 1301 (a) shall be entitled to the benefits of section 1301 only if: (i) He has been a member of the partnership continuously for a period of 36 months immediately preceding the receipt or accrual of such compensation by the partnership, or (ii) he has been a member of the partnership continuously for the period of the employment immediately preceding such receipt or accrual. It is immaterial whether the individual actually rendered services with respect to the employment to which the compensation is attributable.

(2) *Limitation on tax.* (i) If a partner qualifies under section 1301 (c) and subparagraph (1) of this paragraph for the benefits of section 1301 with respect to a share of partnership income includible in his gross income, the tax attributable to such share shall not be greater than the aggregate of the taxes which would have been attributable to such share had it been included in the gross income of the partner ratably over (*a*) the period in which it was earned immediately preceding the receipt or accrual of the compensation by the partnership, or (*b*) the period during which the individual continuously was a member of the partnership immediately preceding such receipt or accrual, whichever is the shorter period.

(ii) If (*a*) a partnership receives or accrues compensation from an employment of the type described in section 1301 (a) and the period of such employment immediately preceding the date of receipt or accrual is less than 36 months, and (*b*) if any individual has been a member of such partnership continuously for such period, then such individual shall be entitled to allocate his share of the compensation over such period.

(iii) If an individual has been a member of a partnership continuously for a period of at least 36 months immediately preceding the receipt or accrual of compensation from an employment of the type described in section 1301 (a), but such individual has not been a member of the partnership for the total period during which such compensation was earned by the partnership, the allocation of such individual's share of the compensation is limited to the period during which he was continuously a member of the partnership.

(iv) For purposes of section 1301 a partner who has retired under local law will nevertheless be treated as a partner until his interest in the compensation of the partnership from an employment has terminated, but only if such partner would have satisfied the employment requirement of section 1301 (c) if the partnership had received or accrued compensation from such employment on the date of his retirement. In such a case the retired partner shall be entitled to allocate his share of the compensation only over the period of employment preceding his retirement and during which he was a member of the partnership.

(v) The provisions of this paragraph may be illustrated by the following examples:

Example (*1*). A became a member of the ABC partnership on June 1, 1950. The partnership, which is on the calendar year basis, began an employment on June 1, 1952, and completed it on July 1, 1955. On June 1, 1954, the partnership had received $24,000 as total compensation from such employment. A's $8,000 share of such compensation was included in his gross income for 1954. Since the $24,000 payment was from an employment of the type described in section 1301 (a) and since A had been a member of the partnership continuously for more than 36 months at the date of the receipt of the payment, A is entitled to allocate his $8,000 share over the period in which the income was earned prior to the date of its receipt by the partnership. Thus, for purposes of making the tentative tax computation, A must allocate the $8,000 ratably over the period from June 1, 1952, through May 31, 1954.

Example (*2*). Assume the same facts as in example (1) of this subdivision except that A retires from the partnership on July 1, 1954. Such retirement is immaterial for purposes of section 1301; the tax consequences would be the same as in example (1) of this subdivision for the reasons therein set forth.

Example (*3*). A became a member of the ABC partnership on February 1, 1953. The partnership began an employment on July 1, 1953, and completed it on July 1, 1956. The partnership received $24,000 as compensation from such employment on January 1, 1955. The $24,000 payment was at least 80 percent of the partnership's total compensation from the employment. A included his $8,000 share in his gross income for 1955. Since the employment was of the type described in section 1301 (a) and since A was a member of the partnership continuously for the period of the employment immediately preceding the receipt of the payment, A is entitled to the benefits of section 1301 (a) with respect to his share, even though he had not been a partner for 36 months at the time of the receipt of the compensation. The period over which his share must be allocated for purposes of computing the tentative tax is July 1, 1953, through December 31, 1954.

Example (*4*). Assume the same facts as in example (3), except that the employment is completed on February 1, 1956. In such case A would not be entitled to the benefits of section 1301 (a), since the employment by the partnership did not cover a period of 36 months or more from its beginning to its completion.

Example (*5*). The ABC partnership began an employment on June 1, 1952. D became a member of the partnership on June 1, 1955. On June 1, 1957, the partnership received $30,000 as compensation from the employment. D's share of this payment included in his gross income for 1957 was $5,000. The employment terminated on June 1, 1959. The $30,000 payment was at least 80 percent of the total compensation from the employment. D is not entitled to the benefits of section 1301 since he was neither a member of the partnership continuously for a period of 36 months immediately preceding the receipt of the payment by the partnership, nor was he a member of the partnership continuously for the period of employment immediately preceding such receipt.

Example (*6*). The AB partnership began an employment on February 1, 1955. On February 1, 1957, after the employment had been in progress for two years, C joined the partnership. The employment was completed on July 31, 1960, and covered a period of 66 calendar months. The total compensation from the employment was $198,000 and was received on August 1, 1960, each partner's share amounting to $66,000. A and B are entitled to allocate their shares of the compensation over the full period of the employment, that is, over the 66 calendar months from February 1, 1955, through July 31, 1960. However, C can allocate his share only over a 42-month period extending from February 1, 1957, through July 31, 1960, the period during which he was continuously a member of the partnership. The shares of the total compensation received by A and B are allocable in the amount of $1,000 per month over 66 months, while C must allocate his share at the rate of $1,571.43 per month over 42 months.

Example (*7*). The ABC partnership began an employment on February 1, 1955. On July 31, 1957, after the employment had been in progress for 30 months, B retired from the partnership. The employment was com-

pleted on July 31, 1960, and covered a period of 66 calendar months. The total compensation from the employment was $180,000 and was received on August 1, 1960. Pursuant to the terms of the partnership agreement, A and C each received $75,000, while B received $30,000 as his share. A and C are entitled to allocate their shares of the compensation over the full period of the employment, that is, over the 66 calendar months from February 1, 1955, through July 31, 1960. Since under the terms of the partnership agreement B retained an interest in the compensation from the employment when he retired from the partnership, B will be treated as a partner and be entitled to allocate his $30,000 share over the 30 months of the period of employment preceding his retirement.

(3) *Individual engaged in an employment who becomes a member of a partnership which continues with such employment.* If an individual begins an employment in an individual capacity and later becomes a member of a partnership which continues with such employment, the employment shall be considered, with respect to such individual, as one employment covering both the period during which a portion of the employment was performed by such individual in his capacity as such and the period during which a portion of the employment was performed by the partnership. However, with respect to the other members of the partnership, the period of the employment is limited to the period of the employment performed by the partnership. For example, A, an individual, begins an employment for the X Company on June 1, 1952. On January 1, 1953, A forms a partnership with B and C. The partnership continues with the employment for the X Company and completes it on June 1, 1955, at which time the partnership receives $25,000 as total compensation for the services rendered on the employment. A is entitled to the benefits of section 1301 with respect to his share of the $25,000 and can allocate it over the period June 1, 1952, through May 31, 1955, but B and C are not entitled to such benefits. If, however, the partnership had completed the employment on January 1, 1956, and had received the $25,000 on that date, all three partners would be entitled to section 1301 benefits. A would allocate his share over the period June 1, 1952, through December 31, 1955, whereas B and C would allocate their shares over the period January 1, 1953, through December 31, 1955. Furthermore, if the employment had been completed on January 1, 1956, but the $25,000 had been received by the partnership on January 1, 1955, all partners would be entitled to section 1301 benefits; A allocating his share over the period June 1, 1952, through December 31, 1954, and B and C allocating their shares over the period January 1, 1953, through December 31, 1954.

(4) *Period of allocation where income received by a partner who was formerly an employee.* Where a member of a partnership who was formerly an employee of such partnership includes in his gross income a part of the compensation received or accrued by the partnership from an employment of the type described in section 1301 (a), he shall be deemed to have been a member of such partnership for the period during which he was an employee ending immediately prior to his becoming such a member. It is immaterial for purposes of this paragraph whether such an individual, as an employee, actually rendered services with respect to the employment to which such compensation is attributable. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, an individual, became an employee of the XYZ law partnership on June 1, 1952, and a member of the partnership on June 1, 1956. The partnership commenced an employment on June 1, 1954, and completed it on June 1, 1958, at which time it received a payment of $50,000, which satisfied all of the requirements of section 1301 (a). A's share of the $50,000 payment includible in his gross income for 1958 was $5,000. For purposes of section 1301 (c), A is deemed to have been a partner for the period June 1, 1954, through May 31, 1958, and the amount of $5,000 must be allocated ratably over the period June 1, 1954, through May 31, 1958.

Example (2). Assume the same facts as in example (1), except that on June 1, 1955, A left the employ of the partnership and returned on January 1, 1956. In such a case, A is a partner for the purposes of section 1301 for the period January 1, 1956, to June 1, 1958. Under such circumstances, A would not qualify for the benefits of section 1301 (a), since he was not a member of the partnership continuously for the period of 36 months immediately preceding receipt by the partnership of the compensation from the employment, nor was he a member of the partnership continuously for the period of employment immediately preceding the receipt of the compensation by the partnership.

(5) *Effect of withdrawal of a partner or termination of a partnership.* The withdrawal of a partner from a partnership or the termination of a partnership will not bring an employment to an end with respect to any partner who continues to participate in such employment either in his individual capacity or as a partner in a partnership which continues with such employment. For example, partnership AB began an employment on January 1, 1955. On January 1, 1957, B sold his interest to C under such circumstances as to cause the partnership to terminate under section 708 (b) (1). However, partnership AC continued with the employment and completed it on January 1, 1959, at which time the partnership received $100,000 as total compensation for the employment. Since A had an interest in the employment as a partner continuously for a period of 48 months he is entitled to the benefits of section 1301 with respect to his share of the compensation from the employment. C does not qualify, however, since he participated in the employment as a member of a partnership for a period of less than 36 months.

(6) *Effective date.* Section 1301 (c) and this paragraph shall apply only to amounts received or accrued after March 1, 1954. Pursuant to section 7851 (a) (1) (C), the regulations prescribed in this paragraph shall also apply to taxable years beginning before January 1, 1954, and ending after December 31, 1953, and to taxable years beginning after December 31, 1953, and ending before August 17, 1954, although such years are generally subject to the Internal Revenue Code of 1939. Notwithstanding any other provision of the Internal Revenue Code of 1954, section 107 of the Internal Revenue Code of 1939 shall apply to amounts received or accrued as a partner on or before March 1, 1954, and to the computation of tax on amounts received or accrued on or before March 1, 1954.

§ 1.1302 *Statutory provisions; income from an invention or artistic work.*

SEC. 1302. *Income from an invention or artistic work*—(a) *Limitation on tax.* If—

(1) An individual includes in gross income amounts in respect of a particular invention or artistic work created by the individual; and

(2) The work on the invention or the artistic work covered a period of 24 months or more (from the beginning to the completion thereof); and

(3) The amounts in respect of the invention or the artistic work includible in gross income for the taxable year are not less than 80 percent of the gross income in respect of such invention or artistic work in the taxable year plus the gross income therefrom in previous taxable years and the 12 months immediately succeeding the close of the taxable year,

then the tax attributable to the part of such gross income of the taxable year which is not taxable as a gain from the sale or exchange of a capital asset held for more than 6 months shall not be greater than the aggregate of the taxes attributable to such part had it been received ratably over, in the case of an invention, that part of the period preceding the close of the taxable year or 60 months, whichever is shorter, or, in the case of an artistic work, that part of the period preceding the close of the taxable year but not more than 36 months.

(b) *Definitions.* For purposes of this section—

(1) *Invention.* The term "invention" means a patent covering an invention of the individual.

(2) *Artistic work.* The term "artistic work" means a literary, musical, or artistic composition or a copyright covering a literary, musical, or artistic composition.

§ 1.1302–1 *Income from an invention or artistic work*—(a) *Qualifications for limitation on tax.* (1) The tax attributable to amounts included in gross income by an individual in respect of a particular invention or artistic work which he created shall be limited in accordance with the provisions of paragraph (c) of this section, provided:

(i) The work upon the invention or artistic work covered a period of 24 months or more (from the beginning to the completion thereof), and

(ii) The amounts includible in gross income of the individual for the taxable year from such invention or artistic work are not less than 80 percent of the gross income therefrom in the taxable year, the preceding taxable years, and the 12 months immediately succeeding the close of the taxable year.

(2) That part of the gross income from such artistic work or invention which is taxable as a gain from the sale or exchange of a capital asset held for more than 6 months is excluded from the benefits of section 1302.

(3) For the purpose of determining the tax which would be attributable to gain on the sale or exchange of an artistic work had such gain been received

ratably in any prior taxable year, such gain shall be treated as gain from the sale or exchange of property which is not a capital asset.

(b) *Definitions*—(1) *Invention.* For purposes of section 1302 and this section the term "invention" means a patent covering an invention of the individual.

(2) *Artistic work.* For purposes of section 1302 and this section the term "artistic work" means a literary, musical, or artistic composition or a copyright covering a literary, musical, or artistic composition.

(c) *Limitation on tax*—(1) *Rule.* Where amounts includible in gross income qualify under paragraph (a) of this section, the tax attributable thereto in the taxable year shall not be greater than the aggregate of the taxes attributable thereto had such amounts been received ratably over the part of the period of the work which precedes the close of the taxable year, but limited to a period of 60 calendar months in the case of an invention and limited to a period of 36 calendar months in the case of an artistic work.

(2) *Allocation of income.* The gross income from the invention or artistic work is to be treated as if it had been received in equal portions in each of the calendar months (including those of the current taxable year) which fall within the period of work preceding the close of the taxable year (not, however, exceeding 60 calendar months in the case of an invention and 36 calendar months in the case of an artistic work). Thus, the portion of the gross income from the invention or artistic work allocable to each taxable year involved in such period of work is an amount equal to the entire amount of gross income from the invention or artistic work received or accrued in the current taxable year, divided by the entire number (but not to exceed 60 in the case of an invention and 36 in the case of an artistic work) of calendar months included within the period of work which precedes the close of the current taxable year, and multiplied by the number of such calendar months falling within the particular taxable year. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, an individual who makes his returns on a calendar year basis and uses the cash receipts and disbursements method of accounting, received $36,000 (taxable as ordinary income) on October 1, 1954, in full payment for a musical composition. A commenced work on this composition on July 10, 1950, and completed it on January 29, 1955. Although the period of work covers 55 calendar months, allocations may be made to only the last 36 calendar months included within the part of the period of work which precedes the close of 1954 (the current taxable year). Therefore, $1,000 ($36,000 divided by 36) must be allocated to each of the 36 calendar months preceding January 1, 1955. Accordingly, $12,000 is allocated to 1952, $12,000 to 1953, and $12,000 to 1954 (the current taxable year).

Example (2). Assume the same facts as in example (1) except that A received $54,000 (taxable as ordinary income) for a patent covering an invention of his. In this case, allocations must be made to each of the 54 calendar months included within the part of work which precedes the close of 1954 (the current taxable year). Therefore, $1,000 ($54,000 divided by 54) must be allocated to each of the 54 calendar months preceding January 1, 1955. Accordingly, $6,000 is allocated to 1950 and $12,000 is allocated to each of the years 1951, 1952, 1953, and 1954.

Example (3). Assume the same facts as in example (1) except that the period of work was commenced by A on July 1, 1953, and completed on September 1, 1956. Although the period of work covers 38 calendar months, allocations may be made to only the 18 calendar months which are included within the part of the period of work which precedes the close of 1954 (the current taxable year). Therefore, $2,000 ($36,000 divided by 18) must be allocated to each of the 18 calendar months preceding January 1, 1955. Accordingly, $12,000 is allocated to 1953 and $24,000 to 1954.

(d) *Computation of tax*—(1) *Steps of computation.* The following computation shall be made in order to determine whether the limitation on tax prescribed in section 1302 (a) and paragraph (c) of this section applies to income from an invention or artistic work:

(i) Compute the tax for the current taxable year by including in the gross income of such year the amount of gross income from the invention or artistic work received or accrued in such year.

(ii) Compute the tax for the current taxable year without such inclusion.

(iii) Compute the tax attributable to the gross income from the invention or artistic work allocated to each of the taxable years in accordance with paragraph (c) (2) of this section. The amount of the tax attributable to the gross income from the invention or artistic work so allocated is the difference between the tax for each such year computed with the inclusion in gross income of each year of the allocable portion of the gross income from the invention or artistic work and the tax for each such year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (*a*) the tax for the current taxable year as computed under subdivision (i) of this subparagraph, or (*b*) the tax for such year as computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated gross income from an invention or artistic work as computed under subdivision (iii) of this subparagraph.

(2) For effect of allocation of income on items based on amount of income and with respect to a net operating loss or a capital loss carryover, see paragraph (d) (2) of § 1.1301–2.

(3) See paragraph (d) (4) of § 1.1301–2 for the computations which are necessary when an amount of gross income from an invention or artistic work is allocated to a period to which there has also been allocated other income entitled to the benefits of section 1301, 1302, 1303, 1304, or 1305.

§ 1.1303 *Statutory provisions; income from back pay.*

SEC. 1303. *Income from back pay*—(a) *Limitation on tax.* If the amount of the back pay received or accrued by an individual during the taxable year exceeds 15 percent of the gross income of the individual for such year, the part of the tax attributable to the inclusion of such back pay in gross income for the taxable year shall not be greater than the aggregate of the increases in the taxes which would have resulted from the inclusion of the respective portions of such back pay in gross income for the taxable years to which such portions are respectively attributable, as determined under regulations prescribed by the Secretary or his delegate.

(b) *Definition of back pay.* For purposes of this section, the term "back pay" means amounts includible in gross income under this subtitle which are one of the following—

(1) Remuneration, including wages, salaries, retirement pay, and other similar compensation, which is received or accrued during the taxable year by an employee for services performed before the taxable year for his employer and which would have been paid before the taxable year except for the intervention of one of the following events:

(A) Bankruptcy or receivership of the employer;

(B) Dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings;

(C) If the employer is the United States, a State, a Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or

(D) Any other event determined to be similar in nature under regulations prescribed by the Secretary or his delegate.

(2) Wages or salaries which are received or accrued during the taxable year by an employee for services performed before the taxable year for his employer and which constitute retroactive wage or salary increases ordered, recommended, or approved by any Federal or State agency, and made retroactive to any period before the taxable year.

(3) Payments which are received or accrued during the taxable year as the result of an alleged violation by an employer of any State or Federal law relating to labor standards or practices, and which are determined under regulations prescribed by the Secretary or his delegate to be attributable to a prior taxable year.

§ 1.1303–1 *Income from back pay*—(a) *Qualifications for limitation on tax.* If the amount of "back pay", as defined in section 1303 (b) and paragraph (b) of this section, received or accrued by an individual during the taxable year exceeds 15 percent of the individual's gross income for such year, the part of the tax attributable to the inclusion of such back pay in gross income for the taxable year shall not be greater than the aggregate of the increases in the taxes which would have resulted from the inclusion of the respective portions of such back pay in gross income for the taxable years to which such portions are respectively attributable. The computation of this limitation on tax shall be made in accordance with the provisions of paragraph (d) of this section.

(b) *Definition of back pay*—(1) *Remuneration delayed because of certain events.* "Back pay" means remuneration including wages, salaries, pensions, retirement pay, and other similar compensation, received or accrued during the taxable year and includible in gross income by an employee for services performed prior to the taxable year for his employer and which would have been paid prior to the taxable year but for the intervention of any one of the following events:

(i) Bankruptcy or receivership of the employer;

(ii) Dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings;

(iii) If the employer is the United States, a State, a Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or

(iv) Any other event determined to be similar in nature under this subparagraph. An event will be considered similar in nature to those events specified in subdivisions (i), (ii), and (iii) of this subparagraph only if the circumstances are unusual, if they are of the type specified therein, if they operate to defer payment of the remuneration for the services performed, and if payment, except for such circumstances, would have been made prior to the taxable year in which received or accrued.

For the purposes of section 1303 and this section, the term "back pay" does not include remuneration which is deemed to be constructively received in the taxable year or years in which the services were performed, remuneration paid in the current year in accordance with the usual practice or custom of the employer even though received in respect of services performed in a prior year or years, additional compensation for past services where there was no prior agreement or legal obligation to pay such additional compensation, or any amount which is not includible in gross income under subtitle A of the Internal Revenue Code of 1954.

(2) *Retroactive wage and salary increases.* "Back pay" also includes retroactive wage or salary increases received or accrued during a taxable year by an employee for services performed in a prior taxable year which have been ordered, recommended, or approved by any Federal or State agency such as, but not limited to, boards authorized by the Railway Labor Act, as amended (45 U. S. C. 151–188), comparable State organizations, and United States and State courts.

(3) *Payments resulting from alleged employer violation of certain laws.* "Back pay" also includes payments which are received or accrued during the taxable year as a result of an alleged violation by an employer of sections 6 and 7 of the Fair Labor Standards Act of 1938, as amended (29 U. S. C. 206, 207), and which are made retroactive to any period prior to the taxable year and payments which are received or accrued during the taxable year arising out of an alleged violation by an employer of any State or Federal law relating to labor standards or practices, such as payments received to effectuate the policies of the National Labor Relations Act, as amended (29 U. S. C. 151 et seq.).

(c) *Allocation of back pay to prior years.* For the purpose of determining under section 1303 (a) the particular taxable year or years to which the back pay is attributable and, if such back pay is attributable to more than one taxable year, the amount thereof which is attributable to each of such taxable years, the following rules will be applicable:

(1) Back pay, as defined in section 1303 (b) (1), shall be deemed to be attributable to a particular taxable year to the extent that it would have been paid in such year except for the intervention of one of the events described in section 1303 (b) (1).

(2) Back pay, as defined in section 1303 (b) (2), shall be deemed to be attributable to a particular taxable year to the extent that it would have been paid in such year had the wage or salary increase described in section 1303 (b) (2) been actually put into effect on the date to which it was first made retroactive.

(3) Back pay, as defined in section 1303 (b) (3), shall be deemed to be attributable to a particular taxable year to the extent that it represents payments in respect of the alleged violation described in section 1303 (b) (3) which occurred in such year or which continued during any part of such year.

(4) In those cases where a computation has been made by, or under the direction of, a Federal or State agency (including any Federal or State court) by whom the back pay was awarded, which computation indicates that particular portions of such back pay are attributable to certain definite periods of time, such computation shall be accepted as the appropriate allocation for the purposes of this paragraph.

(5) Where no computation has been made as provided in subparagraph (4) of this paragraph, and where the allocation cannot be accurately made in accordance with subparagraph (1), (2), or (3) of this paragraph, then the back pay shall be allocated to each of the taxable years within which falls one or more calendar months included within the entire period for which such back pay has been paid, as if such back pay had been received or accrued in equal portions in each of such calendar months.

(6) An individual must compute his taxable income for any taxable year to which back pay is attributable even though he was not required to make a return for such year. Thus, all amounts properly includible in gross income for any taxable year to which back pay is attributable must be included in the computation.

(d) *Computation of tax.* (1) The following computation shall be made in order to determine whether the limitation on tax prescribed in section 1303 (a) and paragraph (a) of this section applies to back pay received or accrued in the taxable year:

(i) Compute the tax for the current taxable year by including in the gross income of such year the back pay received or accrued in such year.

(ii) Compute the tax for the current taxable year without such inclusion.

(iii) Compute the tax attributable to the back pay allocated to each of the prior taxable years in accordance with paragraph (c) of this section. The amount of tax attributable to back pay in each of such prior taxable years is the difference between the tax for each year computed with the inclusion in gross income of each year of the portion of such back pay so allocated to each year and the tax for each year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (*a*) the tax for the current taxable year as computed under subdivision (i) of this subparagraph, or (*b*) the tax for such year as computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated back pay as computed under subdivision (iii) of this subparagraph.

(2) For effect of allocation of income on items based on amount of income and with respect to a net operating loss or a capital loss carryover, see paragraph (d) (2) of § 1.1301–2.

(3) See paragraph (d) (4) of § 1.1301–2 for the computations which are necessary when an amount of back pay is allocated to a period to which there has also been allocated other income entitled to the benefits of section 1301, 1302, 1303, 1304, or 1305.

(4) The provisions of this paragraph may be illustrated by the following example:

Example. A, an unmarried individual with no dependents, makes his returns on the cash receipts and disbursements method of accounting and on the basis of a calendar year. It is assumed that he is entitled to use and uses for the taxable years 1950, 1951, and 1954, the optional tax table provided in section 3 of the 1954 Internal Revenue Code, and Supplement T of the 1939 Internal Revenue Code. In 1954, A received adjusted gross income in the amount of $4,200, of which $1,000 constituted back pay. His tax for the calendar year 1954 on $4,200 would be $665. On $3,200 ($4,200 minus $1,000), the tax would be $467. That part of the tax for 1954 attributable to back pay is, therefore, $198 ($665 minus $467). Of the back pay, $600 was attributable to the year 1951. For such year his adjusted gross income (without such back pay) was $1,700 and his tax thereon was $192. The amount of tax which he would have paid for 1951 had he included in gross income the $600 of back pay attributable to 1951 is $302. The increase in the tax for such year would have been $110 ($302 minus $192). The remainder of the back pay, $400, was attributable to the year 1950, when his adjusted gross income (without such back pay) was $1,200, and his tax was $85. The amount of tax which he would have paid for 1950 had he included in gross income the $400 of back pay attributable to 1950 is $148. The increase in the tax for 1950 would be $63 ($148 minus $85). The aggregate of the increases of taxes for 1951 and 1950 would be $173. A's tax for the calendar year 1954 is $640 ($467 plus $173).

§ 1.1304 *Statutory provisions; compensatory damages for patent infringement.*

SEC. 1304. *Compensatory damages for patent infringement.* If an amount representing compensatory damages is received or accrued by a taxpayer during a taxable year as the result of an award in a civil action for infringement of a patent issued by the United States, then the tax attributable to the inclusion of such amount in gross income for the taxable year shall not be greater than the aggregate of the increases in taxes which would have resulted if such amount had been included in gross income in equal installments for each month during which such infringement occurred.

(Section 1304 as added by sec. 1, act of Aug. 11, 1955 (Pub. Law 366, 84th Cong., 69 Stat. 688))

§ 1.1304–1 *Compensatory damages for patent infringement*—(a) *Qualifications for limitation on tax.* If an amount representing compensatory damages is received or accrued by a taxpayer during a taxable year as a result of an award in a civil action for infringement of a patent issued by the United States, then the tax attributable to the inclusion of such amount in gross income for the taxable year shall not be greater than the aggregate of the increases in taxes which would have resulted if such amount had been included in gross income in equal installments for each month over the period during which such infringement occurred.

(b) *Definition of terms*—(1) *"Compensatory damages."* (i) For purposes of section 1304 and this section the term "compensatory damages" means an amount awarded pursuant to a judgment or decree by a court as the result of a civil action for infringement of a patent (or contributory infringement) which action is authorized by title 35 U. S. C. (1952 ed.) sec. 281. The term is limited to that portion of the award which represents damages to compensate the taxpayer for the actual infringement sustained. It does not include that portion of the award which represents increased damages awarded by the court over and above the amount found adequate to compensate for the infringement, attorney's fees, interest or costs. See title 35 U. S. C. (1952 ed.) secs. 284 and 285.

(ii) An amount awarded pursuant to a consent decree or judgment may be considered compensatory damages for purposes of this section.

(iii) An amount received or accrued pursuant to a settlement of the action, after a decree or judgment awarding damages to the taxpayer has been entered, may be considered as compensatory damages even though such amount is not made a part of a consent decree. In such case the taxpayer must show which portion of the amount received or accrued represents compensatory damages.

(iv) An amount received or accrued pursuant to a settlement of the action where no judgment or decree, or consent judgment or decree, is entered will not constitute compensatory damages.

(2) *"Patent issued by the United States."* The term "patent issued by the United States" means any patent issued or granted by the United States under the authority of the Commissioner of Patents pursuant to U. S. C. title 35 (1952 ed.), sec. 153. The term "patent issued by the United States" does not include a patent issued or granted by a foreign government.

(c) *Allocation of compensatory damages.* The amount representing compensatory damages is to be treated as if it had been received in equal portions in each of the calendar months (including those of the current taxable year) which fall within the period during which the court has determined the infringement to have occurred. Thus, the portion of the compensatory damages allocable to each taxable year involved in such period is an amount equal to the entire amount of compensatory damages, divided by the entire number of calendar months included within such period of infringement, and multiplied by the number of such calendar months falling within the particular taxable year.

(d) *Computation of tax.* (1) The following computation shall be made in order to determine whether the limitation on tax prescribed in section 1304 and paragraph (a) of this section applies to compensatory damages for a patent infringement received or accrued in the taxable year:

(i) Compute the tax for the current taxable year by including in the gross income of such year the amount of compensatory damages received or accrued in such year.

(ii) Compute the tax for the current taxable year without such inclusion.

(iii) Compute the tax attributable to the portion of the compensatory damages allocated to each of the taxable years in accordance with paragraph (c) of this section. The amount of tax attributable to compensatory damages in each of such years is the difference between the tax for each year computed with the inclusion in gross income of each year of the portion of such compensatory damages so allocated to each year and the tax for each year computed without such inclusion.

(iv) The tax for the current taxable year shall be the lesser of (*a*) the tax for the current taxable year as computed under subdivision (i) of this paragraph, or (*b*) the tax for such year as computed under subdivision (ii) of this subparagraph, plus the aggregate of the taxes attributable to the allocated compensatory damages as computed under subdivision (iii) of this subparagraph.

(2) For effect of allocation of income on items based on amount of income and with respect to a net operating loss or a capital loss carryover, see paragraph (d) (2) of § 1.1301–2.

(3) See paragraph (d) (4) of § 1.1301–2 for the computations which are necessary when an amount of compensatory damages is allocated to a period to which there has also been allocated other income entitled to the benefits of section 1301, 1302, 1303, 1304, or 1305.

(e) *Capital gains treatment of compensatory damages.* Section 1304 and this section are applicable to amounts considered as received from the sale or exchange of a capital asset. See section 1235 and the regulations thereunder. Whether the portion of the award allocable to each year pursuant to paragraph (c) of this section shall be considered as proceeds from the sale or exchange of a capital asset or as ordinary income shall be determined under the provisions of the internal revenue laws applicable for each such year and the regulations thereunder.

(f) *Effective date of this section.* The provisions of section 1304 and this section shall be applicable with respect to taxable years ending after August 11, 1955, but only with respect to amounts of compensatory damages received or accrued after such date as the result of awards made after such date.

(g) *Illustrations.* The provisions of section 1304 may be illustrated by the following examples:

Example (1). A, the claimant in a patent infringement action, made his return on a calendar year basis and used the cash receipts and disbursements method of accounting. On October 1, 1960, the court awarded him $72,000. Of this amount $10,000 represented legal fees, $6,000 interest, and $4,000 court costs. The balance of $52,000 represented compensatory damages. Moreover, the court found that the infringement began on June 3, 1956, and continued to the date of the award, thus covering a period of 52 calendar months. For the purpose of determining the limitation on tax under section 1304, A must allocate the amount of $52,000 of compensatory damages at the rate of $1,000 per month over the 52 calendar months as follows: $7,000 to 1956, $12,000 to 1957, $12,000 to 1958, $12,000 to 1959, and $9,000 to 1960.

Example (2). Assume the same facts as in example (1) except that on January 2, 1956, A sold or exchanged his patent to the X Company within the meaning of section 1235. For the purpose of determining the limitation on tax under section 1304, A must treat the amounts allocated to the several years as long-term capital gains.

§ 1.1305 *Statutory provisions; breach of contract damages.*

SEC. 1305. *Breach of contract damages*—(a) *General rule.* If an amount representing damages is received or accrued by a taxpayer during a taxable year as a result of an award in a civil action for breach of contract or breach of a fiduciary duty or relationship, then the tax attributable to the inclusion in gross income for the taxable year of that part of such amount which would have been received or accrued by the taxpayer in a prior taxable year or years but for the breach of contract, or breach of a fiduciary duty or relationship, shall not be greater than the aggregate of the increases in taxes which would have resulted had such part been included in gross income for such prior taxable year or years.

(b) *Credits and deductions allowed in computation of tax.* The taxpayer in computing said tax shall be entitled to deduct all credits and deductions for depletion, depreciation, and other items to which he would have been entitled, had such income been received or accrued by the taxpayer in the year during which he would have received or accrued it, except for such breach of contract or for such breach of a fiduciary duty or relationship. The credits, deductions, or other items referred to in the prior sentence, attributable to property, shall be allowed only with respect to that part of the award which represents the taxpayer's share of income from the actual operation of such property.

(c) *Limitation.* Subsection (a) shall not apply unless the amount representing damages is $3,000 or more.

(Section 1305 as added by sec. 1, act of Aug. 26, 1957 (Pub. Law 85–165, 71 Stat. 413))

§ 1.1305–1 [Reserved for regulations under section 1305]

§ 1.1306 *Statutory provisions; rules applicable to sections 1301, 1302, 1303, 1304, and 1305.*

SEC. 1306. *Rules applicable to this part*—(a) *Fractional parts of a month.* For purposes of this part, a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it should be considered as a month.

(b) *Tax on self-employment income.* This part shall be applied without regard to, and shall not affect, the tax imposed by chapter 2 relating to self-employment income.

(c) *Computation of tax attributable to income allocated to prior period.* For the purpose of computing the tax attributable to the amount of an item of gross income allocable under this part to a particular taxable year, such amount shall be considered income only of the person who would be required to include the item of gross income in a separate return filed for the taxable year in which such item was received or accrued.

(d) *Effective date of certain subsections.* Subsection (c) of section 1301 and subsection (c) of this section shall apply only to amounts received or accrued after March 1, 1954. Notwithstanding any other provision of this title, section 107 of the Internal Revenue Code of 1939 shall apply to amounts received or accrued as a partner on or before March 1, 1954, under this section and to the computation of tax on amounts received or accrued on or before March 1, 1954.

(Section 1306 as renumbered by sec. 1, act of Aug. 11, 1955 (Pub. Law 366, 84th Cong., 69 Stat. 688); sec. 1, act of Aug. 26, 1957 (Pub. Law 85-165, 71 Stat. 413))

§ 1.1306-1 *Rules applicable to sections 1301, 1302, 1303, 1304, and 1305*—(a) *Fractional parts of a month.* For purposes of sections 1301, 1302, 1303, 1304, and 1305, and the regulations thereunder, a fractional part of a month shall be disregarded unless it amounts to more than one half of a month, in which case it shall be considered as a month.

(b) *Tax on self-employment income.* The provisions of sections 1301, 1302, 1303, 1304, and 1305, and the regulations thereunder, shall be applied without regard to, and shall not affect, the tax imposed by chapter 2 of subtitle A of the Internal Revenue Code of 1954 and section 480 of the Internal Revenue Code of 1939, relating to the tax on self-employment income.

(c) *Computation of tax attributable to income allocated to prior period.* In the case of either a husband or wife receiving income to which the provisions of section 1301, 1302, 1303, 1304, or 1305 apply, the tax attributable to the portion of the income allocated to a prior period shall be computed by considering such income as includible by the spouse who would have been required to include it in a separate return for the taxable year in which such income was received or accrued, assuming a separate return had been filed for such year. For example, A, an attorney on a calendar year basis, resides in a State in which the common law with respect to the ownership of property is applicable. In 1955, A receives compensation upon the completion of an employment which began in 1945. All the requirements for the application of section 1301 (a) are satisfied. A and his wife file a joint income tax return for the taxable year 1955. They filed separate returns for the years 1945, 1946, and 1947 and joint returns in 1948 and subsequent years. The entire portion of such compensation allocable to the years for which separate returns were filed shall be includible in A's return and no part thereof shall be includible in the separate return filed by A's wife for such years.

(d) *Effective date.* Section 1304 (c) and this paragraph shall apply only to amounts received or accrued after March 1, 1954. Pursuant to section 7851 (a) (1) (C), the regulations prescribed in this paragraph shall also apply to taxable years beginning before January 1, 1954, and ending after December 31, 1953, and to taxable years beginning after December 31, 1953, and ending before August 17, 1954, although such years are generally subject to the Internal Revenue Code of 1939. Notwithstanding any other provision of the Internal Revenue Code of 1954, section 107 of the Internal Revenue Code of 1939 shall apply to amounts received or accrued on or before March 1, 1954, and to the computation of tax on amounts received or accrued on or before March 1, 1954.

[F. R. Doc. 57-10827; Filed, Dec. 30, 1957; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 17]

[Docket No. 11665]

PRACTICE AND PROCEDURE; CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES

EXTENSION OF TIME FOR FILING COMMENTS

In the matter of amendment of Parts 1 and 17 of the Commission's rules to encourage the grouping of antenna towers and the multiple use of structures for supporting antennas, and amendment of Part 17 to provide new criteria for determining whether applications for antenna towers will require special aeronautical study.

The Commission having under consideration a petition dated December 18, 1957, filed on behalf of the Storer Broadcasting Company, requesting an extension of time in which to submit comments directed to the Commission's further notice of proposed rule making in the above-captioned matter:

It appearing that owing to the specialized nature of the subject matter and the intervening holiday season petitioner is unable to prepare and submit comments in this proceeding by December 30, 1957, the final date for submission of comments specified in the Further Notice; and

It further appearing that the public interest would be served by extending the time for reception of comments in this Docket;

It is ordered, This 24th day of December 1957, that, pursuant to authority contained in section 0.322 (b) of the Commission's rules, the time for filing comments in the above-captioned matter is hereby extended from December 30, 1957 to January 31, 1958, and that rebuttal comments may be filed within 20 days from the extended closing date for original comments.

Released: December 26, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10844; Filed, Dec. 30, 1957; 8:50 a. m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 136]

[File No. 21-332]

PAINT AND VARNISH BRUSH INDUSTRY

NOTICE OF HEARING AND OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS, OR OBJECTIONS

In the matter of proposed trade practice rules for the Paint and Varnish Brush Industry superseding trade practice rules for the Paint and Varnish Brush Manufacturing Industry (16 CFR Part 136).

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties, affected by or having an interest in the proposed trade practice rules for the Paint and Varnish Brush Industry (superseding trade practice rules for the Paint and Varnish Brush Manufacturing Industry promulgated January 14, 1939), to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises. For this purpose they may obtain copies of the proposed rules upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other communication, to be filed with the Commission not later than January 16, 1958. Opportunity to be heard orally in the matter will be afforded at the hearing commencing 10:00 a. m. (e. s. t.), January 16, 1958, in the Washington Room of the Hotel Statler, 7th Avenue and 33rd Street, New York, N. Y., to any such persons, firms, corporations, organizations, or other parties, who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

The industry for which trade practice rules are sought to be established through this proceeding consists of persons, firms, corporations, and organizations engaged in the manufacture, sale or distribution of all types and kinds of brushes for use in applying paint, varnish, lacquer, calcimine, wallpaper or other decorative or protective coatings or primers or undercoating for such coatings. Also non-wire brushes for use in dusting or cleaning surfaces preliminary to the application of such coatings or undercoatings.

Proceedings looking to the promulgation of trade practice rules for this industry were instituted by the Commission pursuant to an industry application. The announced hearing constitutes the first step in the proceedings to revise previously promulgated trade practice rules.

Issued: December 26, 1957.

By direction of the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-10820; Filed, Dec. 30, 1957; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Dept. Order 147, Revision 1]

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR LAW ENFORCEMENT

ESTABLISHMENT

1. There is established in the Office of the Secretary the Office of Assistant to the Secretary for Law Enforcement.

2. The Office shall be headed by an Assistant to the Secretary for Law Enforcement, who shall report to me through the Assistant or Under Secretary who has supervisory responsibility for Treasury law enforcement operations.

3. The functions of the Office of the Assistant to the Secretary for Law Enforcement shall in general be, but shall not be limited to:

a. Formulation, for recommendation to the Secretary of the Treasury, of the basic law enforcement program and policy for execution of the Treasury Department's national and international law enforcement responsibilities.

b. Representation of the Office of the Secretary in operational aspects of all Treasury law enforcement activities.

c. Chairmanship of the Treasury Department Enforcement Board. This Board shall consist of the following officials: Administrative Assistant Secretary of the Treasury; Commissioner, Bureau of Narcotics; Chief, U. S. Secret Service; Director, Alcohol and Tobacco Tax Division, Internal Revenue Service; Deputy Commissioner (Investigations), Bureau of Customs; Director, Intelligence Division, Internal Revenue Service; Director, Internal Security Division (Inspection), Internal Revenue Service; and Chief, Intelligence Division, U. S. Coast Guard. Each of the Board members shall designate an alternate who will serve in his absence. The Board shall have the mission of appraising, improving, and developing crime suppression activities and techniques and, in addition, controlling and reducing the cost of enforcement operation and improving the management of enforcement activities.

d. Responsibility for the coordination of Treasury law enforcement activities.

e. Liaison representation of the Office of the Secretary with all other Federal and international law enforcement agencies on all major law enforcement problems.

f. Appraisal, for consideration of the Secretary, of the policy, performance and integrity of Treasury enforcement activities.

g. Direction of Treasury enforcement training.

4. The detailed organization and specific missions of the Office may be itemized and modified from time to time by the Assistant or Under Secretary who has supervisory responsibility for Treasury law enforcement operations, in order to accomplish the foregoing functions with maximum effectiveness.

5. In effectuating this order, I hereby direct the Assistant or Under Secretary who has supervisory responsibility for Treasury law enforcement operations to draw on all facilities of the Department without limitation, except as to restrictions imposed by law.

Dated: December 23, 1957.

[SEAL] ROBERT B. ANDERSON,
Secretary of the Treasury.

[F. R. Doc. 57-10828; Filed, Dec. 30, 1957; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PENNSYLVANIA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of Pennsylvania a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

PENNSYLVANIA

Berks.	Montgomery.
Greene.	Washington.
Monroe.	

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after December 31, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 26th day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10858; Filed, Dec. 30, 1957; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

[Docket F-21]

PROSPERITY CO.

NOTICE OF DENIAL WITHOUT PREJUDICE OF FACILITY LICENSE APPLICATION

Please take notice that the Atomic Energy Commission on December 20, 1957, denied the application for a facility license submitted by The Prosperity Company, 125 Marcellus Street, Syracuse, New York. The denial was made with the consent of the applicant and without prejudice to submittal of a new application. The Prosperity Company submitted its application for license on February 6, 1956, to construct and operate a research reactor on the campus of the University of Miami, Coral Gables, Florida. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 20th day of December 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-10794; Filed, Dec. 30, 1957; 8:45 a. m.]

[Docket Nos. 50-92, 50-93]

AEROJET—GENERAL NUCLEONICS

NOTICE OF PROPOSED ISSUANCE OF FACILITY EXPORT LICENSE

Please take notice that Aerojet-General Nucleonics, San Ramon, California, on December 9, 1957, filed two applications each requesting a license authorizing the export of a research reactor to The Government of Belgium for exhibition at the 1958 World's Fair in Brussels. One application (Docket 50-92) is for license to export a 100-milliwatt research reactor and the other (Docket 50-93) a one-watt research reactor. The applicant states that it plans to export only one of the reactors, that the Belgian Government has not yet decided which of the two reactors is to be exhibited, and that the two applications have been submitted in order to avoid unnecessary delay in shipment of the reactor finally chosen. Upon finding that (a) the reactor designated to be exported is a utilization facility as defined in the Atomic Energy Act of 1954, as amended, and in the Commission's regulations (10 CFR Part 50) and (b) the issuance of a license authorizing the export thereof is within the scope of and is consistent with the terms of an agreement for cooperation with The Government of Belgium, the Commission will issue a facility export license authorizing the export of the reactor to the International Science Hall in Brussels.

In its review of applications for licenses sought solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the subject reactors.

In accordance with the procedures set forth in the Commission's rules of practice (10 CFR Part 2) a petition for leave to intervene in these proceedings must be served upon the parties and filed with the Atomic Energy Commission within 30 days after the filing of this notice with the Federal Register Division.

For the Atomic Energy Commission.

Dated at Washington, D. C., this 23d day of December 1957.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-10795; Filed, Dec. 30, 1957; 8:45 a. m.]

[Docket No. F-14]

BATTELLE MEMORIAL INSTITUTE

NOTICE OF PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue a facility license to Battelle Memorial Institute substantially in the form set forth below unless within fifteen (15) days after filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). The proposed license would authorize Battelle Memorial Institute to possess the critical assembly facility at the site near Columbus, Ohio, described in its application for license. Construction of the facility was authorized by Construction Permit No. CPCX-2 issued on December 28, 1955. The facility has been inspected by representatives of the Commission and found to have been constructed in accordance with the terms and conditions of the construction permit. The proposed license provides that at such time as it is amended to authorize the operation of the facility such amended license will incorporate—as one of its conditions—a requirement that no critical experiment may be conducted in the facility until a description of the experiment and a hazards evaluation report shall have been submitted to the Commission and the Commission shall have specifically authorized the experimental activity. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 20th day of December 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

LICENSE

License No.

1. On October 20, 1955, Battelle Memorial Institute filed an application for a Class 104 license to construct, possess and operate a critical experiment facility (hereinafter "the facility") at its West Jefferson site near Columbus, Ohio. The original application and amendments thereto are hereinafter referred to as "the application". On December 28, 1955, the Atomic Energy Commission (hereinafter "the Commission") issued Construction Permit No. CPCX-2 authorizing construction of the facility described in the application. Representatives of the Commission have inspected the facility and found it to have been constructed in compliance with the terms and conditions of the construction permit.

2. The Commission finds that:

a. The facility authorized for construction by Construction Permit No. CPCX-2, dated December 28, 1955, and issued to Battelle Memorial Institute, has been constructed in conformity with the Atomic Energy Act of 1954, as amended, and the rules and regulations of the Commission; and

b. Issuance of a license to possess the facility will not be inimical to the common defense and security or to the health and safety of the public.

3. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Battelle Memorial Institute pursuant to section 104 (c) of the Atomic Energy Act of 1954, as amended, and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities," to possess the facility as a utilization facility.

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50; is subject to all applicable provisions of the Atomic Energy Act of 1954, as amended and rules, regulations and orders of the Commission now or hereafter in effect.

5. At such time as this license is amended to authorize the operation of the facility such amended license will incorporate—as one of its conditions—a requirement that no critical experiment may be conducted in the facility until a description of the experiment and a hazards evaluation report shall have been submitted to the Commission and the Commission shall have specifically authorized the experimental activity.

6. This license is effective as of the date of issuance and shall expire at midnight December 28, 1965.

Date of Issuance:

For the Atomic Energy Commission.

———,
Director,
Division of Civilian Application.

[F. R. Doc. 57-10796; Filed, Dec. 30, 1957; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11972; FCC 57M-1290]

AMERICAN TELEPHONE AND TELEGRAPH CO. ET AL.

ORDER SCHEDULING HEARING

In the matter of American Telephone and Telegraph Company et al., Docket No. 11972; lease and maintenance of equipment and facilities for private communication systems.

The Hearing Examiner having under consideration a Motion to Designate Hearing Date filed December 13, 1957, on behalf of the Chief, Common Carrier Bureau, requesting that the hearing be scheduled for January 14, 1958; and

It appearing that the Washington attorneys for various parties have informally agreed to the above hearing date, that the public interest requires prompt action to establish a firm hearing date in this multi-party proceeding, and that a grant of the motion will best conduce to the proper dispatch of business; now therefore,

It is ordered, This 20th day of December 1957, that the above motion is granted, and that the hearing in this proceeding shall be commenced at 10:00 a. m. on Tuesday, January 14, 1958, at the offices of the Commission in Washington, D. C.

Released: December 23, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10845; Filed, Dec. 30, 1957; 8:50 a. m.]

[Docket No. 12104 etc.; FCC 57M-1299]

RALPH D. EPPERSON ET AL.

ORDER SCHEDULING FURTHER PREHEARING CONFERENCE

In re applications of Ralph D. Epperson, Williamsburg, Virginia, Docket No. 12104, File No. BP-10958; Mary Cobb & Richard S. Cobb, d/b as Williamsburg Broadcasting Company, Williamsburg, Virginia, Docket No. 12105; File No. BP-11199; WDDY, Incorporated (WDDY), Gloucester, Virginia, Docket No. 12271, File No. BP-11503; for construction permits.

It is ordered, This 23d day of December 1957, that a further prehearing conference in the above-entitled matter will be held at 10:00 a. m., January 13, 1958, in the Commission's offices at Washington, D. C.

Released: December 24, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10846; Filed, Dec. 30, 1957; 8:50 a. m.]

[Docket No. 12226; FCC 57M-1296]

CAPITOL BROADCASTING CORP. (WCAW)

ORDER CONTINUING HEARING

In re application of Capitol Broadcasting Corporation (WCAW), Charleston, West Virginia, Docket No. 12226, File No. BP-11094; for construction permit.

On the oral request of all counsel: *It is ordered,* This 23d day of December 1957, that the hearing now scheduled for January 2, 1958, is continued; and

It is further ordered, On the Hearing Examiner's own motion, that a new date for hearing will be set by subsequent order.

Released: December 24, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10847; Filed, Dec. 30, 1957; 8:51 a. m.]

[Docket No. 12235, 12236; FCC 57M-1297]

LOUISIANA PURCHASE CO. AND SIGNAL HILL TELECASTING CORP.

ORDER CONTINUING HEARING

In re applications of Louisiana Purchase Company, St. Louis, Missouri, Docket No. 12235, File No. BPCT-2295; for construction permit for a new television broadcast station; and Signal Hill Telecasting Corporation, St. Louis, Missouri, Docket No. 12236, File No. BMPCT-4615; for modification of construction permit.

It is ordered, This 23d day of December 1957, on the Hearing Examiner's own motion, that the prehearing conference

now scheduled for January 10, 1958, is indefinitely continued.

Released: December 24, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10848; Filed, Dec. 30, 1957; 8:51 a. m.]

[Docket No. 12272; FCC 57M-1293]

JAMES A. SAUNDERS AND WILLIAM F. JOHNS, JR.

ORDER SCHEDULING HEARING

In re application of James A. Saunders (transferor) and William F. Johns, Jr., (transferee), Docket No. 12272, File No. BTC-2611; for transfer of control of Ware Broadcasting Corporation licensee of Station KIHO, Sioux Falls, South Dakota.

It is ordered, this 20th day of December 1957, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 10, 1958, in Washington, D. C.

Released: December 23, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10851; Filed, Dec. 30, 1957; 8:51 a. m.]

[Docket No. 12250; FCC 57M-1298]

SACRAMENTO TELECASTERS, INC. (KBET-TV)

ORDER CONTINUING HEARING

In re application of Sacramento Telecasters, Inc. (KBET-TV), Sacramento, California, Docket No. 12250, File No. BMPCT-2633; for modification of construction permit.

It is ordered, This 23d day of December 1957, on the Hearing Examiner's own motion, that the hearing now scheduled for January 16, 1958, is continued indefinitely.

Released: December 24, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10850; Filed, Dec. 30, 1957; 8:51 a. m.]

[Mexican List 206]

MEXICAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES, AND CORRECTIONS IN ASSIGNMENTS

NOVEMBER 25, 1957.

Notification under the provisions of part III, section 2 of the North American regional broadcasting agreement.

List of changes, proposed changes, and corrections in assignments of Mexican Broadcast Stations modifying the appendix containing assignment of Mexican Broadcast Stations attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power, kw	Antenna	Schedule	Class	Probable date of change or commencement of operation
		690 kilocycles				
XEAK	Tijuana, Baja California (change in call letters from XEAC).	50 kw	DA-N	U	I-B	Nov. 25, 1957
		900 kilocycles				
XEK	Nuevo Laredo, Tamaulipas (change in call letters from XEDF).	5 kw D/1 kw N	DA-1	U	III	Do.
		970 kilocycles				
XEDF	Mexico, D. F. (change in call letters from XEK).	1 kw D/500 w N	ND	U	III	Do.
		1510 kilocycles				
XEBP	Torreon, Coahuila (reduce daytime power).	250 w N/5 kw D	ND	U	III	Do.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10853; Filed, Dec. 30, 1957; 8:52 a. m.]

[Docket Nos. 12244-12246; FCC 57M-1300]

SANTA ROSA BROADCASTING CO. ET AL.

ORDER FOLLOWING FIRST PREHEARING CONFERENCE (CONTINUING HEARING)

In re applications of B. Floyd Farr, George Snell, Edward W. McCleery, Robert Blum d/b as Santa Rosa Broadcasting Company, Santa Rosa, California, Docket No. 12244, File No. BP-10676; Golden Valley Broadcasting Company (KRAK), Stockton, California, Docket No. 12245, File No. BP-10676; Joseph E. Gamble and Lew L. Gamble, d/b as Radio Santa Rosa, Santa Rosa, California, Docket No. 12246, File No. BP-11084; for construction permits.

It is ordered, This 23d day of December 1957, that, upon joint oral motion of all counsel made at a prehearing conference held this day in the above-entitled matter, a further prehearing conference will be held at 10:00 A. M., January 29, 1958, in the Commission's offices in Washington, D. C.; and

It is further ordered, That the hearing now scheduled for January 9, 1958, is continued without date.

Released: December 24, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10849; Filed, Dec. 30, 1957; 8:51 a. m.]

[Amdt. O-38]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND OTHER INFORMATION

CHIEF, SAFETY AND SPECIAL RADIO SERVICES BUREAU

In the matter of amendment of section 0.292 of the Commission's Statement of Delegations of Authority to provide authorization for Chief of Safety and Special Radio Services Bureau to dismiss applications without prejudice under certain circumstances.

The Commission having under consideration an editorial addition to section 0.292 of Part O of its Statement of Delegations of Authority; and

It appearing that by an order adopted on April 23, 1952, 17 F. R. 4187, the Commission delegated authority to the Chiefs of the Operating Bureaus authorized to process applications to dismiss such applications without prejudice where an applicant has failed to answer official correspondence or a request for additional material from the Commission as provided in § 1.381 (a) of the Commission's rules; and

It further appearing that it is administratively convenient and in the public interest to have this delegation of authority set forth in Part O of the Commission's Statement of Delegations of Authority; and

It further appearing that the amendment adopted herein is editorial in nature, and, therefore, prior publication of Notice of Proposed Rule Making pursuant to the provisions of section 4 (a) of the Administrative Procedure Act is unnecessary, and the amendment may become effective immediately; and

It further appearing that the amendment adopted herein is issued pursuant to authority contained in sections 4 (i), 5 (d) (1), and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's Statement of Delegations of Authority;

It is ordered, This 24th day of December, 1957, that, effective immediately section 0.292 of the Commission's Statement of Delegations of Authority is amended by the addition of paragraph (h) to read as follows:

(h) To dismiss, applications without prejudice in cases where, prior to designation of such application for hearing,

an applicant has failed to answer official correspondence or a request for additional information from the Commission.

Released: December 26, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10852; Filed, Dec. 30, 1957; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-14044]

ANDERSON-PRICHARD OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Anderson-Prichard Oil Corporation (Respondent), on November 25, and 26, 1957, tendered for filing proposed changes in presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notice of change, dated November 22, 1957. Notice of change, dated November 25, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designations: Supplement No. 1 to Anderson-Prichard Oil Corporation FPC Gas Rate Schedule No. 72. Supplement No. 6 to Anderson-Prichard Oil Corporation FPC Gas Rate Schedule No. 1.
Effective date: January 1, 1958. (Effective dates are the effective dates proposed by respondent.)

In support of the proposed increased rates, Respondent states that the periodic rate adjustments are the result of contractual provisions with El Paso negotiated at arm's length, that such provisions afford Respondent protection against increases in operating costs, and that denial of such increases would deprive Respondent of its right to just and reasonable rates. Such general conclusionary statements are insufficient to demonstrate, per se, the lawfulness of the increased rates. Union Oil Company, 16 F. P. C. 100.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the aforesaid supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10800; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14056]

SINCLAIR OIL AND GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

Sinclair Oil and Gas Company (Respondent), on November 25, 1957 tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of changes, dated November 21, 1957.
Purchaser: Lone Star Gas Company.
Rate schedule designation: (1) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 30. (2) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 29.
Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

In support of the proposed periodic rate increases, Respondent states that the proposed increases will not result in an excessive rate of return and will assist in obtaining a return commensurate with the risks inherent in exploration, development and production of natural gas.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10801; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14059]

STANDARD OIL COMPANY OF TEXAS

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Standard Oil Company of Texas (Respondent), on November 25, 1957, tendered for filing a proposed change in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule desgination: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 28.
Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

The proposed change in rate is a favored-nations increase based upon a spiral escalation increase of another seller. In support of the increase, Respondent cites the contract provisions and claims that the increase is a part of the whole contract rate and is not a change in rate.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10802; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14060]

SINCLAIR OIL & GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

Sinclair Oil & Gas Company (Respondent) on November 25, 1957 tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of changes, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: (1) Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 28. (2) Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 92. (3) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 13. (4) Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 7.

Effective date: December 26, 1957. (Effective date is the first day after expiration of the required thirty days' notice.)

The proposed changes in rates are favored-nations increases based upon a spiral escalation increase of another seller. In support of these increases, Respondent states that the increases will not result in an excessive rate of return and will assist in obtaining a return commensurate with the risks inherent in the exploration and production of natural gas.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10803; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14027]

BRITISH-AMERICAN OIL PRODUCING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 24, 1957.

The British-American Oil Producing Company (Respondent), on November 26, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 20, 1957.

Purchaser: Lone Star Gas Company.

Rate schedule designation: Supplement No. 1 to The British-American Oil Producing Company's FPC Gas Rate Schedule No. 11.

Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

In support of the proposed periodic rate increase, Respondent states that the increased rate is provided for in the contract which was entered into after arm's length bargaining, and that increased cost of production justifies the increased rate.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10804; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14051]

SIGNAL OIL AND GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 24, 1957.

Signal Oil and Gas Company (Operator) (Respondent), on November 29, 1957, tendered for filing a proposed change in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 27, 1957.
Purchaser: Cities Service Gas Company.
Rate schedule designation: Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: December 30, 1957. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed rate increase, Respondent states that one intrastate pipeline purchasing residue gas in the same area will shortly pay an escalated price for such gas. Respondent contends that its presently effective rate, established by a certificate condition in Docket No. G-2570 was established at the then highest price for residue gas in the area in order to maintain the status quo. Respondent further claims that such status quo is now being changed by reason of the fact that the intrastate pipeline will pay an escalated price for residue gas, therefore, Respondent's proposed rate increase should be allowed as the going price in the area, especially since such rate is less than the contract price.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10805; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14054]

CLAUDE M. LANGTON

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 24, 1957.

Claude M. Langton, Trustee (Respondent), on November 29, 1957, tendered for filing a proposed change in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, Undated.
Purchaser: Trunkline Gas Company.
Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

In support of the proposed periodic rate increase, Respondent states that the provisions of the contract for increased rates resulted from arm's-length bargaining in good faith to allow for varying economic conditions. Respondent also contends that the proposed rate will not exceed the rate in contracts of other sellers in the area, and its disallowance would be a deprivation of property without due process of law.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10806; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14052]

DOMESTIC OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 24, 1957.

Domestic Oil Corporation (Respondent), on November 29, 1957, tendered for filing a proposed change in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, Undated.
Purchaser: Cities Service Gas Company.
Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: December 30, 1957. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed periodic rate increase, Respondent states that the contract provision on which it is based resulted from arm's-length bargaining in good faith. Respondent further states that the proposed increase is necessary to protect against increasing costs and that the resulting rate does not exceed the current market price.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described

and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10807; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14105]

SINCLAIR OIL AND GAS COMPANY ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 24, 1957.

Sinclair Oil and Gas Company, et al. (Respondent), on November 25, 1957, tendered for filing a proposed change in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 71.
Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

In support of the proposed periodic rate increase, Respondent cites the contract provision and states that the proposed increase will not result in an excessive rate of return. Respondent also states that the proposed increase will assist it in obtaining a return commensurate with its risks, and will represent a fair consideration for its commitment to the purchaser.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10808; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14049]

PURE OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 24, 1957.

The Pure Oil Company (Respondent), on November 25, 1957 tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: (1) Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1. (2) Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 26, (3) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 28.
Effective date: January 1, 1958. (Effective date is the effective date proposed by respondent.)

In support of the proposed periodic rate increases, Respondent cites the pricing provisions of the contracts and contends that the increased prices are just and reasonable and to deny such increased rates would be unjust.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10809; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-13985]

PAUL F. BARNHART ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

Paul F. Barnhart, et al. (Respondent), on December 2, 1957, tendered for filing

proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, dated November 15, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: (1) Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 15. (2) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 7. (3) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 8. (4) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 9. (5) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 10. (6) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11. (7) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 12. (8) Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 14.

Effective date: January 2, 1958, or date increase becomes effective under the appropriate rate schedule, if later (effective date is the date proposed by Respondent, or the date the increase becomes effective under the terms of the contract, whichever is later).

The foregoing designated supplements pertain to periodic increases in rates plus proportionate increases in Texas occupation taxes. Respondent has not furnished sufficient information to establish the date upon which the terms of the basic contracts providing for such increases become operative.

In support of the proposed periodic rate increases, Respondent states that they are based upon the terms of the gas sales contracts.

The increased rates and charges proposed in the aforesaid supplements, insofar as they pertain to periodic rate increases, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Respondent submit within a reasonable time proof of the date upon which the proposed increased rates would become effective under the appropriate rate schedule.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges and that all of the foregoing designated supplements, insofar as they pertain to the periodic increases in rates, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Respondent shall submit proof, through agreement with the buyer or otherwise, of the date each of the proposed increased rates would have been effective under the appropriate rate schedule.

(B) Pursuant to the authority contained in sections 4, 5, 15, and 16 of the Natural Gas Act, and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rates and charges, and, pending such hearing and decision thereon, the above-designated supplements, insofar as they pertain to proposed periodic rate increases, be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of, or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10810; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14008]

PHILLIPS PETROLEUM CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Phillips Petroleum Company (Respondent), on November 25, 1957, tendered for filing proposed changes in presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated November 21, 1957.

Purchaser: Lone Star Gas Company.

Rate schedule designations: Supplement No. 1 to Phillips Petroleum Company FPC Gas Rate Schedule No. 158. Supplement No. 1 to Phillips Petroleum Company FPC Gas Rate Schedule No. 157.

Effective date: January 1, 1958. (Effective dates are the effective dates proposed by Respondent.)

In support of the proposed increased rates, Respondent states that the periodic rate adjustments are provided by contractual provisions with Lone Star negotiated at arm's length. Further, Respondent alleges that the price increases are necessary, are insufficient to offset costs said to be fairly apportioned to the business, and are just, reasonable and fully supported. Proof of arm's-length bargaining is insufficient, per se, to sustain the lawfulness of increased rates, Union Oil Company, 16 F. P. C. 100.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the aforesaid supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10811; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14031]

FRANK E. KIRKPATRICK, JR.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Frank E. Kirkpatrick, Jr. (Kirkpatrick), on November 25, 1957, tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: Cities Service Gas Company.

Rate schedule designation: Supplement No. 2 to Kirkpatrick's FPC Gas Rate Schedule No. 1.

Effective date: December 26, 1957. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed periodic rate increase, Kirkpatrick cites contract provision, arm's-length negotiations, and states the proposed rate increase provides for reasonable increase due to added costs of operation. Kirkpatrick also states that the proposed rate in-

crease is a reasonable rate for sale of gas in the community.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting.)

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10812; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14034]

CITIES SERVICE OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

Cities Service Oil Company (Cities Service), on November 25, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of changes, dated November 22, 1957.

Purchaser: Lone Star Gas Company.

Rate schedule designation: Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 3. Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 29. Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 9. Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 6.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Cities Service.)

In support of the proposed periodic rate increases, Cities Service cites contract provision and arm's-length bargaining at time contract was negotiated, and states the rate is not unreasonable and is less than the going price for gas in the area.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 3, Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 29, Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 9, and Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 6, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 3, Supplement No. 1 to Cities Service's FPC Gas Rate Schedule No. 29, Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 9, and Supplement No. 2 to Cities Service's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until June 1, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10813; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14035]

ATLANTIC REFINING CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

The Atlantic Refining Company (Operator), et al (Respondent), on November 25, 1957, tendered for filing a proposed change in a presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 2 to The Atlantic Refining Company (Operator), et al, FPC Gas Rate Schedule No. 10.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed increased rate, Respondent states that the periodic rate increase is the result of a provision in its basic contract with El Paso, that the contract was negotiated at arm's length, that the increased rate reflects an asserted increase in cost of production. In Union Oil Company, 16 F. P. C. 100, we expressed the view that evidence of arm's-length bargaining is insufficient, per se, to demonstrate the lawfulness of an increased rate.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has

expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10814; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14036]

ATLANTIC REFINING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

The Atlantic Refining Company (Respondent), on November 25, 1957, tendered for filing proposed changes in presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notice of change, dated November 14, 1957. Notice of change, dated November 13, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designations: Supplement No. 5 to The Atlantic Refining Company FPC Gas Rate Schedule No. 26. Supplement No. 14 to The Atlantic Refining Company FPC Gas Rate Schedule No. 28.

Effective date: January 1, 1958. (Effective dates are the effective date proposed by Respondent.)

In support of the proposed increased rates, Respondent states that the periodic rate adjustments are incorporated in contract provisions with El Paso (together with the related tax component), that such provisions were entered into at arm's length, and, lastly, that the increased rates reflect increases in cost of production. The mere fact that price increases are provided in contractual provisions representing the culmination of arm's-length bargaining does not, per se, demonstrate the lawfulness of the increased rates. Union Oil Company, 16 F. P. C. 100.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the aforesaid supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10815; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14037]

ATLANTIC REFINING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

The Atlantic Refining Company (Atlantic) on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 12, 1957.

Purchaser: Cities Service Gas Company.

Rate schedule designation: Supplement No. 2 to Atlantic's FPC Gas Rate Schedule No. 163.

Effective date: December 26, 1957. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed periodic rate increase, Atlantic cites basic contract provision, arm's-length bargaining at time contract was negotiated, and increased cost in production.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10816; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14039]

MONSANTO CHEMICAL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Monsanto Chemical Company (Respondent), on November 22, 1957, tendered for filing a proposed change in a presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 4 to Monsanto Chemical Company FPC Gas Rate Schedule No. 5.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed increased rate, Respondent states that the periodic rate adjustment is the product of its contract with El Paso, and that the price schedule of such contract is an integral part of the consideration upon which the contract is based.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly

discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10817; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14041]

KERR-McGEE OIL INDUSTRIES, INC.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Kerr-McGee Oil Industries, Inc. (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 22, 1957.

Purchaser: Cities Service Gas Company.

Rate schedule designation: Supplement No. 2 to Kerr-McGee's FPC Gas Rate Schedule No. 47.

Effective date: December 26, 1957. (Effective date is the effective date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cities contract provision, arm's-length transaction, and states the price increase is not unreasonable but is fair, just and reasonable.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10818; Filed, Dec. 30, 1957; 8:47 a. m.]

[Docket No. G-14042]

KERR-McGEE OIL INDUSTRIES, INC.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 23, 1957.

Kerr-McGee Oil Industries, Inc., (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 22, 1957.

Purchaser: Lone Star Gas Company.

Rate schedule designation: Supplement No. 2 to Kerr-McGee's FPC Gas Rate Schedule No. 17.

Effective date: December 26, 1957. (Effective date is the effective date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cites contract provision, arm's-length transaction, and states the price increase is not unreasonable but is fair, just and reasonable.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-10819; Filed, Dec. 30, 1957; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ALMA STAUB-TERLINDEN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended,

notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Alma Staub-Terlinden; Seehof Meilen, Canton of Zurich, Switzerland; Claim No. 61568; Vesting Order No. 17903; $179.00 in the Treasury of the United States.

Executed at Washington, D. C., on December 19, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10829; Filed, Dec. 30, 1957; 8:48 a. m.]

HANS MEIER-SAGESSER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Hans Meier-Sagesser, Basle, Switzerland; Claim No. 61525; Vesting Order No. 17903; $268.50 in the Treasury of the United States.

Executed at Washington, D. C., on December 19, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10830; Filed, Dec. 30, 1957; 8:49 a. m.]

HENDRIK THOMAS HORENSMA ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Cash in the Treasury of the United States as noted below and all right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F. R. 10097, October 3, 1951) in and to the securities described below:

Hendrik Thomas Horensma; Zutphen, Holland; L. S. Claim No. 860; $1,117.43. Cities Service Company 5/58, Debenture No. 181, in the principal amount of $500.

Dr. Ernest Grafenberg, New York, N. Y.; L. S. Claim No. 871; $4,560.00.

Mrs. Ella Tetta van Helbergen, Arnhem, Holland; Marius Frans Polak, Amsterdam, Holland; Mrs. Meta Knottenbelt, Richmond, New Zealand; L. S. Claim No. 874; Southern Pacific Company-San Francisco Terminal 4/50, Bond No. 14212, in the principal amount of $1,000.

Charles Boasson, Jerusalem, Israel; L. S. Claim No. 914; Central Pacific Railway Company 4/49, Bond No. 13341, and Norfolk & Western Railway Company 4/96, Bond No. 27877, all in the principal amount of $1,000 each; Union Pacific Railroad Company 4/47, Bonds Nos. 13274 and 14426, in the principal amount of $500 each.

Mrs. Bertha Krämer, Ralph Leo Pinto, Marcel Eli Pinto, and Alfredo Pinto, all of Santiago, Chile; L. S. Claim No. 915; Union Pacific Railroad Company 3½/71, Debentures Nos. 12030 and 18146, in the principal amount of $1,000 each.

Vesting Order No. 18521.

Executed at Washington, D. C., on December 19, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10832; Filed, Dec. 30, 1957; 8:49 a. m.]

LILLY WASSERMANN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Lilly Wassermann; 46, Stanhope Gardens, London S. W. 7, England; Claim No. 62645; Vesting Order No. 8711; $9,328.88 in the Treasury of the United States.

Executed at Washington, D. C., on December 19, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10831; Filed, Dec. 30, 1957; 8:49 a. m.]

MRS. H. J. STERNBERG-TURK

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mrs. H. J. Sternberg-Turk, Sao Paulo, Brazil; Claim No. 60586; Vesting Order No. 18118; $452.91 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10833; Filed, Dec. 30, 1957; 8:49 a. m.]

H. SAVRIJ

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

H. Savrij, Haarlem, The Netherlands; Claim No. 61998; Vesting Order No. 17838; $633.89 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10834; Filed, Dec. 30, 1957; 8:49 a. m.]

EDWARD HENRY SUMMERS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Edward Henry Summers, 1730-2 Tesaki-cho, Sumiyoshi-cho, Higashinada-ku, Kobe, Japan; Claim No. 63158; Vesting Order No. 11122; $3,416.38 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10835; Filed, Dec. 30, 1957; 8:49 a. m.]

DORA EISENSTEIN ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Dora Eisenstein, 34 Rashi Street, Nahlat, Ramat-Gan, Israel; $42.90 in the Treasury of the United States.

Lili Eisenstein, 34 Rashi Street, Nahlat Ramat-Gan, Israel; $128.72 in the Treasury of the United States.

Claim No. 61476; Vesting Order No. 4646.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10836; Filed, Dec. 30, 1957; 8:50 a. m.]

ETELA KIKIC

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Etela Kikic, Subotica, Yugoslavia; Claim No. 56860; Vesting Order No. 8179; $25.00 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10837; Filed, Dec. 30, 1957; 8:50 a. m.]

RITSUKO OKADA

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ritsuko Okada, 406 Waki mura, Kuga gun, Yamaguchi Ken, Japan; Claim No. 57884; $396.08 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10838; Filed, Dec. 30, 1957; 8:50 a. m.]

PAOLO ZANUSO ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Paolo Zanuso; $506.37 in the Treasury of the United States.

Augusto Pretto; $84.40 in the Treasury of the United States.

Alfonso Pretto; $84.40 in the Treasury of the United States.

All of Vincenza, Italy.

Antonio Zanuso, Weehawken, New Jersey; $42.20 in the Treasury of the United States.

Augusta Z. Pierguidi, Fairview, New Jersey, $42.20 in the Treasury of the United States.

Agnese Pretto, Buenos Aires, Argentina; $84.40 in the Treasury of the United States.

Claim No. 34805; Vesting Order No. 1370.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10839; Filed, Dec. 30, 1957; 8:50 a. m.]

FEDERICO PELS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Federico Pels, Araoz 2821, 7° Dep. 16, Buenos Aires, Argentina; Claim No. 57822; An undivided one-third (⅓rd) part of that property vested by the Alien Property Custodian by Vesting Order No. 3715, filed with the Federal Register on June 2, 1944 (9 Fed. Reg. 6038), as all right, title, interest and claim of any kind or character whatsoever of Clara Stern and her legitimate descendants, names unknown, in and to the Trust created by the Will of Henrietta Friend, also known as Henriette Friend, deceased. The property is in the process of administration by the First Wisconsin Trust Company, Milwaukee, Wisconsin, acting under the judicial supervision of the County Court of Milwaukee County, Wisconsin.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10840; Filed, Dec. 30, 1957; 8:50 a. m.]

RAFFAELA SABATO ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Raffaela Sabato, nee Bottiglieri, Toni Bottiglieri and Carolina Zoccola, individually, and as natural guardian for Michelina Bottiglieri, Maria Bottiglieri and Gigetta Bottiglieri, Salerno, Italy; Claim No. 63094; Vesting Order No. 2129; $5,282.01 in the Treasury of the United States.

Executed at Washington, D. C., on December 20, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10841; Filed, Dec. 30, 1957; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 26, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34376: *Substituted service—Motor and rail, N. Y., N. H., and H. R. R.* Filed by The New York, New Haven and Hartford Railroad Company, Agent (No. 205) for itself, the Belmont Trucking Company, Inc., and other interested motor carriers. Rates on freight loaded in highway trailers and transported in substituted rail service on railroad flat cars between Boston, Mass., and Harlem River, N. Y.

Grounds for relief: Motor truck competition.

FSA No. 34377: *Rice bran between points in southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3583), for interested rail carriers. Rates on rice bran, carloads between points in southern territory including Ohio and Mississippi River crossings.

Grounds for relief: Short-line distance formula, grouping, maintenance of short or weak line arbitraries.

Tariff: Supplement 12 to Agent Spaninger's tariff I. C. C. 1613.

FSA No. 34378: *Silica sand—Klondike and Pacific, Mo., to New Orleans, La.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7174), for interested rail carriers. Rates on silica sand, carloads, from Klondike and Pacific, Mo., to New Orleans, La.

Grounds for relief: Market competition.

Tariff: Supplement 129 to Agent Kratzmeir's tariff I. C. C. 4135.

FSA No. 34379: *Brick and related articles—Kanapolis, Kans., to western points.* Filed by W. J. Prueter, Agent (WTL No. A-1949), for interested rail carriers. Rates on brick and related commodities, carloads from Kanapolis, Kans., to specified points in Colorado, Minneapolis, North Dakota, and Nebraska.

Grounds for relief: Market competition, and maintenance of rates constructed on short-line distance formulas.

Tariff: Agent W. J. Prueter's tariff I. C. C. A-4221.

FSA No. 34380: *Fertilizer compounds and urea—Southwestern points to Utah and Wyoming points.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7173), for interested rail carriers. Rates on fertilizer compounds, carloads, also urea, carloads, and kindred articles, carloads from specified points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas to specified points in Utah on the Union Pacific Railroad Company.

Grounds for relief: Market competition and short-line distance formulas.

Tariff: Supplement 126 to Agent Kratzmeir's tariff I. C. C. 4136.

FSA No. 34381: *Corn husks and cobs—Between points in southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3582), for interested rail carriers. Rates on corn husks (shucks), in bags or bales, carloads; also corn cobs, ground or crushed or not ground or crushed, straight or mixed carloads between points in southern territory, including Ohio and Mississippi River crossings.

Grounds for relief: Short-line distance formula, grouping, maintenance of short or weak line arbitraries.

Tariff: Supplement 12 to Agent Spaninger's tariff I. C. C. 1613.

FSA No. 34382: *Grain and grain products—Moberly, Mo., to Lake Charles, La.* Filed by The Wabash Railroad Company (No. 23), for itself and on behalf of the Missouri Pacific Railroad Company. Rates on grain and grain products, carloads from Moberly, Mo., to Lake Charles, La., for export.

Grounds for relief: Carrier and port competition.

Tariff: Wabash Railroad Company tariff I. C. C. No. 7850.

FSA No. 34383: *Machinery—Cordele, Ga., to Charleston and Kenova, W. Va.* Filed by O. W. South, Jr., Agent (SFA No. A3584), for interested rail carriers. Rates on machinery or machines and parts thereof, carloads from Cordele, Ga., to Charleston and Kenova, W. Va.

Grounds for relief: Carrier competition and rates constructed on short-line distince formula.

Tariff: Supplement 30 to Agent Spaninger's tariff I. C. C. 1536.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57-10823; Filed, Dec. 30, 1957; 8:47 a. m.]

[Rev. S. O. 562, Amdt. 5; Taylor's I. C. C. Order 70]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

DIVERSION OR REROUTING OF TRAFFIC

Upon further consideration of Taylor's I. C. C. Order No. 70 and good cause appearing therefor: *It is ordered,* That:

Taylor's I. C. C. Order No. 70 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p. m., March 31, 1958, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p. m., December 31, 1957, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., December 20, 1957.

INTERSTATE COMMERCE COMMISSION,

[SEAL] CHARLES W. TAYLOR, *Agent.*

[F. R. Doc. 57-10821; Filed, Dec. 30, 1957; 8:47 a. m.]

PART II

FEDERAL REGISTER

VOLUME 22 NUMBER 252

Washington, Tuesday, December 31, 1957

TITLE 46—SHIPPING

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

Subchapter F—Merchant Ship Sales Act of 1946

PART 299—RULES AND REGULATIONS, FORMS, AND CITIZENSHIP REQUIREMENTS

[General Order 60, Revised]

REPUBLICATION OF PART

Part 299, because of numerous amendments, has been recodified and is republished as set forth below.

Subpart A—General Provisions

Sec.
299.1 Definitions.
299.2 Order or preference.
299.5 Limitation on eligibility for benefits of act.
299.7 Reconversion, alteration or modification.
299.8 Verification of documents.
299.9 Exceptions and exemptions to rules and regulations.
299.10 Termination date.

Subpart B—Sales of War-Built Vessels

299.21 Sales of war-built vessels to citizens of the United States.
299.22 Allowance of credit for exchange of vessels.
299.25 Sales of war-built vessels to persons not citizens of the United States.
299.26 Spare parts and vessel equipment, stores, fresh water, and fuel.

Subpart C—Charter of War-Built Vessels to Citizens

299.31 Charter of war-built vessels to citizens of the United States.

RESERVES

299.35 Regulations with respect to reserves to be taken into account in the determination of "Net Voyage Profit" under SHIPSALESDEMISE 303 Bareboat Charter Agreement and Addenda thereto.
299.36 Regulations with respect to reserves to be taken into account in the determination of "Net Voyage Profit" under SHIPSALESDEMISE Form No. 303 (Military Sea Transportation Service) Bareboat Charter Agreements.

FINAL ACCOUNTINGS BY CHARTERERS UNDER WARSHIPDEMISEOUT 203 AND SHIPSALES DEMISE 303 BAREBOAT CHARTER AGREEMENTS

Sec.
299.37 Procedure.
299.38 Definitions.

ACCOUNTING REQUIREMENTS

299.39 Contract provisions and applicable orders and instructions.

CAPITAL NECESSARILY EMPLOYED

299.42 Fundamental bases.
299.43 Interim additions and deductions.
299.44 Allocation among operations under bareboat charter agreements and "other operations".
299.45 Limitation of "capital necessarily employed".
299.46 Accounting periods extending beyond end of calendar year.

NET VOYAGE PROFIT

299.47 Fundamental bases.
299.48 Allocation among operations under bareboat charter agreements and "other operations".
299.49 Calculation of net voyage profit on cumulative basis.
299.50 Adjustments in absence of physical inventories.
299.51 Adjustment of priced differences between delivery and redelivery inventory lists; expendable equipment.
299.52 Post redelivery overhead expenses.
299.53 Post redelivery overhead expenses under Form No. 303 SHIPSALES-DEMISE agreements entered into subsequent to June 30, 1950; exception.

STATEMENTS AND CERTIFICATIONS

299.54 Statements required by the Administration.
299.55 Certifications and verification.

STATEMENT OF PURPOSES AND RESERVATIONS

299.56 Statement of purposes and reservations.

Subpart D—Transfer of War-Built Vessels

299.61 Transfer of war-built vessel in settlement of a claim against the United States.
299.62 Transfer of another vessel for a vessel constructed in the United States since January 1, 1937, which has been taken for use by the United States.

Subpart E—Adjustment for Prior Sales to Citizens

299.66 Adjustment for prior sales to citizens.

Subpart F—Prewar Domestic Costs and Statutory Sales Prices of Vessels

TYPES, DESIGN CHARACTERISTICS AND PRICES

Sec.
299.71 Prewar domestic costs; statutory sales prices.

BARGE

299.72 Type YF covered barge.

CARGO VESSELS

299.75 Type C1.
299.76 Type C1-M-AV1.
299.77 Type C1-MT-BU1.
299.78 Type C2.
299.79 Type C2F.
299.80 Type C2S.
299.81 Type C2SU.
299.82 Type C3.
299.83 Type C3-3-A3 and C3E.
299.84 Type C2-S-BH2.
299.85 Type C4.
299.86 Type N3.
299.87 Type N3-M-A1.

LIBERTY

299.89 Type Ec2 (Liberty).

PASSENGER-CARGO VESSELS

299.91 Type passenger and cargo.
299.92 Type P2-SE2-R3.
299.93 Type P2.
299.94 S. S. *America*.

REEFERS

299.95 Type R1-M-AV3.
299.96 Type R2-S-BV1.

TANKERS

299.97 Type T1-M-BT.
299.98 Type T2 tanker.
299.99 Type T2-SE-A1 tanker.
299.100 Type T3-M-AZ1.
299.101 Type T3-S-A1 tanker.
299.102 Type T3-S-BZ1.
299.103 U. S. S. *Atascosa*.
299.104 S. S. *Bulkoil*.
299.105 Type AOG 49 U. S. S. *Chestatee*.
299.106 U. S. S. *Chicopee* and U. S. S. *Housatonic*.
299.107 S. S. *Culpepper*.
299.108 Type AOG 51 U. S. S. *Maquoketa*.
299.109 Type AOG 58 U. S. S. *Pinnebog*.
299.110 S. S. *St. James*.

VICTORY

299.115 Type VC 2 (Victory).

MISCELLANEOUS

299.116 Miscellaneous.
299.117 Special C3 Type.
299.118 Type C3-S1-BR1.
299.119 Type S3-S2-BP1.
299.120 Type S4-SE2-BD1 and BE1.
299.121 Type P1-S2-L2.

Subpart G—Forms

Sec.
299.125 Application to purchase a war-built vessel.
299.126 Application for determination of allowance of credit for exchange of old vessel.
299.127 Offer of applicant to exchange vessel for allowance of credit on a vessel.
299.128 Application to charter a war-built vessel for bareboat use.
299.129 Supplemental application to bareboat charter government-owned, war-built, dry-cargo vessel(s) under section 5 (e) of the Merchant Ship Sales Act of 1946, as amended by Public Law 591, 81st Congress.
299.130 Uniform bareboat charter of a war-built dry-cargo vessel under the Merchant Ship Sales Act of 1946, "Shipsalesdemise 303".
299.131 Application for transfer of a war-built vessel in settlement of a claim against the United States.
299.132 Application for transfer of another vessel constructed in the United States since January 1, 1937, which was taken for use by the United States.
299.133 Application for adjustment of purchase price of vessel purchased prior to March 8, 1946.
299.134 Application for the reconversion, alteration or modification of a vessel.

Subpart H—Accounting Procedure

299.200 Purpose.
299.201 Definitions.
299.202 Accounting requirements.
299.203 Capital necessarily employed.
299.204 Net voyage profit.
299.205 Statements required by the Administration.
299.206 Certifications and verifications.
299.207 Statement of purposes and reservations.

AUTHORITY: §§ 299.1 to 299.207 issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114. Interpret or apply sec. 12, 60 Stat. 49, as amended; 50 U. S. C. App. 1745.

SUBPART A—GENERAL PROVISIONS

§ 299.1 *Definitions.* For the purpose of §§ 299.1 to 299.134, inclusive:

(a) *Administration.* "Administration" means the Maritime Administration.

(b) *War-built vessel.* "War-built vessel" means an ocean-going vessel of one thousand five hundred gross tons or more, owned by the United States and suitable for commercial use:

(1) Which was constructed or contracted for by or for the account of the United States during the period beginning January 1, 1941, and ending September 2, 1945; or

(2) Which, having been constructed during the period beginning September 3, 1939, and ending September 2, 1945, was acquired by the United States during such period.

(c) *Dry-cargo vessel.* "Dry-cargo vessel" means, except where the context indicates otherwise, any vessel other than a tanker, but the term "dry-cargo vessel" includes a Liberty type tanker except for § 299.31.

(d) *Prewar domestic cost.* "Prewar domestic cost," as applied to any type of vessel, means the amount determined by the Administration, and published by the Administration in the FEDERAL REGISTER (§ 299.71), to be the amount for which a standard vessel of such type could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case shall the prewar domestic cost of any type of vessel be considered to be greater than 80 percent of the domestic war cost of vessels of the same type.

(e) *Domestic war cost.* "Domestic war cost," as applied to any type of vessel, means the average construction cost (without national defense features) as determined by the Administration, of vessels of such type delivered during the calendar year 1944, except for any type of vessel the principal deliveries of which were made after the calendar year 1944, in which case there shall be used in lieu of such year 1944 such period of not less than six consecutive calendar months as the Administration shall find to be most representative of war production costs of such type.

(1) In the case of any vessel for which there is no domestic war cost as defined in this paragraph, such domestic war cost shall be in the same ratio to the prewar domestic cost (as defined in paragraph (d) of this section) as the domestic war cost of the most nearly comparable type of vessel for which a domestic war cost is available is to the prewar domestic cost of such similar vessel.

(f) *Statutory sales price.* "Statutory sales price," as applied to a particular vessel, means, in the case of a dry-cargo vessel (as defined in paragraph (c) of this section), an amount equal to 50 percent of the prewar domestic cost of that type of vessel, and in the case of a tanker (excluding Liberty tankers), such term means an amount equal to 87½ percent of the prewar domestic cost of a tanker of that type, such amount in each case being adjusted as follows:

(1) If the Administration is of the opinion that the vessel is not in class, there shall be subtracted the amount estimated by the Administration as the cost of putting the vessel in class;

(2) If the Administration is of the opinion that the vessel lacks desirable features which are incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be lower if the standard vessel had also lacked such features, there shall be subtracted the amount estimated by the Administration as the amount of such resulting difference in the statutory sales price;

(3) If the Administration is of the opinion that the vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining the prewar domestic cost, and that the statutory sales price (unadjusted) would be higher if the standard vessel had also contained such features, there shall be added the amount estimated by the Administration as the amount of such resulting difference in statutory sales price;

(4) There shall be subtracted, as representing normal depreciation, an amount computed by applying to the statutory sales price (determined without regard to this paragraph) the rate of 5 percent per year for the period beginning with the date of the original delivery of the vessel by its builder and ending with the date of sale or charter to the applicant in question, and there shall also be subtracted an amount computed by applying to the statutory sales price (determined without regard to this paragraph) such rate not in excess of 3 per cent per year in the case of a vessel other than a tanker, and not in excess of 4 percent per year in the case of a tanker, for the period of war service as the Administration determines will make reasonable allowance for excessive wear and tear by reason of war service which cannot be or has not been otherwise compensated for under this paragraph. The period of war service in ordinary cases shall be from the date of delivery of the vessel to the Government for operation or December 7, 1941, whichever was later, until September 2, 1945.

(5) In the case of any vessel covered by subparagraph (3) of this paragraph, the amount of difference in statutory sales price resulting from the presence of desirable features not contained in the standard vessel of the same type shall be depreciated from the date of delivery of the vessel or the date of installation of such features if such features were installed after delivery.

No adjustment, except in respect of passenger vessels constructed before January 1, 1941, shall be made under the act which will result in a statutory sales price which (1) in the case of any Liberty type vessel will be less than 31½ percent of the domestic war cost of vessels of such type, (2) in the case of dry-cargo vessels (except Liberty type vessels) will be less than 35 percent of the domestic war cost of vessels of the same type, or (3) in the case of a tanker (except a Liberty tanker) will be less than 50 percent of the domestic war cost of tankers of the same type.

(g) *Cessation of hostilities.* "Cessation of hostilities" means the date proclaimed by the President as the date of the cessation of hostilities in the present war,[1] or the date so specified in a concurrent resolution of the two houses of the Congress, whichever is the earlier.

(h) *Citizen of the United States.* "Citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended, and section 905 (c) of the Merchant Marine Act, 1936, as amended. The Secretary of the Administration will furnish, on request, copies of memoranda dealing with citizenship.

(i) *Affiliated interest.* The term "affiliated interest" shall include any person or concern that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the applicant. The term "control" (including the terms "controlled by" and "under common con-

[1] Twelve o'clock noon, Dec. 31, 1946; see Proclamation 2714, Dec. 31, 1946, 3 CFR, 1946 Supp.

trol with") as used in this paragraph means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the applicant, whether through ownership of voting securities, by contract, or otherwise.

(j) *Constructed or date constructed.* "Constructed" or "date constructed" means the date upon which a vessel was originally delivered by the shipbuilder.

(k) *Act.* "Act" means, except where the context clearly indicates otherwise, the Merchant Ship Sales Act of 1946 (Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946).

(l) *Regulations.* "Regulations" mean the rules and regulations prescribed by the Administration, under the Merchant Ship Sales Act of 1946 (Public Law 321, 79th Cong., 2d Sess), §§ 299.1 to 299.134, inclusive, published in the FEDERAL REGISTER and all succeeding amendments and supplements thereto similarly published in the FEDERAL REGISTER.

(m) *Secretary.* "Secretary" means the Secretary of the Administration or any Assistant Secretary thereof or any other official or employee of the Administration designated by the Administration to perform the duties required of the Secretary under this part. (Communications sent to the Secretary should be addressed "Secretary, Maritime Administration, Washington 25, D. C.")

(n) *Working capital.* "Working capital" means the excess of "total current working assets" over "total current working liabilities" determined in accordance with the instructions and balance sheet embodied in the form of "General Financial Statement" prescribed by the United States Maritime Commission (Budget Bureau approval No. 62–R010–42):[1] *Provided,* That (1) in determining the amount of working capital, unpaid tenders of "just compensation" made by the Maritime Administration (or made by the United States Maritime Commission or the War Shipping Administration to the extent approved by the Administration) for title to, or use (to the extent accrued) of, vessels (irrespective of whether or not such tenders have been accepted by the owners) may be included, (2) an amount equivalent to the excess (if any) of 50 percent of the amount of "Unterminated Voyage Revenue" over the amount of "Unterminated Voyage Expense" reflected in the balance sheet shall be deducted from the amount of working capital determined in accordance with the preceding provisions of this paragraph.

(o) *Net worth.* "Net worth" shall include capital stock, capital suplus, and earned surplus adjusted to exclude capital stock subscribed but not issued, capital stock held in the treasury, appreciation, good will, and other intangibles not actually acquired for cash or for a consideration determined by the Administration to be equivalent thereof, and such other adjustments as are consistent with sound accounting principles.

(p) *Preoperating and operating expenses.* "Preoperating and operating expenses" shall include wages, subsistence, stores, supplies, equipment, fuel, maintenance, repairs, insurance, and other vessel expenses as described in the instructions embodied in the "General Financial Statement" prescribed by the Administration (accounts numbered 700.01 to 700.64 inclusive, pages 8 and 9) and overhead expenses, but shall not include agency fees and commissions; wharfage, dockage, and other port expenses; stevedoring and other cargo expenses; brokerage, canal tolls, and other voyage expenses. Such preoperating and operating expenses for a 60 day period (including prepaid insurance for one year) shall be deemed to aggregate:

Vessel type	Insurance (for 1-year)	Other expenses	Total
C1A (turbine)	$33,000	$81,000	$114,000
C1A (Diesel)	33,000	85,000	118,000
C1B (turbine)	36,000	81,000	117,000
C1B (Diesel)	36,000	86,000	122,000
C1-M-AV1 (Diesel)	45,000	65,000	110,000
C1-MT-BU1 (Diesel)	35,000	65,000	100,000
C1-S-D1 (steam reciprocating)	73,000	65,000	138,000
C2S (turbine)	79,000	91,000	170,000
C2-S-A1 (turbine)	77,000	97,000	174,000
C2-S-AJ1 (turbine)	56,000	90,000	146,000
C2-S-B1 (turbine)	52,000	91,000	143,000
C2 SU Reefer (Diesel)	90,000	106,000	196,000
C2 SU Standard (Diesel)	79,000	103,000	182,000
C3E (turbine)	73,000	102,000	175,000
C3-S-A2 (turbine)	62,000	105,000	167,000
C3-S-A3 (turbine)	73,000	100,000	173,000
C4-S-A3 (turbine)	87,000	261,000	348,000
C4-S-B5 (turbine)	69,000	116,000	185,000
EC2-S-AW1 (steam reciprocating)	60,000	84,000	144,000
EC2-S-C1 (steam reciprocating)	62,000	72,000	134,000
N3-M-A1 (Diesel)	20,000	61,000	81,000
N3-S-A1 (coal burning)	20,000	64,000	84,000
N3-S-A2 (oil burning)	20,000	65,000	85,000
R1-M-AV3 (Diesel)	44,000	69,000	113,000
R2-S-BV1 (turbine)	90,000	97,000	187,000
R2-ST-AU1 (reefer)	107,000	120,000	227,000
S4-SE2-BD1 (turbine electric)	80,000	99,000	179,000
S4-SE2-BE1 (turbine electric)	80,000	99,000	179,000
P2-S2-R2 (turbine)	192,000	366,000	558,000
P2-SE2-R3 (turbine)	262,000	370,000	632,000
VC2-S-AP2 (turbine)	70,000	91,000	161,000
VC2-S-AP3 (turbine)	76,000	99,000	175,000
T1-M-BT (Diesel)	56,000	59,000	115,000
T2 Hulls 142-149, 157-159 (turbine)	97,000	103,000	200,000
T2-SE-A1 (turbine electric)	77,000	94,000	171,000
T3-S-A1 (turbine)	74,000	98,000	172,000
Z-ET1-S-C3 (steam reciprocating)	62,000	76,000	138,000
C2-SU Reefer			[1] 175,000
R1-HM-AV3			[1] 95,000
R2-S-BV1			[1] 165,000
Atenas (reefer)			[2] 90,000
Carrillo (reefer)			[2] 90,000
Zacapa (reefer)			[2] 95,000
Z-EC2-S-C5 (steam reciprocating)			120,000
C4-S-A3 (turbine)			[3] 344,000
P2-S2-R2 (turbine)			[3] 471,000
C4-S-A3 (turbine)	87,000	299,000	[4] 386,000
P2-S2-R2 (turbine)	192,000	416,000	[4] 608,000

[1] Effective with respect to applications (and amendments of prior applications) received by the Maritime Commission during the period between July 12, 1946, and April 8, 1947.

[2] Effective from August 2, 1946.

[3] Effective from Aug. 2, 1946, to Apr. 11, 1947, both inclusive.

[4] Effective from Apr. 12, 1947, to Aug. 12, 1949, both inclusive.

(q) *Related company.* The term "related company," used to indicate a relationship with the applicant, shall include any person or concern that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the applicant. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the applicant (or related company), whether through ownership of voting securities, by contract, or otherwise.

§ 299.2 *Order of preference*—(a) *In general.* All citizen applications received by the Secretary within a given calendar month shall be given preference over all applications received by the Secretary in any subsequent calendar month. For the purposes of this section the first calendar month shall be considered to include the period from April 23, 1946, to June 1, 1946. For applications involving vessels with respect to which the original publication of prices was made in the FEDERAL REGISTER of August 17, 1946, the first calendar month shall be considered to include the period from the date of such publication to September 1, 1946.

(b) *Citizen applications over noncitizen applications; purchase over charter.* The Administration will give preference to citizen applications over noncitizen applications, and, as between citizen applications to purchase and citizen applications to charter, will, as far as practicable and consistent with the policies of the act, give preference to citizen applications to purchase.

(c) *Preference among citizen applications.* In determining the order of preference between citizen applications to purchase or between citizen applications to charter, the Administration will consider, among other relevant factors, the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome, and will, in all cases, in the sale and charter of war-built vessels, give preference in such sale or charter, as the case may be, to the former owner of such vessel or to the person for whom the vessel was constructed but to whom delivery thereof was prevented by the United States.

(d) *Preference among noncitizen applications.* In determining the order of preference between noncitizen applications to purchase, the Administration will give preference to citizens of the Commonwealth of the Philippines and in determining the preference between other noncitizen applicants, will consider, among other relevant factors, the extent to which losses in prewar tonnage of the various member nations of the United Nations, incurred in the interest of the war effort, have been overcome, and the relative effects of such losses upon the national economy of such member nation.

(e) *Preference where citizen application shows intent to transfer vessel(s) to foreign registry or flag after purchase.* With respect to any application in which the citizen applicant states that it will apply to the Administration for approval to transfer the vessel(s) to foreign registry or flag, if and when purchased by the applicant, the Administration reserves the right to defer action until after all other applications by citizens of the United States filed within the same preference period have been acted upon and the Administration reserves entire discretion in determining whether transfer

[1] Copies of the "General Financial Statement" will be furnished by the Maritime Administration on request.

to foreign registry and flag will be approved.

(1) If the citizen applicant states that it will not apply to the Administration for approval to transfer the vessel(s) to foreign registry or flag, if and when purchased by the applicant, the Administration will give the application the preference provided for applications by citizens of the United States, but if, thereafter, a request is made (pursuant to section 9 or section 37 of the Shipping Act, 1916, as amended), to transfer or place any of such vessel(s) under foreign registry or flag, the Administration will take into consideration the fact that the applicant stated in the application that such a request would not be made.

(2) In no case will the Administration approve transfer of a P–2 type or other passenger type or a Liberty type collier or Liberty type tanker.

(f) *Application of charterer to purchase chartered vessel; preference over all other applicants.* A charterer of a vessel may file an application for the purchase of such vessel in any case where an application has previously been made by another applicant to purchase the same vessel, and, if filed within fifteen days from the date of the filing of the first application, a charterer filing such purchase application shall have preference over all other applicant subject only to the statutory preference granted to the former owner of such vessel or to the person for whom such vessel was constructed but to whom delivery thereof was prevented by the United States.

§ 299.5 *Limitation on eligibility for benefits of act.* No person shall be eligible to purchase or charter a war-built vessel under the act, or to receive an adjustment under section 9 of the act, unless such person makes an agreement with the Administration (which agreement shall be incorporated in every contract for sale or charter entered into pursuant to the provisions of the act) binding upon such person and any affiliated interest to the effect that the liability of the United States under any charter party or taking for use, made or effected prior to the date of the enactment of the act, for the loss, on or after such date of enactment and prior to September 3, 1947, of any vessel owned by such person and under charter to the United States (excluding a vessel with respect to which an adjustment under section 9 of the act is made) shall be limited to an amount equal to just compensation as of the date of said loss, determined pursuant to existing law, or such amount as may be mutually agreed upon subsequent to March 8, 1946 as just compensation under the provisions of existing law.

§ 299.7 *Reconversion, alteration or modification.* (a) Any person applying to purchase or charter under the regulations may attach to his application an application in substantially the form provided in § 299.134, that the Administration reconvert or restore the vessel(s) for normal operation in commercial services, including the removal of national defense or war service features. Any such request shall include such detailed information as is necessary to advise the Administration fully of the work required.

(b) Any person applying to purchase or charter a war-built vessel under this part may attach to this application an application substantially in the form provided in § 299.134, that the Administration make replacements, alterations, or modifications with respect to the vessel applied for or install therein such special features as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other vessels of the same general type. Any such request shall include such detailed information as is necessary to advise the Administration fully of the work required.

(c) In approving or disapproving applications under paragraph (a) or (b) of this section, the Administration will consider, among other relevant factors:

(1) The availability of other suitable vessels for sale or charter to the applicant;

(2) Whether such reconversion, restoration, replacement, alteration or modification is essential in order to dispose of the vessel under the provisions of the act;

(3) Whether such reconversion, restoration, replacement, alteration or modification could be effected under any other provisions of law; and

(4) Whether such reconversion, restoration, replacement, alteration or modification is essential to the foreign or domestic commerce of the United States and would otherwise effectuate the policy and purposes of the act.

(d) Restoration or installation of special features, unless such features are on the standard vessel, must, under the act, be considered as added desirable features and, therefore, will require an adjustment in the statutory sales price of the vessel.

§ 299.8 *Verification of documents*—(a) *Form of affidavit to be attached to application.* An affidavit in substantially the following form shall be attached to each application filed pursuant to this subpart:

STATE OF _____
County of _____, *ss:*

I, _____, being duly sworn, depose and say that I am the _____ of _____
(Title of officer) (Exact name of applicant)
_____, the applicant on whose behalf I have executed the foregoing application; that the applicant is a citizen of _____[3], that this application is made for the purpose of inducing the Maritime Administration to take the action requested herein, pursuant to the provisions of the Merchant Ship Sales Act of 1946, and particularly to section _____ thereof; that I have carefully examined the application and all documents submitted in connection therewith and, to the best of my knowledge, information, and belief, the statements and representations contained in said application and related documents are full, complete, accurate, and true.

_____

Subscribed and sworn to before me, a _____, in and for the State and County above named, this _____ day of _____, 194__.

_____

My Commission expires_____.

(b) *Certification of financial statements.* All financial statements submitted to the Administration pursuant to this subpart shall be certified by a recognized firm of public accountants or by a duly authorized officer or member of applicant. The certification on the balance sheet shall be to the effect that, to the best of the knowledge and belief of the person making such certification, such balance sheet fairly presents the financial position of the applicant as of the date thereof. The certification on the profit and loss statement should be to the effect that, to the best of the knowledge and belief of the person making the certification, such statement correctly states the operating results of the applicant for the period covered thereby.

(c) *Administration examination of books and accounts.* The Administration shall have the right to examine the books, records, and accounts of applicants if and to the extent deemed necessary to verify financial statements submitted to it pursuant to this subpart.

§ 299.9 *Exceptions and exemptions to rules and regulations.* (a) The Administration reserves the right to amend, modify, or terminate the regulations in this part at any time, either as a whole or with respect to any particular case or classes of cases, but without the consent of the applicant, no amendment or modification of this part shall be binding upon any transaction approved by the Administration prior to the date of publication in the FEDERAL REGISTER of such amendment or modification.

(b) Any of the forms set forth in this part may be modified to meet the requirements of the Administration in any particular case.

(c) The Administration, in any instance where it deems it necessary or desirable to do so, may employ bases other than those expressed in §§ 299.21, 299.25 and 299.31 in determining financial responsibility.

§ 299.10 *Termination date.* No contract of sale will be made under the regulations in this part after January 15, 1951.

SUBPART B—SALES OF WAR-BUILT VESSELS

§ 299.21 *Sales of war-built vessels to citizens of the United States*—(a) *Application.* Any citizen of the United States as defined in § 299.1 (h) may apply to the Administration to purchase a war-built vessel at the statutory sales price (or price floor if higher). The application to receive consideration must be substantially in the form prescribed by the Administration in § 299.125. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Each

[3] If applicant is an American citizen, insert "the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U. S. C. 802), and section 905 (c) of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1244)." If applicant is not an American citizen, insert the name of the country of which applicant is a citizen.

application must contain sufficient information to enable the Administration to make all necessary determinations including the following:

(1) Citizenship of the applicant.

(2) That the applicant possesses the following minimum financial requisites:

(i) Sufficient working capital as defined in § 299.1 (n) and unrestricted special funds to enable it to make payment for, or the down payment on, the war-built vessel (the down payment to be not less than 25 percent of the statutory sales price (or price floor if higher) of such vessel);

(ii) After such payment, the sum of (*a*) sufficient working capital and/or available special funds to provide for payment of one annual installment on the deferred portion (if any) of the purchase price of the vessel and (*b*) sufficient working capital alone to provide for payment of (*1*) interest on the deferred portion (if any) of the purchase price of the vessel for one year at the rate of 3½ percent per annum and (*2*) all required insurance on the vessel for one year in the amount stipulated in § 299.1 (p); and

(iii) Net worth, as defined in § 299.1 (o), at least equal to the sum of (*a*) 25 percent of the purchase price of the war-built vessel or such higher percentage as the Administration may require, and (*b*) one annual installment on the deferred portion (if any) of the purchase price of such vessel, such requirements to be maintained on each vessel until such time as the outstanding mortgage balance on each such vessel is reduced to an amount whereby the net worth requirement exceeds such balance by at least 10 percent, thereafter the minimum net worth requirement with respect to such vessel shall be 110 percent of the outstanding balance of the mortgage on that vessel.

Such minimum financial requirements shall be applicable with respect to each vessel applied for. In instances where the applicant is engaged in the operation of other vessels or in activities other than the operation of vessels, the amount of working capital and net worth required for such purposes will be taken into account in addition to such minimum financial requirements in determining whether the applicant possesses the required financial resources.

(3) The applicant's ability, experience, and other qualifications, necessary to enable him to operate and maintain the vessel under normal competitive conditions. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in this section and in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Amendments involving substitution of a different vessel for the vessel applied for, unless made promptly at the written request of the Administration shall be effective as of the filing date of the amendment. All other timely amendments (including amendments involving substitutions for the vessels applied for when at the request of the Administration) shall be effective as of the filing date of the original application. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Approval or disapproval by the Administration.* The Administration will approve the application if it determines that the applicant is a citizen of the United States as defined in § 299.1 (h) and possesses the ability, experience, financial resources, and other qualifications, necessary to enable him to operate and maintain the vessel under normal competitive conditions, and that such sale will aid in carrying out the policies of the act, and that the vessel is available for sale to the applicant. If the application is disapproved by the Administration, the Secretary will promptly advise the applicant.

(d) *Contract of sale.* If the application is approved by the Administration, the Secretary will furnish the applicant five counterparts of a contract of sale in form prescribed by the Commission which shall be executed by the applicant and redelivered to the Secretary within fifteen (15) days of the date of its receipt by the applicant, accompanied by the applicant's certified check payable to the order of the United States of America in the amount specified in the contract as the initial payment required to be made upon the execution of the contract of sale, which will be not less than ten per cent of the purchase price and shall be retained as liquidated damages in the event the buyer defaults in his obligation to purchase the vessel under the terms of the contract. Such contract of sale (other than a sale for cash in full) and the mortgage given thereunder shall include provisions whereunder the purchaser shall agree, for a period corresponding to that during which any part of the purchase price of the vessel remains unpaid:

(1) That (i) no capital shall be withdrawn, (ii) no share capital shall be redeemed or converted into debt, (iii) no dividend shall be paid, (iv) no loan or advance (except advances to cover current expenses of the purchaser) shall be made, either directly or indirectly, to any stockholder, director, officer, or employee of the purchaser or to any related company (as defined in § 299.1 (q)), (v) no investment shall be made in the securities of any related company (as defined in § 299.1 (q)), (vi) no indebtedness to any stockholder, director, officer, or employee of the purchaser or to any related company (as defined in § 299.1 (q)), which was classified as long-term or noncurrent in the balance sheet submitted with the application (or amendment thereto) to purchase the vessel, shall be repaid in whole or in part, and (vii) no salary at a rate in excess of $25,000 per annum shall be paid, if, after such transaction, the amount of working capital or the amount of net worth thereby would be reduced below the minima prescribed in or required under paragraph (a) (2) (ii) and (iii) of this section; and

(2) That the purchaser shall file such financial and operating statements as the Administration may require, and shall permit the Administration to examine and audit its books, records and accounts. After the contract of sale has been executed on behalf of the Administration, one of the counterparts will be sent to the applicant. Upon delivery of the vessel to the buyer, the buyer shall pay by certified check a sum equal to the excess of the required down payment over the initial payment referred to above and the buyer shall also give to the Administration negotiable promissory notes and a first preferred mortgage on the vessel equal to the excess of the statutory sales price over the sum of the total down payment and the trade-in allowance, if any.*

§ 299.22 *Allowance of credit for exchange of vessel*—(a) *In general.* (1) The Administration is authorized to acquire in exchange for an allowance of credit on the sales price of a vessel purchased by a citizen of the United States, any vessel owned by a citizen of the United States or by a foreign corporation, subject to the provisions of paragraphs (b) and (c) of this section. The allowance may not be applied in reduction of the down payment required to be made by the applicant, but may be applied in reduction of any unpaid balance remaining after applying the credit resulting from the down payment.

(2) A war-built vessel shall be deemed a "new vessel" for the purpose of section 511 (construction reserve fund and tax provisions) of the Merchant Marine Act, 1936, as amended. Section 510 (e) (tax provisions) of such act shall be applicable with respect to vessels exchanged under this section of the regulations to the same extent as it is applicable to obsolete vessels exchanged under section 510 of such act.

(b) *Vessels ineligible for exchange.* No vessel (1) which was purchased under the act, or (2) which is less than one thousand three hundred and fifty (1,350) gross tons, provided that the Administration may under special circumstances declare a smaller vessel eligible, or (3) which is not owned by a citizen of the United States except as provided in paragraph (c) of this section, will be accepted by the Administration in exchange for an allowance on the purchase price of any war-built vessel.

* The books, records and accounts referred to in this section shall be retained until a final release or settlement agreement is completed between the Maritime Administration and the purchaser.

(c) *Exchange of vessel owned by foreign corporation.* Except as provided in paragraph (b) of this section, any vessel owned by a foreign corporation is eligible for an exchange allowance, if:

(1) The vessel was constructed in the United States, and was after December 7, 1941, chartered to, or otherwise taken for use by, the United States;

(2) The controlling interest in such corporation is, at the time of the exchange, owned by a citizen or citizens of the United States, and has been so owned for a period of at least three years immediately prior to the time of exchange; and

(3) Such corporation agrees that the war-built vessel purchased with the use of such credit shall be owned by such citizen or citizens and shall be documented under the laws of the United States.

(d) *Application for determination of an allowance of credit.* An application for determination of an allowance of credit for exchange of a vessel must be in substantially the form prescribed by the Administration in § 299.126. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, United States Maritime Commission, Washington 25, D. C. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed description of exhibits need not be given.

(e) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C.

(f) *Determination by Administration of allowance of credit for exchange of vessel and offer of applicant.* Upon determination by the Administration of the amount which it will allow as credit for exchange of a vessel, the applicant may execute a firm offer in substantially the form provided in § 299.127, binding for at least 90 days, to transfer the vessel to the Administration in exchange for an allowance of credit which offer must be filed by the applicant with the Administration within 15 days from the date of receipt of the determination of allowance and in any event not later than December 31, 1946.

(g) *Amount of allowance.* The amount of the allowance shall be the fair and reasonable value of the vessel as determined by the Administration and shall be subject to the following considerations and limitations:

(1) In determining the fair and reasonable value of the vessel for the purpose of the allowance, the Administration will consider:

(i) The value of the vessel, determined in accordance with the standards of valuation established pursuant to Executive Order 9387 (3 CFR, 1943 Supp.), as of the date of the application,

(ii) Any liability of the United States for repair and restoration of the vessel,

(iii) The utility value of the vessel,

(iv) The effect of the act upon the market value of such vessel, and

(v) The public interest in promoting exchanges of vessels as a means of rehabilitating and modernizing the American merchant marine.

(2) In no event will the amount of such allowance, in case of dry-cargo vessels and tankers, exceed:

(i) If the vessel or vessels tendered in exchange are of equal or greater deadweight tonnage than the war-built vessel or vessels being acquired, 33⅓ percent of the statutory sales price (without taking into account the adjustments provided for in § 299.1 (f) (1) to (5), inclusive), of the war-built vessel or vessels, or

(ii) If the vessel or vessels tendered in exchange are of lesser deadweight tonnage than the war-built vessel or vessels, such proportionate part of 33⅓ percent of the statutory sales price (without taking into account the adjustments provided for in § 299.1 (f) (1) to (5), inclusive), of such war-built vessel or vessels as the deadweight tonnage of such vessel or vessels, tendered in exchange, bear to the dead-weight tonnage of such war-built vessel or vessels, or

(iii) The liability of the United States in connection with the repair or restoration of such vessel under any charter to which the United States is a party, whichever is the higher.

(3) In the case of passenger vessels tendered in exchange, the amount of the allowance shall not exceed the percentage of the statutory sales price computed under subparagraph (2) (i) and (ii) of this paragraph by gross tons instead of deadweight tons, or such liability for the repair or restoration of such passenger vessel, whichever is the higher.

(4) In any case where the vessel tendered in exchange was acquired from the United States at any time and by any person whomsoever, the allowance of credit shall not exceed the price originally paid the United States therefor plus the depreciated cost of any improvement thereon.

(5) In the case of any vessel tendered in exchange which has been restored to condition by the United States for the purpose of redelivering such vessel to its owner in compliance with the charter of such vessel with the United States, or where, for such restoration a cash allowance has been made to the owner, there will be deducted from the amount of the allowance of credit for such vessel determined by the Administration, an amount equal to the cost incurred by the United States for such restoration, including charter hire paid during the period of restoration, or such cash allowance as has been made to the owner, provided that the cost of, or allowance for, removal of national defense features shall not be deducted from the amount of the allowance of credit.

(h) *Loss of vessel tendered in exchange.* If, after an offer for an exchange allowance, pursuant to paragraph (f) of this section, has been executed by the buyer, and before title to applicant's vessel has been transferred to the Administration by a bill of sale, such vessel is lost by reason of causes for which the United States is responsible, then, in lieu of paying the applicant any amount on account of such loss, the offer shall, for the purposes of this section, be considered as having been accepted and the applicant's vessel as having been acquired by the Administration immediately prior to such loss. In such event the Administration shall apply the amount set forth in such offer (but not more than the amount to which applicant is entitled under any other agreement with the United States covering the vessel) as an additional down-payment on the purchase price of the Administration vessel, and the seller agrees to accept such allowance of credit in full settlement of any and all claims against the United States in connection with the loss of applicant's vessel. Subsequent to the transfer of title of applicant's vessel to the Administration, such vessel shall be deemed to be the property of the United States, and the amount set forth in the offer shall be applied irrespective of subsequent loss of the vessel from whatsoever cause. The United States shall, whether the vessel is lost before or after execution of the bill of sale, be subrogated with respect to all insurance or other claims arising out of such loss.

"Causes for which the United States is responsible," as used in this paragraph, include liability under contractual obligations of the United States, such as those arising under a charter or policy of insurance, and liability arising from collision or other torts.

§ 299.25 *Sales of war-built vessels to persons not citizens of the United States*—(a) *Application.* Any person not a citizen of the United States as defined in § 299.1 (h) may apply to the Administration to purchase, at not less than the statutory sales price, a war-built vessel other than a P–2 type or other passenger type and other than a Liberty type collier or Liberty type tanker. The application to receive consideration must be substantially in the form prescribed by the Administration in § 299.125. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Each application should contain sufficient information to enable the Administration to make all necessary determinations including determinations that the applicant has the financial resources, ability and experience necessary to enable him to fulfill all obligations with respect to payment for the vessel on such terms and conditions as the Administration shall approve. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment

must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Amendments involving substitution of a different vessel for the vessel applied for, unless promptly made at the written request of the Administration, shall be effective as of the filing date of the amendment. All other timely amendments (including amendments involving substitutions for the vessel applied for when made at the written request of the Administration shall be effective as of the filing date of the original application. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Approval or disapproval by the Administration.* (1) The Administration may approve the application if it determines:

(i) That the applicant has the financial resources, ability, and experience necessary to enable him to fulfill all obligations with respect to payment for the vessel on such terms and conditions as the Administration shall approve, and that sale of the vessel to him would not be inconsistent with any policy of the United States in permitting foreign sales under section 9 or section 37 of the Shipping Act, 1916, as amended, and

(ii) After consultation with the Secretary of the Navy, that such vessel is not necessary to the defense of the United States, and

(iii) That such vessel is not necessary to the promotion and maintenance of an American merchant marine described in section 2 of the act, and

(iv) That for a reasonable period of time, which in the case of tankers and, except as provided below, "C" type vessels shall not end before ninety days after publication of the applicable prewar domestic cost in the FEDERAL REGISTER, such vessel has been available for sale at the statutory sales price to citizens of the United States, or for charter to citizens of the United States, and that no responsible offer has been made by a citizen of the United States to purchase or charter such vessel.

(v) That such vessel is available for sale to the applicant.

(2) If the application is disapproved by the Administration, the Secretary will promptly advise the applicant.

(d) *Contract of sale.* If the application is approved by the Administration, the Secretary will furnish the applicant five counterparts of a contract of sale in the form prescribed by the Administration, which shall be executed by the applicant and redelivered to the Secretary within fifteen (15) days of the date of its receipt by the applicant, accompanied by the applicant's check payable in United States dollars to the order of the United States of America in the amount specified in the contract as the initial payment required to be made upon the execution of the contract of sale, which will be not less than ten per cent of the purchase price and shall be retained as liquidated damages in the event the buyer defaults in his obligations to purchase the vessel under the terms of the contract. The applicant's check shall be certified by a bank or trust company authorized to do business under the laws of the United States, or any state, territory or possession thereof. After the contract of sale has been executed on behalf of the Administration, one of the counterparts will be sent to the applicant. Upon delivery of the vessel to the buyer, the buyer shall pay by certified check as described above a sum equal to the excess of the required down payment over the initial payment referred to above and the buyer shall also give to the Administration, if mortgage aid has been granted, negotiable promissory notes and a mortgage on the vessel equal to the excess of the purchase price over the total down payment. The contract of sale shall require that the balance of the down payment and the amount to be evidenced by the notes and secured by the mortgage and all amounts of insurance required by the mortgage shall be expressed in and payable in United States dollars at the Administration's office in Washington, D. C. The contract of sale shall otherwise be modified by the General Counsel as may be appropriate fully to protect the interest of the Administration with respect to sales to noncitizens.

(e) *Other conditions.* Notwithstanding any other provision of law, no war-built vessel will be sold to any person not a citizen of the United States, except in accordance with this section, or upon terms or conditions more favorable than those at which such war-built vessel is offered to a citizen of the United States, but where the vessel so sold is being transferred to foreign register and flag, the mortgage securing the unpaid balance of the purchase price and interest thereon shall contain provisions according to such mortgage the priorities over other liens and encumbrances accorded such mortgages on merchant vessels under the laws of such registry and flag.

(f) *Transfer to foreign flag.* If the vessel sold to a person not a citizen of the United States is to be transferred to foreign register and flag, approval by the Administration of the application for purchase will also constitute approval, under section 9 or section 37 of the Shipping Act, 1916, as amended, to transfer such vessel when purchased, to foreign ownership, registry and flag.

§ 299.26 *Spare parts and vessel equipment, stores, fresh water, and fuel.* The Administration will provide and equip all vessels sold under the act both to citizens and non-citizens, unless otherwise agreed, in accordance with the following:

(a) *Machinery spare parts*—(1) *Except for vessels sold "as is".* Except for vessels sold "as is", the American Bureau of Shipping requirements, outstanding as of the date of the contract of sale, for on board machinery spare parts as contained in their publication, "Rules for Building and Classing Steel Vessels", will be met by the Administration.

The cost with respect to supplying deficiencies or repairing or renewing damaged parts already on board, shall be borne,

(i) On sales to citizens of the United States, in full by the Administration.

(ii) On sales to non-citizens, 50 percent by the Administration and 50 percent by the purchaser.

(2) *Vessels sold "as is".* For vessels sold "as is", the Administration will not comply with the American Bureau of Shipping requirements for machinery spare parts to the extent of insuring that the parts are actually aboard the vessels, but will, as to all such requirements outstanding as of the date of the contract of sale, grant an allowance based upon the estimated cost of supplying deficiencies or repairing or renewing damaged parts already on board, within the limits of section 3 (d) of the Merchant Ship Sales Act of 1946,

(i) On sales to citizens of the United States, equal to such estimated cost.

(ii) On sales to non-citizens, equal to 50 percent of such estimated cost.

(3) *Spare parts list.* Paragraph (e) of this section contains a listing of the American Bureau of Shipping required spare parts for steam reciprocating engines, steam turbines, internal combustion engines, boilers, machinery for refrigerated vessels, and for electrically driven vessels.

(b) *Allowance list items, consumable stores, fresh water, and fuel*—(1) *Construction of "unbroached".* For the purpose of this section, the following provisions shall apply in respect to the term "unbroached":

(i) *Unbroached consumable stores except subsistence stores.* In general, any item of consumable stores, which at the time of inventory may be given a condition valuation of 100 percent by the Administration's standards, i. e., that the item has not been used and has not lost any of its original value through age, rust, decay, or improper stowage, shall be considered unbroached. With respect to the contents of opened packages and containers, items normally supplied to vessels in bulk shall be considered first on the basis of condition and if meeting the above qualifications, the quantities as found shall be considered as unbroached. With respect to items normally packaged in small quantities of nominal value they shall be considered as broached where the containers have been opened and contents partially consumed.

(ii) *Unbroached subsistence stores.* All subsistence stores which are in 100 percent condition by the Administration's standards, as set forth in subdivision (i) of this subparagraph, shall be considered unbroached, regardless of whether stored in original packages or containers or whether part of the original amounts have been consumed.

(2) *Vessels in operation.* As to vessels in operation, the Administration assumes no obligation on sales to either citizens or non-citizens for delivery of vessels to purchasers fully equipped with items of an allowance list nature, expendables, or consumable stores (Spare machinery parts will be furnished as prescribed in paragraph (a) of this section). In this respect the vessels will be sold "as is", with the Administration neither adding or removing any such items, ex-

cept as provided in paragraph (c) of this section. However, purchasers will be required to pay to the Administration an amount reflecting the full value, as indicated by the prevailing rate at the port where delivery is being made, for all unbroached consumable stores, fresh water, and fuel.

(3) *Vessels from the reserve fleet or inactive status.* As to vessels sold out of the reserve fleet or from inactive status, the Administration, when such vessels have been stripped of expendable equipment, will undertake to re-equip the vessels at its expense in accordance with the appropriate minimum standard allowance lists attached entitled "Standard Allowance List for Reoutfitting EC2, Z-ET1, VC2, C1, C2, C3, C4, R2, T2 and T3 Class Vessels sold under the Merchant Ship Sales Act of 1946" (paragraph (f) of this section) and "Standard Allowance List for Reoutfitting N3 and T1 Class Vessels sold under the Merchant Ship Sales Act of 1946" (paragraph (g) of this section). These allowance lists provide, in general, those minimum items of equipment and material necessary for the berthing of officers and crew, for the operation of pantries and galleys, and for instruments necessary for the safe navigation of the vessel. The Administration will not assume any obligations over and beyond those set forth in this paragraph on inoperative vessels. Purchasers will be required to pay to the Administration an amount reflecting the full value, as indicated by the prevailing rate at the port where delivery is being made, for all unbroached consumable stores, fresh water, and fuel.

(c) *Removal of excesses.* Items in the category of propellers, tailshafts, sections of line shafting, pinions and reduction gears for main propulsion units, bearings where found in quantity (except roller and ball types), rotors and rotating elements for turbines, and complete spare machinery components where in excess of American Bureau of Shipping requirements, will be removed. As to other items, where vessels are found to be stocked in excess of American Bureau of Shipping requirements or in excess of the standard allowance lists attached, such excesses will not be removed except where it is found that specific items or parts are of high intrinsic value or are in very short supply, thereby justifying the Administration's incurring expenditures for their removal and storage.

(d) *Procedure*—(1) *Deficiencies in machinery spare parts.* Within five days after a purchaser signs a contract of sale or an addendum to an existing contract of sale, involving the purchase of a vessel, or (if the vessel is at sea on the date of such signing or makes a voyage other than under bareboat charter to the purchaser after such signing) within five days after the return of the vessel to the United States port of final discharge, whichever is the later, the purchaser of such vessel shall furnish to the Local Head, Inventory Section, Office of Property and Supply, at the port nearest that of the vessel, a list of deficiencies in machinery spare parts within the limits of paragraph (a) of this section. The Local Head, Inventory Section, shall verify whether or not such parts are on board. He shall promptly notify the purchaser in writing of the disapproval of such list or any portion thereof. Upon approval of such list or any portion thereof, he shall

(i) Except for a vessel sold "as is," forward such approved list to the nearest District Purchasing Officer, Office of Property and Supply, who shall obtain and deliver to such vessel such required spare parts.

(ii) For a vessel sold "as is," proceed as set forth in subparagraph (3) of this paragraph.

(2) *Parts in need of repair.* Within five days after a purchaser signs a contract of sale or an addendum to an existing contract of sale, involving the purchase of a vessel, or (if the vessel is at sea on the date of such signing or makes a voyage other than under bareboat charter to the purchaser after such signing) within five days after the return of the vessel to the United States port of final discharge, whichever is later, the purchaser of such vessel shall furnish to the Local Manager, Maintenance and Repair Division, at the port nearest that of the vessel, a list of damaged machinery spare parts, within the limits of paragraph (a) of this section. Such Local Manager shall verify whether or not such parts are damaged as alleged. He shall promptly notify the purchaser in writing of the disapproval of such list or any portion thereof. Upon approval of such list or any portion thereof, he shall

(i) Except for a vessel sold "as is," arrange, consistent with existing Maintenance and Repair Division requirements and instructions, for the effecting of the necessary repairs. If the expenditures for such repairs will exceed the cost of replacing any of the damaged parts, such Local Manager shall furnish to the nearest District Purchasing Officer, Office of Property and Supply, a list of such damaged parts to be replaced as deficiencies in the manner prescribed in subparagraph (1) (i) of this paragraph.

(ii) For a vessel sold "as is", proceed as set forth in subparagraph (3) of this paragraph.

(3) *Allowance for deficiencies in and repairs of machinery spare parts for vessels sold "as is".* In the case of a vessel sold "as is", upon approval of the purchaser's list of deficiencies in machinery spare parts, or any portion thereof, pursuant to subparagraph (1) of this paragraph, the Local Head, Inventory Section, Office of Property and Supply, shall furnish to the Local Manager, Maintenance and Repair Division, an estimate of the cost of supplying such approved deficiencies. Such Local Manager, upon approval of the purchaser's list of damaged machinery spare parts, or any portion thereof, pursuant to subparagraph (2) of this paragraph, shall furnish to the Chief, Office of Ship Construction and Repair, an estimate of the cost of repairing such damaged parts, and the estimate of the cost of supply deficiencies. The Chief, Office of Ship Construction and Repair, shall furnish such estimates to the Chief, Office of Property and Supply so that allowances in accordance with paragraph (a) (2) of this section may be determined.

(4) *Allowance list items, consumables, and expendables*—(i) *Operating vessels.* When an operating vessel is sold, the Local Head, Inventory Section, Office of Property and Supply, at the port nearest to that of the vessel, shall make a full inventory consistent with the provisions of paragraph (b) (2) of this section, and shall prepare an estimate of the value, at rates prevailing at such vessel's port of delivery, for all the unbroached consumable stores, fresh water, and fuel aboard the vessel, which estimate shall be furnished by the Chief, Inventory Section, Office of Property and Supply to the Chief, Ship Sales Branch, who shall be responsible for carrying out the provisions of paragraph (b) (2) of this section.

(ii) *Vessels from the reserve fleet or inactive status.* When a vessel is sold out of the reserve fleet or inactive status, the Local Head, Inventory Section, Office of Property and Supply, Maritime Administration, at the port nearest to that of the vessel, shall make a full inventory consistent with the provisions of paragraph (b) (3) of this section and shall check and compare such inventory against the allowance lists attached. He shall furnish the nearest District Purchasing Officer the resulting list of deficiencies. Such Purchasing Officer shall obtain and deliver to such vessel such allowance list items.

The Local Head, Inventory Section, shall prepare an estimate of the value, at rates prevailing at such vessel's port of delivery, of all the unbroached consumable stores, fresh water and fuel aboard the vessel, which estimate shall be furnished by the Chief, Inventory section, Office of Property and Supply to the Chief, Ship Sales Branch, who shall be responsible for carrying out the provisions of paragraph (b) (3) of this section with respect to consumable stores, fresh water and fuel.

(e) *List of American Bureau of Shipping spare parts and equipment for each ocean going vessel.*

STEAM RECIPROCATING ENGINES

Two (2) crosshead bearing bolts and nuts.
Two (2) crankpin bearing bolts and nuts.
Two (2) main bearing bolts and nuts.
One (1) set of piston rings where common rings are used.
Twenty-five (25) percent of piston springs.
Six (6) follower ring studs and nuts.
Six (6) cylinder cover studs and nuts.
Six (6) valve chest cover studs and nuts.
One (1) set of bearing pads for one single-collar type thrust bearing where fitted.
One (1) set of bolts for each size coupling.
One (1) set of propeller studs, if of special material.
One (1) set of valves for one feed pump.
One (1) set of valves for one bilge pump.
A set of bearing gauges.
Assorted bolts, nuts, and shim material.
Bar and plate steel in various sizes.
No spare parts are required for auxiliaries which are fitted in duplicate when such duplication is in excess of that required by the rules.

STEAM TURBINES

One (1) set of springs for governor, relief, and maneuvering valves.
One-half (½) set of packing rings, or segments, with springs for each gland so fitted.

Five (5) percent of bolts, or studs, and nuts of each size fitted in joints of turbine and gear casings.

One (1) set of thrust pads or rings, also springs where fitted for each size turbine thrust bearing.

Assorted shims and liners where fitted.

One (1) set of bolts and nuts for each size for turbine rotor, pinion, and gear bearings.

Spare bearing bushings sufficient to replace all the bushings on any one turbine rotor, pinion and gear having sleeve type bearings or complete assemblies consisting of outer and inner races and cages complete with rollers or balls where these types of bearings are used.

One (1) set of coupling bolts of each size, for one coupling.

One (1) set of bearings pads for one single collar type main thrust bearing where fitted.

One (1) set of studs, when made of special material, for one propeller.

Two (2) thermometers for the lubricating oil system.

One (1) set of valves for one feed pump.

One (1) set of valves for the bilge pump.

One (1) set of valves for one lubricating oil pump.

Assorted bolts, nuts and shim material.

Bar and plate steel in various sizes.

No spare parts required for auxiliaries which are fitted in duplicate when such duplication is in excess of that required by the rules.

INTERNAL COMBUSTION ENGINES

Spares for Main Propelling Machinery

One (1) engine cylinder head complete with valves, cages, springs, etc.

One (1) piston complete with rings, etc.

One (1) set of parts liable to damage or wear for the piston cooling, arrangement of one cylinder.

One (1) set of bearings pads for one single collar type main thrust bearing where fitted.

One (1) set of studs, when made of special material, for one propeller.

Additional Spares for Main Engines and Spares for Auxiliary Engines

One (1) set of valves for one (1) cylinder complete with cages, springs, etc.

Twenty-five (25) percent of fuel valve needles.

One (1) set of piston rings for one piston.

One (1) set of main bearing brasses complete with bolts and nuts.

One (1) set of crankpin bearing brasses complete with bolts and nuts.

One (1) set of crosshead bearing brasses complete with bolts and nuts, when fitted or one wrist pin bushing where trunk pistons are used.

Where reduction gears are used there shall also be provided spare bearing bushings sufficient to replace all the bushings on any one piston and gear having sleeve type bearings, or complete assemblies consisting of outer and inner races, and cages complete with rollers or balls where these types of bearings are used.

One (1) complete set of the parts liable to damage or wear for the fuel oil pumps.

One (1) complete set of rings for each size piston of air compressors and scavenging air pumps.

One (1) set of bolts or studs of each size for one cylinder cover or the engines and air compressors.

One (1) set of coupling bolts of each size for one coupling.

Twenty-five (25) per cent of each size of special gaskets and packing, at least one of each size.

One (1) set of templates and gauges for adjusting gear and aligning main bearings

A sufficient length of each size of pipe used for injection air, starting air and injection oil lines to replace the longest section of pipe.

Assorted bolts, nuts, pipe flanges and pipe couplings.

At least one (1) set of valves of each type and size for oil transfer pumps, fuel oil pumps, lubricating oil pumps, cooling water pumps and bilge pumps.

No spare parts are required for auxiliaries which are fitted in duplicate when such duplication is in excess of that required by the rules.

BOILERS

One (1) set of springs for one safety valve of each size.

Twelve (12) gauge glasses with packings per boiler if of the round gauge glass type.

Two (2) gauge glasses per boiler and one (1) frame for each two boilers if of the flat gauge glass type.

One-half (½) set of plain grate bars for one boiler (coal burning).

One (1) strainer basket of each size for fuel oil system.

Twenty-five (25) per cent of burner atomizer units for oil-fired boilers.

One (1) standard boiler presure gauge or gauge testing apparatus.

Five (5) per cent of each size and kind of tube for one fire-tube boiler.

Five (5) per cent of the tubes for one water tube boiler.

The number of each size and location in the boiler are to be as approved in connection with the design in each case.

Tube stoppers for twelve (12) generator, economizer and superheater tubes of each kind and size.

Necessary tools for operations.

REFRIGERATING MACHINERY—REEFER CARGO VESSELS

(a) When duplicate machinery units are fitted so that each unit is separately connected to two or more refrigerated compartments, one set of spare gear will be required as follows:

One (1) crankshaft, complete, with eccentric sheaves or one-half shaft where interchangeable.

One (1) cover of each pattern for compressors, except where forged steel cover or screwed plugs are fitted.

One (1) piston and rod with nuts, complete of each pattern, for steam cylinders and compressors.

One (1) valve spindle and nut of each pattern.

One (1) pair of main bearing bushings complete.

Two (2) main bearing bolts.

One (1) set of piston rod and connecting rod bolts and bushings.

One (1) cylinder cover of each type for the steam cylinders.

One (1) eccentric strap and rod, complete, of each pattern.

Main and cut-off valves for steam cylinder.

One (1) coupling for each type of compressor piston rod.

One (1) set of suction and delivery valves, complete with springs and casings, required for one compressor cylinder of each type and, in addition, 6 springs of each type.

One (1) set of metallic packing rings, if used, for compressors.

One (1) oil pump complete.

One (1) circulating pump bucket and rod, or one impeller and shaft of each type.

One (1) set of suction and delivery valves for each type of circulating pump.

One (1) rod of each type for steam and water ends of piston brine pumps.

One (1) cylinder cover of each type for piston brine pumps.

One (1) impeller and shaft of each type for centrifugal brine pumps.

One (1) set of coupling bolts of each type for centrifugal brine pumps.

One (1) gas regulating valve, complete, if made of cast iron; one rod and cone if of mild steel.

One (1) distributing and one (1) collecting piece of each pattern, except where they are of forged steel.

Assorted valves, cocks, flanges and fittings.

Blocks for making all leather packing.

Two (2) spare gauges with pressure and temperature scales and a sufficient supply of mercury thermometers.

Assorted lengths and bends of piping, together with flanges, couplings and screwing appliances.

A supply of assorted bolts, nuts, studs, packings, joint rings, compressor rings and leathers.

(b) In cases where independent cooling water pumps are not fitted and the cooling water is supplied by auxiliary pumps, spare piston rings, pumps valves and rods are to be carried.

(c) Where independent surface condensers, with air, water, circulating and feed pumps, are fitted and there are no connections to the main engine pumps, the following additional spare gear is to be carried:

One (1) crankshaft, complete with eccentric sheaves.

One (1) piston rod, complete of each pattern.

One (1) set of piston rings of each pattern for steam cylinders.

One (1) eccentric strap and rod of each pattern.

One (1) pump bucket and rod, complete of each pattern.

One (1) set of connecting rod and cross head bolts and nuts.

One (1) set of valves for each pump.

Six (6) tubes and twenty-four (24) ferrules for the condenser.

(d) Where connections to the main engine pumps are provided in cases otherwise similar to that of the foregoing sub-paragraph (c) the spare required will be as follows:

One (1) pump bucket and rod, complete, of each pattern.

One (1) set of connecting rod and crosshead bolts and nuts.

One-half (½) set of valves for each pump.

(e) Spare gear required for vessel engaged in voyage of not more than three days' duration should be as follows:

One (1) piston of each type, complete, for steam and compressor cylinders.

One (1) piston of each type, complete with nuts for steam and compressor cylinders.

One (1) valve and rod of each type, complete with nuts.

One (1) eccentric strap and rod of each type.

One (1) set of connecting rod brasses, complete with bolts and nuts, of each type.

One (1) set of main bearing brasses, complete with bolts and nuts, of each type.

One (1) set of suction and delivery valves, complete with springs and casings, of each type.

One (1) set of piston rings for steam and water ends of each type of brine pump.

Blocks for making all leather packings.

One (1) spare gauge with pressure and temperature scales.

Assorted lengths and bonds of piping, together with flanges, couplings and screwing appliances.

A supply of assorted bolts, nuts, studs, packings, joint rings, compressor rings and leathers.

(f) Spares required for electric motors are as follows:

One (1) spare armature, complete with commutator and shaft, for each type of motor fitted.

One (1) spare field coil of each kind and size for direct current motors.

Two (2) spare coils for synchronous motors.

One-fourth set of rotor coils for form-wound induction motors.

One-fourth set of armature coils for synchronous and induction motors.

NOTE: Alternating-current motors with multiple windings require no spare coils.

One (1) complete brush holder and springs, stud insulation and set of brushes for each type and size fitted.

One (1) set of arc-rupturing and interlock contacts and springs for each circuit breaker, contactor, relay, etc., up to eight similar sets, beyond that one set for each four.

Two (2) fuses for each fuse installed if renewable fuses are used, then five renewals for each fuse and two cases for each size fuse.

One (1) trip coil for each size and type installed.

One (1) set of fingers, burning contacts, and springs where fitted, for each controller up to four similar sets.

One (1) shunt coil for each size and type installed.

One (1) resister of each capacity used plus one additional for every four up to four similar resisters.

One (1) bearing lining of each kind and size with oil rings, where fitted.

One (1) set of studs and nuts for main bearings, assorted bolts, studs and nuts, screws, necessary tools, etc.

NOTE: The spares as noted in the foregoing are minimum requirements. Where installations require more than six circulating fans additional spares should be carried as approved for each such case.

(g) Where other than electric motors are used for driving fans, the spare gear is to be specially submitted to the Bureau for approval.

ELECTRICAL

Coils: One (1) spare field coil of each kind and size for direct-current generators and motors.

Two (2) spare field coils for synchronous motors and salient-pole synchronous generators.

One-fourth set of rotor coils for form-wound induction propulsion motors.

One-fourth set of armature coils for synchronous and induction propulsion motors.

Exception: Alternating-current motors with multiple windings require no spare coils.

Bearings: One (1) bearing lining of each kind and size with oil rings, where fitted, for generator and motors.

Brushes and Holders: One (1) complete brush holder with three spare springs, stud insulation and set of brushes for each type and size, where fitted for generators and motors.

No spare parts are required for auxiliaries which are fitted in duplicate when such duplication is in excess of that required by the rules.

(f) *Standard allowances list for reoutfitting EC2, Z-ET1, VC2, C1, C2, C3, C4, R2, T2 and T3 class vessels sold under the Merchant Ship Sales Act of 1946.*

NAVIGATION INSTRUMENTS

Item No.	Description	Quantity
1	Barometers, aneroid	1
2	Chronometer	1
3	Clinometer	2
4	Clocks, 6" dial, nonstriking	6
5	Clocks, 8½" dial, nonstriking (engine room)	1
6	Clocks, 6" dial, striking (wheelhouse)	1
7	Divider, compass, 6"	1
8	Dividers, 5¾"	2
9	Glass, chart reading, 4"	1
10	Glass, compass reading	1
11	Horn, fog, mechanical	1
12	Hygrometer, wet and dry bulb with humidity chart	1

NAVIGATION INSTRUMENTS—continued

Item No.	Description	Quantity
13	Leads, sounding, 7-lb	1
14	Leads, sounding, 9-lb	1
15	Leads, sounding, 14-lb	2
16	Leads, sounding, 30-lb. deep sea	1
17	Lines, lead, deep sea, 1" circ., size 10, 120 fathoms with reel	2
18	Lines, lead, cotton braided, ¾" circ. size 8", 25 fathoms	2
19	Megaphone, 15"	1
20	Megaphone, 30"	1
21	Protractor, course, transparent	2
22	Rules, Parallel, 18" graduated	1
23	Thermometers, copper frame, −20° to +130° Fahrenheit 12" size (mercurial)	2
24	Thermometers, shiphold, −20° to +130° Fahrenheit 12" size	3

MOORING APPLIANCES

1	Line, spring; 1" diameter, grade 4, 6 x 24, improved plow steel wire, with 6' 0" diameter eye spliced in one end only. Total length to be 65 fathoms overall after spliced eye is produced	2

FLAGS

1	Ensign, U. S. 5' x 8'	1
2	Ensign, U. S. 8' x 12'	1
3	Flags, International Code, complete set consisting of one set alphabets, size no. 2 (4 ft. 6 in. x 5 ft. 6 in.), one set numerals, size no. 2 (3 ft. 9 in. x 12 ft. 9 in.), one answering pennant, size no. 2 (3 ft. 9 in. x 12 ft. 9 in.), one set repeaters (first, second and third), and two code books (Volumes I and II)	1
4	Flags, International Code; size no. 1 (6 ft. 6 in. x 8 ft. 0 in.) of letters, "B", "G", "H", "P", "Q", and "Y" each	1
5	Flags, ship's code letter: Complete set consisting of four letters in set (4 ft. 6 in. x 5 ft. 6 in.)	1
6	Flags, semaphore; type I; size 15 in. x. 15"; red and yellow	2
7	Flags, semaphore; type II, size 15 in. x. 15 in.; blue and white	2
8	Shapes, day, 24 in. diameter, black	3

EMERGENCY RIOT EQUIPMENT

1	Irons, hand (handcuffs) pair	1

OFFICE EQUIPMENT

1	Typewriters, elite—11", 18", or 26"	1
2	Typewriters, Navy telegraphic, 11" (radio room)	1

LIVING AND BERTHING EQUIPMENT

Officers, Approximately—18

1	Blankets	36
2	Cloths, table	36
3	Covers, mattress	20
4	Covers, pillow	42
5	Curtains, shower	12
6	Felts, table; flannel	6
7	Pillow cases, white	108
8	Sheets, white	108
9	Spreads, day; green momie cloth	24
10	Towels, bath	108
11	Towels, face; huck	108

Petty Officers and Crew, Approximately 36 With 4 extras—40

12	Blankets, gray	84
13	Counterpanes, cotton; blue and white	84
14	Covers, mattress	42
15	Covers, pillow	42
16	Pillow cases; white	120
17	Sheets, white	240
18	Towels, bath	240
19	Towels, face	240

LIVING AND BERTHING EQUIPMENT—continued

Galley and Pantry Linen

20	Towels, service (glass and pantry)	120

Miscellaneous Linen

21	Aprons, cooks'	12
22	Bags, laundry	12
23	Coats, messmen's	24
24	Coats, cooks'	18

All Locations

25	Mats, door; cocoa	12
26	Life preservers, merchant type, approved by classification requirements	58

Officers and Crew

27	Pillows, chicken feather, 2½ lb., officers	42
28	Pillows, chicken feather, 3½ lb., crew and hospital berth	42
29	Mattresses, innerspring; officers (or one per berth)	18
30	Mattresses, cotton felt; crew and hospital (or one per berth)	40

MESSING EQUIPMENT

Officers' Mess—Tableware

1	Forks	48
2	Knives	48
3	Spoons, medium	36
4	Spoons, tea	48

Officers' Mess—Chinaware

5	Bowls, grapefruit and cereal	24
6	Bowls, sugar, with cover; round	6
7	Cups, coffee or tea	36
8	Cups, egg	12
9	Dishes, celery	6
10	Dishes, vegetable, oval (bakers'), 5¾"	36
11	Dishes, vegetable, oval (bakers'), 10"	6
12	Pitchers, cream, handled, 8 oz	8
13	Pitchers, hall boy	6
14	Plates, bread and butter, 6¼"	36
15	Plates, breakfast; 8 in	24
16	Plates, dessert, 7⅛ in	36
17	Plates, dinner, 9 in	36
18	Plates, soup, rim deep, 9 in	30
19	Platters, oval; 9⅜ in	12
20	Platters, oval, 13¼ in	4
21	Pots, mustard; 4 oz	4
22	Saucers, coffee	36
23	Saucers, fruit, 5¼ in	36
24	Spoons, mustard; bone or plastic, approx. 4¾ in	6

Glassware

25	Bottles, water	17
26	Cruets, oil and vinegar	12
27	Glasses, fruit juice	36
28	Glasses, iced tea	36
29	Glasses, water	72
30	Pitchers, water, 56 oz. capacity	8
31	Shakers, pepper, 3½ in. high	12
32	Shakers, salt, 3½ in. high	12

Petty Officers' and Crew's Mess—Chinaware

33	Bowls, soup or cereal	48
34	Bowls, sugar, round	10
35	Cups, egg	12
36	Dishes, vegetable	8
37	Mugs, coffee	84
38	Pitchers, hall boy	8
39	Plates, dessert, 7⅛ in	84
40	Plates, dinner, 9 in	84
41	Plates, soup, rim deep, 9 in	48
42	Platters, oval, 13¼ in	8
43	Pots, mustard	6
44	Saucers, fruit, 5¼ in	84

Petty Officers' and Crew's Mess—Flatware

45	Forks, table	60
46	Knives	60
47	Spoons, medium	60
48	Spoons, tea	84

MESSING EQUIPMENT—continued

Miscellaneous Equipment

Item No.	Description	Quantity
49	Bells, dinner	1

Galley and Pantry Gear

50	Boards, bread, size 16" x 22" x ¾"	1
51	Bowls, beating, retinned, 16 in. diameter	1
52	Bowls, mixing, retinned, 22 in. diameter	1
53	Boards, meat-cutting, size, 18" x 24" x 3"	1
54	Boxes, bread	2
55	Broiler, range	2
56	Brushes, butcher block	1
57	Canisters, grocers' 10 lb. capacity	4
58	Cans, garbage or ash, with cover	5
59	Choppers, meat and food	1
60	Cleavers, market	1
61	Colanders, retinned, 7 qt. capacity	1
62	Colanders, retinned, 22 qt. capacity	1
63	Corers, apple, T-shape	1
64	Corkscrews	3
65	Cutters, biscuit or cake, 2½ in	1
66	Cutters, doughnut, 3 in	1
67	Dippers, 1 qt. capacity	1
68	Dippers, 1½ qt. capacity	1
69	Dredges, flour	1
70	Dredges, sugar	1
71	Forks, cooks'	2
72	Funnels, 1 qt. capacity	1
73	Graters, half round	1
74	Graters, square	1
75	Griddles, cast iron	1
76	Hooks, meat; "S" type	48
77	Ice picks	6
78	Kettles, sponge	1
79	Knives, bread	2
80	Knives, cooks'	2
81	Knives, grapefruit	2
82	Knives, paring	4
83	Knives, scraping	1
84	Ladles, retinned, 3¼ oz. capacity	2
85	Ladles, retinned, 7 oz. capacity	4
86	Ladles, retinned, 12¼ oz. capacity	1
87	Ladles, retinned, 24 oz. capacity	1
88	Mashers, potato	1
89	Measures, 1 qt. capacity	1
90	Openers, can; mechanical	1
91	Pails, garbage, with cover, 7 gallon capacity	4
92	Pans, baking, steel	3
93	Pans, roll; sheets	4
94	Pans, bread, pullman, with cover	18
95	Pans, dish, round, 21 qt. capacity	1
96	Pans, dish, round, 35 qt. capacity	2
97	Pans, fry, 6½ in. diameter	6
98	Pans, fry, 9⅜ in. diameter	3
99	Pans, fry, 11⅛ in. diameter	1
100	Pans, fry, deep, 20½ in. top diameter	2
101	Pans, muffin, 12 cups to pan	6
102	Pans, roasting, 24" x 18" x 3½"	4
103	Pans, sauce, 2-qt. capacity	2
104	Pans, sauce, with cover, 8-qt. capacity	1
105	Pans, sauce, with cover, 13½-qt. capacity	1
106	Pans, sauce, with cover, 10-qt. capacity	1
107	Pans, sauce, shallow, with cover, 12-qt. capacity	2
108	Peels, wood (cracker peel)	1
109	Pins, rolling	1
110	Plates, pie	24
111	Pots, sauce, 21-qt. capacity	2
112	Pots, sauce, 30-qt. capacity	2
113	Pots, stock, with cover, 9 gal	1
114	Pots, stock, with cover and faucet, 9-gal. capacity	1
115	Saws, meat, frame, butchers'	1
116	Scales, household	1
117	Scoops, grocers'	1
118	Scrapers, dough	1
119	Sieves, flour, wood rim	1
120	Sieves, puree	1
121	Skimmers, 4-in. blade	2
122	Skimmers, 6¼-in. blade	1
123	Spoons, cooking, perforated	2

MESSING EQUIPMENT—continued

Galley and Pantry Gear—Continued

Item No.	Description	Quantity
124	Spoons, cooking, 15¼ in. solid	4
125	Spoons, cooking, 17 in	2
126	Steels, butchers'	1
127	Strainers, china-cap, retinned	1
128	Strainers, tea, 2½ in	1
129	Tongs, ice, steel	2
130	Trays, serving, 14¼" x 18¼" x 1⅛"	4
131	Turners, cake, 4¼ in. blade	1
132	Turners, egg, perforated blade, 3¼ in	2
133	Whips, egg; 12 in	1
134	Whips, egg; 15 in	1
135	Whips, egg; balloon, 14 in	1

(g) *Standard allowance list for reoutfitting N3 and T1 class vessels sold under the Merchant Ship Sales Act of 1946*

NAVIGATION INSTRUMENTS

Item No.	Description	Quantity
1	Barometers, aneroid	1
2	Chronometer	1
3	Clinometer	2
4	Clocks, 6" dial, nonstriking	6
5	Clocks, 8½" dial, nonstriking (engine room)	1
6	Clocks, 6" dial, striking (wheelhouse)	1
7	Divider, compass, 6"	1
8	Dividers, 5¾"	2
9	Glass, chart reading 4"	1
10	Glass, compass reading	1
11	Horn, fog, mechanical	1
12	Hygrometer, wet and dry bulb with humidity chart	1
13	Leads, sounding, 7 lbs	1
14	Leads, sounding, 9 lbs	1
15	Leads, sounding, 14 lbs	2
16	Leads, sounding, 30 lb. deep sea	1
17	Lines, lead, deep sea, 1" circ., size 10, 120 fathoms, with reel	2
18	Lines, lead, cotton braided, ¾" circ. size 8" 25 fathoms	2
19	Megaphone, 15"	1
20	Megaphone, 30"	1
21	Protractor, course, transparent	2
22	Rules, parallel, 18" graduated	1
23	Thermometers, copper frame, —20° to +130° Fahrenheit, 12" size (mercurial)	2
24	Thermometers, shiphold, —20° to +130° Fahrenheit, 12" size	3

MOORING APPLIANCES

1	Line, spring; 1" diameter, grade, 4, 6, x 24, improved plow steel wire, with 6' 0" diameter eye spliced in one end only. Total length to be 65 fathoms overall after spliced eye is produced	2

FLAGS

1	Ensign, U. S. 5' x 8'	1
2	Ensign, U. S. 8' x 12'	1
3	Flags, International Code, complete set consisting of one set alphabets, size No. 2 (4 ft. 6 in. x 5 ft. 6 in.), one set numerals, size No. 3, (3 ft. 9 in. x 12 ft. 9 in.), one answering pennant, size No. 2, (3 ft. 9 in. x 12 ft. 9 in.), one set repeaters, (first, second, and third) and two code books (Volumes I and II)	1
4	Flags, International Code; size No. 1 (6 ft. 6 in. x 8 ft. 0 in.) of letters, "B", "G", "H", "P", "Q", and "Y" each	1
5	Flags, ship's code letter; Complete set consisting of four letters in set (4 ft. 6 in. x 5 ft. 6 in.)	1
6	Flags, semaphore; type I; size 15 in. x 15 in.; red and yellow	2
7	Flags, semaphore; type II, size 15 in. x 15 in.; blue and white	2
8	Shapes, day, 24 in. diameter, black	3

EMERGENCY RIOT EQUIPMENT

Item No.	Description	Quantity
1	Irons, hand (handcuffs)—pair	1

OFFICE EQUIPMENT

1	Typewriters elite—11", 18" or 26"	1
2	Typewriters, Navy telegraphic, 11" (radio room)	1

LIVING AND BERTHING EQUIPMENT

Officers, Approximately—11

1	Blankets	24
2	Cloths, table	36
3	Covers, mattress	12
4	Covers, pillow	24
5	Curtains, shower	12
6	Felts, table; flannel	6
7	Pillow cases, white	72
8	Sheets, white	72
9	Spreads, day; green momie cloth	12
10	Towels, bath	72
11	Towels, face, huck	72

Petty Officers and Crew, Approximately 22 With 4 extras—26

12	Blankets, gray	54
13	Counterpanes, cotton, blue and white	72
14	Covers, mattress	30
15	Covers, pillow	30
16	Pillow cases; white	72
17	Sheets, white	144
18	Towels, bath	144
19	Towels, face	144

Galley and Pantry Linen

20	Towels, service (glass and pantry	120

Miscellaneous Linen

21	Aprons, cooks'	12
22	Bags, laundry	12
23	Coats, messmen's	24
24	Coats, cooks'	18

All Locations

25	Mats, door; cocoa	8
26	Life preservers, merchant type, approved by classification requirements	38

Officers and Crew

27	Pillows, chicken feather, 2½ lb., officers'	24
28	Pillows, chicken feather, 3½ lb., crew and hospital berth	27
29	Mattresses, innerspring; officers' (or 1 per berth)	11
30	Mattresses, cotton felt; crew and hospital (or 1 per berth)	26

MESSING EQUIPMENT

Officers' Mess—Tableware

1	Forks	24
2	Knives	24
3	Spoons, medium	24
4	Spoons, tea	24

Officers' Mess—Chinaware

5	Bowls, grapefruit and cereal	18
6	Bowls, sugar, with cover; round	4
7	Cups, coffee or tea	24
8	Cups, egg	6
9	Dishes, celery	3
10	Dishes, vegetable, oval (bakers') 5¾ in	18
11	Dishes, vegetable, oval (bakers') 10 in	3
12	Pitchers, cream, handled, 8 oz	3
13	Pitchers, hall boy	3
14	Plates, bread and butter, 6¼ in	24
15	Plates, breakfast, 8 in	18
16	Plates, dessert, 7⅛ in	24
17	Plates, dinner, 9 in	24
18	Plates, soup, rim deep, 9 in	18
19	Platters, oval, 9⅜ in	6
20	Platters, oval, 13¼ in	3
21	Pots, mustard; 4 oz	4

MESSING EQUIPMENT—continued

Officers' Mess—Chinaware—Continued

Item No.	Description	Quantity
22	Saucers, coffee	24
23	Saucers, fruit; 5¼ in	24
24	Spoons, mustard, bone or plastic, approx. 4¾ in	6

Glassware

25	Bottles, water	12
26	Cruets, oil and vinegar	8
27	Glasses, fruit juice	36
28	Glasses, iced tea	36
29	Glasses, water	72
30	Pitchers, water, 56 oz. capacity	8
31	Shakers, pepper, 3½ in. high	6
32	Shakers, salt, 3½ in. high	6

Petty Officers' and Crew's Mess—Chinaware

33	Bowls, soup or cereal	24
34	Bowls, sugar, round	6
35	Cups, egg	6
36	Dishes, vegetable	4
37	Mugs, coffee	48
38	Pitchers, hall boy	4
39	Plates, dessert, 7⅛ in	48
40	Plates, dinner, 9 in	48
41	Plates, soup, rim deep, 9 in	48
42	Platters, oval, 13¼ in	4
43	Pots, mustard	3
44	Saucers, fruit, 5¼ in	48

Petty Officers' and Crew's Mess—Flatware

45	Forks, table	30
46	Knives	30
47	Spoons, medium	30
48	Spoons, tea	42

Miscellaneous Equipment

49	Bells, dinner	1

Galley and Pantry Gear

50	Boards, bread, size 16" x 22" x ¾"	1
51	Bowls, beating, retinned, 16 in. diameter	1
52	Bowls, mixing, retinned, 22 in. diameter	1
53	Boards, meat-cutting, size 18" x 24" x 3"	1
54	Boxes, bread	2
55	Broiler, range	2
56	Brushes, butcher block	1
57	Canisters, grocers'—10 lb. capacity	4
58	Cans, garbage or ash, with cover	5
59	Choppers, meat and food	1
60	Cleavers, market	1
61	Colanders, retinned, 8 qt. capacity	1
62	Colanders, retinned, 22 qt. capacity	1
63	Corers, apple, "T"-shape	1
64	Corkscrews	2
65	Cutters, biscuit or cake, 2½ in	1
66	Cutters, doughnut, 3 in	1
67	Dippers, 1 qt. capacity	1
68	Dippers, 1½ qt. capacity	1
69	Dredge, flour	1
70	Dredge, sugar	1
71	Forks, cooks'	2
72	Funnels, 1 qt. capacity	1
73	Graters, half round	1
74	Graters, square	1
75	Griddles, cast iron	1
76	Hooks, meat; "S"-type	48
77	Ice picks	6
78	Kettles, sponge	1
79	Knives, bread	2
80	Knives, cooks'	2
81	Knives, grapefruit	2
82	Knives, paring	4
83	Knives, scraping	1
84	Ladles, retinned, 3¼ oz. capacity	2
85	Ladles, retinned, 7 oz. capacity	4
86	Ladles, retinned, 12¼ oz. capacity	1
87	Ladles, retinned, 24 oz. capacity	1
88	Mashers, potato	1
89	Measures, 1 qt. capacity	1
90	Openers, can; mechanical	1

MESSING EQUIPMENT—continued

Galley and Pantry Gear—Continued

Item No.	Description	Quantity
91	Pails, garbage, with cover, 7-gallon capacity	4
92	Pans, baking steel	9
93	Pans, roll; sheets	4
94	Pans, bread, pullman, with cover	18
95	Pans, dish, round 21-qt. capacity	1
96	Pans, dish, round, 35-qt. capacity	2
97	Pans, fry, 6½-in. diameter	6
98	Pans, fry, 9¾-in. diameter	3
99	Pans, fry, 11 1/16-in. diameter	1
100	Pans, fry, deep, 20½-in. top diameter	2
101	Pans, muffin, 12 cups to pan	6
102	Pans, roasting, 24" x 18" x 3½"	4
103	Pans, sauce, 2-qt. capacity	2
104	Pans, sauce, with cover, 8-qt. capacity	1
105	Pans, sauce, with cover, 13½-qt. capacity	1
106	Pans, sauce, with cover, 10-qt. capacity	1
107	Pans, sauce, shallow, with cover, 12-qt. capacity	2
108	Peels, wood (cracker peel)	1
109	Pins, rolling	1
110	Plates, pie	24
111	Pots, sauce, 21-qt. capacity	2
112	Pots, sauce, 30-qt. capacity	2
113	Pots, stock, with cover, 9 gal	1
114	Pots, stock, with cover and faucet, 9-gal. capacity	1
115	Saws, meat, frame, butchers'	1
116	Scales, household	1
117	Scoops, grocers'	1
118	Scrapers, dough	1
119	Sieves, flour, wood rim	1
120	Sieves, puree	1
121	Skimmers, 4 in. blade	2
122	Skimmers, 6¼ in. blade	1
123	Spoons, cooking, perforated	2
124	Spoons, cooking, 15¼ in. solid	4
125	Spoons, cooking, 17 in	2
126	Steels, butcher's	1
127	Strainers, china-cap, retinned	1
128	Strainers, tea; 2½ in	1
129	Tongs, ice; steel	2
130	Trays, serving, 14¼" x 18¼" x ⅛"	4
131	Turners, cake, 4¼ in. blade	1
132	Turners, egg, perforated blade, 3¼ in	2
133	Whips, egg; 12 in	1
134	Whips, egg, 15 in	1
135	Whips, egg; balloon, 14 in	1

SUBPART C—CHARTER OF WAR-BUILT VESSELS TO CITIZENS

§ 299.31 *Charter of war-built vessels to citizens of the United States*—(a) *Application.* Any citizen of the United States, as defined in § 299.1 (h), and until July 4, 1946, any citizen of the Commonwealth of the Philippines, may apply to the Administration to charter a war-built dry cargo vessel, including passenger type vessels, for bareboat use. The application to receive consideration must be substantially in the form prescribed by the Administration in § 299.128. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Each application shall contain sufficient information to enable the Administration to make all necessary determinations, including the following:

(1) Citizenship of the applicant.

(2) That the applicant possesses the following minimum financial requisites:

(i) Sufficient working capital, as defined in § 299.1 (n), to cover preoperating and operating expenses, as defined in § 299.1 (p), of the vessel (in addition to basic charter hire) for a period of 60 days and prepaid insurance for one year. In determining the amount of such working capital the amount of any securities pledged or to be pledged with the Administration in lieu of a surety bond, as prescribed in paragraph (g) (7) of this section, shall be excluded.

(ii) Net worth, as defined in § 299.1 (o), at least equal to the amont of the annual basic charter hire payable with respect to the war-built vessel. Such minimum financial requirements shall be applicable with respect to each vessel applied for. In instances where the applicant is engaged in the operation of other vessels or in activities other than the operation of vessels, the amount of working capital and net worth required for such purposes will be taken into account in addition to such minimum financial requirements in determining whether the applicant possesses the required financial resources.

(3) That the applicant possesses the ability, experience, and other qualifications, necessary to enable him to fulfill the terms of the charter.

Items are parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(4) Applicants for the charter of war-built vessel(s) under section 5 (e) of the Merchant Ship Sales Act of 1946, as amended by Public Law 591, 81st Congress, shall in addition to the foregoing, submit a Supplemental Application substantially in the form prescribed in § 299.129.

If applicant has not previously filed a formal charter application pursuant to this section (General Order 60), questions 3, 4, 5, 8, 9, 10, and 11 in the Supplemental Application may be disregarded provided the information required by said questions is fully supplied in the application submitted in compliance with this section (General Order No. 60).

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Amendments involving substitution of a different vessel for the vessel applied for, unless promptly made at the written request of the Administration, shall be effective as of the filing date of the amendment. All other timely amendments (including amendments involving substitutions for the vessels applied for when made at the written request of the Administration) shall be effective as of the filing date of the original application. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file

from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Approval or rejection by the Administration.* The Administration may, in its discretion, either approve or reject the application and will not approve the application unless it determines that the applicant is a citizen of the United States as defined in § 299.1 (h) or in case of an application filed prior to July 4, 1946, is a citizen of the Commonwealth of the Philippines and, in its opinion, the chartering of the vessel to the applicant will be consistent with the policies of the Act and the vessel is available for charter to the applicant. In determining whether or not to approve the application, the Administration will take into consideration the applicant's financial resources and credit standing, practical experience in the operation of vessels, and any other factors that would be considered by a prudent businessman in entering into a transaction involving a large investment of his capital; and the Administration will not charter a vessel to any person, appearing to lack sufficient capital, credit, and experience to fulfill the terms of the charter. No vessel will be chartered until 60 days after publication of the applicable prewar domestic cost in the FEDERAL REGISTER. If the application is rejected by the Administration, the Secretary will promptly advise the applicant.

(d) *Charter party.* If the application is approved by the Administration, the Secretary will furnish the applicant five counterparts of a charter party covering the vessel(s) in such form as the Administration may prescribe, which shall be executed by the applicant and redelivered to the Secretary within fifteen (15) days of the date of its receipt by the applicant. After the charter party has been executed on behalf of the Administration, one of the counterparts will be sent to the applicant.

(e) *Period of charter.* The period of the charter shall be determined by the Administration in each particular case.

(f) *Charter hire.* The monthly charter hire for any vessel chartered under the provisions of the act shall be one-twelfth of an amount not less than 15 percent of the statutory sales price (computed as of the date of delivery of the vessel under the charter), except upon the affirmative vote of not less than four members of the Administration. Except in the case of vessels having passenger accommodations for not less than eighty passengers, rates of charter hire fixed by the Administration on any war-built vessel which differ from the rate specified in this subsection shall not be less than the prevailing world market charter rates for similar vessels for similar use as determined by the Administration.

(g) *Mandatory provisions in charter.* Every charter made by the Administration pursuant to the provisions of the act shall provide:

(1) *Excess profits of charterer.* That whenever, at the end of any calendar year subsequent to the execution of such charter, the cumulative net voyage profits (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessels) shall exceed 10 percent per annum on the charterer's capital necessarily employed in the business of the vessel or vessels covered by the same charter, the charterer shall pay over to the Administration, an additional charter hire, one-half of such cumulative net voyage profit in excess of 10 percent per annum on such capital: *Provided,* That the cumulative net profit so accounted for shall not be included in any calculation of cumulative net profit in subsequent years. (Every charter shall contain definitions of the terms "net voyage profit" and "fair and reasonable overhead expenses" and "capital necessarily employed", as said terms are used in this subparagraph, such definitions to set forth the formulae for determining such profits, overhead expense, and capital necessarily employed.)

(2) *Charterer to insure vessel.* That the charterer shall carry in the chartered vessels, at its own expense, policies of insurance covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, in such amounts, in such form, and in such insurance companies as the Administration shall require and approve, adequate to cover all insurable damage claims against and losses sustained by the chartered vessels arising during the life of the charterer: *Provided,* That in accordance with existing law, some or all of such insurance risks may be underwritten by the Administration itself as in its discretion it may determine.

(3) *Charterer to maintain and repair vessel.* That the charterer shall at its own expense keep the chartered vessel in good state of repair and in efficient operating condition and shall at its own expense make any and all repairs as may be required by the Administration.

(4) *Administration inspection of vessel.* That the Administration shall have the right to inspect the vessel at any and all times to ascertain its condition.

(5) *Books and accounts of charterer; Administration examination and audit.* That the charterer shall keep its books and accounts relating to the vessel in such form as the Administration may prescribe, shall file such financial statements as the Administration may require, and shall permit the Administration to examine and audit its books, records and accounts.

(6) *Emergency termination of charter.* That whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President, the Administration may terminate the charter without cost to the United States, upon such notice to the charterer as the President shall determine.

(7) *Bond of charterer.* That, for each vessel chartered under section 5 of the act, the charterer shall deposit with the Administration a bond, in such amount as the Administration shall require but not less than $25,000, to be approved by the Administration both as to form and sufficiency of the sureties, conditioned upon the true and faithful performance of all and singular the covenants and agreements of the charterer contained in the charter, including, but not limited to, the charterer's obligation to pay charter hire and damages, and indemnity against liens on the chartered vessel. The charterer may, in lieu of furnishing such bond, pledge United States Government securities in the face value of the required amount under an agreement satisfactory in form and substance to the Administration.

(8) *Financial limitations.* That the charterer agrees that (i) no capital shall be withdrawn, (ii) no share capital shall be redeemed or converted into debt, (iii) no dividend shall be paid, (iv) no loan or advance (except advances to cover current expenses of the charterer) shall be made, either directly or indirectly, to any stockholder, director, officer, or employee of the charterer or to any related company (as defined in § 299.1 (q)), (v) no investment shall be made in the securities of any related company (as defined in § 299.1 (q)), (vi) no indebtedness to any stockholder, director, officer, or employee of the charterer or to any related company (as defined in § 299.1 (q)), which was classified as long-term or noncurrent in the balance sheet submitted with the application (or amendment thereto) to charter the vessel, shall be repaid in whole or in part, and (vii) no salary at a rate in excess of $25,000.00 per annum shall be paid, if, after such transaction, the amount of working capital or the amount of net worth thereby would be reduced below the minima prescribed in paragraph (a) of this section.

(h) *Operating - differential subsidy.* The Administration may, if in its discretion financial aid is deemed necessary, enter into a contract with any citizen of the United States chartering a vessel under the provisions of the act for payment to such charterer of an operating-differential subsidy upon the same terms and conditions and subject to the same limitations and restrictions, where applicable, as are provided in the Merchant Marine Act, 1936, as amended, with respect to payments of such subsidies to operators of privately owned vessels.

(i) *Application where request is made for an operating-differential subsidy.* Where the applicant requests financial aid in the operation of a vessel chartered under the act, pursuant to paragraph (h) of this section, the application provided for in paragraph (a) of this section shall be accompanied by an application for an operating-differential subsidy in substantially the form prescribed in § 251.11 of this chapter (the Administration's General Order No. 13).

(1) If the application to charter is conditioned upon the granting of financial aid pursuant to paragraph (h) of this section, such application to charter shall be considered for the purpose of § 299.2 as having been filed as of the date of approval by the Administration of the application for financial aid.

(2) If the application for financial aid is disapproved by the Administration, the Secretary will promptly advise the applicant. Unless the applicant notifies the Secretary within 15 days that the appli-

cation for charter is withdrawn, it will be considered as an application to charter without financial aid and for the purpose of § 299.2 shall be considered as filed as of date of disapproval of the application for financial aid.

(j) *Sub-chartering.* Vessels chartered from the Administration may be subchartered only with the prior written consent of the Administration.

(k) *Preliminary determination and payment of "additional charter hire."* (1) On or before November 30, 1946 and on or before the end of each succeeding calendar month, every charterer under a bareboat charter agreement Shipsalesdemise 303 shall pay over to the Administration ninety percent (90%) of the amount then indicated to be due the Administration on account of additional charter hire under that agreement and under Warshipdemiseout 203 (if the charterer chartered vessels from the War Shipping Administration under that form of agreement) for the period ending two calendar months prior to that date, after deducting, with respect to such payments made subsequent to November 30, 1946, the amount of any previous payments made on account of additional charter hire for the period and under the agreement involved, *Provided*, That for the period from January 1, 1951, to June 30, 1951, such payment shall be made on or before August 31, 1951, and that, for each succeeding quarter-annual period (i. e., September 30, December 31, March 31, and June 30), such payments shall be made within sixty (60) days after the close of each such period. Such payments shall be deemed to be preliminary and subject to adjustment upon the completion of audit by the Administration covering the period involved, and neither the tender thereof by the charterer, nor its acceptance by the Administration, shall prejudice the rights of either under the applicable bareboat charter agreement or otherwise. The amounts of such payments shall be calculated in accordance with the applicable provisions of the respective agreements, particularly Clause (H)—"Special Provisions" of Part I and Clauses 13—"Additional Charter Hire" and 23—"Definitions" of Part II of Shipsalesdemise 303, and Clauses 13—"Additional Charter Hire" and 23—"Definitions" of Part II of Warshipdemiseout 203, and in accordance with the regulations in this subpart. In instances where audited financial and operating statements have not been prepared by the charterer from its records or by its public accountants, tentative calculations should be prepared for this purpose.

(2) Every such remittance to the Administration on account of "additional charter hire" shall be accompanied by a separate statement in quadruplicate, reflecting the charterer's calculation of "capital necessarily employed", "net voyage profit", and "fair and reasonable overhead expenses" on which the amount of such "additional charter hire" under each agreement is based. This statement shall be certified by a duly authorized officer of the charterer to the following effect:

This statement correctly sets forth, to the best of my knowledge and belief, the "capital necessarily employed" in the business and "net voyage profit" of the chartered vessels, and the amount of "additional charter hire" due the Maritime Administration for the above stated period, pursuant to the provisions of the bareboat charter agreement Warshipdemiseout 203/Shipsalesdemise 303 (delete inapplicable reference) dated _____ and in accordance with the rules and regulations prescribed in General Order 60 of the Administration, based on the records of the undersigned charterer at this date.

_____
Name of Charterer

_____
Title

_____
Date

(3) In instances where the charterer engages in other activities in addition to the operation of vessels under Shipsalesdemise 303, the statements reflecting the charterer's calculation of "capital necessarily employed", "net voyage profit" and "fair and reasonable overhead expenses" shall reflect the distribution of such capital, profit, and expenses, as between (i) operations under Shipsalesdemise 303, (ii) operations (if any) under Warshipdemiseout 203, and (iii) other operations, together with a complete explanation of the manner in which such distribution was made.

(4) The statements for the period ended September 30, 1946 (required to be submitted on or before November 30, 1946) shall include also (1) the balance sheet of the charterer as of the close of the month preceding the date of delivery of the first vessel under Shipsalesdemise 303, (2) the balance sheet of the charterer as of the close of the month preceding the date of delivery of the first vessel under Warshipdemiseout 203 (if the charterer chartered vessels from the Maritime Commission or Administration under that form of agreement), and (3) the income sheet of the charterer for the fiscal period ended September 30, 1946. (If such fiscal period commenced subsequent to the month during which delivery of the first vessel under the agreement involved was made, the charterer shall submit also its income sheet for the preceding fiscal period.) Thereafter, the statements reflecting the preliminary determination of additional charter hire shall be accompanied by the income sheet of the charterer reflecting its cumulative operating results for the fiscal period ending two calendar months prior to the date when such statements are required to be submitted (e. g., statements required to be submitted on or before December 31, 1946 should be accompanied by an income sheet for the fiscal period ending October 31, 1946). The balance sheets and income sheets herein required shall be certified in the manner prescribed in § 299.8 (b).

(5) If in any instance a statement reflecting the preliminary determination of additional charter hire shall indicate that ninety percent (90%) of the cumulative total of such additional charter hire for the expired portion of the periods involved (which periods under Shipsalesdemise 303 shall end December 31, 1946, at the end of any subsequent calendar year, and at the termination of the agreement; and under Warshipdemiseout 203 shall end only upon redelivery of all vessels under the agreement) is less than the total of the payments theretofore made to the Administration on account of additional charter hire for such period, the charter may apply to the Administration for refund of such overpayment and, if such application is found to be in order, the amount of the overpayment will be refunded by the Administration.

(6) The application should be made on a public voucher (form 1034—Revised), in quintuplicate, supported by three copies of the statement reflecting the preliminary determination of additional charter hire for the period involved and prepared to read substantially as follows:

Claim for refund of excess of preliminary payments made to the Maritime Administration, on account of additional charter hire, over ninety percent (90%) of the amount of such additional charter hire indicated to be due the Commission for the period ended_____ under bareboat charter agreement Warshipdemiseout 203/Shipsalesdemise 303 (delete inapplicable reference), dated_____ as per attached statement which by this reference is incorporated in this claim for refund. Payment by the Maritime Administration of all or any part of the amounts claimed herein will not be construed as an approval of the correctness of the amounts stated to be due the claimant nor as a waiver of any of the rights or remedies of either party under the terms of the said agreement or otherwise.

(7) Upon application of the Charterer the Administration may extend for a period of not to exceed thirty (30) days in any instance the time limit prescribed in this paragraph for the preliminary determination and payment of additional charter hire.

(8) In instances where income sheets covering operations under a Bareboat Charter Agreement Shipsalesdemise 303 and addenda thereto from the commencement of an accounting period show cumulative net voyage losses, it will not be necessary for the charterer to submit statements reflecting its calculation of "capital necessarily employed" unless income sheets covering a previous portion of such period reflected net voyage profits with respect to which the charterer made preliminary payment on account of additional charter hire and seeks a refund thereof: *Provided, however*, That in any event the charterer shall continue to submit income sheets reflecting its cumulative operating results in the manner and at the times required by this paragraph.[1]

RESERVES

§ 299.35 *Regulations with respect to reserves to be taken into account in the determination of "Net Voyage Profit" under SHIPSALESDEMISE 303 Bareboat Charter Agreement and Addenda thereto.* By the "Reserves Addendum", insofar as Charterers who have executed such ad-

[1] The books, records and accounts referred to in this section shall be retained two years after a final release or settlement agreement is completed between the Maritime Administration and the charterer.

dendum are concerned, subparagraph 1 of paragraph (a) of Clause 28 of Part II of Shipsalesdemise 303 Bareboat Charter Agreement was amended to provide, among other things, that, notwithstanding the provisions of United States Maritime Commission General Order No. 22 (Part 282 of this chapter), such reserves as may be specifically authorized by the Owner shall be taken into account in the determination of "Net Voyage Profit" thereunder or the expenses to provide for which such reserves are so authorized shall be distributed over the period of use thereunder of the vessels involved commencing with the first voyage terminating after December 31, 1946, in such manner as will accomplish the same result as though such reserves were established, all pursuant to regulations prescribed by the Owner (referred to in this section as the Administration). To implement that provision of the aforesaid "Reserves Addendum", the following regulations are prescribed:

(a) Subject to the conditions provided in this section, upon application of the Charterer, supported by adequate data based on past experience, the inclusion in vessel operating expenses applicable to all voyages terminating after December 31, 1946, of such charges as the Administration determines to be fair and reasonable will be permitted to provide reserves for:

(1) Vessel repair expenses (including voyage and annual or periodic special survey repair expenses as well as expenses of repairs incident to redelivery of vessels).

(2) Vessel redelivery expenses (excepting such expenses specifically excluded in the determination of additional charter hire by the provisions of the first paragraph of Article V of the Foreign Trade Addendum, or otherwise, and excepting also any overhead expenses of the Charterer) incurred during the period from the time of paying off the crew or completion of discharge of cargo or ballast on the last voyage, or from the date of availability of the vessel for redelivery pursuant to the terms of the bareboat charter agreement, whichever later occurs, to the time of redelivery of the vessel to the Administration, such as (i) wages of crew, (ii) food and stores consumed, (iii) fuel consumed, (iv) basic charter hire, (v) insurance premiums, (vi) port charges, (vii) cleaning, watching, maintenance expenses, shore labor, and miscellaneous expenses incident to redelivery, and (viii) expenses incident to stripping the ship if required and expenses incident to transporting the ship from port of return in the United States upon its last voyage to port of redelivery, and

(3) Reserves for P. & I. insurance deductible average losses.

(b) The reserves for vessel repair expenses and for vessel redelivery expenses shall be adjusted (1) as at December 31, 1948, with respect to vessels redelivered to the Administration on or before that date, (2) as at the end of each succeeding calendar year with respect to vessels redelivered to the Administration during such year, and (3) at the time of final accounting under the bareboat charter agreement with respect to vessels redelivered to the Administration during the period following the end of the last preceding calendar year. Such adjustment shall be accomplished by distributing separately the balances in such reserves applicable to each individual vesssel redelivered to the Administration during each such period in such manner as will have the effect of spreading the actual expenses applicable to each such vessel over the accounting periods involved (with respect to which a separate determination of additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning of the first voyage of such vessel terminating after December 31, 1946, and ending with the date of its redelivery to the Administration.

(c) The reserves for P. & I. insurance deductible average losses shall be adjusted at the time of final accounting under the bareboat charter agreement, by distributing separately the balances in such reserves applicable to each individual vessel in such manner as will have the effect of spreading the actual expenses applicable to each individual vessel over the accounting periods involved (with respect to which a separate determination of additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning of the first voyage of such vessel terminating after December 31, 1946, and ending with the date of its redelivery to the Administration.

(d) If in any instance either of the reserves specifically authorized in paragraph (a) of this section is not established, or, if established, the amount thereof is not adequate to cover the actual expenses properly chargeable thereto, such expenses, or the excess thereof over the amount of the reserve established to provide therefor, as the case may be, applicable to each individual vessel involved, shall be distributed over the period of use of such vessel under the bareboat charter agreement, commencing with the first voyage terminating after December 31, 1946, in such manner as will accomplish the same result as though adequate reserves were established to provide for such expenses as herein provided.

(e) In the determination of "Net Voyage Profit" under the bareboat charter agreement, there shall not be taken into account (1) any charge resulting from the creation of reserves applicable to voyages terminated prior to January 1, 1947, (2) any charge resulting from the creation of reserves to cover expenses other than those specifically provided for in paragraph (a) of this section, (3) any charge to the period ended December 31, 1946 resulting from the spreading of expenses incurred on voyages terminated thereafter, or (4) any charge resulting from the spreading of expenses other than those with respect to which the creation of reserves is specifically provided for in paragraph (a) of this section.

(f) The establishment of the rules and regulations prescribed in this section is without prejudice to the right of the Administration to determine upon the employment of other bases for allocation of the expenses involved in any instance where, in the judgment of the Administration, the results produced by the application of the regulations prescribed herein are not fair and reasonable and in accordance with sound accounting practice.

(Interprets or applies sec. 5, 60 Stat. 43; 50 U. S. C. App., 1738)

§ 299.36 *Regulations with respect to reserves to be taken into account in the determination of "Net Voyage Profit" under SHIPSALESDEMISE Form No. 303 (Military Sea Transportation Service) Bareboat Charter Agreements.*[1] Clause 27 of Part II of Form No. 303 Shipsalesdemise (Military Sea Transportation Service) bareboat charter agreement (referred to in this section as the "Agreement") provides, among other things, that notwithstanding the provisions of United States Maritime Commission General Order No. 22, as adopted by its successor, the Federal Maritime Board/Maritime Administration, and amended from time to time (Part 282 of this chapter), such reserves as may be specifically authorized by the Owner shall be taken into account in the determination of "Net Voyage Profit" thereunder or the expenses to provide for which such reserves are so authorized shall be distributed over the period of use thereunder of the vessels involved, in such manner as will accomplish the same result as though such reserves were established, all pursuant to regulations prescribed by the Owner. To implement that provision of the aforesaid agreement, the following regulations are prescribed:

(a) Subject to the conditions provided in this section, upon application of the Charterer, supported by adequate data based on past experience, the inclusion in vessel operating expenses applicable to all voyages terminating after June 30, 1950, of such charges as the Maritime Administration determines to be fair and reasonable will be permitted to provide reserves for:

(1) Vessel repair expenses (including voyage and annual or periodic special survey repair expenses as well as expenses of repairs incident to redelivery of vessels).

(2) Vessel redelivery expenses (excepting expenses for which the Charterer is reimbursed by the Owner pursuant to paragraph (b) of Clause 15 of Part II of the aforesaid Agreement, and excepting also any overhead expenses of the Charterer) incurred during the period from the time of paying off the crew or completion of discharge of cargo or ballast on the last voyage, or from the

[1] This form of charter is the same as that prescribed by § 299.130 of this chapter except for modifications adapting it for the Military Sea Transportation Service. Copies of this charter will be furnished by the Maritime Administration upon request.

date of availability of the vessel for redelivery pursuant to the terms of the Agreement, whichever later occurs, to the time of redelivery of the vessel to the Maritime Administration, such as (i) wages of crew, (ii) food and stores consumed, (iii) fuel consumed, (iv) basic charter hire, (v) insurance premiums, (vi) port charges, (vii) cleaning, watching, maintenance expenses, shore labor, and miscellaneous expenses incident to redelivery, and (viii) expenses, if any, incident to transporting the ship from port of return in the United States upon its last voyage to port of redelivery, and

(3) Reserves for P. & I. insurance deductible average losses.

(b) The reserves for vessel repair expenses and for vessel redelivery expenses shall be adjusted (1) as at December 31, 1950, with respect to vessels redelivered to the Maritime Administration on or before that date, (2) as at the end of each succeeding calendar year with respect to vessels redelivered to the Maritime Administration during such year, and (3) at the time of final accounting under the Agreement with respect to vessels redelivered to the Maritime Administration during the period following the end of the last preceding calendar year. Such adjustment shall be accomplished by distributing separately the balances in such reserves applicable to each individual vessel redelivered to the Maritime Administration during each such period in such manner as will have the effect of spreading the actual expenses applicable to each such vessel over the accounting periods involved (with respect to which a separate determination of additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning of the first voyage of such vessel terminating after June 30, 1950, and ending with the date of its redelivery to the Maritime Administration.

(c) The reserves for P. & I. insurance deductible average losses shall be adjusted at the time of final accounting under the Agreement, by distributing separately the balances in such reserves applicable to each individual vessel in such manner as will have the effect of spreading the actual expenses applicable to each individual vessel over the accounting periods involved (with respect to which a separate determination of additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning on the first voyage of such vessel terminating after June 30, 1950, and ending with the date of its redelivery to the Maritime Administration.

(d) If in any instance either of the reserves specifically authorized in paragraph (a) of this section is not established, or, if established, the amount thereof is not adequate to cover the actual expenses properly chargeable thereto, such expenses, or the excess thereof over the amount of the reserve established to provide therefor, as the case may be, applicable to such individual vessel involved, shall be distributed over the period of use of such vessel under the Agreement, commencing with the first voyage terminating after June 30, 1950, in such manner as will accomplish the same result as though adequate reserves were established to provide for such expenses as provided in this section.

(e) In the determination of "Net Voyage Profit" under the Agreement, there shall not be taken into account (1) any charge resulting from the creation of reserves to cover expenses other than those specifically provided for in paragraph (a) of this section, or (2) any charge resulting from the spreading of expenses other than those with respect to which the creation of reserves is specifically provided for in paragraph (a) of this section.

(f) The establishment of the rules and regulations prescribed in this section is without prejudice to the right of the Maritime Administration to determine upon the employment of other bases for allocation of the expenses involved in any instance where, in the judgment of the Maritime Administration, the results produced by the application of the regulations prescribed by this section are not fair and reasonable and in accordance with sound accounting practice.

(Interprets or applies sec. 5, 60 Stat. 43, as amended; 50 U. S. C. App. 1738)

FINAL ACCOUNTINGS BY CHARTERERS UNDER WARSHIPDEMISEOUT 203 AND SHIPSALESDEMISE 303 BAREBOAT CHARTER AGREEMENTS

§ 299.37 *Procedure.* (a) Every Charterer, under the form of bareboat charter agreement known as WARSHIPDEMISEOUT 203, and/or the form of bareboat charter agreement known as SHIPSALESDEMISE 303, shall within ninety (90) days after publication of this order in the FEDERAL REGISTER prepare and submit to the Maritime Administration, in the form and manner prescribed in the annexed "Procedure to be Followed by Charterers in the Rendition to the Commission of Final Accountings under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 Bareboat Charter Agreements" (§§ 299.38 to 299.56, inclusive), an accounting covering the entire period of operations under the WARSHIPDEMISEOUT 203 Agreement and accountings covering all operations under the SHIPSALESDEMISE 303 Agreement (including addenda thereto) through December 31, 1949: *Provided, however,* That, upon application of the Charterer the Administration may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this paragraph for the submission of such accounting.

(b) Every Charterer, under the form of bareboat charter agreement known as SHIPSALESDEMISE 303, shall prepare and submit to the Maritime Administration a similar accounting for each subsequent annual or overall accounting period (as defined in the procedure mentioned in paragraph (a) of this section) within ninety (90) days after the expiration of such accounting period, as provided in the said agreement and addenda thereto: *Provided, however,* That, upon application of the Charterer the Administration may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this paragraph for the submission of such accounting.

§ 299.38 *Definitions.* Except where the context clearly indicates otherwise, as used in this part:

(a) "Administration" or "owner" refers to the United States of America acting by and through Maritime Administration or the United States Maritime Commission.

(b) "Charterer" refers to a person, firm, or corporation that has chartered vessels from the Administration under a bareboat charter agreement known as WARSHIPDEMISEOUT 203 and/or a bareboat charter agreement known as SHIPSALESDEMISE 303, and addenda thereto.

(c) "WARSHIPDEMISEOUT 203" refers to the form of bareboat charter agreement published in the FEDERAL REGISTER on April 25, 1946, § 302.62a of this chapter.

(d) "SHIPSALESDEMISE 303" refers to the form of bareboat charter agreement published in the FEDERAL REGISTER on September 4, 1946, § 299.130, and addenda thereto.

(e) "Other operations" refers to the operation by the charterer of vessels other than those chartered from the Administration, or the furnishing by the charterer of services and facilities to such other vessels, and all other business activities of the charterer.

(f) "Uniform System of Accounts" refers to the "Uniform System of Accounts for Operating-Differential Subsidy Contractors" prescribed by the Administration February 4, 1938 in General Order No. 22 (Part 282 of this chapter).

(g) "Allowable return" refers to the amount, at the rate of ten per centum per annum of "capital necessarily employed," which, to the extent earned, the charterer is permitted to deduct from the cumulative net voyage profit in the computation of additional charter hire.

(h) "Accounting period" or "other accounting period" refers to a period with respect to which a separate determination of additional charter hire due the Administration is required to be made pursuant to the provisions of the applicable bare boat charter agreement, commencing with the first day of the calendar year, or the first day of the month during which the first vessel is delivered to the charterer under the agreement involved, or the first day of the month during which an addendum requiring a separate determination of additional charter hire becomes effective, and ending with the last day of the calendar year or the last day of the month in which the last vessel is redelivered to the Administration under the agreement (or addendum) involved.

(l) "Over-all accounting period" refers to a period from the earliest commencement of an accounting period to the latest termination of an accounting period during the same calendar year.

ACCOUNTING REQUIREMENTS

§ 299.39 *Contract provisions and applicable orders and instructions.* (a) Clause 13 of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 prescribes the fundamental bases for the calculation and payment to the Administration of additional charter hire. These clauses provide, among other things, for preliminary payments by the Charterer to the Owner on account of additional charter hire, subject to adjustment upon completion of final audit by the Owner, at which time such payments will be made by or to the Owner as such final audit may show to be due.

(b) Section 229.31 (k) prescribes the times at which and the manner and amounts in which such preliminary payments are required by the Owner to be made by the Charterer. To implement these provisions of General Order 60, on or about November 25, 1946, instructions were issued for the guidance of Charterers in the preparation of the statements required to accompany preliminary payments on account of additional charter hire, upon the express understanding that neither their issuance by the Administration nor their observance by the Charterer would prejudice the rights of either under the applicable agreement or otherwise, and that the Administration reserved the right to prescribe other bases for the determination of additional charter hire at the time of the annual or final accounting under the respective agreements. Such instructions have been supplemented from time to time.

(c) Clause 13 of Part II of WARSHIPDEMISEOUT 203 and Clause 28 of Part II of SHIPSALESDEMISE 303 provide, among other things, that the Charterer:

(1) Shall keep its books, records and accounts relating to the management, operation, conduct of the business of and maintenance of the vessels covered by the agreement in accordance with the "Uniform System of Accounts" and under such regulations as may be prescribed by the Owner: *Provided, however,* That, if the Charterer is subject to the jurisdiction of the Interstate Commerce Commission, the Owner shall not require the duplication of books, records, and accounts required to be kept in some other form by that Administration; and

(2) Shall file, upon notice from the Owner, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, memoranda of any facts and transactions, which in the opinion of the Owner affect the financial results in, the performance of, or transactions or operations under, the agreement.

CROSS REFERENCE: For regulations of the Interstate Commerce Commission affecting carriers by water, see 49 CFR, Chapter I, Subchapter C.

§ 299.40 *Annual and final accountings.* (a) Pursuant to the applicable provisions of the bareboat charter agreements, the Administration hereby requires that each Charterer submit a separate final accounting of additional charter hire accrued to the owner during the entire period of operations under WARSHIPDEMISEOUT 203 and for each annual or overall accounting period under SHIPSALESDEMISE 303 and addenda thereto. Each such accounting shall be submitted in sextuplicate and shall include the basic statements prescribed in § 299.54.

(b) With respect to each such accounting, if the amount of additional charter hire shown thereby to have accrued to the Owner is in excess of the total of the payments theretofore made to the Administration (less any refunds theretofore made by the Administration on account of such payments) on account of additional charter hire for the period involved, such accounting shall be accompanied by the Charterer's check payable to "Treasurer of United States for account of Maritime Administration" in the amount of such excess.

(c) If, conversely, in any instance the amount of additional charter hire shown by such accounting to have accrued to the Owner is less than the total of the payments theretofore made to the Commission (less any refunds theretofore made by the Administration on account of such payments) on account of additional charter hire for the period involved, the Charterer may apply to the Administration for refund of such overpayment and, if such application is found to be in order, the amount of the overpayment will be refunded by the Administration. The application should be made on a public voucher (Form 1034—Revised) in quintuplicate, bearing language substantially as follows:

Claim for refund of excess of preliminary payments made to the Maritime Administration, on account of additional charter hire, over the amount of such additional charter hire indicated to be due the Administration for the period from _____ to _____ under Bareboat Charter Agreement WARSHIPDEMISEOUT 203/SHIPSALESDEMISE 303 [delete inapplicable reference] No. _____, as per accounting rendered pursuant to General Order No. 60, Supplement 21, which, by this reference, is incorporated in this claim for refund.

(d) The accounting comprising the statements and accompanying remittance or voucher required under this section shall be submitted to the Administration through the District Comptroller in the district, area, or port in which the home office of the Charterer is located, or (if there be no such auditor of the Administration in the district in which the home office of the Charterer is located) to the Comptroller, Maritime Administration, Washington 25, D. C.

§ 299.41 *Subsequent adjustments.* (a) In instances where operations under SHIPSALESDEMISE 303 continue beyond December 31, 1949, at the time of the submission of the accounting for each succeeding annual or over-all accounting period as required hereunder, the Charterer shall submit also a revised accounting for the period ended December 31, 1949 under SHIPSALESDEMISE 303 and addenda thereto, including all adjustments affecting that period that occurred subsequent to the rendition of the accounting therefor. Such revised accounting shall include also all such adjustments under SHIPSALESDEMISE 303 and addenda thereto applicable to the period prior to January 1, 1949: *Provided, however,* That if such adjustments are substantial, a separate revised accounting shall be submitted with respect to such prior period, the Administration reserving the right to determine in each instance whether the amount of the adjustment involved shall be regarded to be substantial for this purpose.

(b) If, in any instance, at the time of the submission of an accounting for an annual or over-all accounting period, no adjustment affecting the preceding period has occurred subsequent to the submission of the accounting for such period, the Charterer shall submit to the Administration an appropriate certification to that effect, over the signature of a duly authorized officer.[1]

CAPITAL NECESSARILY EMPLOYED

§ 299.42 *Fundamental bases.* The fundamental bases for the determination of "capital necessarily employed" are provided in Clause 23 (c) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303.

§ 299.43 *Interim additions and deductions.* The definition of "capital necessarily employed" in SHIPSALESDEMISE 303 provides, among other things, that additional capital in the form of cash or tangible property paid in during the charter period shall be included in the computation of "capital necessarily employed" from the date paid in and that any withdrawals of capital shall be deducted from the date withdrawn. Such interim adjustments are neither required nor permitted under WARSHIPDEMISEOUT 203. In the determination of "capital necessarily employed" under SHIPSALESDEMISE 303, additional capital, in the form of cash or tangible property paid in, and any withdrawals of capital during an annual or overall accounting period thereunder shall be included or deducted (as the case may be), pro rata, on the basis of the proportion of such additions or withdrawals represented by the relation that the number of days from the date thereof to the end of the calendar year or overall accounting period involved bears to the total number of days within such period, such proportion to be allocated to or between "capital necessarily employed" under SHIPSALESDEMISE 303 and "other operations" in the manner hereinafter prescribed. In any instance where such an adjustment affects the effective period of WARSHIPDEMISEOUT 203 the proportion of such adjustment otherwise allocable to operations under WARSHIPDEMISEOUT 203 shall be treated in the same manner as the proportion allocable to "other operations".

§ 299.44 *Allocation among operations under bareboat charter agreements and "other operations".* The definition of

[1] The books, records and accounts referred to in this section shall be retained two years after a final release or settlement agreement is completed between the Maritime Administration and the charterer.

"capital necessarily employed" in WARSHIPDEMISE 203 and in SHIPSALESDEMISE 303 provides, among other things, that if the Charterer engages in other activities in addition to the operation of the vessels thereunder, the Owner shall determine the proper allocation of capital as between such activities. To implement this provision of the bareboat charter agreements, the following bases of allocation are prescribed:

(a) Wherever practicable and the result will not be disproportionate, assets (and applicable liabilities) shall be allocated directly to the operation in which they are employed. For example, such assets (and applicable liabilities) as

(1) Non-shipping inventories,

(2) Replacement and similar special funds (including contractual and statutory reserve funds of subsidized operators),

(3) Amounts on deposit under purchase contracts,

(4) Investments in related companies,

(5) Advances and loans to related companies,

(6) Non-current receivables from, and payables (not in excess of receivables) to, related companies,

(7) Net book value of vessels and of non-shipping property and equipment, less the portion of any long-term debt arising from the acquisition of such assets due more than one year after the date of the balance sheet involved,

(8) Vessels under construction,

(9) Notes and accounts receivable from officers and employees,

(10) Good will and other intangible assets, and

(11) Liability for recapture under operating-differential subsidy agreements, are not necessarily employed in operations under WARSHIPDEMISEOUT 203 or SHIPSALESDEMISE 303 and, therefore, are not allocable to such operations.

(b) Except in instances involving (1) considerable non-shipping operations, (2) the operation of passenger vessels, (3) substantial dissimilarity between the operations of the vessels chartered from the Administration and those of vessels owned or chartered from others by the Charterer, or (4) agency operations actually carried on as a separate and substantial business activity of the Charterer for its own account and not merely incidental to the operation of the chartered vessels, (with respect to which the Charterer shall submit for the consideration of the Administration, in advance of the accounting herein prescribed, its concept of a fair and reasonable formula, addressed in the manner prescribed in § 299.40 (d)),

(i) Net current assets (excluding non-shipping inventories),

(ii) Voyages in progress (unterminated voyage revenue, less unterminated voyage expenses, or vice versa),

(iii) Advance ticket sales and deposits,

(iv) Special and guaranty deposits (such as those made with utilities corporations),

(v) The net book value of furniture and fixtures and other property and equipment not included in paragraphs (a) and (c) of this section, less the portion of any long-term debt arising from the acquisition of such property and equipment due more than one year from the date of the balance sheet involved.

(vi) Non-current receivables from, and payables to, others than related companies, officers, and employees,

(vii) Long-term debt incurred in borrowing funds to provide working capital,

(viii) Deferred charges, prepaid expenses, and deferred credits, and

(ix) Other debits and credits,

if, and to the extent that, they are employed in the general conduct of the shipping business, shall be allocated between operations under the bareboat charter agreements with the Administration and "other operations" on the basis of the relation that the number of days (eliminating fractions by considering twelve hours or more a full day and omitting portions of days amounting to less than twelve hours) of operation or maintenance of vessels under each SHIPSALESDEMISE 303, under each addendum to SHIPSALESDEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, under each WARSHIPDEMISEOUT 203, and in "other operations" (including those under service agreements) during the annual or over-all accounting period involved individually bear to the total of such days: *Provided*, That, for the purposes of this calculation only, a vessel day shall be valued in the manner described in the following formula:

	Day
(*a*) Vessels owned and operated by the Charterer	1
(*b*) Vessels bareboat chartered from others and operated by the Charterer	1
(*c*) Vessels time chartered from others	⅓
(*d*) Vessels time chartered to others	⅔
(*e*) Vessels under Time Charter Agency Agreements	1/60
(*f*) Vessels under General Agency Agreements where General Agents act in dual capacity of General Agent and Berth Agent	1/10
(*g*) Vessels under General Agency Agreements where General Agent does not act in capacity of Berth Agent	1/15
(*h*) Vessels under Berth Agency Agreements where Berth Agent does not act in capacity of General Agent	1/60

Provided, That in instances where more than one Berth Agent act for the vessel on a single voyage, the number of days so calculated shall be divided between the Berth Agents involved on the basis of the relation that the number of days under the agency of each bears to the total number of days of the voyage.

In this calculation the expired days of voyages in progress at the commencement of the annual or over-all accounting period will be omitted and the expired days of voyages in progress at the termination of such period will be taken into account (in other words, only the vessel days within the annual or over-all accounting period involved will be taken into account).

(c) The net book value of tugs, barges, scows, launches, lighters, cranes, and similar floating equipment; terminal property and equipment; stevedoring and other cargo-handling gear and equipment; and other property and equipment used exclusively in shipping and its auxiliary operations, less the portion of any long-term debt arising from the acquisition of such property and equipment due more than one year from the date of the balance sheet involved, shall be allocated between operations under the bareboat charter agreements with the Administration and "other operations" on the same basis as is the income derived from, and the expense incurred in, the operation and maintenance of such services or facilities as prescribed in §§ 299.47 to 299.53.

§ 299.45 *Limitation of "capital necessarily employed".* (a) If in any instance the amount allocated to "capital necessarily employed" under SHIPSALESDEMISE 303, in accordance with the provisions of §§ 299.43 and 299.44, is in excess of the greater of the working capital requirements, or the net worth requirements determined in the manner provided in paragraph (2) of Clause H—*Special provisions*, of Part I of SHIPSALESDEMISE 303, such allocation shall be disregarded and "capital necessarily employed" shall be determined in accordance with such Special Provisions. In the application of this limitation, for the purpose of determining:

(1) The number of vessels involved in instances where they do not remain constant throughout the accounting period, and

(2) The amount of the working capital requirements or the net worth requirements (whichever is the greater) in instances where more than one type of vessel is involved,

the following formula is prescribed:

(i) The number of vessels involved shall be deemed to be the result obtained by dividing into the total number of days covering which charter hire was paid for all vessels for the accounting period involved, the number of calendar days within such period, and

(ii) The average working capital requirements or net worth requirements per vessel shall be determined by multiplying the greater of such requirements (as modified in sub-paragraphs (a) and (b) of paragraph (2) of Clause H of Part I of "SHIPSALESDEMISE 303") for each type of vessel involved by the number of days covering which charter hire was paid for all vessels of that type for the accounting period involved, and dividing the sum of the results thus obtained for all types of vessels involved by the aggregate number of days covered by such payments for all types of vessels.

(b) The amount to be deducted in the determination of additional charter hire (as ten per centum per annum on "capital employed") shall be that proportion of ten percent represented by the relation that the number of days within the accounting period involved bears to three hundred and sixty-five, the number of days within the year, as shown in the following example (in which the working capital requirements are assumed to exceed the net worth requirements and the accounting period is assumed to be 180 days).

Determination of average working capital requirements:		
Vessels		
Type "A" 11 for 150 days each=	1,650 days @ (a) $90,000	$148,500,000
Type "A" 5 for 180 days each=	900 days @ (a) $90,000	81,000,000
Type "B" 2 for 120 days each=	240 days @ (a) $100,000	24,000,000
Type "B" 1 for 180 days each=	180 days @ (a) $100,000	18,000,000
Type "C" 1 for 180 days each=	180 days @ (a) $140,000	25,200,000
	3,150 days	296,700,000
Total as above		296,700,000
Divided by—Total vessel days as above		3,150
Average working capital requirements per vessel		94,190.48
Determination of number of vessels for period:		
Total vessel days as above		3,150
Divided by total days in period		180
Total vessels for period		17½
Determination of "capital employed":		
(b) First to fifth vessel, inclusive (100% of $94,190.48×5)		$470,952.40
(b) Sixth to tenth vessel, inclusive (75% of $94,190.48×5)		353,214.30
(b) Eleventh to fifteenth vessel, inclusive (50% of $94,190.48×5)		235,476.20
(b) Excess of fifteen (2½ vessels) (25% of $94,190.48×2½)		58,869.05
Total "capital employed"		1,118,511.95
"Allowable return" of 180/365 of 10% of "capital employed"		55,159.49

(1) Working capital requirements (as modified in subparagraph (a) of paragraph (2) of Clause H of Part I of "SHIPSALESDEMISE 303") should be used for this purpose, if they exceed net worth requirements.

(2) Fractions resulting from the calculation of the number of vessels involved shall be taken into account, the 25 percent reduction being applicable to such fractions occurring between the fifth and sixth vessels, and the 50 percent reduction to those occurring between the tenth and eleventh vessels.

§ 299.46 *Accounting periods extending beyond end of calendar year.* (a) Clause 13 of Part II of WARSHIPDEMISEOUT 203, wherein is prescribed the fundamental basis for the calculation and payment to the Administration of additional charter hire, refers to the cumulative net voyage profits computed for the period of the agreement and makes no provision for an annual accounting. Accordingly, the calculation of "capital necessarily employed" for the entire period under WARSHIPDEMISEOUT 203 is required to be made on the basis of the adjusted net worth of the Charterer as at the end of the month preceding the date of the delivery of the first vessel thereunder. To accomplish this,

(1) The formula prescribed in § 299.44 (b) shall cover the entire period from the beginning of the month in which the first vessel was delivered to the Charterer to the end of the month in which the last vessel was redelivered to the Administration under WARSHIPDEMISEOUT 203, and

(2) After the amount of "capital necessarily employed" has been determined, pursuant to the provisions of §§ 299.42–299.45, the "allowable return" thereon shall be calculated at the rate of 10 per centum per annum on the basis of the relation that the number of calendar days between the beginning of the month in which the first vessel was delivered to the Charterer and the end of the month in which the last vessel was redelivered to the Administration under WARSHIPDEMISEOUT 203 bears to 365, the number of days in a calendar year. (See Exhibit "A" for 1946 contained in the illustrative examples of statements to be supplied by the Comptroller, Maritime Administration.)

(b) In any instance where operations under WARSHIPDEMISEOUT 203 extended beyond December 31, 1946, in the calculation of the "allowable return" under SHIPSALESDEMISE 303 (and, to the extent involved, any addendum thereto with respect to which additional charter hire is required to be computed, accounted for, and paid separately) for such succeeding period, the number of vessel days applicable to WARSHIPDEMISEOUT 203 in such period shall be taken into account in the formula prescribed in § 299.44 (b) and shall be treated in the same manner as those applicable to "other operations". (See Exhibit "A" for 1947 contained in the illustrative examples of statements to be supplied by the said Comptroller.)

NET VOYAGE PROFIT

§ 299.47 *Fundamental bases.* (a) The fundamental bases for the determination of "net voyage profit" are provided in Clause 23 (a) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303.

(b) The fundamental bases for the determination of "fair and reasonable overhead expenses" (which are deductible from gross income in the determination of "net voyage profit") are prescribed in Clause 23 (b) of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303.

§ 299.48 *Allocation among operations under bareboat charter agreements and "other operations".* The definitions of "net voyage profit" in WARSHIPDEMISEOUT 203 and in SHIPSALESDEMISE 303 provide, in effect, among other things, that, in instances where the Charterer engages in other activities in addition to the operation of the vessels thereunder, income and expenses other than those directly and exclusively allocable to the operation of such vessels shall be prorated between these activities on such basis as the Owner may determine to be fair and reasonable. To implement this provision of the bareboat charter agreements, the following bases of allocations are prescribed:

(a) Wherever practicable and the result will not be disproportionate, income and expenses (including, but not necessarily limited to, operating revenues and expenses on terminated voyages, inactive vessels expense, operating-differential subsidy, collections from and contributions to pools for the purpose of equalizing revenue in accordance with pooling agreements) shall be allocated directly to the operation from which they are derived or in which they are incurred.

(b) The Uniform System of Accounts provides, among other things, that Accounts Nos. 645—Income from Terminal Operations, 650—Income from Cargo Handling Operations, 655—Income from Tug and Lighter Operations, and 660—Income from Other Shipping Operations (in instances where such services or facilities are maintained by the Operator) shall be credited with "agreed amounts" for the use of such services or facilities by vessels owned by the "Operator", with corresponding charges to Vessel Operating Expense. In instances where the Charterer maintains such services or facilities and they are used by the chartered vessels and if it is impracticable to determine the actual cost of such use, the Charterer may charge in the Vessel Operating Expense Accounts of the chartered vessels fair and reasonable amounts for the use of such services or facilities (but at not in excess of the "going rates" for the services or facilities at the ports involved, or the rates at which such services or facilities could be obtained from independent suppliers, or the rates charged all other vessels using them), provided similar charges are made in the accounts of all other vessels operated by the Charterer. If the sum of the gross income derived from the use of such services or facilities by vessels under WARSHIPDEMISEOUT 203, under SHIPSALESDEMISE 303, owned by the Charterer, and chartered from others by the Charterer, exceeds the gross income derived from the use of such services or facilities by other vessels,

(1) The expense of maintaining such services or facilities shall be allocated among the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities, except that income derived from the furnishing of such services or facilities to vessels neither owned, nor chartered from the Administration or others, by the Charterer shall not be included in the above calculation but shall be prorated between the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" in the same manner as is the expense of maintaining such services or facilities as thus determined, and

(2) The amounts credited to the income accounts shall be allocated directly to the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the same basis as are the corresponding charges to the Vessel Operating Expense Accounts.

If, conversely, the sum of the gross income derived from the use of such services or facilities by vessels under WARSHIPDEMISEOUT 203, under SHIPSALESDEMISE 303, owned by the Charterer, and chartered from others by the Charterer, is less than the gross income derived from the use of such services or facilities by other vessels,

(1) The amounts credited to the income accounts corresponding to charges in the Vessel Operating Expense Accounts of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 shall be allocated directly to the operation of such chartered vessels and the amounts credited to the income accounts corresponding to charges in the accounts of vessels, owned, or chartered from others than the Administration, by the Charterer, and to charges against others for the use of such services or facilities shall be allocated to "other operations," and

(2) The expense of maintaining such services or facilities shall be allocated between the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities.

(c) Compensation (other than liquidation fees) earned under Berth Agency, General Agency and Time Charter Agency Service Agreements and subagency fees and commissions paid or payable from such compensation shall be allocated direct to "other operations".

(d) Except in instances involving considerable nonshipping operations, the operation of passenger vessels, substantial dissimilarity between the operations of the vessels chartered from the Administration and those of vessels owned or chartered from others by the Charterer, or agency operations actually carried on as a separate and substantial business activity of the Charterer for its own account and not merely incidental to the operation of the chartered vessels (with respect to which the Charterer shall submit, for the consideration of the Administration, in advance of the accounting prescribed in this part, its concept of a fair and reasonable formula, addressed in the manner prescribed in § 299.40 (d), overhead expenses (if they are not susceptible to direct allocation), including administrative and general expense, less agency fees, commissions, and brokerage earned, except in instances where the Charterer, through the maintenance of actual cost records or other sound accounting methods, can demonstrate to the satisfaction of the Administration the actual application of costs incurred against such fees, a minimum of 50 percent of liquidation fees accrued during the over-all accounting period involved, the remaining percentage of such fees to be deferred to the next succeeding period, and accounting fees earned by United States principals of supervisory foreign agents; management and operating commissions; advertising expense; and taxes, other than Federal income tax, shall be allocated between operations under the bareboat charter agreements with the Administration and "other operations" on the basis of the relation that the number of days (eliminating fractions by considering twelve hours or more a full day and omitting portions of days amounting to less than twelve hours) of operation of maintenance of vessels under each SHIPSALESDEMISE 303, under each addendum to SHIPSALESDEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, under each WARSHIPDEMISEOUT 203, and in "other operations" (including those under service agreements) during the annual or over-all accounting period involved individually bear to the total of such days: *Provided*, That for the purposes of this calculation only a vessel day shall be valued in the manner described in the following formula:

	Day
(1) Vessels owned and operated by the Charterer	1
(2) Vessels bareboat chartered from others and operated by the Charterer	1
(3) Vessels time chartered from others	⅓
(4) Vessels time chartered to others	⅔
(5) Vessels under Time Charter Agency Agreements	⅓
(6) Vessels under General Agency Agreements where General Agents act in dual capacity of General Agent and Berth Agent	1
(7) Vessels under General Agency Agreements where General Agents do not act in capacity of Berth Agent	⅔
(8) Vessels under Berth Agency Agreements where Berth Agent does not act in capacity of General Agent	⅓

Provided, That in instances where more than one berth agent act for the vessel on a single voyage the number of days so calculated shall be divided between the berth agents involved on the basis of the relation that the number of days under the agency of each bears to the total number of days of the voyage.

In this calculation the expired days of voyages in progress at the commencement of the annual or over-all accounting period will be omitted and the expired days of voyages in progress at the termination of such period will be taken into account (in other words, only the vessel days within the annual or over-all accounting period involved will be taken into account).

(e) If, in any instance, the amount of overhead expenses allocated against operations under General Agency, Time Charter Agency, and Berth Agency Agreements, in accordance with the foregoing formula, exceeds the amount of compensation earned under such Agreements for the period involved, less subagency fees and commissions paid or payable from such compensation, the amount of such excess shall be reallocated among the other operations of the Charterer (including, but not limited to, those under the bareboat charter agreements) on the basis of the relation that the amount of overhead expenses otherwise allocated to each such operation bears to the total of the overhead expenses otherwise allocated to all such operations.

(f) Subject to the conditions prescribed in § 299.55 (b), in any instance where the statements required to be submitted to the Administration hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, such fair and reasonable payments as the Administration determines to have been made by the Charterer for the certification of such statements by such certified public accountants may be allocated directly to operations under the bareboat charter agreements involved on the basis of the relation that the number of vessel days applicable to each accounting period under each agreement (or addendum with respect to which a separate determination of additional charter hire is required to be made) bears to the total vessel days under all such agreements (or addenda) for all such periods covered by such statements.

(g) The salaries of any additional personnel which the Charterer demonstrates to the satisfaction of the Administration to have been necessarily employed for the exclusive purpose of preparing such statements (irrespective of whether or not they are certified by an independent certified public accountant or a firm of independent certified public accountants) shall be allocated over the entire period covered by such statements on the basis of the relation that the total vessel days applicable to each annual or overall accounting period involved bears to the total vessel days for all such periods, and the proportion of such salaries so determined to be allocable to each such period shall be distributed between operations under the bareboat charter agreements with the Administration and "other operations" in accordance with the formula prescribed in paragraphs (d), (e), and (f) of this section.

(h) In instances where branch offices of the Charterer act as agents for the chartered vessels and if it is impracticable to determine the actual cost of such services, the Charterer may charge in the vessel operating expense accounts of the chartered vessels fair and reasonable amounts for such services (but at not in excess of the "going rates" for the services at the ports involved, or the rates at which such services could be obtained from independent agents, or the rates charged all other vessels for such services), provided similar charges are made in the accounts of all other vessels operated by the Charterer. If the sum of the gross income derived from the furnishing of such services to vessels under WARSHIPDEMISEOUT 203, under SHIPSALESDEMISE 303, owned by the Charterer, and chartered from others by the Charterer, exceeds the gross income derived from the furnishing of such services to other vessels,

(1) The expense of maintaining such branch offices shall be allocated among the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to

the total gross income derived from the furnishing of such services, except that income derived from the furnishing of such services to vessels neither owned, nor chartered from the Administration or others, by the Charterer shall not be included in the above calculation but shall be prorated between the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" in the same manner as is the expense of maintaining such services as thus determined, and

(2) The amounts credited to Agency Fees, Commissions, and Brokerage Earned shall be allocated directly to the operation of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the same basis as are the corresponding charges to the Vessel Operating Expense Accounts.

If, conversely, the sum of the gross income derived from the furnishing of such services to vessels under WARSHIPDEMISEOUT 203, under SHIPSALESDEMISE 303, owned by the Charterer, and chartered from others by the Charterer, is less than the gross income derived from the furnishing of such services to other vessels,

(1) The amounts credited to the income accounts corresponding to charges in the Vessel Operating Expense Accounts of the vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 shall be allocated directly to the operation of such chartered vessels and the amounts credited to the income accounts corresponding to charges in the accounts of vessels owned, or chartered from others than the Administration, by the Charterer, and to charges against others for the furnishing of such services, shall be allocated to "other operations", and

(2) The expense of maintaining such branch offices shall be allocated between the operation of vessels under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the basis of the relation that the gross income so derived from the vessels in each such operation bears to the total gross income derived from the furnishing of such services.

(i) Depreciation expense shall be allocated between the operation of the chartered vessels and "other operations" on the same basis as the net book value of the property involved is allocated in the determination of "capital employed", except depreciation on general office furniture and fixtures, which shall be allocated on the same basis as that prescribed with respect to overhead expenses in paragraphs (d), (e), (f), and (g) of this section.

(j) Income in the form of interest earned and dividends shall be allocated between the operation of the chartered vessels and "other operations" on the same basis as the value of the investments and securities from which such income is derived is allocated in the determination of "capital employed".

(k) Interest expense shall be allocated between the operation of the chartered vessels and "other operations" on the same basis as the liabilities in connection with which such expense was incurred are allocated in the determination of "capital employed".

(l) Miscellaneous operating income, miscellaneous operating expense, miscellaneous other income, and miscellaneous other deductions from income, if, and to the extent that they are not susceptible to direct allocation, but are derived from, or incurred in, the general conduct of the shipping business shall be allocated on the same basis as that prescribed with respect to overhead expenses in paragraphs (d), (e), (f), and (g) of this section.

(m) Income derived from, and expenses incurred in, nonshipping operations shall be allocated directly to "other operations".

§ 299.49 *Calculation of net voyage profit on cumulative basis.* In providing for the calculation of additional charter hire based on the cumulative net voyage profit of the Charterer, Clause 13 of Part II of SHIPSALESDEMISE 303 provides also that such cumulative net profit so accounted for shall not be included in the calculation of cumulative net profit in any subsequent year or period. Pursuant to these provisions of the bareboat charter agreements, only deficiencies in net voyage profits may be carried forward, and then only under the following conditions:

(a) In any instance where a net voyage loss is sustained as a result of operations under SHIPSALESDEMISE 303 during any accounting period terminating at the end of a calendar year and a net voyage profit is realized thereunder in the next succeeding accounting period, the net voyage loss and the net voyage profit for the respective periods may be combined and additional charter hire may be computed on the basis of the net result using the number of days consumed on terminal voyages during the combined period (together with the number of days during which any of the chartered vessels were inactive during that period) in determining the applicable percentages in accordance with the table set forth in Clause 13 of Part II of the said form of charter.

(b) In any instance where the net voyage profit realized as a result of operations under SHIPSALESDEMISE 303 during any accounting period terminating at the end of a calendar year is less than 10 percent per annum of "capital necessarily employed" during that period and the net voyage profit realized thereunder in the next succeeding accounting period is in excess of 10 per cent per annum of "capital necessarily employed" during such succeeding period, the net voyage profits for the respective periods may be combined and additional charter hire may be computed on the basis of the combined result, using the number of days consumed on terminated voyages during the combined period (together with the number of days during which any of the chartered vessels were inactive during that period) in determining the applicable percentages in accordance with the table set forth in Clause 13 of Part II of the said form of charter,

Provided, however, That in any such instance involving any addendum to SHIPSALESDEMISE 303 whereunder additional charter hire is required to be computed, accounted for, and paid separately, the net voyage profits and net voyage losses thereunder likewise shall be treated separately for these purposes and shall not be combined with those under SHIPSALESDEMISE 303 or any other addendum thereto.

§ 299.50 *Adjustments in absence of physical inventories.* Except in instances where physical inventories satisfactory to the Owner were taken at the end of each accounting period with respect to which a separate determination of additional charter hire is required to be made,

(a) The value of the inventory of subsistence stores, consumable stores, fuel, water, and slop chest items on board at the time of delivery of the vessel to the Charterer shall be charged in Account 060—Stores, Supplies and Equipment Aboard Vessels—and the value of the inventory of subsistence stores, consumable stores, fuel, water, and slop chest items on board at the time of redelivery of the vessel to the Owner shall be credited in the same account, and

(b) The difference between the value of such delivery inventory and the value of such redelivery inventory shall be distributed proportionately on a daily basis over the entire period commencing with the date of delivery of the vessel to the Charterer and ending with the date of its redelivery to the Owner,

Provided, That, if in any instance the application of this procedure produces a disproportionate result with respect to expenses chargeable to the first voyage following delivery of a vessel to the Charterer or the last voyage preceding its redelivery to the Owner, the Maritime Administration will determine in each such instance the fair and reasonable basis for the allocation of the difference between the delivery and redelivery inventory.

(c) For the purpose of §§ 299.47–299.53, the value of the delivery inventory shall be the price at which such inventory was purchased by the Charterer from the Owner, on delivery, and the value of the redelivery inventory shall be computed at the market price current at the port and the time of redelivery, unless the vessel is redelivered at a port other than the port of original redelivery pursuant to the terms of the addendum permitting the Owner, at its option, to require redelivery at a port other than the port of delivery, in which case the redelivery inventory shall be priced on the basis of the market price current at the original port of redelivery as at the time redelivery at such port would have been effected if the Owner had not exercised its option to change the port of redelivery. If, prior to redelivery, the Charterer notifies the Owner of its intention to dispose thereof, the value of the redelivery inventory shall be deemed to be the net proceeds realized from the disposition of such inventory in accordance with Operations Regulation No. 127.

§ 299.51 *Adjustment of priced differences between delivery and redelivery inventory lists; expendable equipment.* The value of priced differences between the itemized lists of expendable equipment upon delivery and redelivery shall be distributed proportionately on a daily basis over the entire period commencing with the date of delivery of the vessel to the Charterer and ending with the date of its redelivery to the Owner.

§ 299.52 *Post redelivery overhead expenses.* Post redelivery overhead expenses, to the extent determined by the Maritime Administration to have been reasonably and necessarily incurred in connection with the conduct of the operation of the chartered vessels after redelivery of the last vessel under the last Warshipdemiseout 203 or Shipsalesdemise 303 Agreement in effect prior to July 1, 1950 (excluding charters covering only passenger vessels), will be taken into account in the determination of "net voyage profit" thereunder, subject to the following conditions:

(a) That the charterer shall demonstrate to the satisfaction of the Maritime Administration, by presentation of statements fully supported by actual cost records or other sound accounting evidence, that such expenses were, in fact, necessarily and properly incurred in the conduct of the business of the chartered vessels and were not attributable to the conduct of other business of the charterer.

(b) That post redelivery overhead expenses shall be deemed to include only such overhead expenses as are directly attributable to the completion and finalization of accounting for bareboat charter operations (excluding any cost of submitting final statements of additional charter hire for which allowances are elsewhere provided), the processing and settlement of inventories, and the processing of and accounting for claims.

(c) That post redelivery overhead expenses, to the extent allowed hereunder, may be allocated directly to operations under the bareboat charter agreements involved on the basis of the relation that the number of vessel days applicable to each accounting period under each agreement (or addendum with respect to which a separate determination of additional charter hire is required to be made) bears to the total vessel days under all such agreements (or addenda) for all such periods.

(d) That statements of post redelivery overhead expenses shall be submitted to the Maritime Administration not later than June 30, 1951, or within six (6) months after redelivery of the last vessel under the bareboat charter agreement involved, whichever later occurs: *Provided, however,* That upon application of the charterer the Administration may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this paragraph for the submission of such statements.

(e) Statements of post redelivery overhead expenses may be integrated into the statements required by § 299.54 if the submission of the latter mentioned statements will not thereby be delayed; otherwise, supplementary accountings embodying statements of post redelivery overhead expense should be submitted.

§ 299.53 *Post redelivery overhead expenses under Form No. 303 SHIPSALES-DEMISE agreements entered into subsequent to June 30, 1950; exception.* (a) Post redelivery overhead expenses, to the extent determined by the Maritime Administration to have been reasonably and necessarily incurred in connection with the conduct of the operation of the chartered vessels, during a period not in excess of six (6) months (unless otherwise determined by the Owner) after redelivery of the last vessel under the last of any and all Form No. 303 SHIPSALES-DEMISE bareboat charter agreements entered into subsequent to June 30, 1950, which, collectively, had been continuously in effect, without interruption (excepting bareboat charter agreements which contain specific provisions with respect to the amount of allowable overhead) will be taken into account in the determination of "net voyage profit" thereunder, subject to the following conditions:

(1) That the charterer shall demonstrate to the satisfaction of the Maritime Administration, by presentation of statements fully supported by actual cost records or other sound accounting evidence, that such expenses were, in fact, necessarily and properly incurred in the conduct of the business of the chartered vessels and were not attributable to the conduct of other business of the charterer.

(2) That post redelivery overhead expenses shall be deemed to include only such overhead expenses as are directly attributable to the completion and finalization of accounting for bareboat charter operations (excluding any cost of submitting final statements of additional charter hire for which allowances are elsewhere provided), the processing and settlement of inventories, the processing of applicable seamen's retroactive wage adjustments and related Federal and State payroll taxes, and the processing of and accounting for claims.

(3) That post redelivery overhead expenses, to the extent allowed hereunder, may be allocated directly to operations under the bareboat charter agreements involved on the basis of the relation that the number of vessel days applicable to each accounting period under each agreement (or addendum with respect to which a separate determination of additional charter hire is required to be made) bears to the total vessel days under all such agreements (or addenda) for all such periods.

(4) That statements of post redelivery overhead expenses shall be submitted to the Maritime Administration within six (6) months immediately following the redelivery of the last vessel under the last agreement involved, or within ninety (90) days after publication of this amendment in the FEDERAL REGISTER, whichever later occurs: *Provided, however,* That upon application of the charterer the Administration may extend, for such further period as in its judgment is warranted by the circumstances in any instance, the time limit prescribed in this subparagraph for the submission of such statements.

(b) Statements of post redelivery overhead expenses may be integrated with the statements required by § 299.37-5 if the submission of the latter mentioned statements will not thereby be delayed; otherwise, supplementary accountings embodying statements of post redelivery overhead expense should be submitted.[1]

STATEMENTS AND CERTIFICATIONS

§ 299.54 *Statements required by the Administration.* The separate final accountings required under this section, as referred to in § 299.40 (a), shall include the following statements (There will be supplied by the Comptroller illustrative examples of such statements for the period from inception to December 31, 1946, and for the calendar year 1947, based on hypothetical figures and upon the assumption that the Charterer shall have executed an addendum amending the agreement involved to provide for the described alternative method of determining "capital necessarily employed" in instances where, within a calendar year or other accounting period, the Charterer has entered into more than one charter agreement with the Owner, or has agreed that, for accounting purposes, the operation of certain vessels during prescribed periods shall be treated as though they were under a separate charter. If, in any instance, such an addendum is not executed, it will be necessary that the Charterer submit a balance sheet as at the close of the month preceding the commencement of each accounting period with respect to which a separate determination of additional charter hire is required to be made.):

EXHIBIT A—ANALYSIS OF NET WORTH AND ALLOCATION OF "CAPITAL NECESSARILY EMPLOYED FOR THE PURPOSE OF DETERMINING "ADDITIONAL CHARTER HIRE"

The procedure for the preparation of this statement contemplates:

1. That a balance sheet is required to be prepared only (a) as at the end of the month preceding the date of delivery of the first vessel under either WARSHIPDEMISE-OUT 203 or SHIPSALESDEMISE 303, even though more than one such agreement became effective during the calendar year involved, and (b) at the end of that and each suceeding calendar year;

2. That the assets and liabilities reflected in such balance sheet, adjusted as required pursuant to Clause 23 (c) of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303, shall be allocated among operations under such bareboat charter agreements and "other operations" on the bases prescribed in § 299.44;

3. That the net worth as reflected in each such balance sheet as adjusted shall be further adjusted to ascertain the net worth at the commencement of each succeeding agreement (or addendum thereto whereunder additional charter hire is required to be computed, accounted for, and paid separately), whereunder delivery of the first vessel is made during the calendar year

[1] The books, records and accounts referred to in this section shall be retained two years after a final release or settlement agreement is completed between the Maritime Administration and the charter.

involved, by taking into account (a) additions to capital, (b) withdrawals of capital, and (c) net profits (or losses) after additional charter hire and after provision for Federal income tax occurring (i) during the period between the end of the month preceding the date of delivery of the first vessel under the first agreement and the end of the month preceding the date of delivery of the first vessel under the second agreement, (ii) during the period between the end of the month preceding the date of delivery of the first vessel under the second agreement and the end of the month preceding the date of delivery of the first vessel under the third agreement, and (iii) during each similar intervening period preceding each succeeding agreement whereunder delivery of the first vessel is made during the calendar year involved. In computing such adjustment, the net profit earned (or loss sustained) during such periods shall be ascertained by allocating the proportion of the total net profit earned (or loss sustained) under each bareboat charter agreement (or addendum thereto, whereunder additional charter hire is required to be computed, accounted for, and paid separately) and in "other operations" to such periods, on the basis of the relation that the number of vessel days (valued in accordance with the formula prescribed in § 299.48 (e) expired under each such agreement (or addendum) and in "other operations" during the period from the beginning of the calendar year involved or from the end of the month preceding the date of delivery of the first vessel under the first bareboat charter agreement with the Administration (whichever later occurs) to the commencement of the period with respect to which the determination of net worth is required to be made, separately, bears to the total of such vessel days under each such agreement (or addendum) and in "other operations" during the over-all accounting period involved;

4. That, in the determination of "capital necessarily employed" under SHIPSALESDEMISE 303 only, additional capital in the form of cash or tangible property paid in and any withdrawals of capital during an annual or over-all accounting period thereunder shall be included or deducted (as the case may be) in the manner prescribed in § 299.43. Such interim adjustments are neither required nor permitted under WARSHIPDEMISEOUT 203;

5. That the "capital necessarily employed" as thus determined, separately, with respect to each bareboat charter agreement (or addendum thereto, whereunder additional charter hire is required to be computed, accounted for, and paid separately) shall be compared with any limitations thereon prescribed in § 299.45, and that the "allowable return" (at the rate of 10 percentum per annum) of the Charterer under each such agreement (or addendum) shall be calculated on the basis of the lesser of the two; and

6. That the "allowable return" as thus determined shall be deducted from the net voyage profit earned under the corresponding agreement (or addendum) during the accounting period involved and that the balance shall be divided between the Charterer and the Administration in accordance with the applicable provisions of the respective agreements:

Provided, That, in any instance where the income sheet covering operations under the bareboat charter agreement involved from the commencement of an accounting period shows a cumulative net voyage loss, it will not be necessary for the Charterer to submit a statement reflecting its calculation of "capital necessarily employed" unless income sheets covering a previous portion of such period reflected a net voyage profit with respect to which the Charterer made preliminary payment on account of additional charter hire and seeks a refund thereof.

EXHIBIT B—COMPARATIVE BALANCE SHEET

The procedure for the preparation of this statement contemplates:

1. That, for each annual or overall accounting period, there shall be submitted, in comparative form, a balance sheet as at the end of the month immediately preceding the date of the beginning of such accounting period and as at the end of the last month within such accounting period;

2. That, with respect to the first accounting period of the Charterer, the initial balance sheet shall reflect the financial position of the Charterer as at the end of the month preceding the date of delivery of the first vessel under the initial bareboat charter agreement with the Administration;

3. That, in instances where additional agreements become effective during an annual or overall accounting period, it will not be necessary that the Charterer prepare a separate balance sheet to cover such additional agreements, since the net worth at the commencement of each such agreement, will be determined by adjusting the Net Worth reflected in the balance sheet at the commencement of the annual or overall accounting period in the manner prescribed in paragraph 3 of the procedure hereinbefore set forth for the preparation of Exhibit "A";

4. That the accounts reflected in each such balance sheet shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Bureau of Finance); and

5. That the assets reflected in each such balance sheet shall be stated at true, fair, and reasonable values and, to the extent applicable, on the basis prescribed in paragraph (c) of Clause 23 of Part II of WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303; that adequate reserves shall be shown for accounts receivable doubtful of collection and for such other items as require valuation reserves to reflect their true value; and that there shall be included an adequate statement of all known and ascertainable liabilities.

EXHIBIT C—INCOME SHEET

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted income sheets which accurately reflect the results of all operations (a) during the entire period commencing with the first day of the calendar month during which the first vessel is delivered under the initial bareboat charter agreement with the Administration and terminating at the end of that calendar year, and (b) for each succeeding calendar year;

2. That the income and expenses reflected on such income sheets shall be allocated among operations under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303 and "other operations" on the bases prescribed in § 299.48; and

3. That the items of income and expense reflected in each such income sheet shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Comptroller.)

EXHIBIT D—FORMULAE FOR THE ALLOCATION OF ASSETS AND LIABILITIES, INCOME AND EXPENSES

There shall be submitted for each period with respect to which a separate income sheet is required hereunder a separate statement reflecting the formulae by which the assets and liabilities and income and expenses are distributed among the various operations during each such period in accordance with § 299.44 in the determination of "capital necessarily employed" and in accordance with § 299.48 in the determination of Net Voyage Profit.

EXHIBIT E—WORKING TRIAL BALANCE

The procedure for the preparation of this statement contemplates:

1. That there shall be prepared a working trial balance as at each date with respect to which a separate balance sheet is required hereunder;

2. That the balances reflected in the general ledger at the respective dates shall be listed by accounts and distributed to the appropriate columns provided therefor in the illustrative example included among those to be supplied by the Comptroller;

3. That each asset and liability account shall be thoroughly analyzed to determine that all items included therein have been properly classified and adjusted, that the balances are correct, and do not contain items of income or expense applicable to either a prior or current accounting period;

4. That each income and expense account shall be thoroughly analyzed to determine that the items included therein have been properly classified and adjusted, that the balances are correct, and that such balances are entirely applicable to the accounting period involved;

5. That the balance in each clearance account shall be thoroughly analyzed and proper accounting disposition made thereof;

6. That all adjustments to the accounts listed in the working trial balance shall be accomplished by posting thereto journal entries, prepared in numerical sequence and containing a complete description as to the reasons for the adjustment, copies of such journal entries to be made available to the Owner upon request; and

7. That the Charterer may change or vary the design of this working trial balance to suit its particular needs, provided that the statement substituted will produce the same results and reflect all of the information required, but in this respect it is emphasized that the Owner has found the illustrative example included among those to be supplied by the Bureau of Finance to be satisfactory and particularly well adapted to its use in conducting audits of charter operations.

SCHEDULE A-1—FORMULA FOR LIMITATION OF "CAPITAL NECESSARILY EMPLOYED"

This schedule shall reflect the calculation of the limitation of "capital necessarily employed" in accordance with § 299.45 separately for each accounting period with respect to which a determination of "capital necessarily employed" is required hereunder.

SCHEDULE B-1—ANALYSIS OF SURPLUS

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted an analysis of surplus in support of each balance sheet required hereunder;

2. That such analysis in support of the beginning balance sheet pertaining to the first bareboat charter agreement with the Commission (WARSHIPDEMISEOUT 203 or SHIPSALESDEMISE 303) shall reflect (i) surplus (or deficit) as at December 31, 1945, (ii) net profit (or loss) during the period from January 1, 1946, to the end of the month preceding the date of delivery of the first vessel thereunder, (iii) direct adjustments

to surplus during such period, and (iv) the balance as at the end of such period;

3. That, in addition to 2 above, such analysis shall reflect also (i) profit or loss during the period from the first day of the calendar month during which the first vessel was delivered under the first bareboat charter agreement with the Commission (WARSHIPDEMISEOUT 203 or SHIPSALESDEMISE 303) to December 31, 1946, (ii) direct adjustments to surplus during such period and (iii) the balance as at December 31, 1946; and

4. That such analyses for subsequent annual or overall accounting periods shall be prepared in a similar manner to reflect separately changes in surplus during each period with respect to which a separate determination of "capital necessarily employed" is required.

SCHEDULE E-1—ANALYSIS OF PROFIT AND LOSS

The procedure for the preparation of this statement contemplates:

1. That there shall be submitted in support of each working trial balance required hereunder an analysis of profit and loss for the calendar year or overall accounting period involved and that such analysis shall be grouped by accounts in the manner indicated in the illustrative example included among those to be supplied by the Comptroller;

2. That such analysis shall include all adjustments effected by the Charterer and, as part of the working trial balance, shall be the basis upon which the Income Sheet (Exhibit "C") is prepared; and

3. That all items of income and expense reflected in the analysis of profit and loss shall be those prescribed in the Uniform System of Accounts and none other. (In any instance where the Charterer is subject to the jurisdiction of the Interstate Commerce Commission and is required to keep its books, records, and accounts in the form prescribed by that Commission, the statements prepared from such books, records, and accounts should be conformed for this purpose to the illustrative example included among those to be supplied by the Comptroller).

§ 299.55 *Certifications and verifications.* (a) The accounting required under this section shall be submitted under cover of an affidavit, executed by the corporate officer responsible for the accuracy and maintenance of the books of account and financial records of the Charterer, if a corporation, or by a general partner so responsible, if a partnership, which affidavit shall be substantially as follows:

AFFIDAVIT

STATE OF _____
COUNTY OF _____ *ss*:

_____, being first duly sworn on his [her] oath, states:

That I am _____ of the _____
(Title)

_____
(Name of charterer)

Charterer under bareboat charter agreement(s) with the United States Maritime Commission known as "WARSHIPDEMISEOUT 203" (WSA _____)/"SHIPSALESDEMISE 303" (MCc _____)[1]; that, as such, I am responsible for the accuracy and maintenance of the books of account and financial records of the Charterer and am thoroughly familiar with such books and records and with the terms and conditions of the aforesaid bareboat charter agreement(s) and with the orders, rules, regulations, and instructions appertaining thereto as issued by the Maritime Administration (or the United States Maritime Commission); that I have carefully examined the statements comprising the accounting annexed hereto covering the period from _____ to _____, under the aforesaid bareboat charter agreement(s); and that, to the best of my knowledge and belief, the said accounting reflects a true and complete statement of the additional charter hire accrued to the Maritime Administration under the aforesaid bareboat charter agreement(s) during the period from _____ to _____, under the terms and conditions thereof and in accordance with the orders, rules, regulations, and instructions issued by the Maritime Administration (or the United States Maritime Commission) appertaining thereto; the balance sheets included in the annexed accounting fairly present the financial position of the Charterer as at the dates thereof, including (but not limited to) an adequate statement of all known and ascertainable liabilities, and the income sheet included in the annexed accounting correctly states the operating results of the Charterer for the period covered by such accounting.

_____

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this ____ day of _____, 195__.

My commission expires _____

_____
(Notary Public)

(b) If an independent certified public accountant or a firm of independent certified public accountants is employed by the Charterer for the purpose of certifying the statements required hereunder, the review and settlement by the Owner of additional charter hire determinations thereby may be facilitated. If, therefore, at the option of the Charterer, the statements required hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, fair and reasonable payments made by the Charterer to such professional accountants for services and incidental expenses relating to such certification may be allocated directly to operations under the bareboat charter agreements involved on the basis prescribed in § 299.48 (d), (e), (f), and (g): *Provided*, That the following minimum conditions are observed:

(1) Such certified public accountants will undertake to make their working papers available for examination by the Owner's auditors upon request and to permit the Owner's auditors to make copies of such papers to the extent they deem necessary;

(2) Such certified public accountants are independent in fact (An accountant will not be considered independent with respect to any person in whom he has any substantial interest, direct or indirect, or with whom he is, or was during the period of the bareboat charter agreements involved, connected as an officer, director, executive, or employee. As used in this subparagraph, the term "any person" shall include the Charterer, and any holding company, subsidiary, affiliate, or associate of the Charterer); and

(3) The statements submitted are accompanied, in addition to the affidavit required of the Charterer, by a signed opinion of the independent certified public accountant in the following or substantially similar form:

We [I] have examined the statements comprising the accounting annexed hereto, and have found the statements to have been prepared by the Charterer in accordance with the terms and conditions of the applicable bareboat charter agreement(s) and with the applicable orders, rules, regulations, and instructions issued by the Maritime Administration (or the United States Maritime Commission). Our [my] examination of the statements included examination of the underlying books of account and records for the period from _____ to _____. Our [my] examination was made in accordance with generally accepted auditing standards and included all procedures which we [I] considered necessary in the circumstances [state exceptions if any]. In our [my] opinion the annexed statements fairly present the proper determination of additional charter hire (in the aggregate amount of $_____) accrued to the account of the Maritime Administration under bareboat charter agreement(s) _____ No.(s) _____ for the period from _____ to _____.

_____
(Independent certified public accountant(s))

Upon receipt of statements certified by an independent certified public accountant or a firm of independent certified public accountants under the conditions prescribed in this paragraph, the Owner will take into consideration the scope of the audit conducted of the Charterer's accounts in determining and settling additional charter hire accounts.

STATEMENT OF PURPOSES AND RESERVATIONS

§ 299.56 *Statement of purposes and reservations.* (a) The purpose of this procedure is to establish rules and regulations for uniform application to expedite and facilitate the rendition by Charterers to the Owner of final accountings under WARSHIPDEMISEOUT 203 and SHIPSALESDEMISE 303.

(b) The receipt and consideration of such accountings by the Owner shall be subject to the following reservations:

(1) That all working papers (irrespective of by whom prepared) in support of the various statements comprising such accountings, shall be available for examination by the Owner's auditors upon request and that the Owner's auditors shall be permitted to make copies of such papers to the extent they deem necessary;

(2) That the Owner reserves the right to conduct such audits, examinations, or checks of the Charterers' accounts as it may deem necessary before approving final settlement of additional charter hire for any period under the bareboat charter agreements;

(3) That the examples to be supplied by the said Comptroller of the statements required by the Administration are for illustrative purposes only and are based on hypothetical figures; that no implications should be drawn from the relative magnitude of the figures used in these examples; and that if, in any instance, an example should conflict with the text of this procedure, the latter shall govern;

(4) That the establishment of the rules and regulations prescribed in this procedure is without prejudice to the right of the Administration to determine upon the employment of other bases for allocation and calculation in any instance where, upon the completion of any annual or final accounting, the re-

[1] Show only applicable contract references.

sults produced by the application of the rules and regulations prescribed herein do not, in the judgment of the Administration, produce fair and reasonable results;

(5) That if, in any instance, the rules and regulations prescribed herein should conflict with the provisions of an applicable statute or agreement, such provisions shall govern;

(6) That if, in any instance, the rules and regulations prescribed herein should conflict with any General Order issued by the Maritime Administration (or the United States Maritime Commission), the question as to which shall take precedence should be referred to the Administration for decision; and

(7) That nothing contained herein shall be construed as a waiver of any right reserved to the Administration by statute or under WARSHIPDEMISE-OUT 203 or SHIPSALESDEMISE 303.

SUBPART D—TRANSFER OF WAR-BUILT VESSELS

§ 299.61 *Transfer of war-built vessel in settlement of a claim against the United States*—(a) *Application.* Anyone who has a claim against the United States for just compensation due him for a vessel requisitioned for title by the United States, or indemnity for the loss of any vessel which was acquired for use by the United States, may make application to the Administration for the transfer to him of a war-built vessel or vessels at the statutory sales prices in complete or partial settlement of such claim. The application to receive consideration must be substantially in the form prescribed in § 299.131 including the submission of the certificate of settling department or agency provided therein. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Amendments involving substitution of a different vessel for the vessel applied for, unless made promptly at the written request of the Administration, shall be effective as of the filing date of the amendment. All other timely amendments (including amendments involving substitutions for the vessel applied for when made at the request of the Administration) shall be effective as of the filing date of the original application. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Approval or disapproval by the Administration.* If the Administration determines that, in its opinion, such transfer is in the interests of the United States and that the vessel applied for by the applicant is available for sale to him, the application may be granted. In determining whether the transfer should be made, the Administration among relevant factors will take into account the preferences provided for in § 299.2. If the application is disapproved by the Administration, the Secretary will promptly advise the applicant.

(d) *Contract of settlement.* If the application is approved by the Administration and if the Administration is the settling agency, the Secretary will furnish the applicant five counterparts of a contract of settlement which shall be executed by the applicant and redelivered to the Secretary within fifteen (15) days of the date of its receipt by the applicant. After the contract of settlement has been executed on behalf of the Administration, one of the counterparts will be sent to the applicant. If the settling agency is other than the Administration, the Administration will arrange to make the vessel or vessels available for the purposes of the settlement.

(e) *Determination of claim.* If claim is against the Maritime Administration (or the United States Maritime Commission) or the War Shipping Administration, the application may be filed, but will be dated as of the date the certificate of settling agency is filed by applicant. If it is against another agency or department, the application must be accompanied by a certificate of settling department or agency.

(f) *Types of settlements.* Administration procedure will be generally as outlined below in the three usual types of settlements which are available under the act.

(1) *Claim equal to the statutory sales price of the vessel.* The Administration will in this case transfer the vessel without cash transaction and will execute a contract of sale to accompany the contract of settlement.

(2) *Claim more than the statutory sales price.* The Administration will in this case transfer the vessel and will execute a contract of sale. The balance of the amount of the claim will be handled by the settling agency as part of the consummation of settlement of the whole claim.

(3) *Claim less than the statutory sales price.* The Administration will in this case transfer the vessel and execute a contract of sale. If the application for purchase accompanying the application for transfer of the vessel in settlement requests mortgage aid with respect to the excess of the statutory sales price over the claim, provided the claim exceeds the required down payment, and such application is approved by the Administration, a preferred mortgage will be executed covering such excess. If the claim does not cover the down payment required on the vessel the claimant will be required to arrange for the necessary additional down payment.

(i) In all cases the Administration's action will be predicated upon the execution of instruments for the release of the claims satisfactory to the settling agency.

(ii) If more than one vessel is applied for in connection with the settlement of the claim, then in all cases the amount thereof to be applied toward the purchase of each vessel shall be indicated in the application and shall be subject to the approval of the Administration.

§ 299.62 *Transfer of another vessel for a vessel constructed in the United States since January 1, 1937, which has been taken for use by the United States*—(a) *Application.* Anyone who owns a vessel that was constructed in the United States after January 1, 1937, and which was taken by the United States for use in any manner and has not been redelivered may make application to the Administration for the transfer to him of another vessel of comparable type in lieu of such vessel. The application to receive consideration must be substantially in the form prescribed by the Administration in § 299.132. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Amendments involving substitution of a different vessel for the vessel applied for, unless promptly made at the written request of the Administration, shall be effective as of the filing date of the amendment. All other timely amendments (including amendments involving a substitution for the vessel applied for when made at the request of the Administration) shall be effective as of the filing date of the original application. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending the information contained therein or furnished in connection therewith.

(c) *Approval or disapproval by the Administration.* If the Administration determines that, in its opinion, such transfer would aid in carrying out the policies of the act, the application may be granted. If the application is disapproved by the Administration, the Secretary will promptly advise the applicant.

(d) *Contract for transfer.* If the application is approved by the Administration, the Secretary will furnish the applicant five counterparts of a contract for transfer in exchange which shall be executed by the applicant and redelivery to the Secretary within fifteen (15) days of the date of its receipt by the applicant. Such contract for transfer in exchange shall provide for adjustments for depreciation and difference in design or speed and, to the extent applicable, adjustments provided in § 299.66 with respect to the applicant's vessel retained by the United States and such other adjustments and terms and conditions, including tranfer of mortgage obligations in favor of the United States binding upon the applicant's vessel, as the Administration may prescribe. After the contract has been executed on behalf of the Administration, one of the counterparts will be sent to the applicant.

SUBPART E—ADJUSTMENT FOR PRIOR SALES TO CITIZENS

§ 299.66 *Adjustment for prior sales to citizens*—(a) *Application.* Within 60 days after the date of publication of the applicable prewar domestic costs in the FEDERAL REGISTER, any citizen of the United States, as defined in § 299.1 (h), who is entitled to an adjustment in the price of a vessel as provided for in paragraph (c) of this section may apply to the Administration for such adjustment. The application to receive consideration must be substantially in the form prescribed by the Administration in § 299.133 and shall be accompanied by applicant's own computation. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Administration has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, Maritime Administration, Washington 25, D. C. Any information called for by the Administration from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Persons entitled to adjustment.* Any citizen of the United States, as defined in § 299.1 (h), who on March 8, 1946:

(1) Owned a vessel which he purchased from the United States Maritime Commission prior to such date and which was delivered by its builder after December 31, 1940; or

(2) Was a party to a contract with the Commission to purchase from the Commission a vessel, which had not yet been delivered to him; or

(3) Owned a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) Was a party to a contract with a shipbuilder for the construction for him of a vessel, which had not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel as provided in paragraph (a) of this section. No adjustment will be made in respect of any vessel the contract for the construction of which was made after September 2, 1945; under the provisions of Title V (including section 504) or Title VII of the Merchant Marine Act, 1936, as amended.

(d) *Amount of adjustment.* An adjustment will be made, as provided in this section, by treating the vessel as if it were being sold to the applicant on March 8, 1946, and not before that time. The amount of such adjustment will be determined as follows:

(1) The Administration will credit the applicant, for the purposes of subparagraph (8) of this paragraph, with the excess of all cash payments made upon the original purchase price of the vessel over 25 percent of the statutory sales price of the vessel as of March 8, 1946. If such payment was less than 25 percent of the statutory sales price of the vessel, the applicant will pay the difference to the Administration.

(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel will be adjusted.

(3) The adjusted mortgage indebtedness will be in an amount equal to the excess of the statutory sales price of the vessel as of March 8, 1946, over the sum of the cash payment retained by the United States under subparagraph (1) of this paragraph plus the readjusted trade-in allowance (determined under subparagraph (7) of this paragraph) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness will be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of three and one-half percent per annum.

(4) The Administration will credit the applicant, for the purposes of subparagraph (8) of this paragraph, with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under subparagraph (7) of this paragraph) over the statutory sales price of the vessel as of March 8, 1946, to the extent not credited under subparagraph (1) of this paragraph.

(5) The Administration will also credit the applicant, for the purposes of subparagraph (8) of this paragraph, with an amount equal to interest at the rate of three and one-half percent per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with March 8, 1946), on the excess of the original purchase price of the vessel over the amount of any allowance originally allowed by the Administration to the applicant on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid will be canceled.

(6) The applicant will credit the Administration, for the purposes of subparagraph (8) of this paragraph, with all amounts paid by the United States to him as charter hire for the bareboat use of the vessel, whether the vessel was under time or bareboat charter, under any charter party made prior to March 8, 1946, and any charter hire for such use accrued up to such date and unpaid shall be canceled and the Administration will credit the applicant for the purposes of subparagraph (8) of this paragraph with the amount that would have been paid by the United States to the applicant as charter hire for bareboat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with March 8, 1946.)

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase will be readjusted so as to limit such allowance to the amount provided for under § 299.22.

(8) There will be subtracted from the sum of the credits in favor of the Administration under the foregoing provisions of this subparagraph the amount of any overpayments of Federal taxes by the applicant resulting from the application of paragraph (e) (1) of this section, and there will be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subparagraph the amount of any deficiencies in Federal taxes of the applicant resulting from the application of paragraph (e) (1) of this section. If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Administration, such excess will be paid by the Administration to the applicant. If, after making such subtractions, the sum of the credits in favor of the Administration exceeds the sum of the credits in favor of the applicant, such excess will be paid by the applicant to the Administration. Upon such payment by the Administration or the applicant, such overpayments will be

treated as having been refunded and such deficiencies as having been paid.

(i) For the purpose of this paragraph, the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, will be the net cost of the vessel to the owner.

(e) *Condition of adjustment.* An adjustment will be made under this section only if the applicant enters into an agreement with the Administration binding upon the citizen-applicant and any affiliated interest to the effect that:

(1) Depreciation and amortization allowed or allowable with respect to the vessel up to March 8, 1946 for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Administration under paragraph (d) (6) of this section shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under paragraph (d) (5) and (6) of this section shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls March 8, 1946;

(2) The liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after March 8, 1946 under any charter party shall not exceed 15 percent per annum of the statutory sales price of the vessel as of March 8, 1946; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of March 8, 1946, depreciated to the date of loss at the rate of 5 percent per annum; and

(3) In the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after March 8, 1946, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 percent per annum of the statutory sales price as of March 8, 1946.

(f) *Method of adjustment.* If the Administration finds that applicant is entitled to an adjustment, applicant will be notified of the adjusted purchase price determined by the Administration. Unless the applicant notifies the Administration to the contrary within 15 days following the date of receipt by the applicant of the Administration's determination of adjusted purchase price, this adjusted purchase price will be binding upon the applicant and it agrees to execute an addendum to its original contract to purchase, which addendum will be sent to him by the Administration.

SUBPART F—PREWAR DOMESTIC COSTS AND STATUTORY SALES PRICES OF VESSELS

NOTES: 1. Design characteristics are for identification purposes and are not warranted as those of any particular vessel.

2. Design characteristics are not set forth for types not available for disposal but included merely for adjustment for prior sales to citizens, in accordance with section 9 of the act. (It should be noted that applications for such adjustment must be made within 60 days of publication of applicable prices.)

TYPES, DESIGN CHARACTERISTICS, AND PRICES

§299.71 *Prewar domestic costs; statutory sales prices.* The prewar domestic costs set forth in this section have been determined by the Administration (or the United States Maritime Commission) pursuant to section 3 (c) of the act to be the amounts for which a standard vessel of the type specified could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case does the prewar domestic cost set forth in this section with respect to any type of vessel exceed 80 percent of the domestic war cost of a vessel of the same type. The unadjusted statutory sales prices set forth in this section have been determined by the Administration (or the United States Maritime Commission) pursuant to section 3 (d) of the act. Subtypes listed may be adjusted above or below published prices for types of which they are subtypes, depending upon whether such subtypes possess desirable features which are not incorporated in the standard vessel, or lack desirable features which are incorporated in the standard vessel. The adjusted prices of such subtype will be quoted upon written inquiry to the Administration.

BARGE

§ 299.72 *Type YF covered barge.* (a) The YF covered barge is a Navy designed nonpropelled barge, capable of being used for ocean service, built of steel with one continuous deck and four cargo holds. Cargo side ports are provided in the deck house together with hatch openings for all holds. Accommodations for personnel are installed forward.

(b) Principal design characteristics are as follows:

Length over-all	260'0".
Beam molded	48'0".
Depth molded (Mn. dk.)	15'0".
Draft molded	9'6".
Deadweight tons	2,000.
Bale cubic capacity	162,000 (est.).

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$161,000	$209,300	$80,500	$73,255

CARGO VESSELS

§ 299.75 *Type C1.* (a) The standard vessel is a steel cargo vessel with a raked stem and cruiser stern. The quarters will accommodate eight passengers in four staterooms. Deep tanks are installed at the forward end of No. 1 hold. The machinery is located amidships.

(b) There are two basic designs of the C1 type which are considered to be standard, the C1A and the C1B.

(c) In addition is the C1–S–AY1 type which is a standard C1B converted to a transport. Reconversion to a cargo vessel would result in principal characteristics similar to the C1B (except that propulsion is turbine only) and a price in accordance with the formula indicated below.

(d) The principal design characteristics of the standard vessel are listed below:

Design	C1A Shelter deck	C1B Full scantling
Length over-all	412' 3"	417' 9".
Beam molded	60' 0"	60' 0".
Depth molded	37' 6"	37' 6".
Load draft molded	23' 6"	27' 6".
Deadweight tons	7,400	9,100.
Gross tons	5,100	6,700.
Net tons	2,900	3,900.
Bale cubic capacity	447,000	452,000.
Propulsion	Turbine or Diesel.	Turbine or Diesel.
Shaft h. p., normal	4,000	4,000.
Speed, knots	14	14.
Passengers	8	8, 12.
Staterooms	4	4, 6.

(e) The prices for the two standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,940,000	$2,608,168	$970,000	$912,859

§ 299.76 *Type C1–M–AV1.* (a) The standard C1–M–AV1 cargo vessel is a steel, full scantling type vessel with a raked stem and cruiser stern. A deep tank is installed at the forward end of No. 1 hold. The propelling machinery is located aft.

(b) In addition are the C1–ME–AV6 and the C1–M–AV8 designs. The price of these two designs are subject to adjustment for desirable features in accordance with section 3 (d) (3) of the act.

(3) Principal design characteristics of the standard and modified vessels are listed below. (The C1–M–AV1 is not considered a "C" type under the Commission building program.)

Design	Standard C1-M-AV1 Full scantling	Modified C1-ME-AV6 Full scantling	Modified C1-M-AV8 Full scantling
Length over-all	338' 8"	338' 8½"	338' 8".
Beam molded	50' 0"	50' 0"	50' 0".
Depth molded	29' 0"	29' 0"	29' 0".
Load draft molded	21' 0"	21' 0"	21' 0".
Deadweight	5,100	5,090	5,100.
Gross tons	3,800	3,800	3,800.
Net tons	2,100	2,100	2,100.
Bale cubic capacity	228,000	228,000	228,000.
Net refrigerated cubic capacity	9,800	9,800	9,800.
Propulsion	Diesel	Diesel-electric (Bowes-drive).	Diesel, with variable pitch propeller.
Shaft h. p., normal	1,700	2,030	1,700.
Speed, knots	10¼	11½	10½.

(d) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,280,000	$1,982,464	[1] $640,000	$693,862

[1] Price inapplicable since under terms of the Ship Sales Act of 1946 no dry cargo vessel, except a Liberty type vessel, may be sold at less than 35 percent of the domestic war cost.

§ 299.77 *Type C1-MT-BU1.* (a) The C1-MT-BU1 lumber freighter is a steel, full scantling type vessel with raked stem and cruiser stern. The propelling machinery consisting of twin screws powered by Diesel engines, is located aft.

(b) The principal design characteristics of this vessel are listed below:

Design:	*Full scantling*
Length over-all	319' 0".
Beam molded	49' 0".
Depth molded	26' 0".
Load draft molded	21' 7".
Deadweight tons	4950.
Gross tons	3130.
Net tons	1900.
Bale cubic capacity	185,235.
Propulsion	Diesel.
Shaft h. p., normal	2400.
Speed, knots	12.

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,063,000	$1,396,813	$531,500	$488,885

§ 299.78 *Type C2.* (a) The standard C2 vessel is a steel cargo vessel with a raked stem and cruiser stern. The vessel will accommodate eight passengers in four staterooms. There are four deep tanks in No. 4 hold. The machinery is located amidships.

(b) There are two basic designs of the C2 type which are considered to be standard, the C2-S-AJ1 and the C2-S-B1.

(c) In addition to the standard type C2's, there are the following subtypes:

(1) The C2-S-AJ2 and the C2-S-AJ5 are not available for disposal and are subject only to price adjustment for prior sales under section 9 of the act, and are also subject to adjustment for desirable features in accordance with section 3 (d) (3) of the act.

(2) The C2-S-AJ3, a modification of the C2-S-AJ1, is a military conversion.

(3) When reconverted to the cargo vessel type, the C2-S-AJ3 will have basic features similar to the standard C2-S-AJ1 design.

(4) The C2 Cargo and the C2T vessels available for disposal are military conversions. When reconverted to cargo vessels, they will have basic features similar to the standard C2-S-B1 design, except that the propulsion on the C2 Cargo is either steam or Diesel, and on the C2T is Diesel.

(5) The C2-S-E1 vessels available, for disposal are military conversions. When reconverted to the cargo vessel type, they will have basic characteristics as noted below. The price of these vessels is subject to adjustment for desirable features in accordance with section 3 (d) (3) of the act.

(d) Principal design characteristics are listed below:

Design	C2-S-B1 Shelter deck	C2-S-AJ1 Modified full scantling	C2-S-E1 Shelter deck
Length over-all	459' 3"	459' 1"	468' 8½".
Beam molded	63' 0"	63' 0"	63' 0".
Depth molded	40' 6"	40' 0"	40' 6".
Load draft molded	25' 9"	27' 0"	27' 4".
Deadweight	9,200	10,800	10,700.
Gross tons	6,200	8,300	6,170.
Net tons	3,500	4,800	3,520.
Bale cubic capacity	546,000	542,800	568,457.
Net refrigerated capacity.			
Propulsion	Turbine.	Turbine.	Turbine.
Shaft h. p., normal	6,000	6,000	6,000.
Speed, knots	15½	15½	15½.
Passengers	8	8	12
Staterooms	4	4	6.

(e) The prices for the two standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,100,000	$2,736,624	$1,050,000	$957,818

§ 299.79 *Type C2F.* (a) The C2F vessel is a steel vessel with a raked stem and a cruiser stern. The quarters will accommodate eight passengers in four staterooms. The machinery is located amidships.

(b) The principal characteristics of these vessels are listed below:

Design:	*Shelter deck*
Length over-all	459'2½".
Beam molded	63'0".
Depth molded	40'6".
Load draft molded	25'9".
Deadweight tons	9,400.
Gross tons	6,155.
Net tons	3,615.
Bale cubic capacity	558,000.
Propulsion	Turbine.
Shaft h. p., normal	6,000.
Speed, knots	15½.

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,274,000	$2,963,373	$1,137,000	$1,037,181

§ 299.80 *Type C2S.* a) The C2S is a steel cargo vessel specially designed for South African trade with raked stem and cruiser stern. The quarters accommodate twelve passengers in eight staterooms. The machinery is located amidships.

(b) The principal design characteristics of this vessel are listed below:

Design:	*Shelter deck*
Length over-all	479'8".
Beam molded	66'0".
Depth molded	43'0".
Load draft molded	27'0".
Deadweight tons	10,000.
Gross tons	7,101.
Net tons	4,259.
Bale cubic capacity	594,000.
Net refrigerated cargo capacity	11,500.
Propulsion	Turbine.
Shaft, h. p., normal	6,300.
Speed, knots	16.

(c) The prices of the standard C2S type are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,354,000	$3,067,625	$1,177,000	$1,073,669

§ 299.81 *Type C2SU.* (a) The C2SU is a steel vessel with raked stem and cruiser stern. The quarters will accommodate twelve passengers in six staterooms. There are two variations of this type, one is a general cargo carrier with partial refrigerated capacity; the other variation is all refrigerated. The machinery is located amidships.

(b) The principal design characteristics of each of these vessels are listed below:

Design	Partially refrigerated (shelter deck)	All refrigerated (flush deck)
Length over-all	474' 1"	474' 1".
Beam molded	63' 0"	63' 0".
Depth molded	40' 6"	40' 6".
Load draft molded	26' 6"	26' 6"
Deadweight tons	9,600	7,925.
Gross tons	6,622	8,591.
Net tons	3,854	5,053.
Bale cubic capacity	507,000	
Net refrigerated cargo capacity.	28,000	384,600.
Propulsion	Diesel	Diesel.
Shaft h. p., normal	7,500	7,500.
Speed, knots	16	16.

(c) The prices of the standard and refrigerated designs are as follows:

	Prewar domestic cost	Domestic war cost
C2SU (Standard)	$2,470,000	$3,218,791
C2SU (Reefer)	3,450,000	4,437,409

	Unadjusted statutory sales price	Floor price
C2SU (Standard)	$1,235,000	$1,126,577
C2SU (Reefer)	1,725,000	1,553,093

§ 299.82 *Type C3.* (a) The standard C3 cargo vessel is a steel, shelter deck type vessel with a raked stem and cruiser stern. The vessel will accommodate twelve passengers in six staterooms. There are four deep tanks in No. 2 hold. The propelling machinery is located amidships.

(b) The C3-S-A2 is considered to be the standard vessel of this type.

(c) In addition are the following subtypes:

(1) The C3-S-A1 is basically similar to the C3-S-A2 design. All vessels of this type have been converted to escort aircraft carriers, and are not generally suitable for reconversion.

(2) The C3-M and C3 Cargo are basically similar to the C3-S-A2 design. The C3M is not available for disposal, but is subject to price adjustment for prior sales under section 9 of the act.

(d) One C3 cargo vessel, now a military conversion, is available for disposal.

(e) The principal design characteristics of the standard design are listed below:

Design:	Standard C3–S–A2—shelter deck
Length over-all	492'0".
Beam molded	69'6".
Depth molded	42'6".
Load draft molded	28'6".
Deadweight	12,300.
Gross tons	7,900.
Net tons	4,600.
Bale cubic capacity	732,000.
Propulsion	Turbine.
Shaft h. p., normal	8,500.
Speed, knots	16½.
Passengers	12.
Staterooms	6.

(f) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,460,000	$3,659,228	[1] $1,230,000	$1,280,730

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no dry cargo vessel, except a Liberty type vessel, may be sold at less than 35 percent of the domestic war cost.

(g) The C3–S–BH1 is properly a C3 type and is determined to be a subtype of the standard type C3. The betterments or deficiencies of the C3–S–BH1 will be priced in accordance with section 3 (d) of the Ship Sales Act of 1946.

§ 299.83 *Type C3–3–A3 and C3E.* (a) The standard type for these designations is a steel vessel with raked stem and a double knuckle stern. The machinery is located amidships. There are no passenger accommodations nor cargo deep tanks provided.

(b) The principal design characteristics for these vessels are listed below:

Design:	*Shelter deck*
Length over-all	473'1".
Beam molded	66'0".
Depth molded	42'3".
Load draft molded	27'8".
Deadweight tons	9,900.
Gross tons	6,736.
Net tons	3,996.
Bale cubic capacity	551,000.
Propulsion	Turbine.
Shaft h. p., normal	8,000.
Speed, knots	16½.

(c) The prices of the standard C3–S–A3 and C3E are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,300,000	$3,143,964	$1,150,000	$1,100,387

§ 299.84 *Type C3–S–BH2.*[1] (Not previously published.) The prices for the C3–S–BH2 type are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,040,000	$4,411,977	*50% 1941 cost* [1] $1,520,000	*35% war cost* $1,544,191

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no dry-cargo vessels, except a Liberty type vessel, may be sold at less than 35% of the domestic war cost.

[1] For adjustment of prior sales; not available for disposal.

§ 299.85 *Type C4.* (a) The standard C4 cargo vessel is a steel, full scantling type vessel with a raked stem and cruiser stern. The quarters will accommodate twelve passengers in four staterooms. The propelling machinery is located aft.

(b) The C4–S–B5 is considered to be the standard design of this type vessel.

(c) In addition is a modification of the C4–S–B5, the C4–S–A4, which is subject to adjustment for desirable features in accordance with section 3 (d) (3) of the act.

(d) Also, there are the C4–S–A1, the C4–S–A3, the C4–S–B1, and the C4–S–B2 designs. The C4–S–A1 and C4–S–A3 are military transports. Reconversion to cargo vessels will result in principal characteristics similar to the C4–S–A4 modified design. The C4–S–B1 is an Army tank carrier and the C4–S–B2 is a troop ship; reconversion to cargo vessels will result in principal characteristics similar to the standard C4–S–B5.

(e) The principal design characteristics of the standard and modified vessels are listed below:

Design	Standard C4–S–B5 Full scantling	Modified C4–S–A4 Full scantling
Length over-all	520'0"	522'10¼".
Beam molded	71'6"	71'6".
Depth molded	42'6"	43'6".
Load draft molded	32'9"	32'9".
Deadweight	15,570	15,540.
Gross tons	10,780	10,680.
Net tons	7,530	7,490.
Bale cubic capacity	711,580	672,240.
Propulsion	Turbine	Turbine.
Shaft h. p., normal	9,000	9,000.
Speed, knots	16½	16½.
Passengers	[1] 12	4.
Staterooms	[1] 4	2.

[1] Passenger accommodations can be provided by suitable minor alterations.

(f) The prices of the standard C4–S–B5 are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,300,000	$4,420,965	$1,650,000	$1,547,338

§ 299.86 *Type N3.* (a) The standard vessel is a steel, single deck vessel with a vertical stem and cruiser stern. The propelling machinery consists of a reciprocating steam engine directly connected to a single screw. The machinery is located amidships.

(b) There are two basic designs of the N3 type which are considered standard; the N3–S–A2, which has oil-fired boilers, and the N3–S–A1, which has coal-fired boilers.

(c) The principal design characteristics of the standard vessels are listed below:

Design	N3–S–A1 Full scantling	N3–S–A2[1] Full scantling
Length over-all	258'9"	259'9½".
Beam molded	42'1"	42'1".
Depth molded	20'5"	20'5".
Load draft molded	17'11¼"	17'11¼".
Deadweight tons	2,900	2,760.
Gross tons	1,790	1,900.
Net tons	1,020	1,000.
Bale cubic capacity	121,000	118,000.
Propulsion	Coal burning.	Oil burning
Indicated h. p.	1,300	1,300.
Speed, knots	10	11.

(d) The prices of the standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$760,000	$1,339,477	[1] $380,000	$468,817

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no dry cargo vessel, except a Liberty type vessel, may be sold at less than 35 percent of the domestic war cost.

§ 299.87 *Type N3–M–A1.* (a) (Not previously published.) The principal design characteristics are as follows:

L. O. A.	269'10".
LBP	255'0".
Beam mld	42'6".
Depth mld	25'3".
Cubic bale capacity	161,000 cubic feet.
Draft	20'9".
Brake horsepower	1,300 at 277 r. p. m.
Speed	10¼ knots.
Maximum displacement	5,202 long tons.
Gross tonnage	2,323.
Net tonnage	1,723.
Deadweight	4,054 long tons.

(b) The basic N3–M–A1 cargo vessel is a cargo vessel without any special features such as deep tanks, cargo reefer, or heavy lift equipment, and is assumed to meet requirements for satisfactory certification by the American Bureau of Shipping, United States Public Health Service and the Coast Guard. The N3–M–A1 shall be assumed to have the following basic outfit:

2 Masts.
6 5-ton booms.
6 Winches.
2 Lifeboats.

(c) The price set forth in this paragraph does not include machinery or equipment that is not provided in accordance with standard Merchant Marine practice for a vessel of this size and type. Equipment and betterments such as machine tools, welding machines, compressors, evaporators, diving equipment, generators (in excess capacity required for the basic ship), towing winches, landing craft, cargo pumps, and troop accommodations are definitely not included in these prices.

(d) The prices of the standard type are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$786,000	$1,384,932	*50 percent 1941 cost* $393,000	*35 percent war cost* $484,726

LIBERTY

§ 299.89 *Type EC2 (Liberty).* (a) The standard Liberty cargo vessel is steel, full scantling vessel with a raked stem and a cruiser stern. Deep tanks are installed in No. 1 and No. 4 holds. The propelling machinery is located amidships.

(b) The EC2–S–C1 is considered to be the standard design of the Liberty type vessels. The modified designs are the Z–EC2–S–C5, the Z–ET1–S–C3, and the EC2–S–AW.

(c) In addition there is the Z–EC2–S–C2, a tank carrier, which has basic features similar to the modified Z–EC2–S–C5 design, and the Canadian Liberty ship, which is similar to the EC2–S–C1, but is coal-fired rather than oil-fired.

(d) The principal design characteristics of the standard vessel and of the modified designs are listed below:

Design	Standard EC2–S–C1 Full scantling	Modified Z–EC2–S–C5 Boxed airplane tr.	Modified Z–ET1–S–C3 Tanker	Modified EC2–S–AW1 Collier
Length over-all	441′ 6″	441′ 6″	441′ 6″	441′ 6″.
Beam molded	56′ 10¾″	56′ 10¾″	56′ 10¾″	56′ 10¾″.
Depth molded	37′ 4″	37′ 4″	37′ 4″	37′ 4″.
Load draft molded	27′ 8″	27′ 8″	27′ 8″	28′ 7″.
Deadweight tons	10,800	10,600	10,800	11,040.
Gross tons	7,170	7,200	7,243	6,640.
Net tons	4,380	4,300	4,384	3,740.
Bale cubic capacity	500,000	490,000		472,800.
Barrel capacity			65,000	
Propulsion	Steam recip.[1]	Steam recip.[1]	Steam recip.[1]	Steam recip.[2]
Indicated h. p.	2,500	2,500	2,500	2,500.
Speed, knots	11	11	11	11.

[1] Located amidship. [2] Located aft.

(e) The prices of the EC2 vessels, which under the terms of the act shall be the same for all designs, are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,278,000	$1,728,590	$639,000	$544,506

PASSENGER–CARGO VESSELS

§ 299.91 *Type passenger and cargo.* (a) The passenger and cargo type vessel is a single screw, turbine-propelled vessel with a raked stem and contour stern.

(b) Vessels of this type available for disposal are now military auxiliaries.

(c) When reconverted to passenger and cargo vessels, the principal design characteristics will be as follows:

Length over-all	491′ 0″.
Beam molded	67′ 6″.
Depth molded	89′ 9″.
Load draft molded	25′ 6″.
Deadweight tons	9,021.
Gross tons	7,980.
Net tons	4,540.
Bale cubic capacity	453,273.
Propulsion	Turbine
Shaft h. p., normal	7,800.
Speed, knots	16½.
Passengers	67.
Staterooms	26.

(d) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,300,000	$4,300,409	$1,650,000	$1,565,143

§ 299.92 *Type P2–SE2–R3.* (a) (Not previously published.) The P2–SE2–R3 type is a passenger-cargo vessel.

(b) The prices of the standard type are as follows:

Prewar domestic cost	*Unadjusted statutory sales price (50% 1941 cost)*
$11,200,000	[1] $5,600,000

[1] The vessel floor price is estimated to be about $7,267,241 and the minimum sales price will be so determined. The war built cost and floor price will not be finally determined until the vessels have been completed.

§ 299.93 *Type P2.* (a) The P2 type is a steel, twin screw combination vessel with a curved stem and cruiser stern.

(b) There are two standard designs of the P2 type, the P2–SE2–R1 and the P2–S2–R2, both of which are military transports. Principal design characteristics are as follows:

	P2–SE2–R1	P2–S2–R2
Length over-all	608′ 11″	622′ 7″.
Beam molded	75′ 6″	75′ 6″.
Depth molded	52′ 6″	51′ 6″.
Load draft molded	26′ 6″	26′ 1″.
Deadweight tons	11,913	10,025.
Gross tons	15,940	17,830.
Net tons	9,320	10,000.
Bale cubic capacity	106,349	145,680.
Propulsion	Turb.-elect.	Turbine
Shaft h. p., normal	18,000	17,000.
Speed, knots	19	19.
Passengers		
Staterooms		

(c) Prices for the two standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
[1] $6,949,967	[1] $9,647,293	[1] $3,474,983	[1] $3,376,553

[1] Price based on bare boat ship after removal of national defense features and without passenger accommodations or additional cargo handling gear.

§ 299.94 *S. S. America.* (a) The S. S. *America* is a twin screw turbine propelled passenger and freight ocean liner. The vessel has a curved raked stem and an elliptical cruiser stern. The quarters will accommodate about 1,082 passengers. The machinery is located amidships.

(b) The principal design characteristics of the S. S. *America,* as reconverted, are as follows:

Length	723′ 0″.
Beam molded	93′ 3″.
Depth molded	62′ 11½″.
Load draft molded	32′ 6″.
Deadweight tons	13,635 est.
Gross tons	26,455.
Net tons	14,320.
Bale cubic capacity	260,300 est.
Net refrigerated capacity	33,510.
Propulsion	Turbine.
Shaft h p., normal	34,000.
Speed, knots	22.

(c) The prices[1] for the S. S. *America* are as follows:

Prewar domestic cost	$18,500,000
Unadjusted statutory sales price	9,250,000

[1] Domestic war cost and floor price are not applicable to passenger vessels constructed before January 1, 1941.

REEFERS

§ 299.95 *Type R1–M–AV3.* (a) The R1–M–AV3 is a steel, full scantling, refrigerated cargo type vessel, with a raked stem and cruiser stern. In addition, there are available for disposal fully refrigerated C1–M–AV1 vessels, which are a subtype of the R1–M–AV3, and are subject to price adjustment under section 3 (d) (3) of the act. Principal design characteristics of the R1–M–AV3 are as follows:

Length over-all	338′8½″.
Beam molded	50′0″.
Depth molded	29′0″.
Load draft molded	21′0″.
Deadweight tons	4,370.
Gross tons	3,770.
Net tons	2,100.
Reefer cubic capacity	——.
Propulsion	Diesel.
Shaft h. p., normal	1,700.
Speed, knots	10½.
Passengers	0.
Staterooms	0.

(b) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,750,000	$2,449,385	$875,000	$857,285

§ 299.96 *Type R2–S–BV1.* (a) The R2–S–BV1 is an all refrigerated C2–S–B1 cargo vessel (see § 299.78) with a raked stem and cruiser stern. The quarters will accommodate eight passengers in four staterooms. The machinery is located amidships.

(b) The principal characteristics of this vessel are listed below:

Design:	*Flush deck*
Length over-all	459′2½″.
Beam molded	63′0″.
Depth molded	40′6″.
Load draft molded	25′9″.
Deadweight tons	8,150.
Gross tons	6,178.
Net tons	3,483.
Net refrigerated capacity	348,000.
Propulsion	Turbine.
Shaft h. p., normal	6,000.
Speed, knots	15½.

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,440,000	$4,464,998	$1,720,000	$1,562,749

TANKERS

§ 299.97 *Type T1–M–BT.* (a) The T1–M–BT tanker is a steel, 31,000 barrel tanker with a raked stem and cruiser stern. The propelling machinery consists of a Diesel engine geared to a single screw. The machinery is located aft.

(b) The T1–M–BT1 and the T1–M–BT2 are both considered to be standard designs of this type of tanker.

(c) The principal design characteristics, which are the same for both designs, are listed below:

Length over-all	325'4".
Beam molded	48'2".
Depth molded	21'9".
Load draft molded	19'0".
Deadweight tons	4,189.
Gross tons	3,260.
Net tons	1,680.
Barrel capacity	31,000.
Propulsion	Diesel.
Shaft h. p., normal	1,400.
Speed, knots	10.

(d) The prices of the standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$994,000	$1,774,038	[1] $869,750	$887,019

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no tanker may be sold at less than 50 percent of the domestic war cost.

§ 299.98 *Type T2 tanker.* (a) The type T2 tanker is a steel, single screw bulk oil carrier of single deck type with raked stem and cruiser stern. The machinery is located aft.

(b) There are two standard designs of the type T2 tankers, M. C. Hulls 142–147 and M. C. Hulls 148–149, 157–159. Principal design characteristics of both types available for disposal are as follows:

	MC hulls 142-147	MC hulls 148-149, 157-159
Length over-all	501' 4½"	520' 0".
Beam molded	68' 0"	68' 0".
Depth molded	37' 0"	37' 0".
Load draft molded	29' 8½"	29' 11⅝".
Deadweight tons	15,910	16,300.
Gross tons	9,890	10,300.
Net tons	5,928	6,086.
Tank cargo capacity	130,016 bbls.	138,523 bbls.
Propulsion	Turbine	Turbine.
Shaft h. p., normal	12,000 max	12,000 max.
Speed, knots	16½	16½.

(c) The prices for the two standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,460,000	$3,197,897	$2,152,500	$1,598,949

§ 299.99 *Type T2–SE–A1, tanker.* (a) The T2–SE–A1 is a steel, 140,000 barrel tanker with a raked stem and a cruiser stern. The propelling machinery consists of turbo-electric drive and a single screw. The machinery is located aft.

(b) The T2–SE–A1 is considered to be the standard vessel of this type.

(c) In addition, are the modified designs, the T2–SE–A2 and the T2–SE–A3. The T2–SE–A2 tanker is basically similar to the T2–SE–A1, except that it has a normal shaft horsepower of 10000 and a speed of 16 knots. The T2–SE–A3 is a Navy tanker and upon conversion to commercial operation will have the same principal design characteristics as the T2–SE–A2 tanker.

(d) The price of the T2–SE–A2 is subject to adjustment for desirable features in accordance with section 3 (d) (3) of the act.

(e) The principal design characteristics of the standard end of the modified designs are listed below:

Design	Standard T2-SE-A1	Modified T2-SE-A2 & A3
Length over-all	623'6"	623'6".
Beam molded	68'0"	68'0".
Depth molded	39'3"	39'3".
Load draft molded	30'2"	30'2".
Deadweight tons	16,760	16,580.
Gross tons	10,200	10,460.
Net tons	6,100	7,340.
Barrel capacity	140,000	140,000.
Propulsion	Turbo-electric	Turbo-electric.
Shaft h. p., normal	6,000	10,000.
Speed, knots	14½	16.

(f) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,316,000	$3,010,703	$2,026,500	$1,505,352

§ 299.100 *Type T3–M–AZ1.* (a) The T3–M–AZ1 is a 152,000 barrel tanker with a raked stem and cruiser stern. The propelling machinery is Diesel and is located aft. Principal design characteristics of this type of tanker are as follows:

Length over-all	547'3¾".
Beam molded	70'0".
Depth molded	40'0".
Load draft molded	30'1".
Deadweight tons	17,910.
Gross tons	11,400.
Net tons	6,906.
Tank cargo capacity	152,595 bbls.
Propulsion	Diesel.
Shaft h. p., normal	7,500.
Speed, knots	15½.

(b) The prices for the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,614,000	$3,398,091	$2,287,250	$1,699,046

§ 299.101 *Type T3–S–A1 tanker.* (a) The T3–S–A1 is a steel, 134,000 barrel tanker with a raked stem and cruiser stern. The propelling machinery is located aft.

(b) The principal design characteristics of the standard vessel are listed below:

Length over-all	501'8".
Beam molded	68'0".
Depth molded	37'0".
Load draft molded	29'11".
Deadweight tons	16,500.
Gross tons	9,900.
Net tons	5,900.
Barrel capacity	134,000.
Propulsion	Turbine.
Shaft h. p., normal	7,000.
Speed, knots	15½.

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,175,000	$2,970,029	$1,903,125	$1,485,015

§ 299.102 *Type T3–S–BZ1.* (a) The T3–S–BZ1 is a steel, single screw tanker with a raked stem and cruiser stern. The machinery is located aft.

(b) Principal design characteristics are as follows:

Length between perpendiculars	541'0".
Beam molded	80'0".
Depth molded	40'0".
Load draft molded	31'6".
Deadweight tons	23,789.
Gross tons	14,136.
Net tons	11,455.
Tank cargo capacity	215,000.
Propulsion	Turbine.
Shaft h. p., normal	13,400 max.
Speed, knots	16½.

(c) The prices for the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,080,000	$2,612,305	$1,820,000	$1,306,153

§ 299.103 *U. S. S. Atascosa.* (a) The U. S. S. *Atascosa* is a steel, single screw tanker with machinery located aft.

(b) The principal design characteristics of the U. S. S. *Atascosa* are as follows:

Length over-all	547'3".
Beam molded	70'.
Depth molded	40'.
Load draft	30'4½".
Deadweight tons	18,450.
Gross tons	11,344.
Net tons	6,865.
Propulsion	Turbine.
Shaft h. p	9020 (max.).
Speed knots	16.
Barrel capacity	156,800.

(c) The figures for tonnage, deadweight and draft may be subject to minor revisions in reconversion to commercial operation.

(d) The prices for the U. S. S. *Atascosa* are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,513,700	$3,267,810	$2,199,488	$1,633,905

§ 299.104 *S. S. Bulkoil.* (a) The S. S. *Bulkoil* is a steel, 112,000 barrel tanker. The propelling machine is located aft. Principal design characteristics are as follows:

Length over-all	457'.
Beam molded	59'.
Depth molded	36'.
Load draft molded	29' 7⅜".
Deadweight tons	13,080.
Gross tons	8,071.
Net tons	6,307.
Propulsion	Turbine.
Shaft h. p., normal	9,430.
Speed, knots	17.
Barrel capacity	112,000.

(b) The prices of the S. S. *Bulkoil* are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,957,080	$2,455,150	$1,712,445	$1,227,575

§ 299.105 *Type AOG 49 U. S. C. Chestatee.* (a) (Not previously published.) The AOG 49 U. S. S. *Chestatee* is described as a Navy Auxiliary Gasoline Tanker, welded steel construction, twin

screw, diesel electric drive, expansion trunk type with long forecastle and poop, straight raked stem, cruiser stern with machinery aft.

(b) The principal design characteristics of the AOG 49 U. S. S. *Chestatee* are as follows:

LOA	310'9".
LBP	292'0".
Beam	48'7".
Depth	19'9".
Draft (designed)	15'0".
Liquid cargo:	
Gasoline—oil	15,865 bbls.
Lubricating oil	1,065 bbls.
Dry cargo (bale capacity)	19,310 cu. ft.
Dead-weight tons	2,265.
Built-weight tons	1,865.
Max. displacement tons	4,130.
SHP	3,700.
Type main prop. mach	Diesel electric.
Screws	Twin.
Speed, knots	14.

(c) The prices for the AOG 49 U. S. S. *Chestatee* in "as is" condition are as follows:

Prewar domestic cost	Domestic war cost	Statutory sales price (87.5% prewar domestic cost)	Floor price (50% domestic war cost)
$966,549	$1,725,000	[1] $845,730	$862,500

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no tanker may be sold at less than 50 percent of the domestic war cost.

§ 299.106 *U. S. S. Chicopee and U. S. S. Housatonic.* (a) The U. S. S. *Chicopee* and U. S. S. *Housatonic* are steel, single screw tankers with machinery located aft.

(b) The principal design characteristics of the U. S. S. *Chicopee* and U. S. S. *Housatonic* are as follows:

Length over-all	520'0".
Beam molded	68'.
Depth molded	37'.
Load draft	30'1½".
Deadweight tons	16,640.
Gross tons	10,097.
Net tons	6,042.
Propulsion	Turbine.
Shaft h. p	9900 (max.).
Speed knots	16.
Barrel capacity	138,523.

(c) The figures for tonnage, deadweight and draft may be subject to minor revisions in reconversion to commercial operation.

(d) The prices for the U. S. S. *Chicopee* and U. S. S. *Housatonic* are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$2,464,387	$3,203,703	$2,156,339	$1,601,852

§ 299.107 *S. S. Culpepper.* (a) The S. S. *Culpepper* is a steel, single screw tanker with machinery located aft.

(b) The principal design characteristics of the S. S. *Culpepper* are as follows:

Length between perpendiculars	403'9¼".
Beam molded	60'0".
Depth molded	37'0".
Load draft	28'6¼".
Deadweight tons	12,600.
Gross tons	7,416.
Net tons	6,059.
Propulsion	Diesel.
Shaft h. p	2,000.
Speed, knots	10½.

(c) The prices for the S. S. *Culpepper* are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,569,000	$2,039,700	$1,372,875	$1,019,850

§ 299.108 *Type AOG 51 U. S. S. Maquoketa.* (a) (Not previously published.) The AOG 51 U. S. S. *Maquoketa* is described as a Navy Auxiliary Gasoline Tanker, welded steel construction, twin screw, diesel electric drive, expansion trunk type with long forecastle poop, straight raked stem, cruiser stern with machinery aft.

(b) The principal design characteristics of the AOG 51 U. S. S. *Maquoketa* are as follows:

LOA	310'9".
LBP	292'0".
Beam	48'7".
Depth	19'9".
Draft (designed)	15'0".
Liquid cargo:	
Gasoline—oil	15,865 bbls.
Lubricating oil	1,065 bbls.
Dry cargo (bale capacity)	19,310 cu. ft.
Dead-weight tons	2,265.
Built-weight tons	1,865.
Max. displacement tons	4,130.
SHP	3,700.
Type main prop. mach	Diesel electric.
Screws	Twin.
Speed, knots	14.

(c) The prices for the AOG 51 U. S. S. *Maquoketa* in "as in" condition are as follows:

Prewar domestic cost	Domestic war cost	Statutory sales price (87.5% prewar domestic cost)	Floor price (50% domestic war cost)
$966,549	$1,725,000	[1] $845,730	$862,500

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no tanker may be sold at less than 50 percent of the domestic war cost.

§ 299.109 *Type AOG 58 U. S. S. Pinnebog.* (a) (Not previously published.) The AOG 58 U. S. S. *Pinnebog* is described as a Navy Auxiliary Gasoline Tanker, welded steel construction, twin screw, diesel electric drive, expansion trunk type with long forecastle and poop, straight raked stem, cruiser stern with machinery aft.

(b) The principal design characteristics of the AOG 58 U. S. S. *Pinnebog* are as follows:

LOA	310'9".
LBP	292'0".
Beam	48'7"
Depth	19'9".
Draft (designed)	15'0".
Liquid cargo:	
Gasoline—oil	15,865 bbls.
Lubricating oil	1,065 bbls.
Dry cargo (bale capacity)	19,310 cu. ft.
Dead-weight tons	2,265.
Built-weight tons	1,865.
Max. displacement tons	4,130.
SHP	3,700.
Type main prop. mach	Diesel electric.
Screws	Twin.
Speed, knots	14.

(c) The prices for the AOG 58 U. S. S. *Pinnebog* in "as is" condition are as follows:

Prewar domestic cost	Domestic war cost	Statutory sales price (87.5% prewar domestic cost)	Floor price (50% domestic war cost)
$966,549	$1,725,000	[1] $845,730	$862,500

[1] Price inapplicable since under the terms of the Ship Sales Act of 1946 no tanker may be sold at less than 50 percent of the domestic war cost.

§ 299.110 *S. S. St. James.* (a) The S. S. *St. James* is a steel, twin screw tanker with machinery located aft.

(b) The principal design characteristics of the S. S. *St. James* are as follows:

Length between perpendiculars	416'0".
Beam molded	56'0".
Depth molded	35'0".
Deadweight tons	12,200 (approx.).
Gross tons	7,301.
Net tons	5,826.
Propulsion	Diesel.
Shaft h. p	2,400.
Speed, knots	10½.

(c) The prices for the S. S. *St. James* are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$1,653,500	$2,149,550	$1,446,812	$1,074,775

VICTORY

§ 299.115 *Type VC2 (Victory).* (a) The standard Victory cargo vessel is a steel, full scantling type vessel with a raked stem and cruiser stern. The quarters will accommodate eight passengers in four staterooms. Deep tanks are installed abreast of and up to the top of the shaft alley in No. 4 and No. 5 holds. The propelling machinery is located amidships.

(b) The VC2–S–AP2 is the standard Victory cargo vessel. The VC2–S–AP3 is a modified Victory cargo vessel with principal design characteristics basically similar to the standard design, except that the VC2–S–AP3 has 8500 horsepower turbine drive and a speed of 17 knots.

(c) In addition to the above standard and modified designs are the VC2–M–AP4 and the VC2–S–AP5. The VC2–M–AP4 is a modification of the VC2–S–AP2, being a 5,850 horsepower Diesel-propelled vessel having a speed of 15 knots and a deadweight of 10,180 tons. The VC2–S–AP5 is a Navy transport design and upon conversion to a cargo ship will have the same principal design characteristics as the VC–2–S–AP3.

(d) The price of the VC2–M–AP4 is subject to adjustments for desirable features in accordance with section 3 (d) (3) of the act.

(e) The principal design characteristics of the standard vessel and of the modified designs are listed below:

Design	Standard VC2-S-AP2 Full scantling	Modified VC2-S-AP3 Full scantling	Modified VC2-M-AP4 Full scantling
Length over-all	455' 3"	455' 3"	455' 3".
Beam molded	62' 0"	62' 0"	62' 0".
Depth molded	38' 0"	38' 0"	38' 0".
Load draft molded	28' 6"	28' 6"	28' 6".
Deadweight tons	10,800	10,800	10,180.
Gross tons	7,600	7,600	7,600.
Net tons	4,600	4,600	4,615.
Bale cubic capacity	453,000	453,000	452,385.
Propulsion	Turbine	Turbine	Diesel.
Shaft h. p., normal	6,000	8,500	5,850.
Speed, knots	15.3	17	15.
Passengers	[1] 8	[1] 8	[1] 8.
Staterooms	4	4	4.

[1] Passenger accommodations can be provided by suitable minor alterations.

(f) The prices of the VC2–S–AP2 and VC2–S–AP3 types are as follows:

	Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
VC2-S-AP2	$1,958,000	$2,511,877	$979,000	$879,157
VC2-S-AP3	2,130,000	2,872,659	1,065,000	1,005,431

MISCELLANEOUS

§ 299.116 *Miscellaneous.* The following types and prices are included for purposes of adjustment for prior sales to citizens in accordance with section 9 of the act. No vessels of these types are available for disposal.

NOTE: Prices for the C2–S–A1, C5–S–AX1, L6, R2–ST–AU1, and T3–S–BF1 types were published August 17, 1946, 11 F.R. 8972 et seq. Prices for the C2–S1–AJ4 combination cargo-passenger and the C3 and P & C types were published September 28, 1946, 11 F. R. 11076.

Type	Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
Dry cargo				
C2-S1-AJ4 combination cargo-passenger	$3,194,606	$3,993,258	$1,597,303	$1,397,640
C2-S-A1	2,275,000	2,964,676	1,137,500	1,037,637
C3 P&C	3,800,000	4,940,000	1,900,000	1,729,000
C5-S-AX1	3,460,000	4,508,914	1,730,000	1,578,120
L6	1,792,000	2,335,252	896,000	817,338
R2-ST-AU1	4,300,000	5,530,684	2,150,000	1,935,739
Tankers				
T3-S-BF1	1,789,500	2,244,925	1,565,812	1,122,463

§ 299.117 *Special C3 Type.*[1] (a) (Not previously published.) The C3–S–A4 and C3–S–A5 are determined to be Special C3 type vessels.

(b) The principal design characteristics for the C3–S–A4 and C3–S–A5 are listed below:

Length over-all	492'0".
Beam molded	69'6".
Depth molded	42'6".
Propulsion	Turbine.
SHP normal	8,500.
Speed, knots	16½.

(c) The principal features of the C3–S–A4 and C3–S–A5 are as follows:

Cargo holds dehumidified.
Cargo refrigeration.
Cargo oil handling (steam heat).
Special cargo and specie lockers.

(d) The above design characteristics and principal features are for identification purposes only.

(e) The prices of the C3–S–A4 and C3–S–A5 are as follows:

Estimated prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,110,000	$4,589,957	[1] $1,555,000	[1] $1,606,484

[1] The publication of these prices is for the purpose of adjustment of prior sale of the vessels under Section 9 of the Merchant Ship Sales Act of 1946 and said prices are subject to adjustment upward for minor betterments applicable to the individual vessels. The statutory sales price is inapplicable since under the provisions of said act no dry-cargo vessel, except a Liberty type, may be sold at less than 35 percent of the domestic war cost.

[1] For adjustment of prior sales; not available for disposal.

§ 299.118 *Type C3–S1–BR1.*[2] (a) The C3–S1–BR1 type is a combination cargo and passenger vessel with accommodations for 119 passengers.

(b) The prices of the standard type are as follows:

Prewar domestic cost	Domestic war cost	Statutory sales price	Floor price
$5,883,206	$7,354,007	$2,941,603	$2,573,903

§ 299.119 *Type S3–S2–BP1.* (a) The S3–S2–BP1 is a special twin screw cable ship with clipper bow contour and cruiser stern. It has four cable tanks. Principal design characteristics are as follows:

Length over-all	362'0".
Beam molded	47'0".
Depth molded	33'9".
Load draft molded	25'0".
Deadweight tons	4,330.
Gross tons	3,940.
Net tons	1,690.
Bale cubic capacity	49,642.
Propulsion	Recip. steam.
Shaft h. p., normal	4,000.
Speed, knots	14.
Passengers	0.
Staterooms	0.

[2] The revised and new prices as above set forth are published for purposes of adjustment for prior sales to citizens in accordance with section 9 of the act. No vessel of this type is available for disposal.

(b) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$3,440,000	$4,482,851	$1,720,000	$1,568,998

§ 299.120 *Types S4–SE2–BD1 and BE1.* (a) Both designs are steel, twin screw vessels with raked stem and cruiser stern.

(b) The S4–SE2–BD1 is a transport attack ship. The S4–SE2–BE1 is similar to the BD1, but is arranged as a cargo attack ship with troop accommodations. Principal design characteristics of both types are as follows:

	S4-SE2-BD1	S4-SE2-BE1
Length over-all	426' 0"	426' 0".
Beam molded	58' 0"	58' 0".
Depth molded	37' 0"	37' 0".
Load draft molded	15' 6"	16' 0".
Deadweight tons	2,660	2,994.
Gross tons		
Net tons		
Bale cubic capacity	95,320	116,410.
Propulsion	Turb.-elect.	Turb.-elect.
Shaft h. p., normal	6,000	6,000.
Speed, knots	17½	17½.
Passengers		
Staterooms		

(c) The prices for the two standard designs are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
[1] $2,750,000	$4,115,343	[1] $1,375,000	$1,440,370

[1] Prices are based on bare boat ship after removal of national defense features and without passenger accommodations or additional cargo handling gear. The unadjusted statutory sales price is inapplicable since under the terms of the Ship Sales Act of 1946 no dry cargo vessel, except a Liberty type vessel, may be sold at less than 35 percent of the domestic war cost.

§ 299.121 *Type P1–S2–L2.* (a) The P2–S2–L2 is a steel vessel with raked stem and transom stern. It is a passenger type vessel of special design converted to a Navy troop ship.

(b) Principal design characteristics are as follows:

Length over-all	414' 4".
Beam molded	56' 0".
Depth molded	34' 0".
Load draft molded	18' 0".
Deadweight tons	1,877.
Gross tons	
Net tons	
Bale cubic capacity	82,182.
Propulsion	Turbine.
Shaft h. p., normal	8,000.
Speed, knots	19.
Passengers	
Staterooms	

(c) The prices of the standard design are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
[1] $3,615,000	[1] $4,018,004	[1] $1,807,500	[1] $1,756,301

[1] Price based on bareboat ship after removal of national defense features and without passenger accommodations or additional cargo handling gear.

SUBPART G—FORMS

NOTE: Forms printed in the Code of Federal Regulations are for information only and do not follow the exact format prescribed by the issuing agency.

§ 299.125 *Application to purchase a war-built vessel.* The form of such application shall be substantially as follows:

APPLICATION TO PURCHASE WAR-BUILT VESSEL(S)

Filed by _____
a citizen of _____.

The undersigned hereby offers to purchase the war-built vessel(s) hereinafter described (herein called the "war-built vessel(s)") at the statutory sales price, in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "act"), and the rules and regulations prescribed by the Maritime Administration (or the United States Maritime Commission) (herein call the "Administration"), §§ 299.1 to 299.134, inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modification in the FEDERAL REGISTER.

In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

A. *As to the applicant: Its citizenship and affiliations*

1. Exact name.
2. Form or type of organization.
3. State or other sovereign power under the laws of which organized.
4. Address of principal executive offices and of important branch offices, if any.
5. A brief description of (a) the shipping business of the applicant; and (b) any other business activities of the applicant during the preceding eight years. If within such period the applicant has acquired the business of another person or has been reorganized, there should be included a brief description of such acquisition or reorganization.
6. A list of (a) all subsidiaries, (b) parent company, and (c) all other affiliated interests of the applicant, together with an indication of the nature and extent of the business transacted for the past eight years by each. This information may be furnished in the form of a chart, indicating clearly the relationships between the persons named, and the nature and extent of control.
7. The following information with respect to each officer and director of the applicant: name and address, office, nationality, capital shares owned.[1]
8. Applicant represents that he is a citizen of _____. If applicant claims United States citizenship, attach to the three originals of the application affidavits of United States citizenship in form prescribed by the Administration.

If applicant claims citizenship other than United States citizenship, there should be furnished an affidavit setting forth the facts upon which such claim is based.

In all cases the Administration reserves the right to require such additional information with regard to citizenship which may be necessary to determine the eligibility of applicant under the Act.

[1] If applicant has more than one class of stock, the information requested must be furnished for each class of stock.

B. *As to the management of the applicant*[2]

9. A brief description of the principal business activities during the past eight years of each director and each principal executive officer of the applicant, if requested.
10. The name and address of each other organization engaged in shipping activities with which any person named in answer to the preceding item has any present substantial business connection, the name of such person and, briefly, the nature of such connection, if requested.
11. The name and address of any person who is now acting or within the past eight years has acted as managing or operating agent of the applicant or in any similar capacity and, briefly, the general terms of any agreement with reference thereto, if requested.

C. *As to the war-built vessels*

12. Applicant offers to purchase, at the statutory sales price(s), as determined by the Administration, the war-built vessel(s) designated in items 13 and 14, or the alternative vessels designated in item 15.
13. If specific vessels are applied for, as distinguished from any one or more of a given type, the names of the vessels must be given under this item.
14. If applicant is willing to accept any one or more vessel(s) of a given type or designation, as distinguished from particular vessels, the type or designation of the vessels desired should be set forth as follows:

_____ vessel(s) of
Type _____
Administration's designation _____
_____
Particular characteristics _____
_____

15. If more than one vessel is applied for, state whether applicant will buy any one or more if all are not available for sale to him by placing an "X" or the appropriate number, as the case may be, in the proper space below. In the absence of any indication, it will be assumed that the applicant is willing to accept all or any of the vessels.

(a) All only ( ).
(b) All or any ( ).
(c) Any but not less than _____

Instead of indicating preference by the above table, applicant may designate vessel(s) which he would like to have substituted for those listed in items 12 and 13, if for any reason such vessel(s) cannot be sold to the applicant. Applicant may state as many as three alternative lists of vessels, provided it clearly indicates its order or preference with respect to them.[3]

D. *Terms and conditions of sales*

16. If the application is approved by the Administration, the applicant agrees to execute a contract of sale in form prescribed by the Administration. State what portion of the purchase price (not less than 25 percent of the statutory sales price)[4] applicant agrees to pay not later than upon delivery of the vessel.
17. Furnish full details as to the manner in which the applicant proposes to obtain the amount needed to defray the purchase price of the vessel(s) (that is, at least 25 percent of the purchase price). The applicant should also furnish full details of any proposed security issue, including names of underwriters.
18. If this application is approved by the Administration, state whether or not applicant intends to apply to the Administration, pursuant to section 9 or section 37 of the Shipping Act of 1916, for approval to transfer or place under foreign registry or flag the vessel(s) referred to above after applicant has purchased them.[5] If applicant intends to apply for such approval, state to what foreign registry or flag.
19. Does applicant propose to trade in old vessel(s) for an allowance of credit on the purchase price of a war-built vessel?[6] If so, is application contingent thereon? State date of application for determination for allowance of credit, if filed.

E. *Preference*

20. A statement showing the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome and other information in support of request for preference.

F. *Supplemental information*[7]

21. A brief description of the general character and location of the principal property of the applicant, other than vessels, employed in its business.
22. (a) A list of vessels owned by the applicant, including (1) name; (2) gross tonnage; (3) net tonnage; (4) deadweight tonnage; (5) bale capacities; (6) year built; (7) type; (8) speed; (9) registry; and (10) identification of route or service on which operated.

(b) Information similar to that specified in (a) as to any vessels chartered to and operated by the applicant.

23. Briefly, the general terms of each charter for operation (a) of vessels owned by the applicant and chartered by it to other persons, and (b) of vessels chartered by the applicant from other persons.
24. Full details concerning the services, routes, or lines on which vessels owned or chartered by the applicant are now operated, including ports of call, terminal and dock facilities at all such ports, frequency of sailings per year, description of services and voyages, and names of vessels segregated according to services, routes, or lines.
25. Type and kind of cargo now carried in the trade served as stated in the answer to item 24, information as to how the service or line may be developed for carrying additional types and kinds of cargo, and any factors influencing cargo expectations for the future. If the war-built vessel is to be a combination passenger and freight vessel, state also, by classes, the passenger accommodations and the number of passengers carried and any factors influencing traffic expectations for the future.
26. Information similar to that called for by the two preceding items with respect to any new service, route, or line which the applicant proposes presently to establish.
27. Identification of the service, route, or line described in answer to item 24 or item 26, on which the applicant propose to operate

[2] Answers to questions under B may be omitted by applicants not seeking mortgage aid.

[3] Alternative lists of vessels need not be given at the time the application is filed, but may be added later as an amendment to the application. However, the date of the amendment and not the date of the filing of the original application will be controlling in determining preferences, discussed in § 299.2 of the regulations, with respect to the vessel(s) added by the amendment.

[4] Any trade-in allowance approved by the Administration shall not be applied in reduction of the down payment of 25 percent of the statutory sales price as required by the Act, but shall be applied or credited on any unpaid balance remaining after applying the credit resulting from the down payment.

[5] See § 299.2 (e) of the regulations.

[6] See § 299.22 of the regulations.

[7] Questions under F are optional for applicants who are citizens of the United States unless such applicants request mortgage aid or request reconversion of the vessel(s) pursuant to § 299.7 of the regulations.

the war-built vessel, brief description of passenger accommodations, and statement of type and kind of cargo to be carried by the war-built vessel. Any special requirements of such service, route, or line and the manner in which they may be met by the use of the war-built vessel should be discussed briefly. Any changes in existing services, routes, or lines which the applicant proposes to make in connection with the use of the war-built vessel should also be indicated.

28. A statement as to whether or not the war-built vessel is to be used to replace a vessel now operated by the applicant and, if so, the name of such vessel and the proposed disposition to be made of it by the applicant.

G. *As to exhibits furnished*

29. A list of exhibits, properly identified, which shall include at the time of original filing, the following:

Exhibit I—A copy of the Certificate of Incorporation of the applicant or other organization papers, including all amendments thereto presently in effect.[8]

Exhibit II—A copy of the by-laws or other governing instruments of the applicant, including all amendments thereto presently in effect.[8]

Exhibit III—A copy of (1) balance sheet as of the end of a calendar month (except in instances where the fiscal year of the applicant ends on some other day) within not more than six months and not less than one month (except in instances where the applicant was established more recently) of the date of the filing of the application (or amendment thereto changing the type or number of vessels applied for) with the Commission; (2) a brief statement of the nature of any substantial changes in the financial conditions of the applicant or the results of its operations since the date of the balance sheet required hereunder, and (3) profit and loss statements for each year (or other accounting period) beginning with the fiscal year ended in 1939 and ending with the date of the balance sheet.

If during the period covered by such profit and loss statements, the applicant succeeded to the business and assets of another person, the statements furnished should reflect the operations of such predecessor or predecessors for that part of such period preceding the date of acquisition.[9]

Exhibit IV—A copy (specimen if available) of each form of bonds or notes included in the funded debt of the applicant and a copy of each indenture or other instrument under which such securities were issued, including all amendments thereto presently in effect.[9]

[CORPORATE SEAL] _____
(Name of applicant)

By _____
(President)

Attest:

_____
(Secretary)

_____
(Date)

§ 299.126 *Application for determination of allowance of credit for exchange of old vessel.* The form of such application shall be substantially as follows:

APPLICATION FOR DETERMINATION OF ALLOWANCE OF CREDIT ON PURCHASE PRICE OF VESSEL

For exchange of old vessel owned by _____ a citizen of _____.

The undersigned requests the Maritime Administration to determine the allowance of credit it will make on the purchase price of the vessel or vessels described in item 8 hereof (herein called the "Administration vessel(s)"), for title to the vessel or vessels described in item 3 hereof (herein called the "old vessel(s)"), in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "Act"), and the rules and regulations prescribed by the Maritime Administration (or the United States Maritime Commission) (herein called the "Administration"), §§ 299.1 to 299.207 inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modification in the FEDERAL REGISTER.

A. *General*

1. The applicant is a corporation duly organized and existing under the laws of the State of _____.

2. (a) The applicant is a citizen of _____[1]

(b) If applicant is a foreign corporation, state whether controlling interest is owned by a citizen or citizens of the United States and, if so, when was such controlling interest acquired.[2]

B. *Old vessel(s)*

3. (a) Number of old vessels to be turned in _____

(b) Aggregate deadweight tonnage	____	____	____
(c) Aggregate gross tonnage	____	____	____
(d) Name of old vessel(s) (including former names)	____	____	____
(e) Official numbers	____	____	____
(f) Date of delivery by shipbuilder	____	____	____
(g) Name of shipbuilder	____	____	____
(h) Place of construction[3]	____	____	____
(i) Original cost of construction	____	____	____
(j) Documented under laws of	____	____	____
(k) Date acquired by applicant[4]	____	____	____
(l) From whom acquired	____	____	____
(m) Cost to applicant	____	____	____
(n) If acquired at any time from the United States, give price paid United States, date and by whom acquired	____	____	____
(o) When reconstructed or reconditioned[5]	____	____	____
(p) Name and location of shipyard(s) performing work[5]	____	____	____
(q) Cost of such reconstruction or reconditioning[6]	____	____	____
(r) Detailed description of the nature of such reconstruction or reconditioning[5]	____	____	____
(s) Transcript of depreciation schedule filed with last federal income tax return			

4. If the old vessel(s) listed in item 3 is or has been subject to any agreement with the United States which contains a valua-

[8] Exhibits I and II need be attached to only two executed copies. If Exhibits I and II are not in the English language, formal translations thereof should also be furnished.

[9] Exhibits III and IV shall be prepared in accordance with the instructions and terms of the Administration's "General Financial Statement" (mentioned in § 299.1 (n) of the regulations) or shall be accompanied by statements correlating the data therein to the classification of accounts contained in said "General Financial Statement." Such exhibits must be in the English language.

[1] If the applicant is a citizen of the United States, insert "the United States within the meaning of section 2 of the Shipping Act, 1916, as amended, and section 905 (c) of the Merchant Marine Act, 1936, as amended, and agrees that if the Administration shall take favorable action upon this application, it will furnish promptly, but in any event prior to the acquisition by the Administration of the old vessel, proof satisfactory to the Administration of such citizenship." If the applicant is not a citizen of the United States, insert the name of the country of which applicant is a citizen.

[2] With respect to United States citizens who own the controlling interest in a foreign corporation, proof satisfactory to the Administration of such citizenship and such control will be required if the Administration takes favorable action on this application.

[3] If any vessel listed under Item 3 has been built in a foreign shipyard, state whether such vessel is presently entitled to the privilege of engaging in domestic trade and the date when such privilege was acquired.

[4] A. *Transfer to applicant.* If the vessels were acquired by the applicant otherwise than through cash payment in full therefor, or were acquired for cash, or otherwise, from a transferor in any way affiliated or associated with the applicant, full information shall be given with respect to the following: (1) From whom acquired; (2) terms of sale, cash or otherwise, to applicant; (3) cost, cash or otherwise, to affiliate or associate; (4) details of betterments (nature and cost) made by applicant, and such affiliate or associate; (5) details of any book appreciation and reasons therefore; (6) the affiliation or association, existing between the applicant and the transferor as of the time of the acquisition of the vessels by Applicant and as of the time of this application.

B. *Prior transfers.* If any prior owner of the vessels, other than the immediate transferor to the applicant, was at any time during the period of such ownership, or is, at the time of this application, in any way associated or affiliated with the applicant, full information shall be given with respect to each such prior ownership, as follows: (1) name of prior owner; (2) from whom acquired by such prior owner; (3) cost and other terms of sale, cash or otherwise, to such prior owner; (4) to whom transferred by such prior owner; (5) price and other terms of sale, cash or otherwise, to the transferor from such prior owner; (6) details of betterments (nature and cost) made by such prior owner; (7) details of any book appreciation made by such prior owner and reasons therefor; (8) the affiliation and association between such prior owner with the applicant and with the transferor to such prior owner, existing at the time of acquisition of the vessel by said prior owner and at the time of this application.

C. *Schedules.* The information required pursuant to items A and B above, should be furnished for each vessel in the form of schedules designated 3 (a), 3 (b), etc., and attached to this application.

[5] As to Items (o) to (r) inclusive, state separately, and in detail, as far as possible, work done by or for the account of the United States.

[6] This should be the last port of discharge within the continental limits of the United States on the route in which the vessel is to be operated, and the time of delivery should be approximately the date on which it is expected that the vessel(s) replacing such old vessel(s) will be delivered to the applicant. In no case will the physical delivery of the old vessel be postponed beyond the termination date of the voyage in progress at the time the vessel was delivered.

tion of the vessel(s) for purposes of just compensation, insurance value or other purposes, identify the agreement and list here the amounts specified.

5. There are attached hereto and made a part of this application, schedules designated 5 (a) to 5 (z), inclusive, with respect to each of the vessels listed in item 3 hereof, the following information with respect thereto: (Please repeat headings in filling out schedules).

(a) Type of vessel.
(b) Class.
(c) No. of propellers.
(d) Type of propulsion.
(e) No. of main engines and horsepower.
(f) Sustained sea speed at full load.
(g) Length O. A.
(h) Length B. P.
(i) Breadth.
(j) Depth.
(k) Draft loaded.
(l) Full load displacement, tons.
(m) Deadweight, tons.
(n) Lightweight, tons.
(o) Gross tonnage.
(p) Net tonnage.
(q) Bale cubic capacity.
(r) Number of complete decks.
(s) Number holds.
(t) Number of passengers by classes.
(u) Cubic feet of refrigerated space, with temperatures maintained.
(v) Date of last survey and docking.
(w) Estimated cost of repairs necessary to continue in class at this time.
(x) One copy of survey on redelivery of vessel by United States.
(y) Present employment and location of each vessel.
(z) If chartered, state to whom. If under charter to the United States, give date and number of charter party.

6. The date subsequent to the date of this application on which said vessel(s) will arrive at its final port of discharge within the continental limits of the United States or, if not in operation, its present location.

7. Applicant represents that, subject to agreement on the terms of exchange, the old vessel(s) listed in item 3 hereof will be delivered by applicant to the Administration at approximately the time and at ports within the continental limits of the United States as follows:

Name of vessel	*Approximate date of delivery to Administration*	*Place of delivery*
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except that applicant desires to retain for use the vessel(s) hereinafter listed in the service or services in which said vessel(s) are presently being operated and requests the Administration that said vessel(s) shall not be so delivered until the date(s) hereinafter set forth:

Name of vessel	*Date of proposed delivery to Administration*	*Place of delivery*[6]
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[6] This should be the last port of discharge within the continental limits of the United States on the route in which the vessel is to be operated, and the time of delivery should be approximately the date on which it is expected that the vessel(s) replacing such old vessel(s) will be delivered to the applicant. In no case will the physical delivery of the old vessel be postponed beyond the termination date of the voyage in progress at the time the vessel was delivered.

C. Administration vessel

8. The allowance which may be granted by the Administration upon acquisition of the old vessel(s) is to be credited against the purchase price of the following vessel(s):
(a) Number of vessel(s) to be purchased---------- ------
(b) Aggregate deadweight tonnage-- ------
(c) Aggregate gross tonnage-------- ------
(d) Name(s) or type designation(s)- ------
(e) Date of application to purchase- ------

9. Applicant understands and agrees that the old vessel(s) will be delivered to the Administration with warranty that the same are free and clear of all liens and encumbrances whatsoever, except that, in the discretion of the Administration, the vessel(s) may be accepted subject to liens and encumbrances covered by insurance on condition that insurance claims shall be assigned to the Administration. There are at this time no liens or encumbrances against any of said vessel(s), other than (a) maritime liens for crews' wages, supplies, and other ordinary expenses arising out of current operations, or (b) liens fully covered by insurance, except as follows:[7]

10. If the old vessel is owned by a foreign corporation, applicant understands and agrees that the Commission vessel purchased with the credit provided for by § 299.22 of the regulations shall be owned by the citizen or citizens of the United States having the controlling interest in the foreign corporation, and shall be documented under the laws of the United States. There is filed herewith, as an exhibit, the concurrence of such citizen, or citizens, in the application of the agreement to take title to the vessel and documentation under the laws of the United States.

11. The applicant submits the following additional information (annexed hereto as Schedules 11 (a) to 11 —, inclusive), for the use of the Administration in considering this application (including information which the applicant wishes to have considered in connection with the amount of credit to be allowed).

[CORPORATE SEAL] ----------
(Name of applicant)[8]
By: ----------
Attest:

(Secretary)

(Date)

§ 299.127 *Offer of applicant to exchange vessel for allowance of credit on a vessel.* The form of such offer shall be substantially as follows:

OFFER OF APPLICANT TO EXCHANGE VESSEL FOR ALLOWANCE OF CREDIT ON PURCHASE PRICE OF A VESSEL

----------a citizen of ----------.

The undersigned offers to exchange the ---------- (herein called the old vessel), for an allowance of credit on the purchase price of the vessel or vessels described in item B hereof (herein called the "Administration vessel(s)"), in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "act"), and the rules and regulations prescribed by the United States Maritime Commission (herein called the "Administration") §§ 299.1 to 299.207, inclusive, of General Order 60, published in the FEDERAL REGISTER ---------- (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this offer. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modification in the FEDERAL REGISTER.

A. As to the old vessel

1. Name.
2. Official number.
3. Amount of allowance of credit determined by the Administration as the fair and reasonable value of the vessel(s) listed in 1, and the date of such determination by the Administration.

Vessel	*Amount of allowance*	*Date of determination*
----------	----------	----------
----------	----------	----------
----------	----------	----------

Applicant warrants that the amount listed above is not more than any amount to which applicant is entitled under any other agreement with the United States covering subject vessel.

B. As to the Administration vessel

4. Name or other identification
5. Date of application to Administration to purchase

C. Firm offer binding for 90 days

6. The undersigned, being the owner of the old vessels, hereby makes a firm offer binding for 90 days from the date hereof to transfer the named vessel, or vessels, to the Administration in exchange for the allowance of credit specified in item A, and further agrees that if the vessel is lost for causes for which the United States is responsible, it will accept as full compensation for the loss of said vessel, the said amount.

D. Loss of vessel

7. If after this offer is filed with the Secretary, and prior to its acceptance, or prior to the acquisition of the vessel by the Administration, the vessel is lost by reason of causes for which the United States is responsible, applicant understands and agrees that, in lieu of receiving any amount on account of such loss, the offer shall be considered as having been accepted and the vessel as having been acquired by the Administration immediately prior to such loss. The applicant agrees with the Administration to full subrogation of its rights against its underwriters with respect to such loss. If vessel is lost, as provided above, applicant agrees to notify and direct its underwriters imme-

[7] There should be listed in the space provided for herein on schedules designated 9 (a), 9 (b), etc., a statement of all preferred ship mortgages, all other mortgages, all judgments, all libels, or other liens affecting any or all of the vessels listed in item 3 containing particulars as to the property covered by such mortgage, judgments, or other liens, the amount thereof, and the manner in which applicant proposes to dispose of them prior to the acquisition of said vessel(s) by the Administration. Also list deductibles and franchises under policies of insurance.

[8] This application should be executed in triplicate by an officer of the applicant specifically authorized to do so, and the three originals and fifteen conformed copies, including all the schedules, should be mailed or delivered to the Administration in an envelope or wrapping plainly marked "Application for determination of Allowance of Credit."

diately to pay all benefits to the Administration.

[CORPORATE SEAL] _____
(Name of applicant)[1][2][3]

By: _____

Attest:

_____
(Secretary)

_____
(Date)

§ 299.128 *Application to charter a war-built vessel for bareboat use.* The form of such application shall be substantially as follows:

APPLICATION TO CHARTER WAR-BUILT VESSEL(S)

Filed by _____ a citizen of _____.

The undersigned hereby offers to charter for bare-boat use the war-built dry cargo vessel(s) hereinafter described (herein called the "war-built vessel(s)"), in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946, (herein called the "act"), and the rules and regulations prescribed by the Maritime Administration (or the United States Maritime Commission) (herein called the "Administration"), §§ 299.1 to 299.207, inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modification in the FEDERAL REGISTER.

In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

A. *As to the applicant: its citizenship and affiliations*

1. Exact name.
2. Form or type of organization.
3. State or other sovereign power under the laws of which organized.
4. Address of principal executive offices, and of important branch offices, if any.
5. A brief description of (a) the shipping business of the applicant; and (b) any other business activities of the applicant during the preceding eight years. If within such period the applicant has acquired the business of another person or has been reorganized, there should be included a brief description of such acquisition or reorganization.
6. A list of (a) all subsidiaries, (b) parent company, and (c) all other affiliated interests of the applicant, together with an indication of the nature of the business transacted during the past eight years by each. This information may be furnished in the form of a chart, indicating clearly the relationships between the persons named, and the nature and extent of control.
7. The following information with respect to each officer and director of the applicant: name and address, office, nationality, capital shares owned.[1]
8. Applicant represents that he is a citizen of _____. If applicant claims United States citizenship, attach to the three originals of the applications, affidavits of United States citizenship in form prescribed by the Administration.

If applicant claims Philippine citizenship, there should be furnished an affidavit setting forth the facts upon which such claim is based.[2]

In all cases the Administration reserves the right to require such additional information with regard to citizenship which may be necessary to determine the eligibility of applicant under the act.

B. *As to the management of the applicant*

9. A brief description of the principal business activities during the past eight years of each director and each principal executive officer of the applicant, if requested.
10. The name and address of each other organization engaged in shipping activities with which any person named in answer to the preceding item has any present substantial business connection, the name of such person and, briefly, the nature of such connection, if requested.
11. The name and address of any person who is now acting or within the past eight years has acted as managing or operating agent of the applicant or in any similar capacity and, briefly, the general terms of any agreement with reference thereto, if requested.

C. *As to the war-built vessels*

12. Applicant offers to charter for bareboat use the war-built dry cargo vessel(s) designated in items 13 and 14, or the alternative vessels designated in item 15.
13. If specific vessels are applied for, as distinguished from any one or more of a given type, the names of the vessels must be given under this item.
14. If applicant is willing to accept any one or more vessel(s) of a given type or designation, as distinguished from particular vessels, the type or designation of the vessels desired should be set forth as follows:

_____ vessel(s) of
Type _____
Administration's designation _____
_____
Particular characteristics _____
_____
_____

15. If more than one vessel is applied for, state whether applicant will charter any one or more if all are not available for charter to him, by placing an "X" or the appropriate number, as the case may be, in the proper space below. In the absence of any indication, it will be assumed that the applicant is willing to accept all or any of the vessels.

(a) All only ( ).
(b) All or any ( ).
(c) Any but not less than _____.

Instead of indicating preference by the above table, applicant may designate vessel(s) which he would like to have substituted for those listed in items 12 and 13, if for any reason such vessel(s) cannot be chartered to the applicant. Applicant may state as many as three alternative lists of vessels, provided he clearly indicates his order of preference with respect to them.[3]

D. *Terms and conditions of charter*

16. If the application is approved by the Administration, the applicant agrees to execute a bareboat charter party agreement in such form as the Administration may prescribe.
17. (a) State the period for which applicant desires to charter the vessel.[4]

(b) State whether applicant contemplates sub-chartering the vessel(s) on bareboat form or on time form for periods of six months or more and if so, details of comtemplated subcharter.

E. *Preference*

18. A statement showing the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome.

F. *Supplemental Information*

19. A brief description of the general character and location of the principal property of the applicant, other than vessels, employed in its business.
20. A list of vessels owned by the applicant, including (a) name; (b) gross tonnage; (c) net tonnage; (d) deadweight tonnage; (e) bale capacities; (f) year built; (g) type; (h) speed; (i) registry; and (j) identification of route or service on which operated.
21. Information similar to that specified on item 20 as to any vessels chartered to and operated by the applicant.
22. Briefly, the general terms of each charter for operation (a) of vessels owned by the applicant and chartered by it to other persons, and (b) of vessels chartered by the applicant from other persons.
23. Full details concerning the services, routes, or lines on which vessels owned or chartered by the applicant are now operated, including ports of call, terminal and dock facilities at all such ports, frequency of sailings per year, description of services and voyages, and names of vessels segregated according to services, routes, or lines.
24. Type and kind of cargo now carried in the trade served as stated in the answer to item 23, information as to how the service or line may be developed for carrying additional types and kinds of cargo, and any factors influencing cargo expectations for the future. If the war-built vessel is to be a combination passenger and freight vessel, state also, by classes, the passenger accommodations and the number of passengers carried and any factors influencing traffic expectations for the future.
25. Information similar to that called for by the two preceding items with respect to any new service, route, or line which the applicant proposes presently to establish.
26. Identification of the service, route, or line described in answer to item 23 or item 25, on which the applicant proposes to operate the war-built vessel, brief description of passenger accommodations, and statement of type and kind of cargo to be carried by the war-built vessel. Any special requirements of such service, route, or line and the manner in which they may be met by the use of the war-built vessel should be discussed briefly. Any changes in existing services, routes, or lines which the applicant proposes to make in connection with the use of the war-built vessel should also be indicated.

---

[1] This application should be executed in triplicate by an officer of the applicant specifically authorized to do so, and the three originals and fifteen conformed copies, including all the schedules, should be mailed or delivered to the Administration in an envelope or wrapping plainly marked "Offer to exchange vessel for Allowance of Credit."

[2] This offer must be executed and returned by the applicant to the Administration within 15 days from the date of receipt of this form.

[3] The offer of exchange of vessels under this provision may only be made prior to December 31, 1946.

[1] If applicant has more than one class of stock, the information requested must be furnished for each class of stock.

[2] Application to charter by Philippine citizens can be considered only if filed with the United States Maritime Commission prior to July 4, 1946. Philippine citizens should state whether they intend to operate under American or Philippine flag.

[3] Alternative lists of vessels need not be given at the time the application is filed, but may be added later as an amendment to the application. However, the date of the amendment and not the date of the filing of the original application will be controlling in determining preferences, discussed in § 299.2 of the regulations, with respect to the vessel(s) added by the amendment.

[4] See § 299.31 (e) of regulations.

27. A statement as to whether or not the war-built vessel is to be used to replace a vessel now operated by the applicant and, if so, the name of such vessel and the proposed disposition to be made of it by the applicant.

G. *As to exhibits furnished*

28. A list of exhibits, properly identified, which shall include at the time of original filing, the following:

Exhibit I—A copy of the certificate of incorporation of the applicant or other organization papers, including all amendments thereto presently in effect.[5]

Exhibit II—A copy of the by-laws or other governing instruments of the applicant, including all amendments thereto presently in effect.[5]

Exhibit III—A copy of (1) a balance sheet as of the end of a calendar month (except in instances where the fiscal year of the applicant ends on some other day) within not more than six months and not less than one month (except in instances where the applicant was established more recently) of the date of the filing of the application (or amendment thereto changing the type or number of the vessels applied for) with the Administration, (2) a brief statement of the nature of any substantial changes in the financial condition of the applicant, or the results of its operations since the date of the balance sheet required hereunder, and (3) profit and loss statements for each year (or other accounting period) beginning with the fiscal year ended in 1939 and ending with the date of the balance sheet.

If during the period covered by such profit and loss statements, the applicant succeeded to the business and assets of another person, the statements furnished should reflect the operations of such predecessor or predecessors for that part of such period preceding the date of acquisition.

[CORPORATE SEAL] _____
(Name of applicant)
By _____
(President)

Attest:
_____
(Secretary)
_____
(Date)

§ 299.129 *Supplemental application to bareboat charter government-owned, war-built, dry-cargo vessel(s) under section 5 (e) of the Merchant Ship Sales Act of 1946, as amended by Public Law 591, 81st Congress.* The form of such supplemental application shall be substantially as follows:

U. S. DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION

SUPPLEMENTAL APPLICATION TO BAREBOAT CHARTER GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSEL (S) UNDER SECTION 5 (E) OF THE MERCHANT SHIP SALES ACT OF 1946, AS AMENDED BY PUBLIC LAW 591, 81ST CONGRESS

The Applicant _____, a citizen of the United States, hereby applies under section 5 (e) of the Merchant Ship Sales Act of 1946, as amended by Public Law 591, 81st Congress, for the bareboat charter of Government-owned, war-built, dry-cargo vessel(s) for employment in the service or services as described below:

1. Indicate any material changes in application submitted in compliance with § 299.31, General Order No. 60.

_____

2. State service in which chartered vessel is proposed to be operated.

(a) If service is to and from specific ports, name each port.

_____

(b) If to and from ranges, clearly identify ranges (i. e., U. S. North of Hatteras/Havre-Hamburg).

_____

_____

3. Indicate names, types and flag of vessels presently operated by applicant in such service and average frequency of sailings, i. e., weekly, fortnightly, monthly, etc.

_____

_____

4. Indicate whether vessels in 3 are owned by applicant or chartered (if chartered, for what period and name of owner).

_____

_____

5. Names of other U. S. flag operators who serve all or any substantial portion of the service in which the proposed vessel is to be operated.

_____

_____

6. Indicate for each vessel presently operated by applicant in such service for six months preceding the date of this application, the following information:

(a) Amount (if any) of remaining usable bale cubic and deadweight capacity available for cargo on departure last U. S. A. port, and date of sailing.

(b) Same as (a) on departure last foreign port.

Computation should be consistent with data filed on M. A. Forms 7801 and 7802.

_____

_____

7. Indicate whether applicant is now chartering any of its owned vessels to others. If so, indicate names and types of vessels, companies to whom chartered, and service(s) in which such vessels are operating, form of charter, rate of charter hire, and expiration date of charters.

_____

_____

8. Indicate by brief description other services which applicant operates.

_____

_____

9. Number and type of vessel(s) desired.

_____

10. If specific vessels are applied for, indicate the name of such vessels in the order of preference.

_____

_____

11. State any special reasons for applying for charter, i. e., clean up of strike or similar backlog, loss of vessel, cancellation of private charter, etc.

_____

_____

12. If need for vessel is principally for normal increase in cargo offerings, indicate approximate amount of cargo in measurement tons which applicant has been unable to move in a given period immediately preceding and up to the time of the filing of this application. In addition, state, if known, whether other U. S. operators in the same general services are similarly situated in respect to cargo offerings.

_____

_____

13. State period applicant desires to charter the vessel(s), and date and place of desired delivery.

_____

_____

14. State what effort has been made to charter suitable privately-owned vessel(s) and the results thereof, including reasons for rejecting any ships offered to applicant from private sources.

_____

_____

15. If applicant presently holds an operating differential subsidy agreement on the route herein involved, state whether applicant will apply for payment of operating differential subsidy on the vessel(s) applied for.

_____

_____

16. State any other facts on which, in the opinion of the applicant, the present application may be supported.

_____

_____

NOTE: (1) If hearing on this application is scheduled before the Federal Maritime Board, the applicant will be called upon to show

(a) The service is required in the public interest;

(b) Such service is not adequately served;

(c) Privately owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

(2) If the Maritime Administration does not recommend or the Federal Maritime Board does not authorize a public hearing on this application, it will not be made available to the public. If a public hearing is authorized, it will be made available to interested parties.

The applicant hereby certifies that the foregoing information is full, complete, accurate, and true.

_____
Name of applicant
By _____
Authorized official

[CORPORATE SEAL]
Attest:
_____
_____
Date

Subscribed and sworn to before me by _____, a duly authorized official of applicant this _____ day of _____, 195____.

_____,
Notary Public.

§ 299.130 *Uniform bareboat charter of a war-built dry-cargo vessel under the Merchant Ship Sales Act of 1946, "Shipsalesdemise 303".* The bareboat charter of a war-built dry-cargo vessel shall be substantially as follows:

Form No. 303 Contract No. _____
Shipsalesdemise
(1956 1st Amendment)

UNITED STATES MARITIME ADMINISTRATION

BAREBOAT CHARTER AGREEMENT OF WAR-BUILT DRY-CARGO VESSELS

This charter party agreement (hereinafter called the "Agreement") dated as of _____, 19__, between the United States of America, acting by and through the Department of Commerce (Maritime Administration) (hereinafter called the "Owner") and _____ (hereinafter called the "Charterer"), whose address is _____,

Witnesseth:

PART I

CLAUSE A. *Uniform terms.* This Agreement consists of two parts, this Part I and Part II. Unless otherwise in this Part I expressly provided, all of the provisions of said Part II shall be a part of this Agreement as though fully set forth in this Part I. In the event of a conflict between the provisions of Parts I and II, the provisions of Part I shall govern to the extent of such conflict.

CLAUSE B. *Agreement of the parties.* The Owner hereby agrees to let, and the Charterer agrees to hire, the Vessel or Vessels listed in Clause C, Part I, or as may be included under this Agreement by addenda hereafter executed, for the carriage of lawful merchandise during the period, and upon the terms and conditions hereinafter set forth.

CLAUSE C. (1) *Vessels chartered and other details.* The Vessel or Vessels to which this

[5] Exhibits I and II need be attached to only two executed copies.

Agreement relates and the respective ports or places of delivery (if known) at which the Vessel(s) shall be delivered by the Owner to the Charterer are as follows or as may be included hereunder by addenda hereafter executed:

Name of vessel	Type	Place of delivery	Charter hire per calendar month*

*Determined by the Owner to be not less than the prevailing world market charter rate for similar vessels for similar use.

The term "Vessels" as used in the plural in either Part I or Part II of this Agreement also refers to any single Vessel, whenever appropriate, and similarly the term "Vessel" as used in the singular refers to all Vessels within the Agreement whenever appropriate.

(2) *Period of vessel's use.* Subject to termination as provided in this Clause and in Clause 14, Part II, the Vessels covered by this Agreement are chartered for _____. *Provided*, That in event the period of Vessel's use hereunder extends beyond one year, this Agreement shall be subject to review by the Federal Maritime Board (as provided in section 5 (e) (1), Merchant Ship Sales Act of 1946, as amended) for the purpose of determining whether then existing conditions justify its continuance: *And provided further*, That whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President, or after a declaration of war or of national emergency made by Congress, the Owner may terminate this Agreement without cost to the United States, upon such notice to the Charterer as the President or Congress shall determine.

CLAUSE D. *Operating limits and service.* The vessel shall be operated only in _____.

CLAUSE E. *Rate of charter hire.* Unless otherwise specially agreed, charter hire shall be paid at the rate appearing opposite the name of each Vessel listed in Clause C (1) and such addenda as may be executed.

CLAUSE F. *Amount of insurance.* The Charterer shall at all times during the period of the Vessel's use under this Agreement carry and maintain on each Vessel policies of insurance in the manner and form prescribed in Clause 16, Part II, in minimum amounts as follows:

Marine hull and machinery_____ $_____
War risk hull and machinery__ _____
Marine P & I (per GRT)_____ _____
War risk P & I (per GRT)_____ _____
Marine excess, general average, salvage, and collision liability_ _____
War risk excess, general average, salvage, and collision liability__ _____

together with such additional amounts of P & I and excess liability insurance as the Owner may require from time to time.

The insertion of the amount of Marine and War Risk Hull and Machinery insurance shall be for the purpose of (a) fixing the minimum amount for the placing of insurance as prescribed in Clause 16, Part II, and (b) constituting the replacement or total loss value of the Vessel as between the Charterer and the Owner, but for no other purpose. The Charterer shall also at all times during the period of the Vessel's use under this Agreement carry and maintain such crew insurance as is required by the Charterer's current bargaining agreements.

CLAUSE G. *Amount of bond.* The Charterer, at or before delivery of each Vessel under this Agreement, shall furnish the Owner with a bond in the amount of $_____ for each Vessel, in the manner prescribed in Clause 21, Part II of this Agreement.

CLAUSE H. *Special provisions.* (1) Notwithstanding the definition of "capital necessarily employed" in Clause 23 of Part II hereof, such "capital necessarily employed" shall in no event be deemed to be in excess of the greater of (a) the working capital requirements, or (b) the net worth requirements determined in the manner provided in the succeeding subparagraph of this clause.

(2) For the purposes of paragraph (a) of Clause 29, Part II, the minimum financial requirements shall be those prescribed in § 299.31 of United States Maritime Commission's General Order No. 60, Supplement 2, as adopted by its successor, the Maritime Administration, and amended from time to time—with the following modifications:

(a) The working capital requirements prescribed in paragraph (a) (2) (i) of said § 299.31 shall be reduced so as to include prepaid insurance for a period of six months rather than for a period of one year; and

(b) The net worth requirements prescribed in paragraph (a) (2) (ii) of said § 299.31 shall be reduced so as to include clause 12 charter hire for a period of six months rather than for a period of one year; and

(c) The minimum financial requirements, as modified in subparagraphs (a) and (b) of this paragraph, shall be further reduced for Vessels in excess of five, as follows:

	Percent
Sixth to tenth vessel, inclusive_____	25
Eleventh to fifteenth vessel, inclusive_	50
All over fifteen vessels_____	75

In witness whereof, this Agreement has been executed in triplicate by the Owner on the _____ day of _____, 19__, and by the Charterer on the ____ day of _____, 19__.

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE
(MARITIME ADMINISTRATION)

By: _____
_____
By: _____

[CORPORATE SEAL]

Attest:

_____
(Secretary)

Form No. 303
Shipsalesdemise
(Rev. 1956)

PART II

CLAUSE 1. *Condition of vessel(s) on delivery.* The Vessel on her delivery shall be in Class A–1 American Bureau of Shipping or equivalent, with all required certificates, including but not limited to marine inspection certificates of the Coast Guard, Treasury Department, and so far as due diligence can make her so, tight, staunch, strong and well and sufficiently tackled, appareled, furnished and equipped, and in every respect seaworthy and in good running condition and repair, with clean swept holds and in all respects fit for service.

CLAUSE 2. *Surveys.* (a) The Vessels shall be jointly surveyed before delivery and before redelivery under this Agreement to determine and state the condition of the Vessels. Such surveys shall include drydocking to determine and state the condition of the underwater parts, unless, at Owner's option, the drydocking in connection with delivery is postponed, in which event the cost and time (including vessel expenses) of any damage to underwater parts found either upon redelivery or during the period of the Vessel's use under this Agreement shall be for Owner's account unless such damage is established, from the basis of all evidence, to have occurred during the period of the Vessel's use under this Agreement. The cost and time of such delivery survey shall be for the account of the Owner, and similarly the cost and time of such redelivery survey shall be for the account of the Charterer. Each party shall bear the cost of surveyors appointed by it in connection with both delivery and redelivery surveys.

(b) Subject to the foregoing provisions as to underwater parts in the event drydocking is postponed, and except as to items sighted prior to delivery and noted on the delivery survey report as defective, which shall be for the Owner's account, including cost and time (inclusive of vessel expenses), the delivery of the Vessel by the Owner and the acceptance thereof by the Charterer shall constitute full performance by the Owner of all the Owner's obligations under Clause 1 with respect to such Vessel, and thereafter the Charterer shall not be entitled to make or assert any claim against the Owner on account of any agreements, representations or warranties, expressed or implied, with respect to the condition of the Vessel; provided, however, that the Owner shall nevertheless be responsible for the cost and time (exclusive of vessel expenses) of repairs or renewals occasioned by latent defects in the Vessel, its machinery or appurtenances or defects due to locked in stresses in the Vessel existing at the time of delivery, not recoverable under the terms and conditions of the American Hull form of policy (American Institute Time (Hulls) December 1955) containing no deductible average clause.

CLAUSE 3. *Determination of class.* For the purpose of this Agreement a Vessel chartered hereunder shall be deemed to be in class, whether or not any requirements or recommendations of the Classification Society are outstanding at the time of delivery or redelivery, as the case may be, unless the time limit for the accomplishment of any such requirements or recommendations, including any extension or period of grace allowed, shall have expired.

CLAUSE 4. *Inventory.* A complete inventory of each Vessel's entire outfit, equipment, furniture, furnishings, appliances, spare and replacement parts and of all unbroached consumable stores, subsistence stores, slop chest, containers, and bunker fuel shall be jointly taken and mutually agreed upon as to items and quantities, at the time of delivery, by representatives of the Charterer and the Owner. The parties may agree, however, to accept any suitable prior inventory which may have been taken before the delivery of the Vessel under this Agreement. Such delivery inventory of consumable and subsistence stores, slop chest, containers, and bunker fuel shall be priced by the Charterer at the current market price prevailing at the port and time of delivery. At redelivery a complete inventory of each Vessel's entire outfit, equipment, furniture, furnishings, appliances and spare and replacement parts shall, also, be jointly taken and mutually agreed upon as to items and quantities by representatives of the Charterer and the Owner. In addition, a complete inventory of all broached and unbroached consumable stores, subsistence stores, slop chest, containers, and bunker fuel shall be taken by the Charterer immediately prior to redelivery. Such inventory shall be priced by the Charterer at the current market price prevailing at the port and time of performance of Charterer's redelivery obligations, and the Owner shall be furnished with three certified copies of such inventory, together with an affidavit certifying as to its correctness.

CLAUSE 5. *Consumable stores and fuel.* The Charterer shall accept and pay for any unbroached consumable stores, subsistence stores, slop chest, returnable containers, and bunker fuel on board or furnished by the Owner at the time of delivery at the market prices current at the time and place of repairs and outfitting. The Owner shall have no obligation upon redelivery to accept or pay

for consumable stores (either broached or unbroached), subsistence stores, slop chest, or returnable containers, and shall accept and pay for bunker fuel only in such minimum amounts as the Owner may determine. (Bunkers accepted by the Owner shall be paid for at the current market price prevailing at the port and time of redelivery, or, in event of redelivery at a Reserve Fleet site, at the current market price at the port and time of redelivery repairs). Prior to redelivery, such items shall be removed from the Vessels by the Charterer in accordance with the provisions of NSA Order No. 64, as revised from time to time, and the fair and reasonable cost of such removal shall be charged in the Vessel's voyage accounts for the last voyage prior to redelivery. With respect to the aforesaid items, there shall be taken into account in the determination of additional charter hire, in accordance with Clause 13, Part II, of this Agreement, (a) the current market value thereof at the port and time of redelivery, in the event redelivery is effected at a redelivery port, or, in the event redelivery is effected at a Reserve Fleet Site, the current market value at the port and time of redelivery repairs, or (b) the net proceeds from the disposition thereof, in the event the Charterer elects to dispose of the removed goods and notifies the Owner of such intention prior to redelivery. The manner of, time of, and determination of net proceeds from such disposition of the items shall be subject to approval of the Owner.

CLAUSE 6. *Use of equipment.* The Charterer shall have the use of all outfit, equipment, furniture, furnishings, appliances, spare and replacement parts on board the Vessel at the time of delivery under this Agreement without extra cost and the same shall be returned to the Owner upon redelivery in good order and condition. Any such items damaged or so worn in service as to be unfit for use or lost or destroyed shall be replaced or made good by the Charterer in kind at or before redelivery, or at Owner's option, the Charterer shall pay for said items at the current market prices at the port and time of performance of Charterer's redelivery obligations, based upon the condition of the items at the time of delivery. The Owner shall have a right, but not an obligation, to accept any overages on the Vessel at redelivery. Any overages accepted by the Owner shall be paid for at the current market prices at the port and time of performance of Charterer's redelivery obligations, based upon the condition of the items at the time of redelivery. Overage and shortage statements shall be prepared and priced by the Charterer, subject to review and adjustment by the Owner.

CLAUSE 7. *Maintenance.* The Charterer, except as otherwise provided in Clause 2 (a) and 2 (b), shall, at its own expense, maintain the Vessels, their machinery, boilers, appurtenances, and spare parts during the period of the Vessel's use under this Agreement in good state of repair and in efficient operating condition and in accordance with good commercial maintenance practices and shall keep the Vessels in such condition as will entitle the Owner at all times to all required certificates, including, without limitation, the highest classification and rating for vessels of the same age and type in the American Bureau of Shipping and with unexpired marine inspection certificates of the Coast Guard, Treasury Department.

CLAUSE 8. *Drydocking.* The Charterer shall drydock the Vessels and clean and paint their underwater parts, when necessary, but not less than once in about every nine (9) months from date of delivery. The Charterer shall give the Owner reasonable notice of the time and place of drydocking and if practicable fifteen (15) days in advance thereof and afford the Owner an opportunity to inspect the Vessels while drydocked. The Charterer shall also promptly notify the Owner sufficiently in advance to enable its representative to be present at repairs or surveys of the Vessels, and shall furnish the Owner with copies of reports made pursuant to such surveys.

CLAUSE 9. *Inspections.* The Owner shall have the right at any time, without notice, to inspect or survey the Vessels at its own expense, to ascertain their condition and to satisfy itself that the Vessels are being properly repaired and maintained in accordance with good commercial maintenance practices, but such inspection shall be held at such time and in such manner as to not interfere with Vessel's schedule. The Charterer shall make all such repairs, at its own expense, as such inspection or survey may show to be required in compliance with the Charterer's obligations under this Agreement. The Charterer shall also permit the Owner to inspect the Vessel's logs whenever requested, and shall furnish the Owner upon request with full information regarding any casualties or other accidents or damage to the Vessels.

CLAUSE 10. *Charterer to man, etc.* During the period of this Agreement, the Charterer shall, at its own expense, and by its own procurement, man, victual, navigate, operate, supply, fuel, and, except as otherwise expressly provided in Clause 2 (a) and 2 (b) of this Agreement, repair the Vessels and pay all charges and expenses of every kind and nature whatsoever incident to the use and operation of the Vessels under this Agreement. The Owner reserves the right to require the removal of the Master or the Chief Engineer if it shall have reason to be dissatisfied with their conduct or if it considers their employment to be prejudicial to the interests of the United States. Except as otherwise expressly provided in this Clause and Clause 25 of this Agreement, the Charterer and not the Owner shall have exclusive possession, control and command of the Vessels during the entire period of use under this Agreement.

CLAUSE 11. *Structural changes.* The Charterer shall make no structural changes in the Vessel and shall make no changes in the machinery, boilers, appurtenances or spare parts thereof without in each instance first securing the written approval of the Owner.

CLAUSE 12. *Charter hire.* In order for the charter hire to be consistent with the policies of the Merchant Ship Sales Act of 1946, as amended, as required by paragraph (b) of section 5 of said act and in order to protect the public interest in respect of this Agreement and protect privately owned vessels against competition from the chartered Vessel, as required by paragraph (e) of section 5 of said act, the parties mutually agree that, pursuant to said paragraphs (b) and (e) of said section 5, the Charterer shall pay to the Owner charter hire at the monthly rate provided for in Part I hereof from the day and hour of delivery of the Vessel, unless otherwise specifically provided, until and including the day and hour of redelivery to the Owner pursuant to the terms of this Agreement; or if the Vessel shall be lost, hire shall continue until the time of her loss, if known, or if the time of loss be uncertain then up to and including the time last heard from. Payment of such charter hire shall be made to the Owner at Washington, D. C., on delivery of the Vessel for the remainder of the calendar month in which delivery is made, and thereafter monthly in advance on the first day of each month.

CLAUSE 13. *Statutory additional charter hire.* The parties mutually agree that, in addition to the charter hire required under Clause 12, Part II, of the Agreement, as amended, the Charterer shall pay over to the Owner such statutory additional charter hire as may be required by the provisions of section 709 of the Merchant Marine Act, 1936, as amended. The time of payment shall be as provided by regulations of the Owner.

CLAUSE 14. *Termination.* Either the Owner or the Charterer may terminate the period of use of any of the Vessels by giving written notice to the other party at least fifteen (15) days prior to the termination of any voyage hereunder, in which event the Vessel shall be redelivered pursuant to the terms of this Agreement, upon termination of the voyage during which such notice is given.

CLAUSE 15. *Redelivery of vessel(s)*—(a) *Port or place of redelivery.* The port of redelivery shall be the port of delivery or such other port as may be mutually agreed.

(b) *Redelivery conditions.* Each Vessel, unless lost, shall be redelivered to the Owner, pursuant to the terms of this Agreement, in the same good order and condition as that in which she was delivered, unless the lack of good order and condition is due solely to ordinary wear and tear, and with valid classification and Coast Guard certificates, whether or not classification or Coast Guard repairs are due wholly or in part to ordinary wear and tear. At the redelivery survey provided for in Clause 2, surveyors appointed by the Charterer and surveyors appointed by the Owner, shall be present, who shall determine and state the repairs or work necessary to place each Vessel on the date of redelivery in the condition and class required under this Clause, which findings shall include all repairs and work required to be performed at the time of redelivery by the Classification Society and all other regulatory bodies, and all repairs and work which are necessary to place each Vessel on the date of redelivery in the good order and condition required by this Clause. The Charterer, before redelivery, shall make all such repairs and do all such work so found to be necessary at its expense and time, or at Owner's option, the Charterer shall, on Owner's request, discharge such obligation by payment to the Owner of an amount sufficient to place each Vessel in such class, order and condition and to provide for the foregoing work and repairs at the prices current at the time of redelivery, which amount shall also include compensation at the rate of clause 12 charter hire payable under this Agreement for the time reasonably required under then existing conditions to complete such work or repairs and compensation for all other expenses (including insurance) reasonably required incident to such work or repairs. In the event the Owner exercises this option, the Charter's redelivery repair obligations shall be limited to the amount of Marine Hull and Machinery insurance required by the provisions of Part I hereof. The Charterer shall not be required to make any repairs which were for Owner's account under Clause 2 of this Agreement, but if such repairs were made after delivery under this Agreement and paid for by the Owner, they shall be considered as having been made at the time of delivery for the purpose of determining the Charterer's obligations under this Clause 15.

(c) *Disputes.* Should any dispute arise between the Owner and the Charterer with respect to responsibility for repairs, renewals, replacements, or condition of the Vessel(s), at the time of redelivery, the Charterer shall, without prejudice to its contentions, make and pay for such disputed repairs, renewals, or replacements, or any part thereof, before redelivery, and may recover the cost from the Owner, together with vessel expenses and charter hire during the period required for the performance of such work over and above the time required to perform the Charterer's redelivery repairs, in event Owner's liability therefor is established.

CLAUSE 16. *Insurance.* (a) The Charterer shall at all times during the period of the Vessel's use under this Agreement, carry and maintain on the Vessel policies of insurance covering all marine and war risk hull and marine and war risk protection and indemnity risks, and all other hazards and liabilities in the amounts set out in Part I hereof, in such form and with such insurance com-

panies, underwriters or funds as the Owner shall require and approve. All insurance required under the terms of this Agreement to be carried by the Charterer shall include the United States of America as an assured, without recourse against the United States for payment of premiums, or for assessments under any mutual form of policy. The underwriters shall have full rights of subrogation against the United States of America to the extent of any loss paid for which any assured other than the United States of America could bring suit against the United States of America, under the Suits in Admiralty, Public Vessels or Tucker Acts to recover for such loss, and notwithstanding the fact that the United States of America may be named as an assured and as payee in the policy, such loss shall be considered to have been paid to and sustained by any assured other than the United States of America, in the first instance.

(b) All losses under the policies of insurance carried on the Vessel, except those payable under crew insurance policies, shall be made payable to the Owner for distribution by it to itself and the Charterer as their interests may appear, provided, however, that in the absence of specific instructions to the contrary, P & I insurance claims in amounts not exceeding $10,000 may be payable directly to the Charterer. Charterer shall at Charterer's expense keep the Vessel entered in the Marine Index Bureau, Inc. The originals of all cover notes or binders and policies, except those for crew insurance, shall be delivered promptly to the Owner for its custody and approval.

(c) In the event that any of the insurance hereinbefore provided for shall not, by reason of any act, omission, or negligence of the Charterer, be kept in full force and effect, or for any reason, including but without limitation the existence of any deductible average, franchise provisions, or other exclusion contained therein, but excluding insolvency of the underwriters, does not cover in full all losses, damages, claims or demands, the Charterer shall indemnify and hold harmless and defend the Owner against all such losses, claims, and demands.

(d) No tender of abandonment as a constructive total loss shall be made without the prior approval of the Owner, *Provided, however,* That in the event the Owner refuses to approve such tender or fails to act thereon within twenty (20) days after receipt of Charterer's request, then charter hire shall cease as of the date of such refusal or at the expiration of such twenty (20) day period, as the case may be, and provided further that charter hire shall cease only in the event that, but for the refusal of the Owner to agree to tender of abandonment, the amount which would have been recoverable from the hull insurance underwriters would have equalled or exceeded the amount set forth in Part I hereof.

CLAUSE 17. *Bills of lading or voyage charters.* All bills of lading or voyage charters issued under this Agreement shall contain directly or by reference substantially the following clauses:

(i) *Clause paramount:*

"This bill of lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of United States, approved April 16, 1936, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this bill of lading be repugnant to said Act to any extent, such term shall be void to that extent but no further."

(ii) *General average clause:*

"General Average shall be adjusted, stated, and settled, according to York-Antwerp Rules, 1950, exclusive of Rule 22, at such port or place in the United States as may be selected by the carrier, and as to matters not provided for by these Rules, according to the laws and usages at the port of New York. In such adjustment, disbursements in foreign currencies shall be exchanged into United States money at the rate prevailing on the dates made and allowances for damage to cargo claimed in foreign currency shall be converted at the rate prevailing on the last day of discharge at the port or place of final discharge of such damaged cargo from the ship. Average agreement or bond and such additional security, as may be required by the carrier, must be furnished before delivery of the goods. Such cash deposit as the carrier or his agents may deem sufficient as additional security for the contribution of the goods and for any salvage and special charges thereon, shall, if required, be made by the goods, shippers, consignees, or owners of the goods to the carrier before delivery. Such deposit shall, at the option of the carrier, be payable in United States money, and be remitted to the adjuster. When so remitted the deposit shall be held in a special account at the place of adjustment in the name of the adjuster pending settlement of the general average and refunds or credit balances, if any, shall be paid in United States money."

(iii) *Amended "Jason" clause:*

"In the event of accident, danger, damage, or disaster before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the carrier is not responsible by statute, contract, or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if the salving ship or ships belong to strangers."

(iv) *Liberties clauses:*

"In any situation whatsoever and wheresoever occurring and whether existing or anticipated before commencement of or during the voyage, which in the judgment of the carrier or master is likely to give rise to risk of capture, seizure, detention, damages, delay or disadvantage to or loss of the ship or any part of her cargo, or to make it unsafe, imprudent, or unlawful for any reason to commence or proceed on or continue the voyage or to enter or discharge the goods at the port of discharge, or to give rise to delay or difficulty in arriving, discharging at or leaving the port of discharge or the usual place of discharge in such port, the carrier may before loading or before the commencement of the voyage, require the shipper or other person entitled thereto to take delivery of the goods at port of shipment and upon their failure to do so, may warehouse the goods at the risk and expense of the goods; or the carrier or master, whether or not proceeding toward or entering or attempting to enter the port of discharge or reaching or attempting to reach the usual place of discharge therein or attempting to discharge the goods there, may discharge the goods into depot, lazarette, craft or other place; or the ship may proceed or return, directly or indirectly, to or stop at any such port or place whatsoever as the master or the carrier may consider safe or advisable under the circumstances, and discharge the goods, or any part thereof, at any such port or place; or the carrier or the master may retain the cargo on board until the return trip or until such time as the carrier or the master thinks advisable and discharge the goods at any place whatsoever as herein provided; or the carrier or the master may discharge and forward the goods by any means at the risk and expense of the goods. The carrier or the master is not required to give notice of discharge of the goods or the forwarding thereof as herein provided. When the goods are discharged from the ship, as herein provided, they shall be at their own risk and expense; such discharge shall constitute complete delivery and performance under this contract and the carrier shall be freed from any further responsibility. For any service rendered to the goods as herein provided the carrier shall be entitled to a reasonable extra compensation.

The carrier, master and ship shall have liberty to comply with any orders or directions as to loading, departure, arrival, routes, ports of call, stoppages, discharge, destination, delivery or otherwise howsoever given by the government of any nation or department thereof or any person acting or purporting to act with the authority of such government or of any department thereof, or by any committee or person having, under the terms of the war risk insurance on the ship, the right to give such orders or directions. Delivery or other disposition of the goods in accordance with such orders or directions shall be a fulfillment of the contract voyage. The ship may carry contraband, explosives, munitions, warlike stores, hazardous cargo, and may sail armed or unarmed and with or without convoy.

"In addition to all other liberties herein the carrier shall have the right to withhold delivery of, reship to, deposit or discharge the goods at any place whatsoever, surrender or dispose of the goods in accordance with any direction, condition or agreement imposed upon or exacted from the carrier by any government or department thereof or any person purporting to act with the authority of either of them. In any of the above circumstances the goods shall be solely at their risk and expense and all expenses and charges so incurred shall be payable by the owner or consignee thereof and shall be a lien on the goods."

CLAUSE 18. *General and particular average.* Average adjusters shall be appointed by the Charterer from a list of adjusters satisfactory to the Owner, who shall attend to the settlement and collection of both general and particular average losses subject to customary charges. The Charterer agrees to assist the adjuster in preparing the average statement and to take all other possible measures to protect the interests of the Vessel and the Owner.

CLAUSE 19. *Salvage.* Earned salvage shall be prorated 25 percent to the Owner and 75 percent to the Charterer, after deducting Owner's and Charterer's expenses, Master's and Crew's shares, and legal and other expenses incident to the salvage: *Provided, however,* That hire of the Vessel shall not be considered an item of the Charterer's expense hereunder. Salvage earned by the Charterer shall be considered gross income as defined in Clause 23. Settlement of such claims for earned salvage shall be subject to the approval of both Owner and Charterer: *Provided,* That the amount of awards for the salvaging of vessels of which the United States, or any department or agency thereof, is the Owner or Owner pro hac vice, or for their cargoes and freights on such vessels, shall be determined by the Owner.

CLAUSE 20. *Libels.* Neither the Charterer nor the Masters of the Vessel(s) nor any other person shall have the right, power, or authority to create, incur, or permit to be placed upon the Vessel(s) any liens whatsoever other than for crew's wages or salvage. The Charterer agrees to carry a properly certified copy of this Agreement with the ship's papers on board each vessel, and agrees to exhibit the same to any person having business with such Vessel, and agrees also to exhibit the same to any representative of the Owner on demand.

The Charterer agrees to notify any person furnishing repairs, supplies, towage, or other necessaries to the Vessel(s) that neither the Charterer nor the Master has any right to create, incur, or permit to be imposed upon the Vessel(s) any liens whatsoever, except

for crew's wages and salvage. Such notice as far as may be practicable shall be in writing. The Charterer further agrees to fasten in the Vessel(s) in a conspicuous place, and to maintain during the charter period, a notice reading as follows:

"This Vessel is the property of the United States of America. It is under charter to ---------- and, by the terms of the charter, neither the Charterer nor the Master has any right, power, or authority to create, incur, or permit to be imposed upon the Vessel any lien whatsoever, except for crew's wages and salvage."

The Owner shall indemnify, hold harmless and defend the Charterer against any liens, claims or liabilities of whatsoever nature upon the Vessel(s) at the time of their delivery under this Agreement. The Charterer shall indemnify and hold harmless and defend the Owner against any liens of whatsoever nature upon the Vessel(s) and against any claims against the Owner arising out of the operation of the Vessel(s) by the Charterer, or out of any act or neglect of the Charterer, in relation to the Vessel(s), or the operation thereof, except insofar as such liens or claims arise out of any matter covered by the insurance procured and in force, as provided herein. If a libel should be filed against any Vessel or if any Vessel is otherwise levied against or taken into custody by virtue of legal proceedings in any court because of any liens or claims arising out of the operation of the Vessel by the Charterer, the Charterer shall at its own expense, within fifteen (15) days thereof, cause the Vessel to be released and the lien to be discharged.

CLAUSE 21. *Bonds.* The Charterer, at or before delivery of each Vessel under this Agreement, shall furnish the Owner with a bond with sufficient surety, in the amount specified in Part I hereof, such bond to be approved by the Owner, both as to form and sufficiency of the sureties, and to be conditioned upon the true and faithful performance of all and singular the covenants and agreements of the Charterer contained in this Agreement, including, but not limited to, the Charterer's obligation to pay charter hire and damages and to indemnify against liens. The Charterer may, in lieu of furnishing such bond, pledge United States Government securities in the par value of the required amount under an agreement satisfactory in form and substance to the Owner.

CLAUSE 22. *Salaries and fees.* No salary for personal services in excess of $25,000 per annum paid to a director, officer, or employee by the Charterer, its affiliates, subsidiary, or associates, directly or indirectly, shall be taken into account under this Agreement. The terms "director", "officer", or "employee" shall be construed in the broadest sense to include, but not to be limited to, managing trustee or other administrative agent. The term "salary" shall include wages and allowances or compensation in any form for personal services which will result in a director, officer, or employee receiving total compensation for his personal services from such sources exceeding in amount or value $25,000 per annum.

CLAUSE 23. *Definitions.* The terms "net voyage profit", "fair and reasonable overhead expenses", and "capital necessarily employed" as used herein with respect to the operations of the Vessel and services incident thereto are hereby defined, for the purpose of this Agreement only, as follows:

(a) "Net voyage profit" shall be determined by deducting from gross income, as hereinafter defined, such direct vessel operating expenses, terminal and other auxiliary operating expenses, overhead expenses, interest expense, amortization of deferred charges, depreciation on property utilized in the operation of the vessels, and all other charges which are customarily made in accordance with sound accounting practice in determining net profits before provision for federal income taxes, all as the Owner may deem fair and reasonable, provided, that in instances where the Charterer engages in other activities in addition to the operation of the Vessel(s) covered by this Agreement, such charges, other than those directly and exclusively allocable to the operation of the Vessel(s) shall be prorated between these activities on such basis as the Owner may determine to be fair and reasonable.

"Gross income" shall include such items as revenue earned from the carriage of cargo, passengers, and mail, terminal and other auxiliary operations and miscellaneous profits and losses, such as those arising from pooling agreements, advance and prepaid beyond items, bar and slop chest, and such other transactions as the Owner may determine are properly included. "Gross Income" shall include also interest earned, dividends received, and other non-operating income, as well as all accruals to the Charterer as an operating-differential subsidy. If the Charterer engages in any other activities in addition to the operation of the Vessels, the revenues and miscellaneous income, other than those exclusively applicable to the operation of the Vessels, shall be prorated between these activities, on such basis as the owner may determine to be fair and reasonable.

Income consisting of capital gains and expenses consisting of capital losses shall in no event be included in the computation of "Net Voyage Profit", as above defined.

Income from and expenses attributable to assets, other than the Vessels, excluded in the computation of "Capital Necessarily Employed", as hereinafter defined, shall not be included in the computation of "Net Voyage Profit", as above defined.

(b) "Fair and reasonable overhead expenses" shall include those expenses actually and necessarily incurred in the conduct of the business of operating the Vessels, such as salaries of officers; wages of employees; legal and accounting fees and expenses; rent, heat, light, and power; communication expenses; office supplies, stationery, and printing; membership dues and subscriptions; entertaining and solicitation; traveling expenses; insurance and bond premiums; postage; maintenance of office equipment; and miscellaneous administrative and general expenses, all as the Owner may determine to be fair and reasonable and properly included, provided, that there shall be deducted from the total of such expenses, agency fees, commissions, brokerage, and such other miscellaneous earnings as the Owner may determine to be properly deductible.

"Fair and reasonable overhead expenses" shall include also freight, passenger, and other expenses incident to advertising the Vessels and the routes served; taxes, other than Federal income taxes; and management and operating commissions, but only if and in the cases where the express written consent of the Owner has been given the Charterer to employ any other person or concern as the managing or operating agent of the Charterer; all as the Owner may determine to be fair and reasonable and properly included.

If the Charterer engages in other activities in addition to the operation of the Vessels, the "fair and reasonable overhead expenses" other than those directly and exclusively allocable to the operation of the Vessels shall be prorated between such activities on such basis as the Owner may determine to be fair and reasonable.

(c) "Capital necessarily employed" shall be determined upon the basis of the net worth reported by the Charterer in its balance sheet as of the close of the month preceding the date of delivery of the first Vessel under this Agreement (or in the last previous balance sheet deemed by the Owner to fairly present the financial position of the Charterer, but adjusted to take into account subsequent changes in net worth and such other changes as the Owner may deem essential to a proper determination of "Capital Employed" as at the end of such month), and as at each succeeding December 31st during the effective period of the Agreement, adjusted as hereinafter provided. For the purpose of this determination, net worth, as stated in the balance sheet of the Charterer, shall be deemed to include capital stock, surplus and such subdivisions thereof as capital surplus, earned surplus, and accounts of like nature. Net worth, as thus stated, shall be adjusted in such manner as the Owner may determine to be fair and reasonable, including the elimination of appreciation, adequate statement of the liabilities, and such other adjustments as are consistent with sound accounting principles. In the computation of "Capital Necessarily Employed", good will, intangibles not actually purchased and paid for, and stock held in treasury shall be excluded:

Property and other assets utilized in the operation of the Vessels shall be valued at cost, including betterments and reconditioning costs, to the present owner or to any former owner at any time affiliated or associated directly or indirectly with the present owner, whichever is the lower, less depreciation; provided, that the cost of acquisition of assets acquired in exchange for capital shares or other securities of the Charterer from other than holding, subsidiary, affiliated, or associated companies, shall not be in excess of the fair value of such property at the date of acquisition.

Additional capital, in the form of cash or tangible property paid in during the charter period, shall be included in the computation of "Capital Necessarily Employed" from the date paid in. Conversely, any withdrawals of capital shall be deducted from the date withdrawn; provided, however, that no capital shall be withdrawn and no share capital shall be converted into debt without the prior written approval of the Owner. Earnings and capital gains (or losses) for any accounting period subsequent to the last day of the month preceding the month during which delivery of the first Vessel is made hereunder to the Charterer by the Owner, shall not be included in the computation of the "Capital Necessarily Employed" for the year or other accounting period in which realized (or sustained). Dividends paid out of earnings that have not been included in "Capital Employed" shall not be deducted from "Capital Employed".

If the Charterer engages in other activities in addition to the operation of the Vessel(s), the Owner shall determine the proper allocation of capital as between such activities. The amount so allocated to the operation of the Vessel(s) shall be deemed to be the "Capital Necessarily Employed".

CLAUSE 24. *Events of default.* The following shall constitute events of default under this Agreement:

(a) The failure of the Charterer to pay the charter hire on any Vessel as and when the same shall be due under the terms of this Agreement.

(b) The failure of the Charterer to operate any Vessel as required by Clause D of Part I or the operation of any Vessel on some other route without the prior written approval of the Owner.

(c) Any material misrepresentation by the Charterer in connection with this Agreement whether before or after execution hereof and whether made in an application, report or otherwise, or any willful failure by the Charterer to disclose information necessary to cause any material representation by it not to be misleading.

(d) The occurrence of any event causing the Charterer to be ineligible for charter of the Owner's vessels.

(e) A voluntary sale by the Charterer of this Agreement or any interest therein, or any assignment, transfer, agreement or arrangement whereby the maintenance, man-

agement or operation of the above described service, route, or Vessel shall pass out of the direct control of the Charterer without the consent of the Owner.

(f) The filing of a petition in bankruptcy by the Charterer, or the entry of an order, upon petition against the Charterer, adjudicating the Charterer a bankrupt, or the making of a general assignment for the benefit of creditors, or the Charterer losing its charter by forfeiture or otherwise, or the appointment of a receiver or receivers of any kind whatsoever, whether appointed or not in Admiralty, Bankruptcy, Common Law or Equity proceedings, and whether temporary or permanent, for the property of the Charterer, or the filing of a petition by the Charterer for reorganization under the Bankruptcy Act, or the filing of such a petition by creditors and the same approved by the court, or the approval of the court of a reorganization of the Charterer under said Act, whether proposed by a creditor, a stockholder or any other person whomsoever.

(g) Any breach by the Charterer of its obligations under this Agreement (including but without limitation, the obligation to maintain a Performance Bond as required by Clause G) or any agreement executed in connection therewith (including but not limited to any operating-differential subsidy agreement with respect to the Vessels, or any ship mortgage given to or construction agreement made with the United States.

(h) Failure by the Charterer to comply with any applicable provisions of the Merchant Marine Act, 1936, as amended, or of any law relating to the operation of the Vessel.

CLAUSE 25. *Termination upon default.* (a) The Owner may terminate this Agreement in whole or in part without notice to the Charterer in case any event of default specified in paragraphs (a), (b), (c), (d), (e), or (f) of the preceding Clause 24 shall occur or if any other default specified in paragraphs (g) or (h), of said Clause shall occur and shall continue for a period of thirty (30) days after notice thereof has been mailed or telegraphed by the Owner to the Charterer.

(b) Upon termination, the Owner may, at its option, retake the Vessels or any of them wherever the same may be found, whether upon the high seas or in any port, harbor, or other place, without prior demand and without legal process and for that purpose may enter upon any dock, pier, or other premises where the Vessels may be and may take possession thereof, or may require the Charterer to redeliver such Vessels in accordance with terms of this Agreement immediately upon the receipt of a notice demanding such redelivery.

(c) The rights conferred upon the Owner by this Clause are cumulative and in addition to any rights which it may have at law or in equity or by virtue of the terms of this Agreement.

CLAUSE 26. *Cancellation or modification by mutual consent.* This Agreement may be terminated, modified, or amended at any time by mutual consent.

CLAUSE 27. *Accounting, report and supervision.* (a) The Charterer and, to the extent required by the Owner, every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the Charterer

(1) Shall keep its books, records and accounts relating to the management, operation, conduct of the business of and maintenance of the Vessels covered by this Agreement in accordance with the "Uniform System of Accounts for Maritime Carriers" prescribed by the Maritime Administration, U. S. Department of Commerce, in General Order 22, Revised (Issue of 1950), effective January 1, 1951, and under such regulations as may be prescribed by the Owner: *Provided*, That, notwithstanding the provisions of said General Order 22, Revised, such reserves as may be specifically authorized by the Owner shall be taken into account in the determination of "Net Voyage Profit" hereunder or the expenses to provide for which such reserves are so authorized shall be distributed over the period of use hereunder of the Vessels involved in such manner as will accomplish the same result as though such reserves were established, all pursuant to regulations prescribed by the Owner: *And provided further*, That if the Charterer is subject to the jurisdiction of the Interstate Commerce Commission, the Owner shall not require the duplication of books, records, and accounts required to be kept in some other form by that Commission; and

(2) Shall file, upon notice from the Owner, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, memoranda of any facts and transactions, which in the opinion of the Owner affect the financial results in, the performance of, or transactions or operations under, this Agreement. The Owner reserves the right to require that all or any of such statements, reports and memoranda shall be certified by independent certified public accountants acceptable to the Owner.

(b) The Owner is hereby authorized to examine and audit the books, records and accounts of all persons referred to above in this Clause whenever it may deem it necessary or desirable, including an analysis of the surplus and all supporting accounts. The Charterer agrees to allow any and all auditors, inspectors, attorneys, and other employees, designated by the Owner, full, free and complete access at all reasonable times, to the Vessels when in port or undergoing repairs and to all books, records, papers, memoranda or other documents of the Charterer wherever located or of any holding company, subsidiary company or affiliated company of the Charterer pertaining to any activities relating in any way to the Vessel, and further agrees to permit the making of photostatic or other copies of any such books, records, papers, memoranda, or other documents and to furnish without charge adequate office space and other facilities reasonably required by such auditors, attorneys, or inspectors in the performance of their duties. The Charterer further agrees to establish and maintain from time to time such checks upon or systems of control of expenditures or revenues in connection with the operation of the Vessels as the Owner may request.

CLAUSE 28. *Termination of business.* Upon termination of this Agreement, the Charterer shall turn over to the Owner at such time and at such place as the Owner may direct, the Vessel and all property of whatsoever nature which the Owner may theretofore have delivered to the Charterer or to which the Owner is entitled under the terms of this Agreement, and the Charterer shall at its own expense make to the Owner such accounting as the owner may require of all matters arising out of the operation of the Vessels and this Agreement, and shall adjust, settle, and liquidate such accounts, provided, however, that the Owner may collect directly all freight moneys or other debts remaining unpaid and apply any moneys collected on any unpaid balance due from the Charterer to the Owner. All expenses of such collection shall be for the account of the Charterer.

CLAUSE 29. *Financial limitations.* (a) The Charterer agrees that (i) no capital shall be withdrawn, (ii) no share capital shall be redeemed or converted into debt, (iii) no dividend shall be paid, (iv) no loan or advance (except advances to cover current expenses of the Charterer) shall be made, either directly or indirectly, to any stockholder, director, officer, or employee of the Charterer or to any related company (as defined in section 299.1 (q) of United States Maritime Commission's General Order 60, as adopted by its successor, the Maritime Administration, and amended from time to time), (v) no investment shall be made in the securities of any related company (as defined in said section), (vi) no indebtedness to any stockholder, director, officer, or employee of the Charterer or to any related company (as defined in said section), which was classified as long-term or noncurrent in the balance sheet submitted with the application (or amendment thereto) to charter the Vessel, shall be repaid in whole or in part, and (vii) no salary at a rate in excess of $25,000 per annum shall be paid, if after such transaction, the amount of working capital or the amount of net worth thereby would be reduced below the minima prescribed in paragraph (a) of section 299.31 of said General Order 60, as amended.

(b) *Mergers, etc.; business not related to shipping.* The Charterer agrees that during the charter period it will not, without the prior written approval of the Owner, (1) effect any merger, consolidation or substantial acquisition or disposition of assets not in the ordinary course of business, or (2) directly or indirectly embark upon any new enterprise or business activity not directly connected with the business of shipping.

(c) *Service by affiliates, etc.* Agreements or arrangements with any interested person or related company to render any service to or furnish any stores, supplies, equipment, materials, repairs, or facilities in connection with the operation of the Vessels hereunder shall be submitted to the Owner for approval as to employment. In the calculation of the cumulative net voyage profit for the purposes of determining the amount of additional charter hire payable to the Owner, pursuant to Clause 13 hereof, sums paid or payable to an interested person or related company in connection with the operation of the Vessels hereunder during the period with respect to which such calculation is made shall be taken into account only if such agreements or arrangements have been approved by the Owner, and then only in such amount as the Owner shall deem to be fair and reasonable. The term "interested person" shall mean any person, firm, or corporation in which the Charterer, or any related company of the Charterer, or any officer or director of the Charterer or any employee of the Charterer who is charged with executive or supervisory duties, or any member of the immediate family of any such officer, director or employee, or any officer or director of any related company of the Charterer or any member of the immediate family of an officer or director of any related company of the Charterer, owns any substantial pecuniary interest directly or indirectly. The term "related company", used to indicate a relationship with the Charterer for the purposes of this Clause only, shall include any person or concern that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Charterer. The term "control" (including the terms "controlled by" and "under common control with") as used herein means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Charterer (or related company), whether through ownership of voting securities, by contract, or otherwise.

CLAUSE 30. *Freight rates.* For the purpose of computing additional charter hire under the provisions of Clause 13, Part II hereof, the Charterer hereby agrees that, except as hereinafter specifically provided, in any case where its commodities, or commodities of any interested person or related company, are carried on the Vessel, the Vessel's revenue account will be credited with full freight revenue for such carriage at the prevailing commercial rate for such commodities or at such other rates as are approved by the Owner. Over-carried cargoes, not exceeding 5,000 pounds, loaded at one port by a Vessel

owned or operated by the Charterer, which are later delivered to original port of destination by a Vessel chartered under this Agreement, shall be specifically excepted from the foregoing provision with respect to payment of freight. For the purpose of this Clause, the terms "interested person" and "related company" shall be defined as provided in Clause 29 (c) of Part II hereof.

CLAUSE 31. *Efficient operation.* The Charterer agrees to conduct its business and its operations with respect to the Vessel in an economical and efficient manner.

CLAUSE 32. *Members or Delegates of Congress.* The Charterer shall not employ any Member of Congress, either with or without compensation, as an attorney, agent, officer, or director. Except to the extent permitted by law, no Member of or Delegate to Congress or any Resident Commissioner is or shall be admitted to any share or interest in this Agreement, or any benefit that may arise therefrom.

CLAUSE 33. *Warranty against contingent fees.* The Charterer warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Charterer for the purpose of securing business. For breach or violation of this warranty, the Owner shall have the right to annul this contract without liability or in its discretion to require the Charterer to pay, in addition to the charter hire, the full amount of such commission, percentage, brokerage, or contingent fee.

CLAUSE 34. *Notices.* Unless otherwise provided in this Agreement or mutually agreed upon, all payments, notices and communications from the Owner to the Charterer, pursuant to the terms of or in connection with this Agreement, shall be made or addressed to the Charterer at the address provided herein and all payments, notices and communications from the Charterer to the Owner, pursuant to the terms of or in connection with this Agreement, shall be made or addressed to the Owner at its offices in Washington, District of Columbia.

CLAUSE 35. *Renegotiation.* This Agreement shall be deemed to contain all the provisions required by Section 104 of the Renegotiation Act of 1951, as amended and extended. The Contractor (which term as used in this sentence in the Bareboat Charter Agreement, means the Bareboat Charterer, and, as used in related subcontracts shall mean the party contracting to perform the work or furnish the materials required under such subcontract) shall, in compliance with said Section 104, insert the provisions of this Clause in each subcontract and purchase order made or issued in carrying out this Agreement.

CLAUSE 36. *Citizenship.* The Charterer hereby warrants and represents that it is and at all time during the period of this Agreement will continue to be a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916, as amended.

CLAUSE 37. *Nondiscrimination in employment.* In connection with the performance of work under this Agreement, the Charterer agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Charterer agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Owner setting forth the provisions of the nondiscrimination clause.

The Charterer further agrees to insert the foregoing provisions in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

CLAUSE 38. *No transfer or assignment.* The Charterer shall not, without the Owner's written or telegraphic consent, sell, transfer, or assign this Agreement or any interest therein, or time charter or subcharter any Vessels, or make any arrangement whereby the maintenance, management, or operation of the Vessel(s) is to be performed by any other person.

CLAUSE 39. *Headnotes.* The use of headnotes at the beginning of the clauses of this Agreement is for the purpose of description only and shall not be construed as limiting or in any other manner affecting the substance of the clauses themselves.[1]

§ 299.131 *Application for transfer of a war-built vessel in settlement of a claim against the United States.* The form of such application shall be substantially as follows:

APPLICATION FOR TRANSFER OF WAR-BUILT VESSEL(S) IN SETTLEMENT OF A CLAIM AGAINST THE UNITED STATES

Filed by _____
a citizen of _____

The undersigned hereby offers to accept the war-built vessel(s) described in the attached form 299.125 (herein called the "war-built vessel(s)") in complete or partial settlement of its claim against the United States which is herein identified and described, in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "act"), and the rules and regulations prescribed by the Maritime Administration or the United States Maritime Commission (herein called the "Administration"), §§ 299.1 to 299.207, inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modification in the FEDERAL REGISTER.

In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

A. *Description of claim against United States*

1. Amount of claim.

2. Will vessel(s) applied for be accepted in full settlement of claim?

3. If applicant will accept vessel(s) in partial settlement of claim only, state what part.

4. If for just compensation upon requisition for title of a vessel owned by applicant:

(a) Indentify the requisition for title.

(b) Any determination of just compensation and by whom. Is claim in litigation? If so, give status thereof.

5. If for indemnity for the loss of any vessel which was acquired for use by the United States:

(a) Give data and contract number of charter with the United States; and

(b) Place and cause of loss.

(c) State whether actual or constructive total loss. If constructive total loss, give present disposition and location of hulk.

(d) State principal item comprising total loss claim.

(e) Is claim in litigation? If so, give status thereof.

6. Attach hereto answers to applicable questions in paragraphs 3, 4 and 5 of the form provided in § 299.126 of the regulations applicable to the vessel(s) from which the claim against the United States arose.

7. Attach hereto the certificate of the settling department or agency in substantially the form provided in § 299.131 of these regulations.

If the settling agency is the Maritime Administration or the United States Maritime Commission or the War Shipping Administration, the application may be filed, without the certificate of the settling agency, but will be dated for preference purposes as of the date certificate of settlement is subsequently filed by applicant.

B. *As to war-built vessels*

8. Applicant offers to accept in complete or partial settlement of its claim against the United States described in Paragraphs 1 through 6 the war-built vessel(s) designated in form 299.125 of the regulations (application to purchase form) which has been filled out in all respects, is to be considered as part of this application, and has been attached to this application in the required number of copies.

9. If more than one war-built vessel is involved, state how applicant proposes to apply the claim against each such vessel.[1]

C. *Terms and conditions of settlement.*

10. If the application is approved by the Administration, the applicant agrees to execute a contract of settlement for claim against the United States and a contract of sale in such form as the Administration may prescribe.

[CORPORATE SEAL] _____
(Name of applicant)
By _____
(President)
Attest:
_____
(Secretary)
_____
(Date)

CERTIFICATE OF SETTLING DEPARTMENT OR AGENCY

I, _____; _____
(Name) (Official title)
hereby certify that I am duly authorized to effect settlement of the claim described in Part A of the application of _____
(Name of applicant)
for transfer of a war-built vessel or vessels, in settlement of a claim against the United States, that I have examined the statements of the applicant under the heading "A. Description of claim against the United States" and that, based upon information on file with said agency, such statements are correct and that, subject to a war-built vessel, or vessels, described in said application, being made available by the Maritime Administration, a contract of settlement between said department or agency and the applicant has been authorized substantially in the form annexed as Exhibit A to this application.

This certificate has been executed in triplicate this _____ day of _____, 195____, and annexed by me to three original counterparts of said application.

§ 299.132 *Application for transfer of another vessel for a vessel constructed in the United States since January 1, 1937, which was taken for use by the United States.* The form of such application shall be substantially as follows:

APPLICATION FOR TRANSFER OF ANOTHER VESSEL FOR A VESSEL CONSTRUCTED IN THE UNITED STATES SINCE JANUARY 1, 1937, WHICH HAS BEEN TAKEN FOR USE BY THE UNITED STATES

Filed by _____
a citizen of the United States.

The undersigned hereby applies for transfer of another vessel (herein called the

[1] The books, records and accounts referred to in this section shall be retained two years after a final release or settlement agreement is completed between the Maritime Administration and the charterer.

[1] For types of settlement, see § 299.61 of the regulations.

"Administration vessel"), described in the attached form 299.71, for _____ (insert name of vessel) a vessel constructed in the United States after January 1, 1937, which was chartered to the United States on _____, and has not been redelivered (herein called the "applicant's vessel"), in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "act"), and the rules and regulations prescribed by the Maritime Administration (or the United States Maritime Commission) (herein called the "Administration"), §§ 299.1 to 299.207, inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding in all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding in all transactions approved by the Administration after the date of publication of such amendment or modifications in the FEDERAL REGISTER.

In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

A. *As to the applicant's vessel*

1. Attach hereto answers to applicable questions in paragraphs 3, 4 and 5 of § 299.76 of the regulations.
2. Has application for readjustment been filed under § 299.133 of these regulations?
3. If answer to (2) above is "yes," give date of application; if "no" does applicant intend filing such an application?
4. Amounts and due dates of remaining payments under any mortgage with the United States and total amount of original mortgage indebtedness.
5. Give date taken by the United States under charter and charter party number.

B. *As to the Commission vessel*

6. Applicant offers to accept in complete settlement of the obligation of the United States under the charter party covering applicant's vessel described in A above, the Administration vessel(s) designated in form 299.71 of the regulations (application to purchase form) which has been filed out in all respects, is to be considered as part of this application, and has been attached to this application in the required number of copies.

C. *Terms and conditions of transfer*

7. If the application is approved by the Administration, the applicant agrees to execute a contract for transfer of the vessel for the war-built vessel.

[CORPORATE SEAL] _____ (Name of applicant)

By _____ (President)

Attest:

_____ (Secretary)

_____ (Date)

§ 299.133 *Application for adjustment of purchase price of vessel purchased prior to March 8, 1946.* The form of application for such adjustment shall be substantially as follows:

APPLICATION FOR ADJUSTMENT OF PURCHASE PRICE[1]

Filed by _____ a citizen of the United States.

The undersigned hereby applies for an adjustment in the purchase price of the _____ (herein called the (Insert name of vessel)
"vessel") in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d Sess., approved March 8, 1946 (herein called the "act"), and the rules and regulations prescribed by the Maritime Administration (or the United States Maritime Commission) (herein called the "Administration"), §§ 299.1 to 299.207, inclusive, of General Order 60, published in the FEDERAL REGISTER _____ (herein called the "regulations"), which the applicant agrees shall be binding upon all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding upon all transactions approved by the Commission after the date of publication of such amendment or modification in the FEDERAL REGISTER.

The applicant further agrees that upon request of the Administration it will promptly furnish for the taxable years, specified by the Administration copies of Federal income and excess profit taxes returns, any audits thereof made by the Bureau of Internal Revenue, copies of any refund or other claims filed in connection with such returns and other pertinent data necessary in order for the Commission to make the tax adjustments required by the Act, and consents to the Administration being given full access to any other record, audits, claims or other data on file with the Bureau of Internal Revenue.

In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

A. *As to the applicant*

1. Exact name.
2. Form or type of organization.
3. State or other sovereign power under the laws of which organized.
4. Address of principal executive offices.
5. Applicant represents that it is a citizen of the United States and attaches to the three executed copies of this application, affidavits to that effect in the form prescribed by the Administration.

B. *As to the vessel*

6. Name of vessel.
7. Name and address of builder.
8. Administration hull no. _____
9. Builder's hull no. _____
10. Date of original delivery of the vessel. If not delivered, state estimated date of delivery.
11. Date of contract of sale under which the vessel was purchased or agreed to be purchased.
12. Date of contract of the Administration to pay construction-differential subsidy _____ No. of such subsidy contract _____.
13. Cost of construction of vessel.
14. Price paid by applicant or agreed to be paid _____ (net cost to the applicant).
15. Amounts and dates of cash payments by applicant in 14 above.
16. Amounts and due dates of remaining payments under any mortgage with the United States and total amount of original mortgage indebtedness.

C. *As to any charter prior to March 8, 1946, of the vessel to the United States*

17. No. of charter agreement.
18. Type (time or bareboat).
19. Amount (exclusive of service) of charter hire paid to the applicant by the United States.
20. Amount (exclusive of service) of charter hire accrued and unpaid to March 8, 1946.

D. *As to any vessel traded-in on purchase of vessel*

21. Answer questions 3 and 4 of § 299.126.
22. Amount of original allowance by Administration on vessel traded-in.
23. No. of any charter agreement of such vessel with the United States.

E. *As to Federal taxes paid by the applicant*

24. The amount allowed or allowable to applicant for depreciation or amortization allowed or allowable with respect to the vessel up to March 8, 1946 for Federal tax purposes.
25. Amounts paid as Federal taxes by the applicant on any charter hire (exclusive of service) paid or payable by the United States to the applicant for use of the vessel.

F. *Method of adjustment*

26. Applicant understands that if the Administration finds that applicant is entitled to an adjustment, applicant will be notified of the adjusted purchase price determined by the Administration. Applicant agrees that unless it notifies the Administration to the contrary within 15 days following the date of receipt by the applicant of the Administration's determination of adjusted purchase price, this adjusted purchase price will be binding upon the applicant and it agrees to execute an addendum to its original contract to purchase, which addendum will be sent to him by the Administration.

G. *Liability for use of vessel after March 8, 1946*

27. Applicant agrees, in the addendum to its original contract of sale as provided in item 26 above, that it will make an agreement with the Administration binding upon itself and any and all affiliated interests that the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the Vessel on and after March 8, 1946 under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date, and that the liability of the United States under any such charter party for the loss of the Vessel shall be determined on the basis of the statutory sales price as of such date, depreciated to the date of loss at the rate of 5 per centum per annum and that in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after March 8, 1946, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.[2]

H. *As to exhibits filed*

28. A list of exhibits, properly identified, which shall include at the time of original filing, the following:

Exhibit I—Applicant's own computation of the readjustment of the purchase price of his vessel in accordance with § 299.66 of the regulations. This shall be prepared by computing the adjusted mortgage indebtedness and identifying and totalling all credits and debits to the Administration and the applicant separately.

[CORPORATE SEAL] _____ (Name of applicant)

By _____ (President)

Attest:

_____ (Secretary)

_____ (Date)

[1] No application may be filed later than sixty (60) days after the date of publication of the applicable pre-war domestic cost in the FEDERAL REGISTER.

[2] Applicant is also referred to § 299.5 of the regulations.

§ 299.134 *Application for the reconversion, alteration or modification of a vessel.* The form of application for the reconversion, restoration, replacement, alteration, modification of or installation of special features in a vessel shall be substantially as follows, and must be attached to the application for purchase or charter of the vessel covered by the application for reconversion.

APPLICATION FOR RECONVERSION OF VESSEL

Filed by _____ a citizen of _____. The undersigned hereby requests the Maritime Administration to modify the following vessel referred to in application dated _____ which the undersigned desires to _____
(purchase-charter)

Name	*Type*	*Administration Designation Particular Characteristics*
_____	_____	_____
_____	_____	_____
_____	_____	_____

A. *National defense features*

1. The application desires that national defense features as outlined below be removed by the Administration from the vessel in the event that application to _____ (purchase or charter) _____ is approved.

2. National defense features the removal of which is desired.

3. Indicate for each item the extent of removal desired and reasons therefor and, further, whether the retention of any part is desired.

B. *Reconversions or restorations*

The applicant desired that the following described reconversion or restoration for normal operation in commercial services be made in the vessel in the event that application for purchase or charter is approved. In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

4. *As to each item requested.*

(a) Explicit description.

(b) Estimated cost of work.

5. *As to need.*

(a) Explain why each item is considered necessary, indicating service and route of operation of vessel, cargo to be carried, volume of traffic expected in terms of trip capacities (each leg), frequency of sailings, and manner in which traffic is now handled.

6. *As to desirability.*

(a) List of vessels owned by the applicant including name, gross tonnage, net tonnage, deadweight tonnage, age, speed, registry, and indicating presence and extent of items requested.

(b) List other vessels presently in proposed trade, including names, gross tonnage, net tonnage, deadweight tonnage, age, speed, registry, and indicating presence and extent of items requested.

(c) Indicate expected net yearly revenue to be attributable directly to the requested items.

(d) Indicate expected added or reduced net yearly operating costs attributable directly to the requested items.

(e) Indicate other benefits, monetary or otherwise, expected from the features requested.

C. *Replacements, alterations, modifications, installations of special features*

The applicant desires that the following described replacements, alterations, or modifications be made or special features be installed in the event that application for purchase or charter is approved. In order to induce the Administration to act favorably on this application, the applicant submits in support thereof the following information:

7. *As to each item.* (a) Explicit description.

(b) Estimated cost of work.

8. *As to need.* (a) Explain why each item is considered necessary, indicating service and route of operation of vessel, cargo to be carried, volume of traffic expected in terms of trip capacities (each leg), frequency of sailings, and manner in which traffic is now handled.

9. *As to desirability and necessity.*

(a) List of vessels owned by the applicant including name, gross tonnage, net tonnage, deadweight tonnage, age, speed, registry, and indicating presence and extent of features requested.

(b) List other vessels presently in proposed trade, including names, gross tonnage, net tonnage, deadweight tonnage, age, speed, registry and indicating presence and extent of features requested.

(c) Indicate expected net yearly revenue to be attributable directly to the requested features.

(d) Indicate expected added or reduced net yearly operating costs attributable directly to the requested features.

(e) Indicate other benefits monetary or otherwise, expected from the features requested.

[CORPORATE SEAL] _____
(Name of applicant)

By _____
(President)

Attest:

_____
(Secretary)

_____
(Date)

SUBPART H—ACCOUNTING PROCEDURE

§ 299.200 *Purpose.* The purpose of this subpart is to prescribe procedure to be followed by charterers in the rendition to the Maritime Administration of accountings required under SHIPSALESDEMISE 303 (1956), 1st Amendment, Bareboat Charter Agreements.

§ 299.201 *Definitions.* Except when the context clearly indicates otherwise, as used in this subpart:

(a) "Administration" or "owner" refers to the United States of America acting by and through the United States Department of Commerce, Maritime Administration.

(b) "Charterer" refers to a person, firm, or corporation that has chartered vessels from the Administration under a bareboat charter agreement known as SHIPSALESDEMISE 303, as hereinafter defined.

(c) "SHIPSALESDEMISE 303" refers to Form 303 SHIPSALESDEMISE (1956), 1st Amendment, published in the FEDERAL REGISTER on January 30, 1957, § 299.130, and to any future modifications of such 303 SHIPSALESDEMISE charter forms which may be adopted.

(d) "Other operations" refers to the operation by the Charterer of vessels other than those chartered from the Administration or the furnishing by the Charterer of services and facilities to such other vessels, and all other business activities of the Charterer.

(e) "Uniform System of Accounts" refers to the "Uniform System of Accounts for Maritime Carriers" prescribed by the Maritime Administration, United States Department of Commerce, in Part 282 of this chapter General Order 22, Revised (Issue of 1950), effective January 1, 1951, published in the FEDERAL REGISTER, November 21, 1950.

(f) "Statutory additional charter hire", which is required to be paid under Clause 13, Part II, shall be one-half (50%) of the cumulative net voyage profits in excess of ten per centum per annum, as provided in Section 709 of the Merchant Marine Act, 1936, as amended, computed on the basis as set forth in paragraph (c) of § 299.204.

(g) "Allowable return" refers to the amount, at the rate of ten per centum per annum of "capital necessarily employed", which, to the extent earned, the Charterer is permitted to deduct from the cumulative net voyage profit in the computation of statutory additional charter hire.

(h) "Accounting period" or "other accounting period" refers to a period with respect to which a separate determination of statutory additional charter hire due the Administration is required to be made pursuant to the provisions of the applicable bareboat charter agreement, commencing with the first day of the calendar year, or the first day of the month during which the first vessel is delivered to the Charterer under the agreement involved, or the first day of the month during which an addendum requiring a separate determination of statutory additional charter hire becomes effective, and ending with the last day of the calendar year or the last day of the month during the calendar year in which the last vessel is redelivered to the Administration under the agreement (or addendum) involved.

(i) "Overall accounting period" refers to a period from the earliest commencement of an accounting period to the latest termination of an accounting period during the same calendar year.

§ 299.202 *Accounting requirements—*(a) *Contract provisions and applicable instructions—*(1) *Preliminary payments, statutory additional charter hire.* (i) Clause 13, Part II, SHIPSALESDEMISE 303, which provides that the Charterer shall pay the Owner statutory additional charter hire, as required by section 709, Merchant Marine Act, 1936, as amended, also provides that the time of payment of such hire shall be as provided by regulations of the Owner.

(ii) The Administration hereby requires that the Charterer make preliminary payments to the Owner on account of such statutory additional charter hire, which shall be deemed to be preliminary and subject to adjustment either at the time of the rendition of preliminary statements or upon completion of each final audit by the Owner, at which times such payments will be made to the Owner as such preliminary statements or final audit may show to be due, or such overpayments refunded to the Charterer as may be required. Accordingly, preliminary statements as prescribed in paragraph (a) of § 299.205 shall be prepared and forwarded to the Owner at Washington 25, D. C., within sixty (60) days after the close of each semiannual period, i. e., June 30 and December 31, Provided, however, that in the event the Charterer can submit final accountings within one hundred twenty

(120) days after the close of the annual accounting year or by April 30 or within one hundred twenty (120) days after the end of the month in which the last vessel is redelivered to the Owner, such preliminary statements as are required may be waived upon written request of the Charterer to the Owner. Each such preliminary statement and/or final accounting showing the computation of statutory additional charter hire due the Owner shall be accompanied by the Charterer's check payable to "Maritime Adm.—Commerce", on account of statutory additional charter hire for the period involved.

(2) Clause 27 of Part II of SHIPSALESDEMISE 303 provides, among other things, that the Charterer—

(i) Shall keep its books, records and accounts relating to the management, operation, conduct of the business of and maintenance of the Vessels covered by this Agreement in accordance with the "Uniform System of Accounts for Maritime Carriers" prescribed by the Maritime Administration, U. S. Department of Commerce, in Part 282 of this chapter (General Order 22, Revised (Issue of 1950), effective January 1, 1951), and under such regulations as may be prescribed by the Owner, *Provided*, That, notwithstanding the provisions of said Part 282, such reserves as may be specifically authorized by the Owner shall be taken into account in the determination of "Net Voyage Profit" hereunder or the expenses to provide for which such reserves are so authorized shall be distributed over the period of use hereunder of the Vessels involved in such manner as will accomplish the same results as though such reserves were established, as prescribed in paragraph (b) (9) of § 299.204; and

(ii) Shall file, upon notice from the Owner, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, memoranda of any facts and transactions, which in the opinion of the Owner affect the financial results in, the performance of, or transactions or operations under, this Agreement. The Owner reserves the right to require that all annual and final accountings, related financial statements, and other documents related thereto deemed necessary by the Owner, shall be certified by independent certified public accountants acceptable to the Owner.

(b) *Annual and final accountings.* (1) Pursuant to the applicable provisions of the bareboat charter agreements, the Administration hereby requires that each Charterer submit a final accounting of statutory additional charter hire accrued to the Owner for each annual or overall accounting period under SHIPSALESDEMISE 303. Each such accounting shall be submitted in quadruplicate and shall include the basic statements prescribed in § 299.205 (Statements Required by the Administration). (When Charterer is located in Outports where branch of the principal coastal office of the Administration is maintained, e. g., Seattle Area Office, statements will be required in quintuplicate.)

(2) Each such accounting, if the amount of statutory additional charter hire shown thereby to have accrued to the Owner is in excess of the total of the payments theretofore made to the Administration (less any refunds theretofore made by the Administration on account of such payments) on account of statutory additional charter hire for the period involved, shall be accompanied by the Charterer's check payable to "Maritime Adm.—Commerce" on account of statutory additional charter hire for the period involved.

(3) If, conversely, in any instance the amount of statutory additional charter hire shown by such accounting to have accrued to the Owner is less than the total of the payments theretofore made to the Administration (less any refunds theretofore made by the Administration on account of such payments) on account of statutory additional charter hire for the period involved, the Charterer may apply to the Administration for refund of such overpayment and, if such application is found to be in order, the amount of the overpayment will be refunded by the Administration. The application should be made on a public voucher (Form 1034—Revised), in quintuplicate (When Charterer is located in Outports where branch of the principal coastal office of the Administration is maintained, e. g., Seattle Area Office, vouchers will be required in sextuplicate.), bearing language substantially as follows:

Claim for refund of excess of preliminary payments made to Maritime Adm.—Commerce, on account of statutory additional charter hire, over the amount of such statutory additional charter hire indicated to be due the Administration for the period from ---------- to ---------- under Bareboat Charter Agreement SHIPSALESDEMISE 303 No. ____, as per accounting rendered pursuant to General Order No. 60, Supplement 23, which, by this reference, is incorporated in this claim for refund.

(4) The accounting comprising the statements and accompanying remittance or voucher required in this subpart shall be submitted to the Administration through the local District Comptroller and/or the Area or Port Auditor in the district, area, or port in which the home office of the Charterer is located.

(c) *Subsequent adjustments.* (1) In instances where operations under SHIPSALESDEMISE 303 continue beyond the end of a calendar year or other accounting period, at the time of the submission of the accounting for each succeeding annual or overall accounting period as required hereunder, the Charterer shall submit also a revised accounting for the previous period including all adjustments affecting that period that occurred subsequent to the rendition of the accounting therefor.

(2) If, in any instance, at the time of the submission of an accounting for an annual or overall accounting period, no adjustment affecting any preceding period has occurred subsequent to the submission of the accounting for such period, the Charterer shall submit to the Administration an appropriate certification to that effect, over the signature of a duly authorized officer.

§ 299.203 *Capital necessarily employed*—(a) *Fundamental basis.* The fundamental basis for the determination of "capital necessarily employed" is provided in Clause 23 (c) of Part II of SHIPSALESDEMISE 303.

(b) *Interim additions and deductions.* The definition of "capital necessarily employed" in SHIPSALESDEMISE 303 provides, among other things, that additional capital in the form of cash or tangible property paid in during the charter period shall be included in the computation of "capital necessarily employed" from the date paid in and that any withdrawals of capital shall be deducted from the date withdrawn. In the determination of "capital necessarily employed" additional capital, in the form of cash or tangible property paid in, and any withdrawals of capital during an annual or overall accounting period thereunder shall be included or deducted (as the case may be), pro rata, on the basis of the proportion of such additions or withdrawals represented by the relation that the number of days from the date thereof to the end of the calendar year or overall accounting period involved bears to the total number of days within such period, such proportion to be allocated to or between "capital necessarily employed" under SHIPSALESDEMISE 303 and "other operations" in the manner prescribed in paragraph (c) of this section.

(c) *Allocation among operations under Bareboat Charter Agreements and "other operations".* The definition of "capital necessarily employed" in SHIPSALESDEMISE 303 provides, among other things, that if the Charterer engages in other activities in addition to the operation of the vessels thereunder, the Owner shall determine the proper allocation of capital as between such activities. To implement this provision of the bareboat charter agreements, the following bases of allocation are prescribed:

(1) Wherever practicable and the result will not be disproportionate, "capital necessarily employed" in the business of the vessel(s) chartered from the Administration shall be determined upon the basis of the "net worth" reported by the Charterer in its balance sheet as of the close of the month preceding the date of delivery of the first vessel(s) under the contract (or at the end of the calendar year or other accounting period, deemed by the Owner to fairly present the financial position of the Charterer, but adjusted to take into account such subsequent changes in net worth and such other changes as the Owner may deem essential to a proper determination of "capital necessarily employed" at the end of such month), and as at each succeeding December 31st during the effective period of the agreement, adjusted in such manner as the Owner may determine to be fair and reasonable, including (i) such other adjustments as are consistent with sound accounting principles; (ii) pro rata reduction of any amounts in any instances where the accounting

period involved is less than a calendar year, and (iii) the elimination of assets and applicable liabilities not necessarily employed in the operation of the chartered vessels, if $10,000, or in excess thereof as to each category ((*a*), (*b*), (*c*), etc.), e. g.:

(*a*) Marketable securities pledged, except for penal bonds—bareboat charter contract;

(*b*) Non-shipping inventories;

(*c*) Replacement and similar special funds (including contractual and statutory reserve funds of subsidized operators, less mortgage indebtedness due within one year payable from such funds);

(*d*) Deferred Operating-Differential Subsidy Receivable (less—recapturable profits—M. A.);

(*e*) Amounts on deposit under purchase contracts;

(*f*) Securities of related companies and other non-marketable securities;

(*g*) Advances and loans to and deposits with related companies;

(*h*) Non-current receivables from and payables (not in excess of receivables) to, related companies;

(*i*) Cash value of life insurance;

(*j*) Net book value of vessels and of non-shipping property and equipment, less the portion of any long-term debt arising from the acquisition of such assets due more than one year after the date of the balance sheet involved;

(*k*) Construction work in progress;

(*l*) Notes and accounts receivable from and payables (not in excess of receivables) to officers and employees and others;

(*m*) Goodwill and other intangible assets; and

(*n*) Appreciation, etc.

(2) Except in instances involving (i) considerable non-shipping operations, (ii) substantial dissimilarity between the operations of the vessels chartered from the Administration and those of vessels managed, owned or chartered from others by the Charterer (with respect to which the Charterer shall submit for the consideration of the Administration, in advance of the accounting herein prescribed, its concept of a fair and reasonable formula, addressed in the manner prescribed in § 299.202 (b) (4), if and to the extent that the "net worth" of the Charterer is employed in the general conduct of the shipping business, it shall be allocated between operations under the bareboat charter agreements with the Administration and "other operations" on the basis of the relation that the vessel operating expenses of the chartered vessels bears to the total vessel operating expenses of all vessels operated by the Charterer. The term "vessel operating expenses", as used in this subparagraph means, for the purposes of this formula, those expenses proper for inclusion in Account 700—Operating Expenses—Terminated Voyages, excepting Account 760—Charter Hire, which shall be eliminated for the purposes of this formula, and Account 765—Agency Fees and Commissions, which, for the purposes of this formula, shall be eliminated from "vessel operating expenses" and included in overhead expenses (for the purpose of eliminating the necessity for allocating branch office income and expense, separately, from the allocation of overhead expenses), and Account 800—Inactive Vessel Expense, excepting Account 826—Charter Hire, all as defined in the "Uniform System of Accounts for Maritime Carriers" as adopted by the Maritime Administrator in Part 282 of this chapter (General Order No. 22, Revised): *Provided*, That for the purposes of this formula there shall be omitted the proportion of such vessel operating expenses represented by the relation that the expired days of voyages in progress at the commencement of the accounting period involved bears to the total days of such voyages and there shall be taken into account the proportion of such expenses represented by the relation that the expired days of voyages in progress at the termination of such period bears to the total days of such voyages, and further, that for the purposes of the formula prescribed herein only, subsequent adjustments of vessel operating expenses, after the original accounting is rendered, covering each contract for each overall accounting period, in which statutory additional charter hire is required to be computed, accounted for, and paid separately, shall neither be permitted nor required, except in instances where such adjustments, in the net aggregate, equal or exceed one (1) percentum of the aggregate overall vessel operating expenses applicable to the accounting period involved: *And provided further*, That, for the purposes of the formula prescribed herein only, as for example, in any instance where the vessel(s) hereunder is (are) under time charter to the Military Sea Transportation Service, the term "vessel operating expenses" shall include any similar expenses incurred for account of, and recoverable from such time charter.

(d) *Limitation of "capital necessarily employed."* (1) (i) If, in any instance, the amount allocated to "capital necessarily employed" under SHIPSALESDEMISE 303, in accordance with the foregoing provisions of this section, is in excess of the greater of (*a*) the working capital requirements, or (*b*) the net worth requirements determined in the manner provided in paragraph (2) of Clause H—Special Provisions, of Part I of SHIPSALESDEMISE 303, such allocation shall be disregarded and "capital necessarily employed" shall be determined in accordance with such Special Provisions. In the application of this limitation, for the purpose of determining

(*1*) The number of vessels involved in instances where they do not remain constant throughout the accounting period, and

(*2*) The amount of working capital requirements or the net worth requirements (whichever is the greater) in instances where more than one type of vessel is involved,

the following formula is prescribed:

(*i*) The number of vessels involved shall be deemed to be the result obtained by dividing into the total number of days, for all vessels for the accounting period involved, the number of calendar days within such period. (For the purposes of this calculation the "total number of days" shall be considered as beginning with the delivery date of the vessel during an accounting period to the end of such accounting period or the date on which the vessel is redelivered during the period), and

(*ii*) The average working capital requirements or net worth requirements per vessel shall be determined by multiplying the greater of such requirements (as modified in subparagraphs (a) and (b) of paragraph (2) of Clause H of Part I of "SHIPSALESDEMISE 303") for each type of vessel involved by the number of days covering all vessels of that type for the accounting period involved, and dividing the sum of the results thus obtained for all types of vessels involved by the aggregate number of days for all types of vessels.

(ii) The amount to be deducted in the determination of statutory additional charter hire (as ten per centum per annum on "capital employed") shall be that proportion of ten per cent represented by the relation that the number of days within the accounting period involved bears to three hundred and sixty-five (except leap year), the number of days within the year, as shown in the following example (in which the working capital requirements are assumed to exceed the net worth requirements and the accounting period is assumed to be 180 days):

Determination of Average Working Capital Requirements

Vessels			
Type "A"	11 for 150 days each=	1,650 days @ $90,000 [1] =	$148,500,000
Type "A"	5 for 180 days each=	900 days @ 90,000 [1] =	$81,000,000
Type "B"	2 for 120 days each=	240 days @ 100,000 [1] =	$24,000,000
Type "B"	1 for 180 days each=	180 days @ 100,000 [1] =	$18,000,000
Type "C"	1 for 180 days each=	180 days @ 140,000 [1] =	$25,200,000
		3,150 days	$296,700,000
Total as above			$296,700,000
Divided by—Total vessel days as above			3,150
Average working capital requirements per vessel			$94,190.48

Determination of Number of Vessels for Period

Total vessel days as above	3,150
Divided by—Total days in period	180
Total vessels for period	17½

[1] Working capital requirements (as modified in sub-paragraph (a) of paragraph (2) of Clause H of Part I of "SHIPSALESDEMISE 303") should be used for this purpose, if they exceed net worth requirements.

Vessels	Determination of "Capital Employed" [1]
First to fifth vessel, inclusive (100% of $94,190.48 × 5) [2]	$470,952.40
Sixth to tenth vessel, inclusive (75% of $94,190.48 × 5) [2]	$353,214.30
Eleventh to fifteenth vessel, inclusive (50% of $94,190.48 × 5) [2]	$235,476.20
Excess of fifteen (2½ vessels) (25% of $94,190.48 × 2½) [2]	$58,869.05
	$1,118,511.95
"Allowable return" of 180/365 of 10% of "capital employed"	$55,159.49

[1] Fractions resulting from the calculation of the number of vessels involved shall be taken into account, the 25 percent reduction being applicable to such fractions occurring between the fifth and sixth vessels, and the 50 percent reduction to those occurring between the tenth and eleventh vessels.

(iii) For the purpose of computing the limitation of "Capital Necessarily Employed", as prescribed in this paragraph, the "Working Capital" and/or "Net Worth" requirements (determined pursuant to Clause H, Special Provisions 1 and 2 of Part I of the Agreement), as published in the FEDERAL REGISTER, at the time vessel(s) were applied for, shall remain in full force and effect with respect to such vessel(s) during the entire period of the agreement: *Provided, however,* If any vessel(s) are redelivered and subsequently rechartered, the application to re-charter the vessel(s) shall be treated as a new application for purposes of determining the "Limitation of Capital Necessarily Employed".

§ 299.204 *Net voyage profit*—(a) *Fundamental basis.* (1) The fundamental basis for the determination of "net voyage profit" is provided in Clause 23 (a) of Part II of SHIPSALESDEMISE 303.

(2) The fundamental basis for the determination of "fair and reasonable overhead expenses" (which are deductible from gross income in the determination of "net voyage profit") is prescribed in Clause 23 (b) of Part II of SHIPSALESDEMISE 303.

(3) The fundamental basis with respect to reserves to be taken into account in the determination of "net voyage profit" is prescribed in Clause 27 of Part II of SHIPSALESDEMISE 303.

(b) *Allocation among operations under Bareboat Charter Agreements and "other operations".* The definition of "net voyage profit" in SHIPSALESDEMISE 303 provides, in effect, among other things, that, in instances where the Charterer engages in other activities in addition to the operation of the vessels thereunder, income and expenses other than those directly and exclusively allocable to the operation of such vessels shall be prorated between these activities on such basis as the Owner may determine to be fair and reasonable. To implement this provision of the bareboat charter agreements, the following bases of allocation are prescribed:

(1) Wherever practicable and the result will not be disproportionate, income and expenses (including, but not necessarily limited to, operating revenues and expenses on terminated voyages, inactive vessels expense, operating-differential subsidy, collections from and contributions to pools for the purpose of equalizing revenue in accordance with pooling agreements) shall be allocated directly to the operation from which they are derived or in which they are incurred.

(2) Except in instances where the Charterer maintains its accounts on an actual cost basis respecting the operations covered herein below, the "Uniform System of Accounts for Maritime Carriers" provided in Part 282 of this chapter (General Order 22, Revised), provides, among other things, that Accounts Nos. 891—Credits from Terminal Operations, 892—Credits from Cargo Handling Operations, 893—Credits from Tug and Lighter Operations, 894—Credits from Other Shipping Operations (in instances where such services or facilities are maintained by the Charterer), shall be credited with "agreed amounts" for the use of such services or facilities by vessels owned by the Charterer, with corresponding charges to Vessel Operating Expense. In instances where the Charterer maintains such services or facilities and they are used by the chartered vessels, the Charterer shall charge in the Vessel Operating Expense Accounts of the chartered vessels fair and reasonable amounts for the use of such services or facilities (but not in excess of (i) the "going rates" for the services or facilities at the ports involved, or (ii) the rates at which such services or facilities could be obtained from independent suppliers, or (iii) the rates charged all other vessels using them): *Provided,* Similar charges are made in the accounts of all other vessels operated by the Charterer. If the sum of the gross income derived from the use of such services or facilities by vessels (i) under SHIPSALESDEMISE 303, (ii) owned by the Charterer, and (iii) chartered from others by the Charterer, exceeds the gross income derived from the use of such services or facilities by other vessels,

(*a*) The expense of maintaining such services or facilities shall be included in Accounts Nos. 855—Expense of Terminal Operations, 865—Expense of Cargo Handling Operations, 875—Expense of Tug and Lighter Operations, and 885—Expense of Other Shipping Operations, and shall be allocated among the operation of the vessels under SHIPSALESDEMISE 303 and "Other Operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities, except that income derived from the furnishing of such services or facilities to vessels neither owned, nor chartered from the Administration or others, by the Charterer shall not be included in the above calculation but shall be prorated between the operation of the vessels under SHIPSALESDEMISE 303 and "Other Operations" in the same manner as is the expense of maintaining such services or facilities as thus determined, and

(*b*) The amounts credited to the income accounts shall be allocated directly to the operation of the vessels under SHIPSALESDEMISE 303 and "Other Operations" on the same basis as are the corresponding charges to the Vessel Operating Expense Accounts.

If, conversely, the sum of the gross income derived from the use of such services or facilities by vessel (i) under SHIPSALESDEMISE 303, (ii) owned by the Charterer, and (iii) chartered from others by the Charterer, is less than the gross income derived from the use of such services or facilities by other vessels,

(*a*) The amounts credited to the income accounts corresponding to charges in the Vessel Operating Expense Accounts of the vessels under SHIPSALESDEMISE 303 shall be allocated directly to the operation of such chartered vessels and the amounts credited to the income accounts corresponding (*1*) to charges in the accounts of vessels, owned, or chartered from others than the Administration, by the Charterer, and (2) to charges against others for the use of such services or facilities shall be allocated to "other operations", and

(*b*) The expense of maintaining such services or facilities shall be allocated between the operation of vessels under SHIPSALESDEMISE 303 and "Other Operations" on the basis of the relation that the gross income so derived from the vessels engaged in each such operation bears to the total gross income derived from the furnishing of such services or facilities.

(3) Compensation, including compensation for liquidating the activities and business of vessels earned by general agents (as determined by District Comptrollers), under NSA Order No. 47 (AGE–4 and amendments thereto, 32A CFR, Ch. XVIII, AGE–4) shall be allocated 20 percent direct to "Other Operations"; the remaining 80 percent of the total compensation earned under the applicable order shall be deducted from the total overhead expenses of the Charterer before allocation of such expenses between SHIPSALESDEMISE 303 and "Other Operations".

(4) In instances where branch offices of the Charterer act as agents for the chartered vessels and if it is impracticable to determine the actual cost of such services, the Charterer may charge in the vessel operating expense accounts of the chartered vessels fair and reasonable amounts for such services (but at not in excess of (i) the "going rates" for the services at the ports involved, or (ii) the rates at which such services could be obtained from independent agents, or (iii) the rates charged all other vessels for such services): *Provided,* Similar charges are made in the accounts of all other vessels operated by the Charterer. Such credits shall be accumulated in Account No. 895—Credits from Branch House Operations, in the manner prescribed in Part 282 of this chapter (General Order No. 22, Revised), and deducted from overhead expense as prescribed in subparagraph (5) of this paragraph.

(5) (i) Except in instances involving (*a*) considerable non-shipping operations, and (*b*) substantial dissimilarity between the operations of the vessels

chartered from the Administration and those of vessels managed, owned or chartered from others by the Charterer, or (c) agency operations actually carried on as a separate and substantial business activity of the Charterer for its own account and not merely incidental to the operation of the chartered vessels (with respect to which the Charterer shall submit, for the consideration of the Administration, in advance of the accounting herein prescribed, its concept of a fair and reasonable formula, addressed in the manner prescribed in subparagraph (4) of § 299.202 (b)), overhead expenses (if not directly allocable to a particular operation, i. e., bareboat or other), including (1) administrative and general expense and (2) expenses incurred in the operation and maintenance of branch houses; less (i) 80 percent of the total agency fees, commissions, and brokerage earned from outside agency activities (the remaining 20 per cent to be allocated direct to "Other Operations"), and (ii) credits from branch house operations (Account No. 895); (3) management and operating commissions, advertising expenses (other than that directly allocable to a particular operation, i. e., bareboat or other), taxes, other than Federal; income tax, and (4) agency fees and commissions transferred from vessel operating expense (Account No. 765); all as described in the "Uniform System of Accounts for Maritime Carriers" as adopted by the Maritime Administration in Part 282 of this chapter (General Order No. 22, Revised), and as the Owner may determine to be fair and reasonable and properly included, shall be allocated between operations under the SHIPSALESDEMISE 303 and "Other Operations" on the basis of the relation that the "vessel operating expense" (as hereinbefore defined in § 299.203 (c) (2)) of the chartered vessel(s) bears to the total vessel operating expenses of all vessels operated by the Charterer during the annual or overall accounting period involved.

(ii) Subject to the conditions prescribed in § 299.206 (b), in any instance where the statements required to be submitted to the Administration hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, such fair and reasonable payments as the Administration determines to have been made by the Charterer for the certification of such statements by such certified public accountants may be allocated directly to operations under the bareboat charter agreements involved on the basis of the relation that the total vessel operating expenses (determined similarly as defined in § 299.203 (c) (2)) of the chartered vessel(s) applicable to each accounting period under each agreement bears to the total vessel operating expenses of the chartered vessel(s) under all such agreements for all such periods covered by such statements.

(iii) The salaries of any additional personnel which the Charterer demonstrates to the satisfaction of the Administration to have been necessarily employed for the exclusive purpose of preparing such statements (irrespective of whether or not they are certified by an independent certified public accountant or a firm of independent certified public accountants) shall be allocated over the entire period covered by such statements on the basis of the relation that the total vessel operating expenses (determined similarly as defined in § 299.203 (c) (2)) of the chartered vessel(s) applicable to each accounting period under each agreement bears to the total vessel operating expenses of the chartered vessel(s) under all such agreements for all such periods covered by such statements.

(iv) Post redelivery overhead expense shall be allowed, as additional expense in computing statutory additional charter hire, in an amount equal to ten dollars ($10.00) per day for each day each vessel is under the bareboat charter agreement for a maximum period of 180 days. Such post redelivery overhead expense shall be allocated directly to operations under the bareboat charter(s) on the basis of the relation that the total vessel operating expense (determined similarly as defined in § 299.203 (c) (2)) of the chartered vessel(s) applicable to each accounting period under each agreement bears to the total vessel operating expenses of the chartered vessel(s) under all such agreements for all such periods covered by such statements, Provided, that such allowance so accounted for, shall (in the event an additional agreement (or agreements) is (are) entered into and vessels delivered thereunder subsequent to redelivery of the last vessel under the preceding agreement, during the same calender year), be deducted from overhead expense before allocation thereof under all or any succeeding agreements.

(6) Depreciation—Floating Equipment—Vessels, shall be allocated direct to "Other Operations", Depreciation—Other Floating Equipment, Depreciation—Terminal Property and Equipment, and Depreciation—Other Shipping Property and Equipment, excepting depreciation on office furniture, fixtures and equipment, shall be allocated among the various operations on the same relative bases as are the other expenses of maintaining such services and facilities pursuant to subparagraph (2) of this paragraph. Depreciation on office furniture, fixtures and equipment and Amortization of Leaseholds (to the extent not subject to direct allocation) shall be allocated among the various operations on the same relative basis as are Fair and Reasonable Overhead Expenses pursuant to the formula prescribed in § 299.203 (c) (2).

(7) Income in the form of interest earned and dividends, interest expense (except interest expense on mortgage notes covering vessels purchased, construction commitments, mortgage bonds, debentures, and other long-term debt, if not specifically employed in the operation of the chartered vessel(s), shall be allocated direct to "Other Operations"), miscellaneous operating income and expense, miscellaneous other income and miscellaneous other deductions from income if and to the extent they are not susceptible to direct allocation, but are derived from and incurred in the general conduct of the shipping business, shall be allocated among the various operations on the same relative basis as are Fair and Reasonable Overhead Expenses pursuant to the formula prescribed in § 299.203 (c) (2).

(8) Income derived from, and expenses incurred in, non-shipping operations shall be allocated directly to "Other Operations".

(9) Reserves to be taken into account in the determination of "net voyage profit":

(i) Subject to the conditions provided in this paragraph, upon application of the Charterer, supported by adequate data based on past experience, the inclusion in vessel operating expenses applicable to all terminated voyages of such charges as the Administration determines to be fair and reasonable will be permitted to provide reserves for:

(a) Vessel repair expenses (including voyage and annual or periodic special survey repair expenses as well as expenses of repairs incident to deactivation and/or redelivery of vessels).

(b) Vessel redelivery expenses (excepting such expenses, if any, for which the Charterer is reimbursed by the Owner, and excepting also any overhead expenses of the Charterer) incurred during the period from the time of paying off the crew or completion of discharge of cargo or ballast on the last voyage, or from the date of availability of the vessel for redelivery pursuant to the terms of the Agreement, whichever later occurs, to the time of redelivery of the vessel to the Administration, such as (i) wages of crew, (ii) food and stores consumed, (iii) fuel consumed, (iv) monthly charter hire, (v) insurance premiums, (vi) port charges, (vii) cleaning, watching, maintenance expenses, shore labor, and miscellaneous expenses incident to redelivery, and (viii) expenses, if any, incident to transporting the ship from port of return to the United States upon its last voyage to port of redelivery, and

(c) Reserves for P. & I. insurance deductible average losses.

(ii) The reserves for vessel repair expenses and for vessel redelivery expenses shall be adjusted (a) as at December 31, 1956, with respect to vessels redelivered to the Administration on or before that date, (b) as at the end of each succeeding calendar year with respect to vessels redelivered to the Administration during such year, and (c) at the time of final accounting under the Agreement with respect to vessels redelivered to the Administration during the period following the end of the last preceding calendar year. Such adjustment shall be accomplished by distributing separately the balances in such reserves applicable to each individual vessel redelivered to the Administration during each such period in such manner as will have the effect of spreading the actual expenses applicable to each such vessel over the accounting periods involved (with respect to which a separate determination of statutory additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning of the first voyage of such vessel terminating after July 1, 1956 and

ending with the date of its redelivery to the Administration.

(iii) The reserves for P. & I. insurance deductible average losses shall be adjusted at the time of final accounting under the Agreement, by distributing separately the balances in such reserves applicable to each individual vessel in such manner as will have the effect of spreading the actual expenses applicable to each individual vessel over the accounting periods involved (with respect to which a separate determination of statutory additional charter hire is required to be made) on the basis of the relation that the number of vessel days of such vessel in each such period bears to the total of such vessel days commencing with the beginning of the first voyage of such vessel terminating after July 1, 1956 and ending with the date of its redelivery to the Administration.

(iv) If in any instance either of the reserves specifically authorized in subdivision (i) of this subparagraph is not established, or, if established, the amount thereof is not adequate to cover the actual expenses properly chargeable thereto, such expenses, or the excess thereof over the amount of the reserve established to provide therefor, as the case may be, applicable to each individual vessel involved, shall be distributed over the period of use of such vessel under the Agreement, commencing with the first voyage terminating after July 1, 1956, in such manner as will accomplish the same result as though adequate reserves were established to provide for such expenses as provided in this section.

(v) In the determination of "Net Voyage Profit" under the Agreement, there shall not be taken into account (*a*) any charge resulting from the creation of reserves to cover expenses other than those specifically provided for in subdivision (i) of this subparagraph, or (*b*) any charge resulting from the spreading of expenses other than those with respect to which the creation of reserves is specifically provided for in subdivision (i) of this subparagraph.

(10) *Adjustments in absence of physical inventories.* Except in instances where physical inventories satisfactory to the Owner were taken at the end of each accounting period with respect to which a separate determination of statutory additional charter hire is required to be made,

(i) The value of the inventory of subsistence stores, consumable stores, fuel, water, and slop chest items on board at the time of delivery of the vessel to the Charterer shall be charged in Account 060—Stores, Supplies and Equipment Aboard Vessels—and the value of the inventory of subsistence stores, consumable stores, fuel, water, and slop chest items on board at the time of redelivery of the vessel to the Owner shall be credited in the same account.

(ii) The difference between the value of such delivery inventory and the value of such redelivery inventory shall be distributed proportionately on a daily basis over the entire period commencing with the date of delivery of the vessel to the Charterer and ending with the date of its redelivery to the Owner, and

(iii) The value of priced differences between the itemized lists of expendable equipment upon delivery and redelivery shall be distributed proportionately on a daily basis over the entire period commencing with the date of delivery of the vessel to the Charterer and ending with the date of its redelivery to the Owner.

(c) *Calculation of net voyage profit on cumulative basis.* Clause 13, Part II, SHIPSALESDEMISE 303, provides that the Charterer shall pay the Owner statutory additional charter hire as required by Section 709, Merchant Marine Act, 1936, as amended. Under said section it is provided that "whenever, *at the end of any calendar year* subsequent to the execution of such charter, the *cumulative net voyage profits* (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessels) shall exceed 10 per centum per annum on the charterer's capital necessarily employed in the business of such chartered vessels, the charterer shall pay over to the Commission, as additional charter hire, one-half of such *cumulative net voyage profit* in excess of 10 per centum per annum: *Provided,* That the *cumulative net profit so accounted for* shall not be included in any calculation of *cumulative net profit* in subsequent years." [Italics supplied.] For purposes of calculating "cumulative net voyage profits", any net voyage losses and/or any unearned portion of the allowable return of 10 per cent per annum on capital necessarily employed in the business of the chartered vessels, may be carried forward into the next accounting period or periods, but in no event shall profits in excess of 10 per cent per annum on capital employed, at the end of any accounting period, be carried forward into the next accounting period. The foreging is without prejudice to the position heretofore or hereafter asserted by the Government in litigation involving these charters.

§ 299.205 *Statements required by the Administration*—(a) *Preliminary Statements.* (1) Semiannual preliminary statements of statutory additional charter hire required hereunder, as referred to in § 299.202 (a) (1), shall include the following statements: (There will be supplied by the Office of the Comptroller illustrative examples of such statements based on hypothetical figures.)

Exhibit A—Analysis of net worth and allocation of "Capital Necessarily Employed" for the purpose of determining "Statutory Additional Charter Hire".
Exhibit B—Comparative balance sheet.
Exhibit C—Income sheet.
Exhibit D—Formulae for the allocation of net worth and income and expense.
Schedule A–1—Formula for limitation of "Capital Necessarily Employed".

(2) For the purpose of such preliminary statements, the Charterer may substitute, for the analysis reflected on Exhibit A of the illustrative examples, a computation premised upon the "Formula for the Limitation of Capital Necessarily Employed" as shown on Schedule A–1 of the illustrative examples (thus eliminating the preparation of the detailed analysis shown on Exhibit A and also the balance sheet as reflected on Exhibit B). The analysis shown on Exhibit C, Income Sheet, may be condensed to principal captions where practicable. The Formulae shown on Exhibit "D" may be limited to that portion applicable only to the allocation of income and expense items, Formula A: *Provided,* That, in any instance where the income sheet covering operations under the bareboat charter agreements involved from the commencement of an accounting period shows a cumulative net voyage loss, it will not be necessary for the Charterer to submit statements reflecting its calculation of "capital necessarily employed" as herein prescribed; however, in any event, the Charterer shall continue to submit income sheets reflecting its cumulative operating results in the manner and at the times prescribed in this subpart.

(b) *Final accountings.* Final accountings required hereunder, as referred to in § 299.202 (b) (1), shall include the following statements: (There will be supplied by the Office of the Comptroller illustrative examples of such statements, based on hypothetical figures.)

(1) *Exhibit A—Analysis of net worth and allocation of "Capital Necessarily Employed for the purpose of determining "Statutory Additional Charter Hire".* The procedure for the preparation of this statement contemplates:

(i) That a balance sheet is required to be prepared only (*a*) as at the end of the month preceding the date of delivery of the first vessel under SHIPSALESDEMISE 303, even though more than one such agreement became effective during the calendar year involved, and (*b*) at the end of that and each succeeding calendar year; and

(ii) That the net worth as reflected in such balance sheet, adjusted as required pursuant to Clause 23 (c) of SHIPSALESDEMISE 303, shall be allocated among operations under such bareboat charter agreement and "Other Operations" on the basis prescribed in § 299.203 (c) (2); and

(iii) That the net worth as reflected in each such balance sheet as adjusted shall be further adjusted to ascertain the net worth at the commencement of each succeeding agreement (whereunder statutory additional charter hire is required to be computed, accounted for, and paid separately), whereunder delivery of the first vessel is made during the calendar year involved, by taking into account (*a*) additions to capital, (*b*) withdrawals of capital, and (*c*) net profits (or losses) after statutory additional charter hire and after provisions for Federal income tax occurring (*1*) during the period between the end of the month preceding the date of delivery of the first vessel under the first agreement and the end of the month preceding the date of delivery of the first vessel under the second agreement, if any, and (2) during each similar intervening period preceding each succeeding agreement whereunder delivery of the first vessel is made during the calendar year involved. In computing such adjustment, the net profit earned (or loss sustained) during such periods shall

be ascertained by allocating the proportion of the total net profit earned (or loss sustained) under each bareboat charter agreement (whereunder statutory additional charter hire is required to be computed, accounted for, and paid separately) and in "Other Operations" to such periods, on the basis of the relation that the vessel operating expenses (in accordance with the formula prescribed in § 299.203 (c) (2)) incurred under each such agreement and in "Other Operations" during the period from the beginning of the calendar year involved or from the end of the month preceding the date of delivery of the first vessel under the first bareboat charter agreement with the Administration (whichever later occurs) to the commencement of the period with respect to which the determination of net worth is required to be made, separately, bears to the total of such vessel operating expenses under each such agreement and in "Other Operations" during the overall accounting period involved; and

(iv) That, in the determination of "capital necessarily employed" under SHIPSALESDEMISE 303 additional capital in the form of cash or tangible property paid in and any withdrawals of capital during an annual or overall accounting period thereunder shall be included or deducted (as the case may be) in the manner prescribed in § 299.203 (b); and

(v) That the "capital necessarily employed" as thus determined separately, with respect to each bareboat charter agreement (whereunder statutory additional charter hire is required to be computed, accounted for, and paid separately) shall be compared with any limitations thereon prescribed in § 299.203 (d), and that the "allowable return" (at the rate of 10 per centum per annum) of the Charterer under each such agreement shall be calculated on the basis of the lesser of the two; and

(vi) That the "allowable return" as thus determined shall be deducted from the net voyage profit earned under the corresponding agreement during the accounting period involved and that the balance shall be divided between the Charterer and the Administration in accordance with the applicable provisions of the respective agreements: *Provided,* That, in any instance where the income sheet covering operations under the bareboat charter agreements involved from the commencement of an accounting period shows a cumulative net voyage loss, it will not be necessary for the Charterer to submit statements reflecting its calculation of "capital necessarily employed"; however, in any event, the Charterer shall continue to submit income sheets reflecting its cumulative operating results in the manner and at the times prescribed in this subpart.

(2) *Exhibit B—Comparative balance sheet.* The procedure for the preparation of this statement contemplates:

(i) That, for each annual or overall accounting period, there shall be submitted, in comparative form, a balance sheet as at the end of the month immediately preceding the date of the beginning of such accounting period and as at the end of the last month within such accounting period; and

(ii) That, with respect to the first accounting period of the Charterer, the initial balance sheet shall reflect the financial position of the Charterer as at the end of the month preceding the date of delivery of the first vessel under the initial bareboat charter agreement with the Administration; and

(iii) That, in instances where additional agreements become effective during an annual or overall accounting period, it will not be necessary that the Charterer prepare a separate balance sheet to cover such additional agreements, since the net worth at the commencement of each such agreement, will be determined by adjusting the Net Worth reflected in the balance sheet at the commencement of the annual or overall accounting period in the manner prescribed in subparagraph (1) (iii) of this paragraph for the preparation of Exhibit A; and

(iv) That the accounts reflected in each such balance sheet shall be those prescribed in the "Uniform System of Accounts for Maritime Carriers" as adopted by the Maritime Administrator in Part 282 of this chapter (General Order No. 22, Revised), and none other; and

(v) That the assets reflected in each such balance sheet shall be stated in conformity with generally accepted accounting principles applied on a consistent basis and, to the extent applicable, on the basis prescribed in Paragraph (c) of Clause 23 of Part II of SHIPSALESDEMISE 303; that adequate reserves shall be shown for accounts receiveable doubtful of collection and for such other items as require valuation reserves to reflect their true value; and that there shall be included an adequate statement of all known and ascertainable liabilities.

(3) *Exhibit C—Income sheet.* The procedure for the preparation of this statement contemplates:

(i) That there shall be submitted income sheets which accurately reflect the results of all operations (*a*) during the entire period commencing with the first day of the calendar month during which the first vessel is delivered under the initial bareboat charter agreement with the Administration and terminating at the end of that calendar year, and (*b*) for each succeeding calendar year or overall accounting period as herein defined; and

(ii) That the income and expenses reflected on such income sheets shall be allocated among operations under SHIPSALESDEMISE 303 and "Other Operations" on the bases prescribed in § 299.203 (c) (2); and

(iii) That the items of income and expense reflected in each such income sheet shall be those prescribed in the "Uniform System of Accounts for Maritime Carriers" as adopted by the Maritime Administrator in Part 282 of this chapter (General Order 22, Revised), and none other.

(4) *Exhibit D—Formulae for the allocation of net worth and income and expenses.* There shall be submitted for each period with respect to which a separate income sheet is required hereunder a separate statement reflecting the formulae by which the assets and liabilities and income and expenses are distributed among the various operations during each such period in accordance with § 299.203 (c) (2).

(5) *Exhibit E—Working trial balance.* The procedure for the preparation of this statement contemplates:

(i) That there shall be prepared a working trial balance as at each date with respect to which a separate balance sheet is required hereunder; and

(ii) That the balance reflected in the general ledger at the respective dates shall be listed by accounts and distributed to the appropriate columns provided therefor in the illustrative example included among those to be supplied by the Office of the Comptroller; and

(iii) That the Charterer shall determine that the items included in each asset and liability account have been properly classified and adjusted, that the balances are correct, and do not contain items of income or expense applicable to either a prior or current accounting period (Schedules reflecting the extent of the analysis of such accounts shall be included among the working papers available for examination by the Administration's auditors); and

(iv) That the Charterer shall determine that the items included in each income and expense account have been properly classified and adjusted, that the balances are correct, and that such balances are entirely applicable to the accounting period involved (Schedules reflecting the extent of the analysis of such accounts shall be included among the working papers available for examination by the Administration's auditors); and

(v) That the balance in each clearance account shall be thoroughly analyzed and proper accounting disposition made thereof; and

(vi) That all adjustments to the accounts listed in the working trial balance shall be accomplished by posting thereto journal entries, prepared in numerical sequence and containing a complete description as to the the reasons for the adjustment, copies of such journal entries to be made available to the Owner upon request; and

(vii) That the Charterer may change or vary the design of this working trial balance to suit its particular needs: *Provided,* That the statement substituted will produce the same results and reflect all of the information required, but in this respect it is emphasized that the Owner has found the illustrative example included among those to be supplied by the Office of the Comptroller to be satisfactory and particularly well adapted to its use in conducting audits of charter operations.

(6) *Schedule A–1—Formula for limitation of "Capital Necessarily Employed."* This schedule shall reflect the calculation of the limitation of "Capital Necessarily Employed" in accordance with § 299.203 (d) separately for each accounting period with respect to which a determination of "Capital Necessarily Employed" is required hereunder.

(7) *Schedule B–1—Analysis of surplus.* The procedure for the preparation of this statement contemplates:

(i) That there shall be submitted an analysis of surplus in support of each balance sheet required hereunder; and

(ii) That such analysis in support of the beginning balance sheet pertaining to the first SHIPSALESDEMISE 303 bareboat charter agreement with the Administration shall reflect, e. g., (*a*) surplus (or deficit) as at December 31, 1955, (*b*) net profit (or loss) during the period from January 1, 1956, to the end of the month preceding the date of delivery of the first vessel thereunder, (*c*) direct adjustments to surplus during such period, and (*d*) the balance as at the end of such period; and

(iii) That, in addition to subdivision (ii) of this subparagraph, such analysis shall reflect also (*a*) profit or loss during the period from the first day of the calendar month during which the first vessel was delivered under the first SHIPSALESDEMISE 303 bareboat charter agreement with the Administration to December 31, 1956, (*b*) direct adjustments to surplus during such period, and (*c*) the balance as at December 31, 1956; and

(iv) That such analyses for subsequent annual or overall accounting periods shall be prepared in a similar manner to reflect separately changes in surplus during each period with respect to which a separate determination of "capital necessarily employed" is required.

(8) *Schedule E–1—Analysis of profit and loss.* The procedure for the preparation of this statement contemplates:

(i) That there shall be submitted in support of each working trial balance required hereunder an analysis of profit and loss for the calendar year or overall accounting period involved and that such analysis shall be grouped by accounts in the manner indicated in the illustrative examples included among those to be supplied by the Office of the Comptroller; and

(ii) That such analysis shall include all adjustments effected by the Charterer and, as part of the working trial balance, shall be the basis upon which the Income Sheet (Exhibit "C") is prepared; and

(iii) That all items of income and expense reflected in the analysis of profit and loss shall be those prescribed in the "Uniform System of Accounts for Maritime Carriers" as adopted by the Maritime Administrator in Part 282 of this chapter (General Order No. 22, Revised), and none other.

§ 299.206 *Certifications and verifications.* (a) The accounting required under this part shall be submitted under cover of an affidavit, executed by the corporate officer responsible for the accuracy and maintenance of the books of account and financial records of the Charterer, if a corporation, or by a general partner so responsible, if a partnership, which affidavit shall be substantially as follows:

AFFIDAVIT

STATE OF _____

COUNTY OF _____ ss:

_____, being first duly sworn on his (her) oath, states:

That I am _____ of the
(Title)

_____
(Name of Charterer)

Charterer under bareboat charter agreement(s) with the United States Maritime Administration known as "SHIPSALESDEMISE 303" (MA__);[1] that, as such, I am responsible for the accuracy and maintenance of the books of account and financial records of the Charterer and am thoroughly familiar with such books and records and with the terms and conditions of the aforesaid bareboat charter agreement(s) and with the orders, rules, regulations, and instructions of the Maritime Administration appertaining thereto as issued or adopted by the United States Maritime Administration; that I have carefully examined the statements comprising the accounting annexed hereto covering the period from _____ to _____, under the aforesaid bareboat charter agreement(s); and that, to the best of my knowledge and belief, the said accounting reflects a true and complete statement of the "capital necessarily employed in the business" of the chartered vessels and the statutory additional charter hire accrued to the United States Maritime Administration under the aforesaid bareboat charter agreement(s) during the period from _____ to _____, under the terms and conditions thereof and in accordance with the orders, rules, regulations, and instructions of the Maritime Administration issued or adopted by the United States Maritime Administration appertaining thereto; the balance sheets included in the annexed accounting fairly present the financial position of the Charterer as at the dates thereof, including (but not limited to) an adequate statement of all known and ascertainable liabilities, and the income sheet included in the annexed accounting correctly states the operating results of the Charterer for the period covered by such accounting; and that the Charterer to the best of my knowledge and belief, has fully complied with all the terms and conditions of said bareboat charter agreement(s) in the manner and at the times therein required.

_____

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this _____ day of _____, 19__.

My Commission expires _____

_____
(Notary Public)

(b) If an independent certified public accountant or a firm of independent certified public accountants is employed by the Charterer for the purpose of certifying the statements required hereunder, the review and settlement by the Owner of statutory additional charter hire determinations thereby may be facilitated. If, therefore, at the option of the Charterer, the statements required hereunder are certified by an independent certified public accountant or a firm of independent certified public accountants, fair and reasonable payments made by the Charterer to such professional accountants for services and incidental expenses relating to such certification may be allocated directly to operations under the bareboat charter agreements involved on the basis prescribed in § 299.203 (c) (2): *Provided,* That the following minimum conditions are observed:

(1) Such certified public accountants will undertake to make their working papers available for examination by the Owner's auditors upon request and to permit the Owner's auditors to make copies of such papers to the extent they deem necessary;

(2) Such certified public accountants are independent in fact (an accountant will not be considered independent with respect to any person in whom he has any substantial interest, direct or indirect, or with whom he is, or was during the period of the bareboat charter agreements involved, connected as an officer, director, executive, or employee. As used in this subparagraph, the term "any person" shall include the Charterer, and any holding company, subsidiary, affiliate, or associate of the Charterer); and

(3) The statements submitted are accompanied, in addition to the affidavit required of the Charterer, by a signed opinion of the independent certified public accountant in the following or substantially similar form:

We (I) have examined the statements comprising the accounting annexed hereto, and have found the statements to have been prepared by the Charterer in accordance with the terms and conditions of the applicable bareboat charter agreement(s) and with the applicable orders, rules, regulations, and instructions issued or adopted by the Maritime Administration.

Our (my) examination of the statements included examination of the underlying books of account and records for the period from _____ to _____. Our (my) examination was made in accordance with generally accepted auditing standards and included all procedures which we (I) considered necessary in the circumstances (state exceptions if any). In our (my) opinion the annexed statements fairly present the proper determination of the 'capital necessarily employed in the business' of the chartered vessels and the calculation of statutory additional charter hire (in the aggregate amount of $_____) accrued to the account of the Maritime Administration under bareboat charter agreement(s) No.(s)_____ for the period from _____ to _____.

_____
(Independent Certified Public Accountant(s)

Upon receipt of statements certified by an independent certified public accountant or a firm of independent certified public accountants under the conditions prescribed in this paragraph, the Maritime Administration will take into consideration the scope of the audit conducted by such independent certified public accountants of the Charterer's accounts.

(c) (1) In arriving at the amount of net voyage profit for the purpose of calculating statutory additional charter hire under a bareboat charter agreement with the Administration there shall not be taken into account any item of expense, as a deduction from gross income, in any case where such item of expense represents a payment or expenditure or transfer of anything of value, directly or indirectly, to or on behalf of any person or organization or association, in a trans-

[1] Show only applicable contract references.

action occurring within the United States, its territories or possessions,

(i) To induce unethically any person, organization or association, to take or refrain from taking any action calculated to affect the relations between the Charterer and its employees, or to influence unethically the manner of performance of his or its employment or calling; or

(ii) Ostensibly as compensation for, but actually for a consideration other than, personal services rendered as an employee.

(2) Accordingly, an affidavit in the form following shall be submitted with each accounting rendered by a Charterer:

AFFIDAVIT

STATE OF _____

COUNTY OF _____ ss:

_____, being duly sworn deposes and says that he is _____ of
(Title)

_____,
(Name of Charterer)

that it is his duty to have supervision over the books of account of the said Company and to control, in accordance with applicable regulations of the Maritime Administration, the manner in which such books are kept and the said Company's accountings to the Maritime Administration under any bareboat charter party agreement are prepared, and that in the preparation of the accounting rendered by the said Company for the period ended _____, 19__, there has not been taken into account, to the best of his knowledge and belief, and so far as appears from diligent efforts he has made to ascertain the facts, any item of expense as a deduction from gross income in arriving at the amount of net voyage profits for the purpose of calculating statutory additional charter hire under the provisions of such bareboat charter party agreement in any case where such item of expense represents a payment or expenditure or transfer of anything of value, directly or indirectly, to or on behalf of any person or any organization or association, in a transaction occurring within the United States, its territories or possessions,

(i) to induce unethically any person, organization or association, to take or refrain from taking any action calculated to affect the relations between the Charterer and its employees, or to influence unethically the manner of performance of his or its employment or calling; or

(ii) ostensibly as compensation for, but actually for a consideration other than, personal services rendered as an employee.

The terms "employee" and "employees", as used herein, include in the case of a bareboat charterer, employees of the Charterer and of any interested person or related company as defined in the bareboat charter.

_____
(Signature of Affiant)

Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19__.

_____
(Signature of officer authorized to administer oaths)

§ 299.207 *Statement of purposes and reservations.* (a) The purpose of the procedure in this subpart is to establish the means for uniform application to expedite and facilitate the rendition by Charterers to the Administration of annual and final accountings under SHIPSALESDEMISE 303.

(b) The receipt and consideration of such accountings by the Owner shall be subject to the following reservations:

(1) That all working papers (irrespective of by whom prepared) in support of the various statements comprising such accountings, shall be available for examination by the Owner's auditors upon request and that the Owner's auditors shall be permitted to make copies of such papers to the extent they deem necessary; and

(2) That the Owner reserves the right to conduct such audits, examinations, or checks of the Charterer's accounts as it may deem necessary before approving final settlement of statutory additional charter hire for any period under the bareboat charter agreements; and

(3) That the examples to be supplied by the said Office of the Comptroller of the statements required by the Administration are for illustrative purposes only and are based on hypothetical figures; that no implications should be drawn from the relative magnitude of the figures used in these examples; and that if, in any instance, an example should conflict with the text of this procedure, the latter should govern; and

(4) That, provided whenever the accounting period is less than a full calendar year (that is, either at the commencement or at the termination of a charter period), the Charterer may, at the discretion of the Owner, for the purpose of preparing the income sheet required hereunder, in the calculation of "Net Voyage Profit" pursuant to § 299.204, submit such income sheet on the basis of the Charterer's normal annual accounting period, adjusted, pursuant to sound accounting practices and standards, to reflect the results of less than a full calendar year, all as in the judgment of the Administration produces fair and reasonable results. All requests to employ such adjusted income sheets shall be made in writing direct to the local District Comptroller; and

(5) That, provided whenever "capital necessarily employed" (determined on the basis of net worth as prescribed in § 299.203 (b) and (c)) exceeds the "limitation of capital necessarily employed" (determined on the basis prescribed in § 299.203 (d)), such excess shall be regarded as being composed of the various assets and liabilities comprising "capital necessarily employed" (determined on the basis of net worth as prescribed in § 299.203 (b) and (c)), in the relation, percentagewise, that such excess bears to "capital necessarily employed" (determined on the basis of net worth as prescribed in § 299.203 (b) and (c)), without regard to Clause H of Part I of the Agreement; and, further, as items of income and expense are required by this Order to be allocated on the same basis as are the corresponding assets and liabilities involved, likewise the proportion of such income and expense corresponding percentagewise to the proportion of assets and liabilities included in the excess of "capital necessarily employed" over the "limitation" should be allocated to "Other Operations"; and

(6) That the establishment of the rules and regulations prescribed in this procedure is without prejudice to the right of the Administration to determine upon the employment of other bases for allocation and calculation in any instance where, upon the completion of any annual or final accounting, the results produced by the application of the rules and regulations prescribed herein do not, in the judgment of the Administration, produce fair and reasonable results; and

(7) That if, in any instance, the rules and regulations prescribed in this subpart should conflict with the provisions of an applicable statute or agreement, such provisions shall govern and entitle the Government to its full statutory rights; and

(8) That requests for interpretive rulings concerning the application of this subpart shall be presented in writing. All such requests shall be made direct to the local District Comptroller with a copy to the Comptroller, Maritime Administration, Washington 25, D. C.; and

(9) That if, in any instance, the rules and regulations prescribed in this subpart should conflict with any other General Order issued by the Administration, the question as to which shall take precedence should be referred to the Administration for decision; and

(10) That nothing contained in this subpart shall be construed as a waiver of any right reserved to the Administration by statute or under SHIPSALESDEMISE 303; and

(11) Upon written application of the Charterer to the local District Comptroller (with a copy to the Comptroller, Maritime Administration, Washington 25, D. C.), the Administration may extend for such further period as in its judgment is warranted by the circumstances, in any instance, the time limit prescribed in this subpart for the submission of accountings.

Dated: December 26, 1957.

WALTER C. FORD,
Acting Maritime Administrator.

[F. R. Doc. 57-10824; Filed, Dec. 30, 1957; 8:47 a. m.]